

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

In the Matter of the Transfer of Assets of)
Swiss Villa Utilities, Inc. to the Black Oak)
Mountain Resort Property Owners)
Association.)

Case No. WO-2007-0410

**MOTION TO APPROVE A TRANSFER OF UTILITY ASSETS FROM QUANAH
CORPORATION, S.V. HOLDING, INC., SWISS VILLA UTILITIES, INC., AND THE
COUNTY COMMISSION OF STONE COUNTY TO THE BLACK OAK MOUNTAIN
WATER COMPANY AND THE BLACK OAK MOUNTAIN SEWER COMPANY**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and for its Motion to Approve a Transfer of Assets from Quanah Corporation, S.V. Holding, Inc., Swiss Villa Utilities, Inc., and the County Commission of Stone County to the Black Oak Mountain Water Company and the Black Oak Mountain Sewer Company (“Motion”), states the following:

SUMMARY

For the past three years Staff has worked together with public officials, non-profit associations, and dedicated consumers to achieve an acceptable solution to the organizational and operational difficulties facing the small water and sewer system in the area previously served by Swiss Villa Utilities, Inc. (“Swiss Villa”).

In this Motion and the attached Memorandum, Staff recommends that the Missouri Public Service Commission (“the Commission”) approve a transfer of assets from Quanah Corporation (“Quanah”)¹, S.V. Holding, Inc. (“S.V. Holding”), Swiss Villa, and the County

¹ To the extent that Quanah Corporation has retained any interest in the systems assets following execution of a quitclaim deed described further in this Motion.

Commission of Stone County² (“Stone County”) to the Black Oak Mountain Water Company and the Black Oak Mountain Sewer Company (collectively referred to hereinafter as “the Black Oak Mountain Water and Sewer Companies”). If approved, this transaction will ultimately remove the operation of this system from the jurisdiction of this Commission.

PROCEDURAL HISTORY

1. On April 20, 2007, Staff filed with the Commission its Motion to Approve Transfer of Assets of Swiss Villa Utilities, Inc. to the Black Oak Mountain Resort Property Owners Association (“POA Motion”), requesting that the Commission authorize the transfer of assets of Swiss Villa to the Black Oak Mountain Resort Property Owners Association (“the POA”), or in the alternative, that the Commission permit Staff to commence the process to appoint a system receiver. Staff’s POA Motion and the documents attached thereto are incorporated by reference herein.

2. On April 25, 2007, the Commission issued its Order Directing Notice and Joining Parties, establishing an intervention deadline and joining Swiss Villa, the POA, S.V. Holding, Quanah and Stone County as parties to the proceeding.

3. On May 17, 2007, the Commission issued its Order Directing Staff to File Monthly Status Reports, ordering Staff to file monthly status reports until such time that Staff has determined that the assets transfer conditions contained in Staff’s POA Motion have been satisfied, or in the alternative, until such time that Staff determines such conditions are incapable of satisfaction. Staff has since filed thirty-one (31) status reports³.

4. Staff intends this Motion and attached Memorandum to satisfy any requirement to file a status report for the period ending December 31, 2009. Furthermore, Staff anticipates

² To the extent that this authority may be necessary to effectuate a transfer from Stone County in the future.

³ For a summary of the events contained in Staff’s status reports, see Attachment A to the Staff Memorandum included Appendix A.

having no relevant information to report to the Commission pending treatment of this Motion, and therefore requests permission to be relieved of the obligation to file such status reports in the future.

5. On October 1, 2009, the Commission issued its Order Adding Necessary Parties, adding the Black Oak Mountain Water and Sewer Companies as parties to this case.

BACKGROUND INFORMATION

A. Corporate Entity and Dissolution⁴

6. Swiss Villa Utilities, Inc. was a “public utility,” a “water corporation,” and a “sewer corporation,” as those terms are defined in Section 386.020, RSMo (2000)⁵. On June 28, 1983, the Commission granted Swiss Villa certificates of public convenience and necessity to provide water and sewer services in a portion of Stone County, Missouri.

7. Swiss Villa was formerly owned and/or controlled by Capital Services and Investments, Inc., which entered Chapter 11 Bankruptcy proceedings. In July 1994, Quanah obtained the assets of Swiss Villa, including those related to providing utility service. Subsequently, the stock of Swiss Villa was transferred to S.V. Holding (a not-for-profit corporation), as assignee of Quanah, with Quanah retaining some interest in the real property associated with the system.

8. In February 2004, the Board of Directors of Swiss Villa (“the Board”) resigned without replacement. At that time, the Board incorrectly and independently determined that the Swiss Villa should no longer be regulated by the Commission. Since resignation by the Board, Deal & Associates of Springfield, Missouri, has collected system revenues, though indicating that it is largely operating “without direction.” An operator has continued to do basic

⁴ For further discussion, refer to Staff’s POA Motion, filed April 20, 2007.

⁵ Unless otherwise noted, all statutory references refer to the Missouri Revised Statutes 2000, as currently supplemented.

maintenance on the system, but is similarly proceeding without guidance. For a further discussion of the events surrounding the resignation of the Board and the current operation of the system, see Staff's Memorandum, attached to this Motion in Appendix A and incorporated by reference herein.

9. On September 9, 2005, Swiss Villa was administratively dissolved by the Office of the Missouri Secretary of State for failure to file its annual report⁶. On January 5, 2006, S.V. Holding was administratively dissolved by the Office of the Missouri Secretary of State for failure to file its annual report⁷. QuanaH is currently listed as in "Good Standing" with the Office of the Missouri Secretary of State.

10. Swiss Villa currently has an outstanding judgment in the amount of \$84,600, related to its failure to file annual reports with this Commission and to submit its Commission assessments.

11. As contained in the Memorandum, the system is currently operating with an expired DNR discharge permit. DNR is currently in the process of mandating system improvements, which will likely result in an upgrade to the sewage treatment plant.

B. Non-Profit Formation – POA vs. 393

12. In October 2006, Staff was informed by the members of the POA that the POA had voted to "take over" the utility system. Staff filed its POA Motion in furtherance of that objective.

13. As contained in the attached Memorandum, while pursuing the transfer of assets to the POA, the concept conveyed in Staff's POA Motion began to evolve. Individuals involved

⁶ A copy of the notice of dissolution of Swiss Villa Utilities, Inc. is attached to Staff's POA Motion and is incorporated by reference herein.

⁷ A copy of the notice of administrative dissolution of S.V. Holding, Inc. is attached as Attachment B to the Staff Memorandum included in Appendix A.

with POA initiated an effort to form a separate non-profit water and sewer entity to be operated under the authority of the POA, with the intent to have the resulting entity serve as the transferee of the system assets. On July 10, 2009, the incorporators of the Black Oak Mountain Water and Sewer Companies filed with the Office of the Missouri Secretary of State the documents necessary to incorporate not one, but two entities as separate non-profit water and sewer corporations under the applicable provisions of the Missouri Revised Statutes⁸. Both corporations are currently listed as in “Good Standing” with the Office of the Missouri Secretary of State.

14. As contained in the attached Memorandum, Staff has no conceptual preference as to whether the utility systems will be owned and operated by the POA or by the Black Oak Mountain Water and Sewer Companies. The recommendations contained in this Motion and the attached Memorandum reflect Staff’s understanding of the current intentions of all parties to this matter.

C. Real Estate Interest and Access

15. Prior to and including the period discussed in the preceding paragraphs, Stone County established a neighborhood improvement district (“NID”) and constructed publicly-funded improvements to the water and sewer systems in the Swiss Villa service territory. In exchange for these improvements, the property used in providing water and sewer service was conveyed by Quit-Claim Deed from Quanah to Stone County to hold in trust until the bonds issued to pay for the improvements are retired, and as trustee for the property owners within the

⁸ The Articles of Incorporation and the Certificate of Incorporation of the Black Oak Mountain Water Company are attached hereto as Attachment C to the Staff Memorandum included in Appendix A, and are incorporated by reference herein. In addition, for the Commission’s information, a draft of the Bylaws of the Black Oak Mountain Water Company is attached hereto Attachment D to the Staff Memorandum included in Appendix A. The Articles of Incorporation and the Certificate of Incorporation of the Black Oak Mountain Sewer Company are attached hereto Attachment E to the Staff Memorandum included in Appendix A, and are incorporated by reference herein. In addition, for the Commission’s information, a draft of the Bylaws of the Black Oak Mountain Sewer Company is attached hereto as Attachment F to the Staff Memorandum included in Appendix A.

NID itself. A Quit-Claim Deed executed by Quanah in 2003 consummates this transaction⁹. Although the Quit-Claim Deed executed by Quanah to Stone County arguably releases any interest in the utility systems previously held by Quanah, Staff has included Quanah as a named asset transferor out of an abundance of caution and due to the fact that in 2007 Quanah apparently executed a previous Quit-Claim Deed granting to the POA any remaining interest in the utility system¹⁰.

16. Due to the nature of the NID, and the conveyance of interests resulting from its establishment, Staff had concerns about the ability of any entity receiving the assets to demonstrate access to the real property attached thereto. For this reason, at the previous request of Staff, the POA and Stone County entered into a Non-Exclusive Lease of Real Property, Sanitary Sewer Collection and Treatment System, and Water Supply System (“POA Lease”)¹¹. The POA Lease was approved by Stone County on April 24, 2007, and executed by the POA on May 26, 2007.

17. Upon formation and incorporation of the Black Oak Mountain Water and Sewer Companies on July 10, 2009, Staff was of the opinion that the POA Lease no longer adequately addressed Staff’s system access concerns. Because the POA Lease “expressly prohibits a sublease of the Systems without the County’s express written consent...,” Staff asked the Black Mountain Water and Sewer Companies to submit alternative documentation. The result was a Sublease, and Consent to Sublease, by Black Oak Mountain Resort Property Owners Association to Black Oak Mountain Sewer Company and Black Oak Mountain Water Company of Non-Exclusive Lease of Real Property, Sanitary Sewer Collection and Treatment System, and Water

⁹ A copy of the Quanah-Stone County quitclaim deed is attached to Staff’s previously-filed POA Motion as Attachment K and is incorporated by reference herein.

¹⁰ A copy of the Quanah-POA quitclaim deed is attached hereto Attachment G to the Staff Memorandum included in Appendix A.

¹¹ The POA Lease is attached hereto as Attachment H to the Staff Memorandum included in Appendix A.

Supply System (“Sublease”)¹², approved by Stone County on October 6, 2009, and executed by the POA and the Black Oak Mountain Water and Sewer Companies on October 31, 2009. Staff is of the opinion that this Sublease is sufficient to document access to the utility system related property.

18. Although, out of an abundance of caution, Staff has styled its request as seeking the authority to transfer the assets of Stone County to the Black Oak Mountain Water and Sewer Companies, Staff is uncertain about the exact nature of the interests held by Stone County. As contained in the POA Lease, drafted by Stone County, “[t]he County’s interests in some of the Systems were conveyed to it, and the County does not know the nature or quality of those interests”.

19. However, pursuant to the POA Lease and the Sublease, Stone County will convey those interests to Black Oak Mountain Water and Sewer upon discharge of the NID debt. In specific, the POA Lease and Sublease state as follows:

The County intends to retain ownership in trust of the Systems until the District’s bonded indebtedness has been fully discharged, at which time The County **shall convey** the Systems and the Tracts described below to the POA, or to the owner(s) or operator(s) of the sanitary sewer collection and treatment system and the water supply system in the District, provided association, owner(s) or operator(s) are one or more not-for-profit corporations owned by the property owners within the District... (emphasis added).

20. Because, as evidenced in the above provisions, Stone County will transfer its interest in the system to the Black Oak Mountain Water and Sewer Companies upon retirement of the NID bond indebtedness, Staff is including in its transfer of assets request that authority be granted by the Commission to effectuate that transfer of assets upon retirement of the NID-related bonds.

¹² The Sublease is attached hereto as Attachment I to the Staff Memorandum included in Appendix A.

APPLICABLE LAW

21. Section 393.190. 1. provides in relevant portion as follows:

No ... water corporation or sewer corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the performance of its duties to the public, nor by any means, direct or indirect, merge or consolidate such works or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the commission an order authorizing it so to do

22. Relevant case law provides that the Commission may approve an asset transfer if it is “not detrimental to the public interest”. See *State ex Rel Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466, 468 (Mo. App. E.D. 1980).

23. Section 393.900 provides that certain nonprofit, membership corporations may be organized only for the purpose of supplying water for distribution, wholesale and treatment services within the State of Missouri. Sections 393.900 to 393.954 provide the statutory formalities for the incorporation of such entities, as well as the rights and responsibilities of these entities upon incorporation. In specific, Section 393.933.2 provides in relevant part that “[t]he public service commission shall not have jurisdiction over the construction, maintenance or operation of the water facilities, service, rates, financing, accounting or management of any nonprofit water company...”

24. Similarly, Section 393.825.1 provides that certain non-profit, membership corporations may be organized only for the purpose of supplying wastewater disposal and treatment services within the State of Missouri. Sections 393.825 to 393.861 provide the statutory formalities for the incorporation of such entities, as well as the rights and responsibilities of these entities upon incorporation. In specific, Section 393.847.2 provides that “[t]he public service commission shall not have jurisdiction over the construction, maintenance

or operation of the wastewater facilities, service, rates, financing, accounting or management of any nonprofit sewer company.”

STAFF RECOMMENDATION

25. As stated in the attached Memorandum, “[u]nder the facts presented in this case, Staff believed, and continues to believe, that some action needs to be taken in an attempt to reach a solution to the problems facing the [water and sewer] systems, and more importantly, [their] customers.”

26. As contained in the attached Memorandum, in furtherance of this goal Staff believes the transfer of assets from Swiss Villa, Quana, S.V. Holding. and Stone County to Black Oak Mountain Water and Sewer would not be detrimental to the public interest, and therefore recommends such transfer in the manner described in this pleading. In addition, Staff believes that Black Oak Water and Sewer is in a “position to modify customer rates in an equitable manner, as may be required in the future.”

WHEREFORE, Staff submits this Motion and requests that the Commission issue an order that (1) approves the transfer of utility assets from Swiss Villa Utilities, Inc., Quana Corporation, S.V. Holding, Inc. and Stone County to the Black Oak Mountain Water Company and the Black Oak Mountain Sewer Company; (2) cancels the Certificates of Convenience and Necessity previously issued by the Commission to Swiss Villa Utilities, Inc.; (3) cancels the tariffs of Swiss Villa Utilities, Inc.; and (4) relieves Staff of the obligation to file monthly status reports in the future.

Respectfully submitted,

/s/ Eric Dearmont

Eric Dearmont
Assistant General Counsel
Missouri Bar No. 60892

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 30th day of December, 2009.

/s/ Eric Dearmont

APPENDIX A

STAFF MEMORANDUM & RELATED ATTACHMENTS

CASE NO. WO-2007-0410

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Staff Affidavit

Staff Memorandum

Memorandum Attachments:

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C – Articles of Incorporation and Certificate of Incorporation of Black Oak Mountain Water Company

D – Draft By-Laws of Black Oak Mountain Water Company

E – Articles of Incorporation and Certificate of Incorporation of Black Oak Mountain Sewer Company

F – Draft By-Laws of Black Oak Mountain Sewer Company

G – Quanah-Association Quitclaim Deed

H – Non-Exclusive Lease of Real Property (Stone County and Association)

I – Sublease, and Consent to Sublease (Stone County and Black Oak Companies)

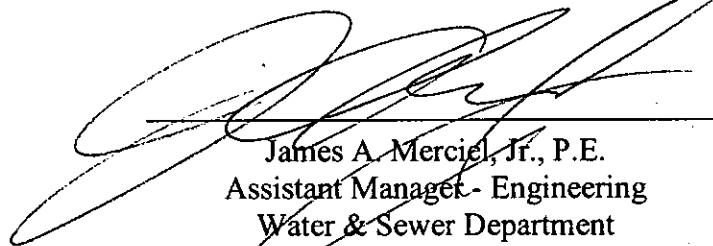
BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

AFFIDAVIT OF JAMES A. MERCIEL, JR.

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

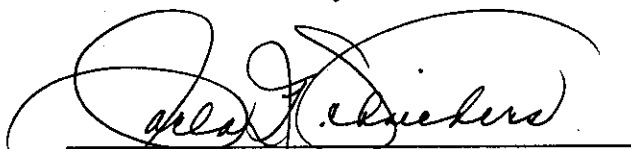
Case No. W0-2007-0410

James A. Merciel, Jr., of lawful age, on his oath states: (1) that he is the Assistant Manager – Engineering in the Water and Sewer Department of the Missouri Public Service Commission; (2) that he participated in the preparation of the following *Memorandum*; (3) that he has knowledge of the matters set forth in the following *Memorandum*; and (4) that the matters set forth in the following *Memorandum*; are true and correct to the best of his knowledge, information and belief.


James A. Merciel, Jr., P.E.
Assistant Manager - Engineering
Water & Sewer Department
Utility Operations Division

Subscribed and sworn to before me this 29th day of December 2009.




Notary Public

CARLA K. SCHNIEDERS
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: August 25, 2012
Commission Number: 08533187

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. WO-2007-0410
Swiss Villa Utilities, Inc.

FROM: Jim Merciel – Water & Sewer Department

<u>/s/ Jim Merciel</u>	<u>12/30/2009</u>
Project Coordinator	Date

<u>/s/ Eric Dearmont</u>	<u>12/30/2009</u>
General Counsel's Office	Date

SUBJECT: Staff's Recommendation for Transfer of Assets and Cancellation of Certificate of Convenience and Necessity

DATE: December 30, 2009

INTRODUCTION

On April 20, 2007, the Staff of the Public Service Commission (Staff) filed a *Motion to Approve Transfer of Assets of Swiss Villa Utilities, Inc. to the Black Oak Mountain Resort Property Owners Association (POA Motion)*, requesting either: 1) Commission approval of a transfer of the assets of Swiss Villa Utilities, Inc. (Swiss Villa) to the Black Oak Mountain Resort Property Owners Association (the Association), subject to certain conditions; or 2) in the event the Association should fail to accomplish the conditions contained in the *POA Motion*, the appointment of a receiver to manage the operations of Swiss Villa.

On April 25, 2007, the Commission issued an *Order Directing Notice and Joining Parties*, joining Swiss Villa, the Association, S.V. Holding, Inc., Quanah Corporation, and the County Commission of Stone County (Stone County) as parties to the case. The Commission also directed distribution of notice of the *POA Motion* to the local media outlets and to members of the General Assembly serving the subject area, and established an intervention deadline of May 15, 2007. No requests to intervene were submitted to the Commission.

On May 17, 2007, anticipating that resolution of this case would likely take a considerable amount of time, the Commission issued its *Order Directing Staff to File Monthly Status Reports*, ordering the Staff to file monthly status reports beginning on June 1, 2007. The Staff has subsequently filed a total of thirty-one (31) monthly status reports.¹

On October 1, 2009, for the reasons discussed in detail below, the Commission added Black Oak Mountain Water Company and Black Oak Mountain Sewer Company as parties to this case.

¹ A summary of the pertinent information contained in those status reports is attached to this Memorandum as Attachment A, and is incorporated by reference herein.

BACKGROUND

Swiss Villa obtained Certificates of Convenience and Necessity (Certificates) to provide water and sewer services in Case Nos. WA-83-75 and SA-83-76, respectively. The water and sewer systems are used to provide service to approximately 138 mostly part-time residential customers and one commercial customer, in a resort development south of Kimberling City on Table Rock Lake. The development has been in existence since the early or mid 1970's.

At the time the Staff filed its *POA Motion*, Swiss Villa was operating with no executive management. Prior to that time Swiss Villa had been under the control of a number residents who had volunteered to act as officers and directors, although those individuals had since resigned due to financial concerns resulting from receipt of Neighborhood Improvement District (NID) funding. Prior to resigning, these resident/directors, on behalf of Swiss Villa, entered into an agreement with an accounting firm to handle monthly customer billing, and from the funds collected to pay a licensed utility system operator and other regular bills. Most other obligations, including regulatory reporting and the handling of extraordinary service matters, simply did not get done. The Staff documented the dissolution of Swiss Villa in its *POA Motion*. S. V. Holding, Inc. was also administratively dissolved, effective January 5, 2006.² Eventually, the customers, who are members of the Association, agreed that it would be reasonable to acquire the utility system and to operate it as an unregulated homeowners' association.

Although the Association initially agreed to be the transferee of the system assets, approval of the transfer presented a number of practical difficulties. To begin, the Association did not have the funds or resources to adequately or appropriately determine its ability to acquire an interest in the real property associated with the system. Specifically, resolution of this issue required determination of any real estate interests held by Stone County, S.V. Holding, Inc., and/or Quanah Corporation, and the negotiation of those interests to the Association. To reiterate, these issues would have had to have been resolved in the absence of assistance from Swiss Villa. Similarly, from a regulatory perspective, neither the Association nor Swiss Villa was in a position to achieve the desired approval of a transfer of assets. Because Swiss Villa was essentially out of business, it would have been extremely difficult for the parties to negotiate the terms of the transfer and to gather and submit to the Commission the documentation necessary to attain a positive recommendation.

Under the facts presented in this case, Staff believed, and continues to believe, that some action needs to be taken in an attempt to reach a solution to the problems facing the systems, and more importantly, its customers. Even though operation of the utility by the Association appeared to be a viable solution, due to the complexity of the issues involved Staff viewed the appointment of a receiver as a genuine possibility until such transfer could be approved. For the reasons

² Documentation of the dissolution of SV Holding, Inc. is included herein as Attachment B, and is incorporated by reference herein.

mentioned above, the Staff believed that it was necessary to take the initiative to file its *POA Motion* to open this case, and is extremely pleased that the system has been able to provide safe and adequate service without necessitating the appointment of a receiver.

A more detailed history of Swiss Villa and events that led to its current state of affairs is included in the *POA Motion* and the pleading to which this Memorandum is attached.

After the *POA Motion* was filed, and as is outlined in all of the Staff's status reports, the Staff assisted with resolving the real estate issues, and provided assistance to the Association in modifying its By-laws to ensure the provision of utility service in an equitable manner. During the course of these events, the concept embodied in the Staff's *POA Motion* began to evolve. Certain members of the Association decided that rather than the Association providing utility service, that a separate nonprofit water and sewer entity would be formed. As a result, the Association formed two entities, those being the Black Oak Mountain Water Company, and Black Oak Mountain Sewer Company (collectively referred to hereinafter as the Black Oak Companies). These entities have been incorporated as provided in Chapter 393, RSMo (2000)³. These types of entities, often referred to by the Staff as "393 companies," are nonprofit utilities corporations operating under the control of the system customers, and are not subject to the jurisdiction of the Public Service Commission.

Although the *POA Motion* was filed as a pleading seeking Commission approval of the transfer of assets to the Association, this case has evolved such that the Staff is now recommending approval for transfer of the Swiss Villa utility system assets to the Black Oak Companies. Staff is requesting the Commission grant authority to have all system-related assets transferred to the Black Oak Companies due to the fact that the exact nature of each parties' interest in the systems assets is convoluted and at points unclear. For the further discussion of the system assets, see the pleading to which this Memorandum is attached.

To be clear, the Staff has no particular preference as to whether the utility systems will be owned and operated by the Association or the Black Oak Companies. While a public interest analysis of the transfer is to be applied in either case, the Staff believes that the proper organization and operation of 393 companies conclusively removes those entities from the jurisdiction of this Commission, however the Staff has additional criteria it would generally apply in a similar application of a homeowners association.

³ The Articles of Incorporation and the Certificate of Incorporation of the Black Oak Mountain Water Company are attached to this Memorandum as Attachment C. A draft of the By-Laws of the Black Oak Mountain Water Company is attached to this Memorandum as Attachment D. The Articles of Incorporation and the Certificate of Incorporation of the Black Oak Mountain Sewer Company are attached to this Memorandum as Attachments E. A draft of the By-Laws of the Black Oak Mountain Sewer Company is attached to this Memorandum as Attachment F. All are incorporated by reference herein.

STAFF'S INVESTIGATION

While the Staff has long held itself out, on an informal basis, as willing to provide operational and business assistance to small water and sewer utilities, Staff also firmly believes that when homeowners or customers plan to operate non-regulated utility systems, that it is essential to have system members or customers willing to serve as leaders in accomplishing the formation and initial operations of the utilities. The Staff believes that such people have been working and currently are working diligently to set up and to properly operate the Black Oak Companies. The Staff notes that this work is being done in the spare time of these dedicated individuals and without compensation. The Staff is pleased to inform the Commission that without the efforts of these individuals that water and sewer service in this area would have been in serious jeopardy during the time covered by the progression of this case, and possibly into the future. Initially, the Staff regularly worked and communicated with one of the board members of the Association, Mr. Scott Davis, who along with other board members, attained the Association's approval to proceed with the acquisition of the utility assets. In addition, Mr. Davis did much of the work with Stone County to resolve real estate issues by drafting and entering into a lease agreement, obtaining a quit-claim deed for the real estate⁴, and beginning the process to modify the Association By-laws. Later, Mr. John View became involved as a primary organizer of what would eventually become the Black Oak Companies. Mr. View, along with the board members of both the Association and the Black Oak Companies and the assistance of an independent attorney, was able to oversee the drafting of corporate articles and By-laws, to get general membership approval, and to officially form the Black Oak Companies. In addition, since Swiss Villa was unable and unwilling to perform the system's operational tasks, both Mr. Davis and Mr. View had at times unofficially assumed operational oversight of the utility assets on behalf of the Association and eventually the Black Oak Companies. These tasks have included not only the day-to-day operations of the systems, but also emergency repairs and other necessary facility maintenance, attention to special needs created by a major ice storm and a flood, and cooperation with the Missouri Department of Natural Resources (DNR) to plan for sewage treatment plant upgrades designed to meet plant discharge requirements.

Because some utility plant improvements were paid by public funding through the NID bonds, Stone County is currently holding in trust for the property owners within the area served by the NID the real property upon which the sewage treatment plant and well are located. After the Staff filed its *POA Motion*, the Association entered into a lease with Stone County in order to demonstrate access to the real estate, and to affirm entitlement to ownership after the NID bonds are paid⁵. The Black Oak Companies, after their formation, entered into a sublease agreement

⁴ A previously existing quitclaim deed between Quanah Corp and Stone County was included in the *POA Motion*, and the quitclaim deed between Quanah Corp. and the Association is included with this Memorandum as Attachment G, and incorporated by reference herein.

⁵ The lease is included with this memorandum as Attachment H and is incorporated by reference herein.

with Stone County and the Association, designed to permit the Association to sublease the real estate to the Black Oak Companies, and to similarly affirm entitlement to ownership⁶.

STAFF'S FINDINGS AND CONCLUSIONS

Having worked regularly with the Association and the Black Oak Companies for the past two and a half years, the Staff believes that the transfer of the assets of the Swiss Villa utility system to the Black Oak Companies is in the public interest. There simply is no other entity either willing or able to operate the utility systems and to provide service to the customers, nor to undertake necessary improvements. The homeowners, having effectively undertaken the day-to-day system operations, have operated within the regulatory constraints that would apply to Swiss Villa if it were still operating, including those related to charging customer rates. Swiss Villa last filed a rate case in 2001 but that case was never completed. The current monthly residential flat rate for water service is \$11.58, and for sewer service is \$12.95, both in effect since May 10, 1985. Although the Staff has not been able to determine whether existing rates are adequate for operation of the system by the Black Oak Companies, the Staff does report that if capital improvements are undertaken, the Staff believes that increases most likely will be necessary. In any case, the Staff believes that the Black Oak Companies are in a position to modify customer rates in an equitable manner, as may be required in the future.

DNR ISSUES AND ADDITIONAL INFORMATION

As mentioned previously, DNR has concerns with the general performance of the sewage treatment plant, most notably, DNR is now requiring system improvements designed to address phosphorus removal, which will likely require system upgrades. The system's discharge permit also expired in 2008. Compliance issues are difficult for either the Association or the Black Oak Companies to address until they own, or at least officially have access to the treatment plant, and until they have the ability to set up adequate funding for necessary improvements. The Black Oak Companies are in communication with DNR regarding system improvements, and at present are studying what engineering work will be necessary.

The Staff has reviewed Swiss Villa's history regarding the submission of its Commission annual reports and the payment of its Commission assessments. Deficiencies exist for both. The most recent annual report on file from Swiss Villa, as posted by the Commission's Adjudication Division Data Center, is for calendar year 2004. Although there exist no annual reports on file for calendar years 2000 through 2003, annual reports are on file for calendar years 1983 through 1999. Information posted by the Commission's Administrative Division for fiscal years 2000 to the present shows Swiss Villa as current on its payments through the third quarter of fiscal year 2004, and as past due since.

⁶ The sublease executed between Stone County, the Association and the Black Oak Companies is included as Attachment I and is incorporated by reference herein.

The Staff filed a formal complaint regarding annual reports and assessments on June 17, 2005 (amended June 24, 2005). This matter was assigned Case No. WC-2005-0493. The Commission issued an *Order of Default* on August 7, 2005. On April 14, 2006, the Staff filed a penalty action in the Circuit Court of Cole County. On August 25, 2005 the court entered judgment by default in the amount \$84,600.

Swiss Villa has no other matters pending before the Commission, and the approval of the transfer of assets to the Black Oak Companies, and cancelation of Swiss Villa's Certificates will not affect any other matter before the Commission.

STAFF'S RECOMMENDATIONS

Based upon the above, the Staff believes that the transfer of assets from Swiss Villa, Quanah Corporation, S.V. Holding, Inc. and Stone County to the Black Oak Companies is in the public interest, and recommends such approval. The Staff specifically recommends the Commission issue an order that:

1. Approves the transfer of assets to the Black Oak Companies;
2. Upon the effective date of the order, cancels the Certificates granted to Swiss Villa for provision of water and sewer service; and,
3. Upon the effective date of the order, cancels the tariffs on file for Swiss Villa applicable to water service and sewer service.

List of Memorandum Attachments:

- A – Summary of Staff Status Reports
- B – Notice of Dissolution of S.V. Holding, Inc.
- C – Articles of Incorporation and Certificate of Incorporation of Black Oak Mountain Water Company
- D – Draft By-Laws of Black Oak Mountain Water Company
- E – Articles of Incorporation and Certificate of Incorporation of Black Oak Mountain Sewer Company
- F – Draft By-Laws of Black Oak Mountain Sewer Company
- G – Quanah-Association Quitclaim Deed
- H – Non-Exclusive Lease of Real Property (Stone County and Association)
- I – Sublease, and Consent to Sublease (Stone County and Black Oak Companies)

Swiss Villa Utilities, Inc.
WO-2007-0410
Summary of Status reports
December 15, 2009

Report No. 1, EFIS Item 4, filed on June 1, 2007 - at a meeting on May 26, 2007, members of the Black Oak Mountain Property Owners Association decided to continue to move forward, reviewed a draft of a real estate lease with Stone county and has concerns primarily involving the clarity of transfer from the county to the association after Neighborhood Improvement District bonds are paid, and prepared a markup to send to Stone County. Next Association meeting is July 21, 2007.

Report No. 2, EFIS Item 5, filed on June 29, 2007 - no significant news, July meeting is still scheduled.

Report No. 3, EFIS Item 6, filed on July 31, 2007 - Association met on July 21, also representatives met with Stone County, reached a tentative agreement on lease language. Currently arranging for final checks on the property ownership, and intends to meet again in a few weeks to begin work on by-laws, and to create additional director positions for management of utility matters.

Report No. 4, EFIS Item 7, filed on August 31, 2007 - Association has been meeting monthly, believes the draft lease with stone county is substantially agreed upon between it and Stone County, has acquired a quit claim deed from Quannah Corporation who is the owner of much of the undeveloped property. General membership meeting scheduled for September 1, 2007 during Labor Day weekend, intend to discuss the current status, how to proceed further with by-laws, and discuss utility board directors within the Association who would manage utility business.

Report No. 5, EFIS Item 8, filed on October 1, 2007 - Association is satisfied with real estate title issues and believes it will have clear title when transferred to it from the county after Neighborhood Improvement District bonds are paid, as provided in the lease agreement. The general membership meeting was held on Sept 1, membership agreed to investigate liability insurance for the utility board, and to proceed with drafting of by-laws modifications for utility operations.

Report No. 6, EFIS Item 9, filed on Oct 31, 2007 - Association is continuing to work on liability insurance and by-laws, but no finalization on these issues yet.

Report No. 7, EFIS Item 10, filed on November 30, 2007 - Association has continued to work on obtaining liability insurance for the utility board, and expects to receive an acceptable insurance proposal soon.

Report No. 8, EFIS Item 11, filed on December 31, 2007 - not a lot of progress on insurance and by-laws, work is expected to continue in January.

Report No. 9, EFIS Item 12, filed on February 1, 2008 - Association has received a commitment for a liability insurance policy for the Association and board members, could become effective in as little as a week upon request. Association plans to meet within the next several weeks to resume work on by-laws. They have been thinking about operating strategy, whether to do it themselves with employees and contract operators, or to hire an operations manager to manage the entire utility operation.

Report No. 10, EFIS Item 13, filed on February 29, 2008 - Association finalized the insurance purchase. No meeting took place in February as was planned, Association intends to resume meetings within the next few weeks.

Report No. 11, EFIS Item 14, filed on April 1, 2008 - Five people have emerged who comprise a utility board, they have reviewed some by-laws proposals and put a draft together. Will discuss with general membership over Memorial Day weekend.

Report No. 12, EFIS Item 15, filed on May 1, 2008 - Flood conditions in the area impacted time for extra work by the board members. The board intends to work on by-laws and other utility matters during an upcoming weekend meeting, to prepare for a general membership meeting over Memorial Day weekend.

Report No. 13, EFIS Item 16, filed on May 30, 2008 - The persons expected to be on the proposed utility board have been working on by-laws including during a Memorial Day weekend meeting. Then the Association members, in their meeting, discussed the utility plan. The Association intends to create a separate utility entity that will operate under the authority of the Association and the connected customers. They intend to hire counsel to review by-laws and other corporation papers within the next several weeks.

Report No. 14, EFIS Item 17, filed on July 1, 2008 – The utility board has continued working on finalizing the new utility corporation's by-laws and corporation papers, not yet finalized.

Report No. 15, EFIS Item 18, filed on July 31, 2008 – The utility board president has a very rough draft of proposed Articles of Incorporation for the board to review, and is continuing to work on by-laws. Upon completion will have their attorney review them, and then the board will have to give its final approval.

Report No. 16, EFIS Item 19, filed on August 29, 2008 - Not a lot of progress toward developing by-laws due to time availability. The Association has a general membership meeting this Saturday, August 30, 2008, during which the president wishes to discuss and determine a proposed time frame necessary to accomplish

the development and approval of the by-laws. Also was reported to the Staff that the Association is taking an active role in keeping the utility system operating. The Association has accomplished a pump repair and a pipeline repair with funding available by Swiss Villa Utilities, Inc. revenue.

Report No. 17, EFIS Item 20, filed on September 30, 2008 – Staff was sent preliminary drafts of by-laws and articles of incorporation for the proposed utility. The Staff will provide comments back as soon as possible, likely within a few days. Other board members will also need to provide input before these documents are finalized.

Report No. 18, EFIS Item 21, filed on October 31, 2008 - Staff reviewed the preliminary drafts of the by-laws and articles of incorporation. On October 30, 2008 Staff mailed to that organizer a letter containing its recommendations and suggestions concerning compliance of the by-laws and articles of incorporation with the applicable sections of the Missouri non-profit corporation statutes. Staff's suggestions are to be reviewed and further revised by the Association.

Report No. 19, EFIS Item 22, filed on December 1, 2008 - Staff's comments regarding the corporation by-laws and articles of incorporation were distributed to utility board members, and the documents currently under review. Review by an attorney would be sought after review and editing by the utility board. The Association is currently handling system operations, system electrical components were repaired causing temporary cash flow difficulties for the Association, receipt of this month's revenues are expected to resolve the issue.

Report No. 20, EFIS Item 23, filed on December 30, 2008 – The organizer of the proposed utility entity retained an attorney on behalf of the entity and discussed with that attorney a number of preliminary matters concerning incorporation. Staff has continued to provide comments and suggestions to the organizer related to the entity's incorporation and the operation of the utility system. Concerning operations, the association will expend funds to rebuild a spare blower motor for the treatment facility. The facility is running properly but service may be in jeopardy if another motor fails.

Report No. 21, EFIS Item 24, filed on February 6, 2009 - The attorney retained on behalf of the proposed utility entity continued his review for compliance of the entity's by-laws and articles of incorporation with the Missouri non-profit corporation statutes. Not yet finalized.

Report No. 22, EFIS Item 25, filed on March 2, 2009 - The attorney retained on behalf of the utility entity continued his review for compliance of the entity's by-laws and articles of incorporation with the Missouri nonprofit corporation statutes. A conference to finalize the review is expected soon. Regarding utility operations, the water system experienced decreased production. Twelve (12) sections of the "drop pipe" component of the well system had to be repaired,

estimated total cost will be approximately \$7,500. System is once again fully operational.

Report No. 23, EFIS Item 26, filed on March 30, 2009 - On Wednesday, March 18, 2009, Staff participated in a teleconference with John View (the organizer of the proposed utility entity), and James Jeffries (the attorney retained by Mr. View to incorporate the proposed utility). Parties to the teleconference discussed Staff's recommendations as to the incorporation of the utility and the components which Staff would advise be included in the utility's by-laws and articles of Incorporation. Mr. Jeffries has indicated his intention to submit to the Staff revised documents on or about April 1, 2009.

Report No. 24, EFIS Item 27, filed on April 30, 2009 - Staff received a set of documents representing the articles of incorporation and the by-laws of the proposed Black Oak Mountain Water Company and the Black Oak Mountain Sewer Company. These documents were composed by James Jeffries, the attorney retained by the utility entities and represent an election to incorporate the entities under the provisions of Chapter 393 outlining the incorporation of nonprofit water companies and nonprofit sewer companies. Staff reviewed the material and presented initial recommendations to James Jeffries, who has indicated his intention to produce a final version of the documents by Friday, May 8. Once finalized, documents will be subject to the ratification and consent of the Board of Directors of each proposed entity. It is intended that the members will have the opportunity to meet and vote upon the incorporation during the upcoming Memorial Day Weekend, May 23-25. Regarding operations, Swiss Villa Utilities, Inc., the entity from which the system is attempting to be transferred, received a "Letter of Warning" from the Missouri Department of Natural Resources (DNR) related to the level of phosphorus contained in a recent system sample. Staff, DNR, and the utility entities are currently coordinating a meeting to address DNR's concerns.

Report No. 25, EFIS Item 28, filed on June 1, 2009 - The semi-final versions of the articles of incorporation, the by-laws and other such documents necessary for the formation of the corporations were recently presented to each corporation's prospective members of the board of directors, who are currently reviewing the documents prior to approval. The utility entities' organizer, Staff, and representatives from the Missouri Department of Natural Resources have scheduled an in-person meeting for June 11, 2009 in order to discuss various issues related to operation of the utility system, and to address question related to the finalization of the transfer of assets to the non-profit utility entities.

Report No. 26, EFIS Item 29, filed on June 30, 2009 - On June 11, 2009, John View, the organizer of the proposed non-profit utility corporations, attended a meeting with representatives from the Staff and from DNR in order to address certain issues concerning the incorporation of the prospective Chapter 393 non-profit utility corporations and to discuss issues related to the utility system's

compliance with state environmental regulations. DNR agreed to work with Mr. View to develop a schedule of compliance in order to bring the wastewater treatment system into compliance. Mr. View agreed that by June 30, 2009 he would contact an environmental engineer to obtain estimates for the cost of an anti-degradation review for presentation to the prospective members of the Board of Directors of the Black Oak Mountain Sewer Company. Mr. View also agreed to file with Missouri Secretary of State's Office those documents required for the incorporation of the non-profits water and sewer corporations. On June 29, 2009, Mr. View indicated to the Staff that he has contacted Great River Engineering about performing the anti-degradation review, though the review has not yet commenced. Mr. View further indicated that he is awaiting the signature of one member of the board of directors of the prospective corporations, and that once such signature is attained the documents required for incorporation will be filed with the Missouri Secretary of State's Office.

Report No. 27, EFIS Item 30, filed on July 31, 2009 - On July 10, 2009, the incorporators of the Black Oak Mountain Sewer Company and the Black Oak Mountain Water Company filed with the Missouri Secretary of State the documents necessary to incorporate these entities as non-profit water and sewer corporations under the applicable provisions of Missouri Statutes. Staff pointed out that due to the incorporation of the Black Oak Mountain utility entities, the original Staff condition related to the Association's bylaws no longer applies. While the Staff's conditions are no longer applicable as applied to the Association, other conditions related to the authority to access the system facilities do apply. Staff requested and received documents related to facility access, and is currently reviewing.

Report No. 28, EFIS Item 31, filed on August 31, 2009 - Staff has determined that documents related to facility access only applies to the Black Oak Mountain Property Owners Association and not Black Oak Mountain utility entities, and thus such documentation is not sufficient to satisfy Staff's related condition. The Staff relayed this information to the President of Black Oak Mountain utility entities, who in turn has committed to providing Staff with appropriate documentation in the near future.

Report No. 29, EFIS Item 32, filed on September 30, 2009 - Staff has not received additional necessary documentation related to facility access by the Black Oak Mountain utility entities. On September 28, 2009, Staff received an email from the President of Black Oak Mountain utility entities demonstrating that he had made several attempts to contact necessary parties in Stone County, Missouri. On September 29, 2009, Staff received another email indicating that officials from Stone County had requested additional information from the utility entities.

Report No. 30, EIFS Item 34, filed on October 29, 2009 - On October 21, 2009, Staff received an email from John View indicating that he had received a

“Sublease” on the utility system facilities from the Stone County Commission. In this email, Mr. View indicated that once he obtains the signature of the President of the Black Oak Mountain Resort Property Owners Association that he will submit the information for Staff to review.

Report No. 31, EFIS Item 35, filed on November 30, 2009 - Staff received from the president of the Black Oak Mountain utility entities a signed copy of a sublease of the utility system facilities, executed by and between representatives of Stone County, the Black Oak Mountain Resort Property Owners Association, and the Black Oak Mountain utility entities. Staff is currently reviewing the sublease, and all of the information pertinent to Staff’s recommendation in this matter. Staff anticipates filing its ultimate recommendation by the end of December.

**ADMINISTRATIVE DISSOLUTION
OR REVOCATION FOR A
NON-PROFIT CORPORATION**

**N00050592
S. V. HOLDING, INC.
LLOYD CROSBY
900 W. COMMERCIAL
SPRINGFIELD, MO 65803**

January 5, 2006

S. V. HOLDING, INC.
N00050592

The above corporation has failed to comply with Section 355.706 of the Revised Statutes of Missouri (RSMo), by:

Failure to file a correct and current annual report

Therefore, the above corporation stands **administratively dissolved or revoked** under the provisions of Section 355.711 of the RSMo as of January 5, 2006, subject to rescission as in these acts provided. **A corporation administratively dissolved may not carry on any activities except those necessary to wind up and liquidate its business and affairs under Section 355.691.**



Mark R. Reading

Mark R. Reading
Executive Deputy Secretary of State

ARTICLES OF INCORPORATION OF BLACK OAK MOUNTAIN WATER COMPANY

The undersigned incorporators, for the purpose of organizing **BLACK OAK MOUNTAIN WATER COMPANY**, as a Missouri nonprofit water company (the "**Company**"), hereby execute these Articles of Incorporation pursuant to Sections 393.900 to 393.951 of the Missouri Revised Statutes:

Article One

The name of the Company is:

BLACK OAK MOUNTAIN WATER COMPANY

Article Two

The address of the principal office of the Company is: **351 Timbercreek, Nixa, MO 65714-7729.**

Article Three

The names and addresses of the incorporators are:

- | | |
|---|--|
| 1. John View
351 Timbercreek
Nixa, MO 65714-7729 | 4. Doyle Atnip
301 E. Swan
Ozark, MO 65721 |
| 2. Eric Brown
106 N. 38th
Nixa, MO 65714 | 5. John Obucina
2571 Westmoreland Dr.
Granite City, IL 62040 |
| 3. Mike Vogt
1240 W. Cardinal
Springfield, MO 65810 | |

Article Four

The Company is to continue in perpetuity unless earlier dissolved.

State of Missouri
Creation - NonProfit 4 Page(s)



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Article Five

The legal description of the territory in which the company intends to operate is:

A part of Sections 30, 31 and 32 of Township 22 North, Range 23 West, and a part of Section 6, Township 21 North, Range 23 West, Stone County, Missouri, being more particularly described as follows:

Beginning at the Southwest corner of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 30; thence North along the West line thereof to the Northwest corner of said SE $\frac{1}{4}$ of the SW $\frac{1}{4}$; thence East along the North line thereof to a point on the Southerly R/W of Missouri State highway No. "H," as now located; thence easterly along said Southerly R/W to a point on the East line of said Section 31; thence South along said East line to the W $\frac{1}{4}$ corner of said Section 32; thence East along the North line of the SW $\frac{1}{4}$ of said Section 32 to the Northeast corner of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of said Section 32; thence South along the East line of said W $\frac{1}{2}$ of the SW $\frac{1}{4}$ to the Southeast corner of said W $\frac{1}{2}$ of the SW $\frac{1}{4}$; thence West along the South line thereof to the Southwest corner of said Section 32; thence South along the East line of said Section 6 to the Northeast corner of the S $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 6; thence Southwesterly to the Northeast corner of the S $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said NE $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence Southwesterly to the Southeast corner of the N $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 6; thence North to the Southeast corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence Northwesterly to the Southeast corner of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said NW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence North to the Northeast corner of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said NW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence West along the North line of said Section 6 and the South line of said Section 31 to the Southeast corner of the W $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 31; thence North to the Center of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said SW $\frac{1}{4}$ of the SE $\frac{1}{4}$; thence West to the Northeast corner of the S $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said SW $\frac{1}{4}$ of the SE $\frac{1}{4}$; thence Southwesterly to the Northwest corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said SW $\frac{1}{4}$ of the SE $\frac{1}{4}$; thence Northwesterly to the Southeast corner of the NE $\frac{1}{4}$ of the S $\frac{1}{2}$ of Lot 2 of the SW $\frac{1}{4}$ of said Section 31; thence Northwesterly to the Center of the NE $\frac{1}{4}$ of the S $\frac{1}{2}$ of Lot 2 of said SW $\frac{1}{4}$; thence Northeasterly to the Southwest corner of the N $\frac{1}{2}$ of Lot 1 of said SW $\frac{1}{4}$; thence Northeasterly to the Northwest corner of the E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the N $\frac{1}{2}$ of Lot 1 of said SW $\frac{1}{4}$; thence Southeasterly to the Southeast corner of the N $\frac{1}{2}$ of Lot 1 of said SW $\frac{1}{4}$; thence Northeasterly to the Center of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 31; thence North to the Northeast corner of the W $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said NW $\frac{1}{4}$ of the SE $\frac{1}{4}$; thence West to the Northwest corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said NW $\frac{1}{4}$ of the SE $\frac{1}{4}$; thence Northwesterly to the Southwest corner of the N $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the N $\frac{1}{2}$ of Lot 1 of the SW $\frac{1}{4}$ of said Section 31; thence North to the Southwest corner of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the S $\frac{1}{2}$ of Lot 1 of the NW $\frac{1}{4}$ of said Section 31; thence

Northeasterly to the Southwest corner of the E $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the S $\frac{1}{2}$ of Lot 1 of said NW $\frac{1}{4}$; thence Northeasterly to the Southwest corner of the N $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 31; thence Northeasterly to the Southeast corner of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence Northwesterly to the Northwest corner of the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence West to the Center of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the S $\frac{1}{2}$ of Lot 1 of the NW $\frac{1}{4}$ of said Section 31; thence Northwesterly to the Northeast corner of the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the S $\frac{1}{2}$ of Lot 1 of said NW $\frac{1}{4}$; thence Southwesterly to the Northeast corner of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the S $\frac{1}{2}$ of Lot 1 of said NW $\frac{1}{4}$; thence Southwesterly to the Northwest corner of the S $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Lot 1 of said NW $\frac{1}{4}$; thence North along the West line of the E $\frac{1}{2}$ of said NW $\frac{1}{4}$ to the point of beginning.

Article Six

The names and addresses of the persons who shall constitute the first board of directors of the Company are:

- | | |
|---|--|
| 1. John View
351 Timbercreek
Nixa, MO 65714-7729 | 4. Doyle Atnip
301 E. Swan
Ozark, MO 65721 |
| 2. Eric Brown
106 N. 38th
Nixa, MO 65714 | 5. John Obucina
2571 Westmoreland Dr.
Granite City, IL 62040 |
| 3. Mike Vogt
1240 W. Cardinal
Springfield, MO 65810 | |

Such persons shall hold office until the next following annual meeting of the members of the Company or until their successors shall have been elected and qualified.

Article Seven

The Company is organized for the purpose of supplying water distribution and treatment services within the state of Missouri.

Article Eight

The Company will operate under Chapter 355 of the Missouri Revised Statutes and hereby accepts Chapter 355 of the Missouri Revised Statutes and for all purposes will be deemed a mutual benefit corporation organized under such Chapter.

Article Nine

The address of the Company's initial registered office and the name of the Company's registered agent at that office is:

John View
351 Timbercreek
Nixa, MO 65714-7729

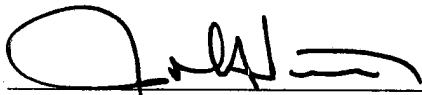
Article Ten

The Company will have members.

Article Eleven

Upon the dissolution of the corporation, the assets of the corporation which remain after payment of its obligations has been made or provided for, and after return, transfer, or conveyance of assets held upon condition requiring such return, transfer, or conveyance, shall be transferred to a state or local government for a public purpose or to one or more not-for-profit organizations whose purposes are substantially similar to those for which the corporation is organized and which at the time of such distribution are described in section 501(c)(3) of the Code and exempt from tax under section 501(a) of the Code.

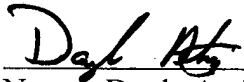
These Articles of Incorporation have been executed and acknowledged in duplicate by the undersigned incorporators on July 4, 2009.



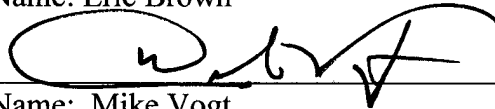
Name: John View



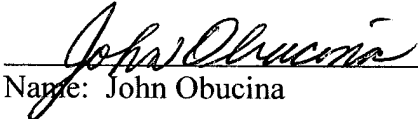
Name: Eric Brown



Name: Doyle Atnip



Name: Mike Vogt



Name: John Obucina

State of Missouri



Robin Carnahan
Secretary of State

CERTIFICATE OF INCORPORATION MISSOURI NONPROFIT WATER COMPANY

WHEREAS, Articles of Incorporation of

BLACK OAK MOUNTAIN WATER COMPANY
N00981059

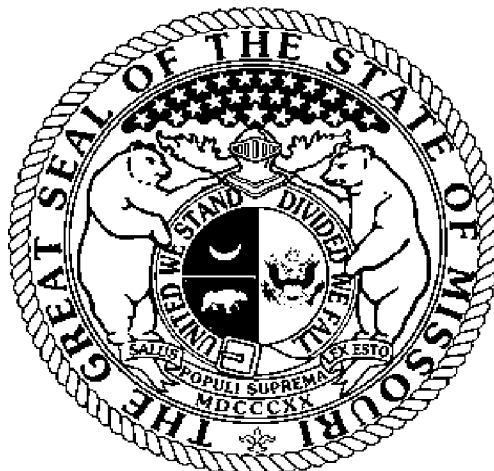
have been received and filed in the Office of the Secretary of State, which Articles, in all respects, comply with the requirements of Sections 393.900 to 393.945 RSMo.

NOW, THEREFORE, I, ROBIN CARNAHAN, Secretary of State of the State of Missouri, do by virtue of the authority vested in me by law, do hereby certify and declare this entity a body corporate, duly organized this date and that it is entitled to all rights and privileges granted corporations organized under Sections 393.900 to 393.945 RSMo.

IN TESTIMONY WHEREOF, I hereunto set
my hand and cause to be affixed the GREAT
SEAL of the State of Missouri.
Done at the City of Jefferson, this 10th day of
July, 2009.

A handwritten signature in cursive script that reads "Robin Carnahan".

Secretary of State



BY-LAWS
OF
BLACK OAK MOUNTAIN WATER COMPANY

* * * * *

These By-laws have been adopted by Board of Directors of **BLACK OAK MOUNTAIN WATER COMPANY**, a Missouri nonprofit water company (the "**Company**") subject to sections 393.900 to 393.951 of the Missouri revised statutes.

ARTICLE I

OFFICES

Section 1.1. Principal Office: The principle office of the Company in the State of Missouri shall be located at **351 Timbercreek, Nixa, MO 65714-7729**. The Company may, upon authorization of a majority of its members at any regular or special meeting, change the location of its principal office by filing a certificate of change of principal office, executed and acknowledged in duplicate by the Company's president or vice president under the Company's seal and attested by the Company's secretary, in the office of the Missouri Secretary of State.

Section 1.2. Other Offices: The Company may have such other offices as the business of the Company may require from time to time.

Section 1.3. Registered Agent: The registered office of the Company shall be maintained in the State of Missouri, and the address of the registered office may be changed from time to time by the Board of Directors. Upon any such change the Company shall cause a statement of change in registered agent to be filed with the Missouri Secretary of State.

ARTICLE II

MEMBERS

Section 2.1. Annual Meeting: The annual meeting of the members shall be held at such time and place as may be fixed by the Board of Directors during **May**. The annual meeting shall be held for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the election of directors shall not be held on the day designated for any annual meeting or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be.

Section 2.2. Special Meetings: Special meeting of the members may be called by the President, by the Board of Directors, by any three Directors or upon the request of not less than ten percent of all the members.

Section 2.3. Place of Meeting: The Board of Directors may designate any place within the State of Missouri, as the place of meeting for any annual meeting of the members or for any

special meeting of the members called by the Board of Directors. The members may designate any place within the State of Missouri, as the place for the holding of such meeting, and may include the same in a waiver of notice of any meeting. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal office of the Company in the State of Missouri.

Section 2.4. Notice of Meetings: Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than twenty-five (25) days preceding the date of the meeting, either personally or by mail, by or at the direction of the President, or the Secretary, or the officer or person calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope addressed to the member at the member's address as it appears on the records of the Company, with postage thereon prepaid.

Section 2.5. Closing of Books or Fixing of Record Date: The Board of Directors of the Company may close its membership books for a period not exceeding twenty-five (25) days preceding the date of any meeting of members, or for the allotment of rights, or the date when any change or conversion or exchange of membership interests shall be effective; or, in lieu thereof, may fix in advance a date, not exceeding twenty-five (25) days preceding the date of any meeting of members, or for the allotment of rights, or to the date when any change or reconversion or exchange of membership interests shall be effective, as the record date for the determination of members entitled to notice of, or to vote at, such meeting, or members entitled to receive any such allotment of rights, or to exercise rights in respect of any such change, conversion or exchange of membership interests; and the members of record on such date of closing the transfer books, or on the record date so fixed, shall be the members entitled to notice of and to vote at, such meeting, or to receive payment of such dividend, or to receive such allotment of rights, as the case may be. If the Board of Directors shall not have closed the membership books or set a record date for the determination of its members entitled to vote as hereinabove provided, the date on which notice of the meeting is mailed or right announced, as the case may be, shall be the record date for such determination of members so entitled to vote.

Section 2.6. Voting Lists: At least ten (10) days before each meeting of members, the officer or agent having charge of the membership book for membership interests of the Company shall make a complete list of the members entitled to vote at such meeting, arranged in alphabetical order with the address of each member, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the registered office of the Company and shall be subject to inspection by any member at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member during the whole time of the meeting. The original membership interest ledger or membership book, or a duplicate thereof kept in this state shall be prima facie evidence as to who are the members entitled to examine such list or membership interest ledger or transfer book or to vote at any meeting of members.

Section 2.7. Quorum: Two (2) percent of the members of the Company, present in person or by proxy shall constitute a quorum for the transaction of business at all meetings of the members. If less than two percent of the members are represented at said meeting, a majority of the members present in person may adjourn the meeting, from time to time, without further notice.

Section 2.8. Proxies: At all meetings of members, a member may vote by proxy executed in writing by the member or by his duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the Company before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

Section 2.9. Voting by Members: Each member shall have one membership interest and be entitled to one vote upon each matter submitted to a vote at a meeting of members. Voting shall be in person or by proxy. Voting by mail shall not be permitted.

ARTICLE III

BOARD OF DIRECTORS

Section 3.1. General Powers: The business and affairs of the Company shall be managed by its Board of Directors. The Board of Directors may exercise all of the powers of the Company except such as are conferred upon the members by Sections 393.900 to 393.951 of the Missouri Revised Statutes, or the Company's Articles of Incorporation or these Bylaws.

Sectional 3.2. Number, Election and Term: The number of directors of the Company shall be **five (5)**, each of whom must be a member of the Company and shall be elected at the annual meeting of members, except as hereinafter provided for the initial term of said directors. The term of office of said directors, except as hereinafter provided with reference to the initial term of office shall be **three (3) years**. Each such director shall hold office until such director's successor has been elected and has qualified.

Notwithstanding the forgoing, at the first meeting of the members: (i) one director shall be nominated and elected for a term of one (1) year, (ii) two directors shall be nominated and elected for a term of two (2) years, and (iii) the remaining two directors shall be nominated and elected for a term of three (3) years.

Section 3.3. Regular Meetings: A regular meeting of the Board of Directors shall be held without other notice than this Section immediately after, and at the same place as, the annual meeting of the members. The Board of Directors may provide, by resolution, the time and place within the State of Missouri for the holding of additional regular meetings with notice of such resolution to all directors.

Section 3.4. Special Meetings: Special meetings of the Board of Directors may be called by or at the request of the President or any two directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place within the State of Missouri as the place for holding any special meeting of the Board of Directors called by such person or persons.

Section 3.5. Notice: Notice of any special meeting shall be given at least five days previously thereto by written notice delivered personally or mailed to each director at such director's business address, or by electronic transmission. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by electronic transmission, such notice shall be deemed to be delivered when the transmission is sent to the e-mail address or facsimile number

for such director on record with the Company. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 3.6. Quorum: A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, provided that if less than a majority of the directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 3.7. Manner of Acting: The act of the majority of the directors present at a meeting of the directors at which a quorum is present shall be the act of the Board of Directors. Any or all directors may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting, including by telephonic conference call and any director participating by such means shall be deemed present at such meeting.

Section 3.8. Vacancies: In case of the death or resignation or disqualification of one or more of the directors, a majority of the survivors or remaining directors may fill such vacancy or vacancies until the successor or successors are elected at the next annual meeting of the members.

Section 3.9. Compensation: Directors as such shall not receive any stated salaries for their services, but by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Board of Directors; provided, that nothing herein contained shall be construed to preclude any director from serving the Company in any other capacity and receiving compensation therefor.

ARTICLE IV

OFFICERS

Section 4.1. Offices: The officers of the Company shall be a President, a Vice-President, a Treasurer, and a Secretary who shall be elected annually by the Board of Directors. The President and the Vice-President shall be chosen from the members of the Board of Directors and shall automatically be terminated from such offices when such persons cease to be a director of the Company. The offices of Treasurer and Secretary may be held by the same person and need not be chosen from the members of the Board. The Board of Directors, by resolution, may elect or appoint such other officers, agents or employees as it shall deem necessary or advisable and shall prescribe the powers and duties thereof.

All officers and agents of the Company, as between themselves and the Company, shall have such authority and perform such duties in the management of the property and affairs of the Company as may be provided in these Bylaws, or, in the absence of such provision, as may be determined by resolution of the Board of Directors.

Section 4.2. Election and Term of Office: The officers of the Company shall be

elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the members except as hereinafter set forth. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Vacancies may be filled or new offices created and filled at any meeting of the Board of Directors. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided.

Section 4.3. Removal: Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Company would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4.4. Vacancies: A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

Section 4.5. President: The President shall be the principal executive officer of the Company and shall in general supervise and control all of the business and affairs of the Company. The President shall preside at all meetings of the members and of the Board of Directors. The President may sign any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Company, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 4.6. The Vice-President: In the absence of the President or in the event of his inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all restrictions upon the President. The Vice-President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 4.7. The Treasurer: If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Company; receive and give receipts for moneys due and payable to the Company from any source whatsoever, and deposit all such moneys in the name of the Company in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article V of these Bylaws; (b) in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 4.8. The Secretary: The Secretary shall: (a) keep the minutes of the member's and of the Board of Directors' meetings in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these by-laws or as required by law; (c) be custodian of the corporate records and of the seal of the Company and see that the seal of the Company is affixed to all certificates for membership interests prior to the issue thereof and to all documents, the execution of which on behalf of the Company under its seal is duly authorized in accordance with the provisions of these by-laws; (d) keep a register of the post

office address of each member which shall be furnished to the Secretary by such member; (e) sign with the President, or the Vice-President, certificates for membership interests of the Company, the issue of which shall have been authorized by resolution of the Board of Directors; (f) have general charge of the membership interest books of the Company; (g) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 4.9. Assistant Treasurers and Assistant Secretaries: The Board of Directors may elect such Assistant Treasurers and Assistant Secretaries as it deems necessary or desirable. The Assistant Treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The assistant Treasurers and assistant Secretaries, in general, shall perform such duties as shall be assigned to them by the Treasurer or the Secretary, respectively, or by the President or the Board of Directors.

Section 4.10. Salaries: The salaries of the officers shall be fixed from time to time by the Board of Directors and no officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the Company.

ARTICLE V

CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 5.1. Contracts: The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Company, and such authority may be general or confined to specific instances.

Section 5.2. Loans: No loans shall be contracted on behalf of the Company and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 5.3. Checks, Drafts, etc.: All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Company, shall be signed by such officer or officers, agent or agents of the Company in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 5.4. Deposits: All funds of the Company not otherwise employed shall be deposited from time to time to the credit of the Company in such banks, trust companies or other depositories as the Board of Directors may select.

ARTICLE VI

MEMBERSHIP INTERESTS

Section 6.1. Membership Qualifications. Each person that agrees to use water distribution and treatment services furnished by the Company when such services are available through its facilities shall automatically become a member of the Company. Any person shall automatically cease to be a member of the Company if such person shall fail or refuse to use such services made available by the Company.

Section 6.2. Securities Laws Do Not Apply. The provisions of the securities laws of the State of Missouri do not apply to the issuance of membership interests in the Company.

Section 6.3 Membership Interests are Uncertificated: The membership interests held by the members shall be uncertificated.

Section 6.4. Restriction on Transfer: Membership interests in the Company are not transferable.

Section 6.5. Exemption of Private Property of Members. The private property of the members of the Company shall be exempt from execution for the debts of the Company and no member shall be liable or responsible for any debts of the Company

ARTICLE VII

FISCAL YEAR

The fiscal year of the Company shall be the same as the calendar year.

ARTICLE VIII

EXCESS REVENUES

Revenues of the Company for any fiscal year in excess of the amount determined by the Board of Directors to be necessary:

(1) to defray expenses of the Company and of the operation and maintenance of its facilities during such fiscal year;

(2) to pay interest and principal obligations of the Company coming due in such fiscal year;

(3) to finance, or to provide a reserve for the financing of, the construction or acquisition by the Company of additional facilities to the extent determined by the Board of Directors;

(4) to provide a reasonable reserve for working capital;

(5) to provide a reserve for the payment of indebtedness of the Company maturing more than one year after the date of the incurrence of such indebtedness in an amount not less than the total of the interest and principal payments in respect thereof required to be made during the next following fiscal year; and

(6) to provide a fund for education in the effective use of services made available by the Company;

shall, unless otherwise determined by a vote of the members, be distributed by the Company to its members as patronage refunds prorated in accordance with the patronage of the Company by the respective members paid for during such fiscal year. Nothing herein contained shall be construed to prohibit the payment by the Company of all or any part of its indebtedness prior to

the date when the same shall become due.

ARTICLE IX

SEAL

The Board of Directors shall provide a corporate seal which shall be in the form of a circle and shall have inscribed thereon the name of the Company and the words, "Corporate Seal, Missouri".

ARTICLE X

WAIVER OF NOTICE

Whenever any notice whatever is required to be given under the provisions of these Bylaws or under the provisions of the Articles of Incorporation, waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XI

INDEMNIFICATION OF OFFICERS AND DIRECTORS AGAINST LIABILITIES AND EXPENSES IN ACTIONS

Each director or officer, or former director or officer of the Company, and such persons' legal representatives, shall be indemnified by the Company against liabilities, expenses, counsel fees and costs reasonably incurred by such person or such person's estate in connection with, or arising out of, any action, suit, proceeding or claim in which he is made a party by reason of such person being, or having been, such director or officer; provided that the Company shall not indemnify such director or officer with respect to any matters as to which such person shall be finally adjudged in any such action, suit or proceeding to have been liable for gross negligence or willful misconduct in the performance of such person's duties as such director or officer. The indemnification herein provided for, however, shall apply also in respect of any amount paid in compromise of any such action, suit, proceeding or claim asserted against such director or officer (including expenses, counsel fees and costs reasonably incurred in connection therewith), provided the board of directors of the Company shall have first approved such proposed compromise settlement and determined that the director or officer involved was not guilty of negligence or misconduct; but in taking such action any director involved shall not be qualified to vote thereon, and if for this reason a quorum of the board cannot be obtained to vote on such matter it shall be determined by a committee of three persons appointed by the members at a duly called special meeting or at a regular meeting. In determining whether or not a director or officer was guilty of negligence or misconduct in relation to any such matters, the board of directors or committee appointed by members, as the case shall be, may rely conclusively upon an opinion of independent legal counsel selected by such board or committee. Any compromise settlement authorized herein shall not be effective until submitted to and approved by a court of competent jurisdiction. The right to indemnification herein provided shall not be exclusive of any other rights to which such director or officer may be lawfully entitled.

ARTICLE XII

AMENDMENTS

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted at any annual meeting of the members or at any special meeting of the members called for that purpose. Notwithstanding the forgoing, these Bylaws are intended to conform to the requirements sections 393.900 to 393.951 of the Missouri revised statutes and no amendment in violation of such statutes shall be effective to the extent of such violation. Furthermore, to the extent any provision of these Bylaws violate such statutes, these Bylaws shall be automatically amended to the extent necessary to comply with such statutes.

* * * * *

These Bylaws have been duly adopted by the Board of Directors of the Company by a written consent dated _____, 2009

Name:

Title: Secretary

**ARTICLES OF INCORPORATION OF
BLACK OAK MOUNTAIN SEWER COMPANY**

The undersigned incorporators, for the purpose of organizing **BLACK OAK MOUNTAIN SEWER COMPANY**, as a Missouri nonprofit sewer company (the "**Company**"), hereby execute these Articles of Incorporation pursuant to Sections 393.825 to 393.861 and Section 393.175 of the Missouri Revised Statutes:

Article One

The name of the Company is:

BLACK OAK MOUNTAIN SEWER COMPANY

Article Two

The address of the principal office of the Company is: **351 Timbercreek, Nixa, MO 65714-7729.**

Article Three

The names and addresses of the incorporators are:

- | | | | |
|----|--|----|---|
| 1. | John View
351 Timbercreek
Nixa, MO 65714-7729 | 4. | Doyle Atnip
301 E. Swan
Ozark, MO 65721 |
| 2. | Eric Brown
106 N. 38th
Nixa, MO 65714 | 5. | John Obucina
2571 Westmoreland Dr.
Granite City, IL 62040 |
| 3. | Mike Vogt
1240 W. Cardinal
Springfield, MO 65810 | | |

Article Four

The Company is to continue in perpetuity unless earlier dissolved.



Article Five

The names and addresses of the persons who shall constitute the first board of directors of the Company are:

- | | | | |
|----|--|----|---|
| 1. | John View
351 Timbercreek
Nixa, MO 65714-7729 | 4. | Doyle Atnip
301 E. Swan
Ozark, MO 65721 |
| 2. | Eric Brown
106 N. 38th
Nixa, MO 65714 | 5. | John Obucina
2571 Westmoreland Dr.
Granite City, IL 62040 |
| 3. | Mike Vogt
1240 W. Cardinal
Springfield, MO 65810 | | |

Such persons shall hold office until the next following annual meeting of the members of the Company or until their successors shall have been elected and qualified.

Article Six

The Company is organized for the purpose of supplying wastewater disposal and treatment services within the state of Missouri.

Article Seven

The Company will operate under Chapter 355 of the Missouri Revised Statutes and hereby accepts Chapter 355 of the Missouri Revised Statutes and for all purposes will be deemed a mutual benefit corporation organized under such Chapter.

Article Eight

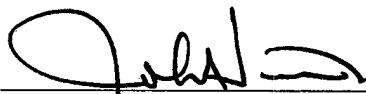
The address of the Company's initial registered office and the name of the Company's registered agent at that office is:

John View
351 Timbercreek
Nixa, MO 65714-7729

Article Nine

The Company will have members.

These Articles of Incorporation have been executed and acknowledged in duplicate by the undersigned incorporators on July, 4, 2009.



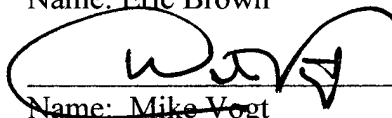
Name: John View



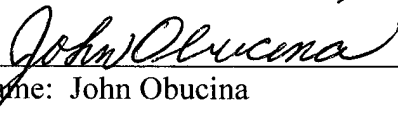
Name: Eric Brown



Name: Doyle Atnip



Name: Mike Vogt



Name: John Obucina

State of Missouri



Robin Carnahan
Secretary of State

CERTIFICATE OF INCORPORATION MISSOURI NONPROFIT SEWER COMPANY

WHEREAS, Articles of Incorporation of

BLACK OAK MOUNTAIN SEWER COMPANY
N00981060

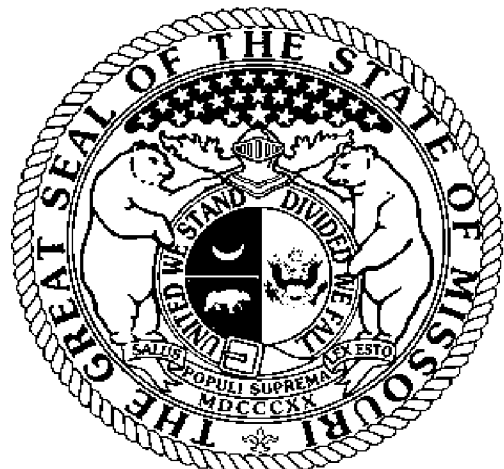
have been received and filed in the Office of the Secretary of State, which Articles, in all respects, comply with the requirements of Sections 393.825 to 393.861 RSMo.

NOW, THEREFORE, I, ROBIN CARNAHAN, Secretary of State of the State of Missouri, do by virtue of the authority vested in me by law, do hereby certify and declare this entity a body corporate, duly organized this date and that it is entitled to all rights and privileges granted corporations organized under Sections 393.825 to 393.861 RSMo.

IN TESTIMONY WHEREOF, I hereunto set
my hand and cause to be affixed the GREAT
SEAL of the State of Missouri.
Done at the City of Jefferson, this 10th day of
July, 2009.

Robin Carnahan

Secretary of State



BY-LAWS
OF
BLACK OAK MOUNTAIN SEWER COMPANY

* * * * *

These By-laws have been adopted by Board of Directors of **BLACK OAK MOUNTAIN SEWER COMPANY**, a Missouri nonprofit sewer company (the "**Company**") subject to sections 393.825 to 393.861 and Section 393.175 of the Missouri revised statutes.

ARTICLE I

OFFICES

Section 1.1. Principal Office: The principle office of the Company in the State of Missouri shall be located at **351 Timbercreek, Nixa, MO 65714-7729**. The Company may, upon authorization of a majority of its members at any regular or special meeting, change the location of its principal office by filing a certificate of change of principal office, executed and acknowledged in duplicate by the Company's president or vice president under the Company's seal and attested by the Company's secretary, in the office of the Missouri Secretary of State.

Section 1.2. Other Offices: The Company may have such other offices as the business of the Company may require from time to time.

Section 1.3. Registered Agent: The registered office of the Company shall be maintained in the State of Missouri, and the address of the registered office may be changed from time to time by the Board of Directors. Upon any such change the Company shall cause a statement of change in registered agent to be filed with the Missouri Secretary of State.

ARTICLE II

MEMBERS

Section 2.1. Annual Meeting: The annual meeting of the members shall be held at such time and place as may be fixed by the Board of Directors during **May**. The annual meeting shall be held for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the election of directors shall not be held on the day designated for any annual meeting or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be.

Section 2.2. Special Meetings: Special meeting of the members may be called by the President, by the Board of Directors, by any three Directors or upon the request of not less than ten percent of all the members.

Section 2.3. Place of Meeting: The Board of Directors may designate any place within the State of Missouri, as the place of meeting for any annual meeting of the members or for any

special meeting of the members called by the Board of Directors. The members may designate any place within the State of Missouri, as the place for the holding of such meeting, and may include the same in a waiver of notice of any meeting. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal office of the Company in the State of Missouri.

Section 2.4. Notice of Meetings: Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than twenty-five (25) days preceding the date of the meeting, either personally or by mail, by or at the direction of the President, or the Secretary, or the officer or person calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope addressed to the member at the member's address as it appears on the records of the Company, with postage thereon prepaid.

Section 2.5. Closing of Books or Fixing of Record Date: The Board of Directors of the Company may close its membership books for a period not exceeding twenty-five (25) days preceding the date of any meeting of members, or for the allotment of rights, or the date when any change or conversion or exchange of membership interests shall be effective; or, in lieu thereof, may fix in advance a date, not exceeding twenty-five (25) days preceding the date of any meeting of members, or for the allotment of rights, or to the date when any change or reconversion or exchange of membership interests shall be effective, as the record date for the determination of members entitled to notice of, or to vote at, such meeting, or members entitled to receive any such allotment of rights, or to exercise rights in respect of any such change, conversion or exchange of membership interests; and the members of record on such date of closing the transfer books, or on the record date so fixed, shall be the members entitled to notice of and to vote at, such meeting, or to receive payment of such dividend, or to receive such allotment of rights, as the case may be. If the Board of Directors shall not have closed the membership books or set a record date for the determination of its members entitled to vote as hereinabove provided, the date on which notice of the meeting is mailed or first announced, as the case may be, shall be the record date for such determination of members so entitled to vote.

Section 2.6. Voting Lists: At least ten (10) days before each meeting of members, the officer or agent having charge of the membership book for membership interests of the Company shall make a complete list of the members entitled to vote at such meeting, arranged in alphabetical order with the address of each member, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the registered office of the Company and shall be subject to inspection by any member at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member during the whole time of the meeting. The original membership interest ledger or membership book, or a duplicate thereof kept in this state shall be prima facie evidence as to who are the members entitled to examine such list or membership interest ledger or transfer book or to vote at any meeting of members.

Section 2.7. Quorum: Two (2) percent of the members of the Company, present in person or by proxy shall constitute a quorum for the transaction of business at all meetings of the members. If less than two percent of the members are represented at said meeting, a majority of the members present in person may adjourn the meeting, from time to time, without further notice.

Section 2.8. Proxies: At all meetings of members, a member may vote by proxy executed in writing by the member or by his duly authorized attorney-in-fact. Such proxy shall be filed with the Secretary of the Company before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

Section 2.9. Voting by Members: Each member shall have one membership interest and be entitled to one vote upon each matter submitted to a vote at a meeting of members. Voting shall be in person or by proxy. Voting by mail shall not be permitted.

ARTICLE III

BOARD OF DIRECTORS

Section 3.1. General Powers: The business and affairs of the Company shall be managed by its Board of Directors. The Board of Directors may exercise all of the powers of the Company except such as are conferred upon the members by Sections 393.825 to 393.861 and section 393.175 of the Missouri Revised Statutes, or the Company's Articles of Incorporation or these Bylaws.

Sectional 3.2. Number, Election and Term: The number of directors of the Company shall be **five (5)**, each of whom must be a member of the Company and shall be elected at the annual meeting of members, except as hereinafter provided for the initial term of said directors. The term of office of said directors, except as hereinafter provided with reference to the initial term of office shall be **three (3) years**. Each such director shall hold office until such director's successor has been elected and has qualified.

Notwithstanding the forgoing, at the first meeting of the members: (i) one director shall be nominated and elected for a term of one (1) year, (ii) two directors shall be nominated and elected for a term of two (2) years, and (iii) the remaining two directors shall be nominated and elected for a term of three (3) years.

Section 3.3. Regular Meetings: A regular meeting of the Board of Directors shall be held without other notice than this Section immediately after, and at the same place as, the annual meeting of the members. The Board of Directors may provide, by resolution, the time and place within the State of Missouri for the holding of additional regular meetings with notice of such resolution to all directors.

Section 3.4. Special Meetings: Special meetings of the Board of Directors may be called by or at the request of the President or any two directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place within the State of Missouri as the place for holding any special meeting of the Board of Directors called by such person or persons.

Section 3.5. Notice: Notice of any special meeting shall be given at least five days previously thereto by written notice delivered personally or mailed to each director at such director's business address, or by electronic transmission. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by electronic transmission, such notice shall be

deemed to be delivered when the transmission is sent to the e-mail address or facsimile number for such director on record with the Company. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 3.6. Quorum: A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, provided that if less than a majority of the directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 3.7. Manner of Acting: The act of the majority of the directors present at a meeting of the directors at which a quorum is present shall be the act of the Board of Directors. Any or all directors may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting, including by telephonic conference call and any director participating by such means shall be deemed present at such meeting.

Section 3.8. Vacancies: In case of the death or resignation or disqualification of one or more of the directors, a majority of the survivors or remaining directors may fill such vacancy or vacancies until the successor or successors are elected at the next annual meeting of the members.

Section 3.9. Compensation: Directors as such shall not receive any stated salaries for their services, but by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Board of Directors; provided, that nothing herein contained shall be construed to preclude any director from serving the Company in any other capacity and receiving compensation therefor.

ARTICLE IV

OFFICERS

Section 4.1. Offices: The officers of the Company shall be a President, a Vice-President, a Treasurer, and a Secretary who shall be elected annually by the Board of Directors. The President and the Vice-President shall be chosen from the members of the Board of Directors and shall automatically be terminated from such offices when such persons cease to be a director of the Company. The offices of Treasurer and Secretary may be held by the same person and need not be chosen from the members of the Board. The Board of Directors, by resolution, may elect or appoint such other officers, agents or employees as it shall deem necessary or advisable and shall prescribe the powers and duties thereof.

All officers and agents of the Company, as between themselves and the Company, shall have such authority and perform such duties in the management of the property and affairs of the Company as may be provided in these Bylaws, or, in the absence of such provision, as may be determined by resolution of the Board of Directors.

Section 4.2. Election and Term of Office: The officers of the Company shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the members except as hereinafter set forth. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Vacancies may be filled or new offices created and filled at any meeting of the Board of Directors. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided.

Section 4.3. Removal: Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Company would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4.4. Vacancies: A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

Section 4.5. President: The President shall be the principal executive officer of the Company and shall in general supervise and control all of the business and affairs of the Company. The President shall preside at all meetings of the members and of the Board of Directors. The President may sign any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Company, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 4.6. The Vice-President: In the absence of the President or in the event of his inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all restrictions upon the President. The Vice-President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 4.7. The Treasurer: If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Company; receive and give receipts for moneys due and payable to the Company from any source whatsoever, and deposit all such moneys in the name of the Company in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article V of these Bylaws; (b) in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 4.8. The Secretary: The Secretary shall: (a) keep the minutes of the member's and of the Board of Directors' meetings in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these by-laws or as required by law; (c) be custodian of the corporate records and of the seal of the Company and see that the seal of the Company is affixed to all certificates for membership interests prior to the issue thereof and to all documents, the execution of which on behalf of the Company under its seal is

duly authorized in accordance with the provisions of these by-laws; (d) keep a register of the post office address of each member which shall be furnished to the Secretary by such member; (e) sign with the President, or the Vice-President, certificates for membership interests of the Company, the issue of which shall have been authorized by resolution of the Board of Directors; (f) have general charge of the membership interest books of the Company; (g) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 4.9. Assistant Treasurers and Assistant Secretaries: The Board of Directors may elect such Assistant Treasurers and Assistant Secretaries as it deems necessary or desirable. The Assistant Treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The assistant Treasurers and assistant Secretaries, in general, shall perform such duties as shall be assigned to them by the Treasurer or the Secretary, respectively, or by the President or the Board of Directors.

Section 4.10. Salaries: The salaries of the officers shall be fixed from time to time by the Board of Directors and no officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the Company.

ARTICLE V

CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 5.1. Contracts: The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Company, and such authority may be general or confined to specific instances.

Section 5.2. Loans: No loans shall be contracted on behalf of the Company and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 5.3. Checks, Drafts, etc.: All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Company, shall be signed by such officer or officers, agent or agents of the Company in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 5.4. Deposits: All funds of the Company not otherwise employed shall be deposited from time to time to the credit of the Company in such banks, trust companies or other depositories as the Board of Directors may select.

ARTICLE VI

MEMBERSHIP INTERESTS

Section 6.1. Membership Qualifications. Each person that agrees to use wastewater disposal or treatment services furnished by the Company when such services are available through its facilities shall automatically become a member of the Company. Any person shall automatically cease to be a member of the Company if such person shall fail or refuse to use

such services made available by the Company.

Section 6.2. Securities Laws Do Not Apply. The provisions of the securities laws of the State of Missouri do not apply to the issuance of membership interests in the Company.

Section 6.3 Membership Interests are Uncertificated: The membership interests held by the members shall be uncertificated.

Section 6.4. Restriction on Transfer: Membership interests in the Company are not transferable.

Section 6.5. Exemption of Private Property of Members. The private property of the members of the Company shall be exempt from execution for the debts of the Company and no member shall be liable or responsible for any debts of the Company

ARTICLE VII

FISCAL YEAR

The fiscal year of the Company shall be the same as the calendar year.

ARTICLE VIII

EXCESS REVENUES

Revenues of the Company for any fiscal year in excess of the amount determined by the Board of Directors to be necessary:

(1) to defray expenses of the Company and of the operation and maintenance of its facilities during such fiscal year;

(2) to pay interest and principal obligations of the Company coming due in such fiscal year;

(3) to finance, or to provide a reserve for the financing of, the construction or acquisition by the Company of additional facilities to the extent determined by the Board of Directors;

(4) to provide a reasonable reserve for working capital;

(5) to provide a reserve for the payment of indebtedness of the Company maturing more than one year after the date of the incurrence of such indebtedness in an amount not less than the total of the interest and principal payments in respect thereof required to be made during the next following fiscal year; and

(6) to provide a fund for education in the effective use of services made available by the Company;

shall, unless otherwise determined by a vote of the members, be distributed by the Company to its members as patronage refunds prorated in accordance with the patronage of the Company by the respective members paid for during such fiscal year. Nothing herein contained shall be

construed to prohibit the payment by the Company of all or any part of its indebtedness prior to the date when the same shall become due.

ARTICLE IX

SEAL

The Board of Directors shall provide a corporate seal which shall be in the form of a circle and shall have inscribed thereon the name of the Company and the words, "Corporate Seal, Missouri".

ARTICLE X

WAIVER OF NOTICE

Whenever any notice whatever is required to be given under the provisions of these Bylaws or under the provisions of the Articles of Incorporation, waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XI

INDEMNIFICATION OF OFFICERS AND DIRECTORS AGAINST LIABILITIES AND EXPENSES IN ACTIONS

Each director or officer, or former director or officer of the Company, and such persons' legal representatives, shall be indemnified by the Company against liabilities, expenses, counsel fees and costs reasonably incurred by such person or such person's estate in connection with, or arising out of, any action, suit, proceeding or claim in which he is made a party by reason of such person being, or having been, such director or officer; provided that the Company shall not indemnify such director or officer with respect to any matters as to which such person shall be finally adjudged in any such action, suit or proceeding to have been liable for gross negligence or willful misconduct in the performance of such person's duties as such director or officer. The indemnification herein provided for, however, shall apply also in respect of any amount paid in compromise of any such action, suit, proceeding or claim asserted against such director or officer (including expenses, counsel fees and costs reasonably incurred in connection therewith), provided the board of directors of the Company shall have first approved such proposed compromise settlement and determined that the director or officer involved was not guilty of negligence or misconduct; but in taking such action any director involved shall not be qualified to vote thereon, and if for this reason a quorum of the board cannot be obtained to vote on such matter it shall be determined by a committee of three persons appointed by the members at a duly called special meeting or at a regular meeting. In determining whether or not a director or officer was guilty of negligence or misconduct in relation to any such matters, the board of directors or committee appointed by members, as the case shall be, may rely conclusively upon an opinion of independent legal counsel selected by such board or committee. Any compromise settlement authorized herein shall not be effective until submitted to and approved by a court of competent jurisdiction. The right to indemnification herein provided shall not be exclusive of any other rights to which such director or officer may be lawfully entitled.

ARTICLE XII

AMENDMENTS

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted at any annual meeting of the members or at any special meeting of the members called for that purpose. Notwithstanding the forgoing, these Bylaws are intended to conform to the requirements sections 393.825 to 393.861 and Section 393.175 of the Missouri revised statutes and no amendment in violation of such statutes shall be effective to the extent of such violation. Furthermore, to the extent any provision of these Bylaws violate such statutes, these Bylaws shall be automatically amended to the extent necessary to comply with such statutes.

* * * * *

These Bylaws have been duly adopted by the Board of Directors of the Company by a written consent dated _____, 2009

Name:

Title: Secretary

Quit Claim Deed

This indenture, by and between

Quannah Corporation,

Grantor,

And

Black Oak Mountain Utility Board,

Operating under the authority of ;

Black Oak Mountain Property Owners' Association

Stone County, Missouri

Grantee:

351 TIMBERLARK
NIXA, MO 65714

Witnesseth:

Date: July 21, 2007

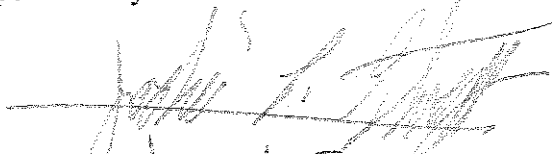
Whereas, should the Grantor have the authority and right to convey the following tract Grantor does hereby convey, transfer, the following tract and real property hereinafter described, including, Inter alia, a water tower and well house:

Now, therefore, Grantor, for and in consideration of good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, and sell unto Grantee, and to its successors and assigns forever, the tract or parcel of real estate lying and being situate in the County of Stone and state of Missouri, described as follows, to-wit:

Lot 2 of the Amended Plat of Block "B", Swiss Villa, a
Subdivision located in Stone County, Missouri, per the
Recorded plat thereof, as amended.

To have and to hold the aforescribed tract or parcel of real estate, with the appurtenances thereto belonging, to Grantee and its successors, and assigns forever, in as full and ample manner as Grantor is empowered by law.

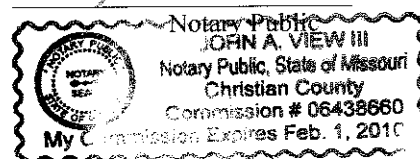
STATE OF MISSOURI }
 } SS.
COUNTY OF STONE }


JODIE L. STEVENS

Now, on July 21, 2007, before me personally appeared Jodie L. Stevens, to me personally known, who being sworn did say that he is the duly appointed agent of Quannah Corporation, a Louisiana corporation in good standing, by virtue of a power of attorney dated December 26, 2001 and recorded with the Stone County, Missouri Recorder of Deeds at Book 394, Page 18 on November 29, 2001; that he has authority to execute the foregoing deed: that the foregoing deed has been authorized by said corporation: and that the act memorialized in the foregoing deed in the free and deed of said corporation.

In testimony whereof I have hereunto set my hand and affixed my official seal at my Office on the day and year first above written.

My Commission expires: 2-1-10



NON-EXCLUSIVE LEASE OF REAL PROPERTY,
SANITARY SEWER COLLECTION AND TREATMENT
SYSTEM, AND WATER SUPPLY SYSTEM

THIS LEASE, entered into by and between

STONE COUNTY, MISSOURI,
a Missouri County of the Third Classification,
a body politic and corporate, ("the "County"),

and

BLACK OAK MOUNTAIN RESORT PROPERTY OWNERS ASSOCIATION
a Missouri not for profit corporation, ("the POA");

Witnesseth:

Whereas, The County Commission of Stone County, Missouri is governing body of the Black Oak Mountain Resort Phase 1 Neighborhood Improvement District; and

Whereas, the District caused to be constructed with public funds, certain improvements in and to the District, including, *inter alia*, improvements to the existing sanitary sewer collection and treatment system, a new sanitary sewer treatment plant constructed upon Tract 1; sanitary sewer lift stations constructed on Tract 2; and a well and water tower constructed upon Tract 3; and

Whereas, components of the The Systems were constructed with bond proceeds and public funds from the Black Oak Mountain Resort Phase 1 Neighborhood Improvement District Bonds Series 2000 (Black Oak Mountain Resort Water, Sewer System and Street Improvement Project - Phase 1, Project 1); which funds are administered by a Bond Trustee; and

Whereas, components of the Systems were part of a water supply system and a sanitary sewer collection and treatment system in the Swiss Villa subdivision that were previously operated by S. V. Holding, Inc.; and

Whereas, components of the Systems the Systems were previously owned by Quanah Corporation; and

Whereas, Quanah Corporation conveyed the Systems, or portions thereof, to The County, in trust; and

Whereas, The County intends to hold its interests in the Systems in trust for the Bond Trustee until the bonds are retired, and as trustee for the property owners within the District; and

Whereas, The County intends to retain ownership in trust of the Systems until the District's bonded indebtedness has been fully discharged, at which time The County shall convey the Systems and the Tracts described below to the POA, or to the owner(s) and operator(s) of the sanitary sewer collection and treatment system and the water supply system in the District, provided association, owner(s) or operator(s) are one or more not-for-profit corporations owned by the property owners within the District; and

Whereas, S V Holding, Inc. owns all of the corporate stock of Swiss Villa Utilities, Inc., which has received operating authority from the Missouri Public Service Commission; and

Whereas, the Missouri Public Service Commission heretofore required that S V Holding, Inc. acquire a lease of the System from the County; and

Whereas, a nonexclusive lease between the County and SV Holding, Inc. was executed in 2006; and

Whereas, in said Lease, The County granted to S V Holding, Inc. the non-exclusive right to use and occupy the Systems for the purposes herein described; and

Whereas, in the Board of Directors of S V Holding, Inc. thereafter resigned; and

Whereas, S V Holding, Inc. thereafter failed or refused to operate the sanitary sewer collection and treatment system and the water supply system in the District; and

Whereas, the POA has made application to the Missouri Public Service Commission to operate the sanitary sewer collection and treatment system and the water supply system in the District; and

Whereas, in furtherance thereof, the Missouri Public Service Commission requires that the POA acquire a lease of the System; and

Now, therefore, it is agreed between the parties that The County hereby leases to S V Holding, Inc. and S V Holding, Inc. hereby hires from The County the non-exclusive use of the Systems, for the term hereinafter stated, for the rents hereinafter reserved, and upon and subject to the terms, covenants, and conditions hereinafter provided:

- 1. Description of the Systems.** The County's interests in some of the Systems were conveyed to it, and The County does not know the nature or quality of those interests. To the extent The County has an interest in the Systems, The County does not warrant or covenant that it has good, marketable, or exclusive title to, or right to occupy, the Systems. This lease concerns the following, all located in Stone County, Missouri:

Tract 1 - A Tract of land located in the Southeast Quarter of Section 31, Township 22 North, Range 23 West, all in Stone County, Missouri, described as follows: Commencing at the intersection of the South boundary of lot 518 of Swiss Villa 3rd Addition, recorded at Plat Book 7 Page 60, Stone County Recorder of Deeds, and the westerly right-of-way of Black Oak Resort Lane; thence departing said right-of-way South 89° 30' 09" East, 61.02 feet; thence North 11° 00' 45" East, 70.0 feet; thence South 78° 59' 15" East, 158.01 feet; thence South 19° 50' 21" East, 155.00 feet (198.27 by Plat) to the Northeast corner of Lot 404 Swiss Villa, 2nd Addition, recorded at Plat Book 6, Page 98; thence South 61° 29' West, 79.6 feet; thence South 31° 10' East, 96.81 feet; thence North 86° 34' West, 60.0 feet; thence North 63° 34' West, 190.0 feet to the westerly right of way of Black Oak Resort Lane; thence Northerly along said right-of-way on a non-tangent curve, concave to the west, having a radius of 63.99 feet, to the point of beginning; and

Tract 2 - Lots 266 and 267, Swiss Villa First Addition; and

Tract 3 - Lot 2 of the Amended Plat of Block "B", Swiss Villa, a subdivision located in Stone County, Missouri, per the recorded plat thereof, as amended.

Water System - The water supply system located within the Black Oak Mountain Resort Phase 1 Neighborhood Improvement District;

Sewer System - The sanitary sewer collection and treatment system located within the Black Oak Mountain Resort Phase 1 Neighborhood Improvement District;

collectively, "the Systems".

2. **Term.** The Systems are leased for a term ("Term"), which shall commence on the date of execution by the last party executing this document, and run unless/until:
- a. one or more of the Systems are sooner abandoned by The POA; or
 - b. The POA suffers, makes, or permits use of the Systems inconsistent with the terms of this Lease; or
 - c. the Bond Trustee declares the Bonds to be in default; or
 - d. the Term shall sooner terminate pursuant to any of the terms, covenants, or conditions of this Lease, or pursuant to operation of law; or
 - e. The County, in the exclusive discretion of the County Commission of Stone County in office at the time, elects to terminate this Lease.

3. **Rent.** During the Term of this Lease, The POA shall pay to The County the sum of one dollar per year on or before the anniversary date of this Lease.
4. **The POA's Purpose and Uses.** The County grants this lease solely for the purpose of allowing The POA to operate and maintain the water supply system and the sanitary sewer collection and treatment system. The County expressly prohibits any other use of any real property or components of the Systems. If The POA ceases such uses, then this Lease shall be canceled upon change or cessation of use, without necessity of notice or declaration by the County of the POA's breach or default, and this Lease shall be null and void.
5. **Upon Termination of Lease.** At the termination of this Lease by lapse of time or otherwise, The POA shall return the Systems and all components thereof, equipment and/or fixtures, in as good condition as when The POA took possession, ordinary wear and tear excepted.
6. **Protection of The County's Title.** The POA shall ensure that no lien or encumbrance attaches to The County's estate. The POA shall do nothing that will cloud or encumber The County's title. The POA's rights are and shall always be subordinate to the lien of any encumbrance(s) or mortgage(s) now or hereafter placed upon the Systems and to all advances made or hereafter to be made upon the security thereof, and The POA shall execute such further instruments subordinating this Lease to the lien or liens of any such encumbrance(s) or mortgage(s) or to any such underlying lease or leases as shall be requested by The County. The POA hereby irrevocably appoints The County as attorney-in-fact for The POA with full authority to execute and deliver in the name of The POA any such instrument or instruments. The County's demise, if any, of any space outside the lines of the lot or lots conveys only The County's rights thereto. If, at any time during the term, any municipality or public authority shall with the County's consent take possession of all or any part of such space, this Lease shall continue without abatement or diminution. Such consent shall be evidenced by a writing executed by The County Commission, or by certified copy of The County Commission's minutes that authorized such action. This Lease does not grant any rights to light or air over property.
7. **The County's Reservation of Rights.** The County reserves the right to jointly use the Systems, and/or to grant to other persons or entities the right to jointly use the Systems.
8. **Repairs and Maintenance of Premises.**
 - a. The County shall have no responsibility to maintain the Systems.
 - b. The POA shall, during the term, at The POA's own expense, make normal repairs and continue adequate maintenance of the Systems during the pendency of this Lease.

- c. The POA shall, during the term, at The POA's own expense, keep the Systems in good order, condition and repair,
9. **County Shall Have No Liability.** The County shall not be liable to The POA or to any other person or entity for any expense, injury, loss or damage resulting to The POA or to any other person or entity, for any reason whatsoever.
10. **Alterations or Improvements.** Before erecting any building or improvements, or before removing or altering any building hereafter erected, or before effecting any grading or terrain changes, improvements, or modifications to the Systems, The POA must first obtain written permission from The County. Such permission shall be evidenced by a writing executed by The County Commission, or by certified copy of The County Commission's minutes that authorized such action.
11. **Sublease or Occupancy Prohibited.** The County expressly prohibits any sublease of the Systems without the County's express written consent. Such permission shall be evidenced by a writing executed by The County Commission, or by certified copy of The County Commission's minutes that authorized such action.
12. **Breach.** If The POA materially breaches this Lease, or if The POA remains in possession of the Systems after the material breach or termination of this Lease, The County shall be entitled to all of the rights and remedies that are available to a landlord against a tenant, and to such other rights and remedies as may be provided for in this Lease, or which are available to The County at law or in equity. All rights and remedies of The County herein enumerated shall be cumulative, and none shall exclude any other right or remedy allowed by law:
- a. If any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy act shall be filed by or against The POA, or any voluntary or involuntary proceeding in any court or tribunal shall be instituted to declare The POA insolvent or unable to pay The POA's debts, then and in any such event The County may, if The County so elects but not otherwise, and with or without notice of such election, and with or without entry or other action by The County, forthwith terminate this lease.
- b. If The POA makes an assignment for the benefit of creditors, or if The POA abandons the Systems, then and in any such event The County may, if The County so elects but not otherwise, and with notice of such election and with or without any demand whatsoever, forthwith terminate this lease and The POA's right to possession, one or both.
- c. Upon any termination of this lease, whether by lapse of time or otherwise, or upon any termination of The POA's right to possession without

termination of the lease, The POA shall surrender possession and vacate the Systems immediately, and deliver possession thereof to The County, and hereby grants to The County full and free license to enter into and upon the Systems in such event with or without process of law and to repossess the Systems and to expel or remove The POA and any others who may be occupying or within the Systems and to remove any and all property, without being deemed guilty of trespass, eviction or forcible entry or detainer, and without relinquishing The County's rights given to The County hereunder or by operation of law.

- d. The POA shall pay upon demand all The County's costs, charges and expenses, including the fees of counsel, agents and others retained by The County, incurred in enforcing The POA's obligations hereunder or incurred by The County in any litigation, negotiation or transaction in which The POA causes The County, without The County's fault, to become involved or concerned.

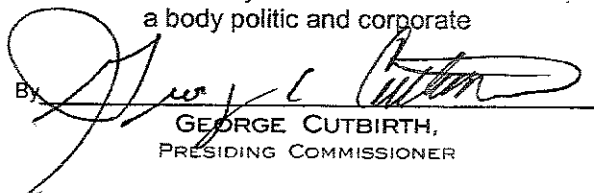
13. **Hazardous Substances.** The POA shall wholly indemnify The County or any release or threatened release of a hazardous substance or any violation of any environmental laws or regulations. This indemnity shall survive this Lease.
14. **Public Liability Insurance Coverage.** The POA shall obtain and keep in full force and effect during the term, at The POA's own cost and expense, a policy extending public liability insurance coverage for bodily injury and property damage, protecting The County and The POA as insured against any and all claims for personal injury, death, or property damage occurring in, upon, adjacent to, or connected with the Systems or any part thereof. The POA shall at all times provide The County with proof of said insurance coverage.
15. **Standard Fire and Extended Risk Insurance Coverage.** The POA shall obtain and keep in full force and effect during the term, at The POA's own cost and expense, insurance against loss or damage by fire, and such other risks and hazards as are insurable under present and future standard forms, to all improvements upon the Systems for the full insurable value thereof, showing The POA and The County as insured. The POA shall at all times provide The County with proof of said insurance coverage.
16. **Waiver of Claims.** The County and The County's agents and servants shall not be liable, and The POA waives all claims, for damage to person or property sustained by The POA or any or any other person or entity, resulting from the Systems or any part thereof, or any equipment or appurtenance becoming out of repair, or resulting from any accident in or about the Systems, or resulting directly or indirectly from any act or neglect of any other person, including The County's agents and servants. This Section shall apply especially, but not exclusively, whether any such damage results from the act or neglect of The County or of other persons. All property belonging to The POA or any occupant

of the Systems shall be there at the risk of The POA or other person only, and The County shall not be liable for damage thereto or theft or misappropriation thereof. Any and all property which may be removed from the Systems by The County pursuant to the authority of this Lease or of law, to which The POA is or may be entitled, may be handled or removed by The County at the risk, cost and expense of The POA, and The County shall in no event be responsible as warehouseman, bailee or otherwise for any property left in the Systems by The POA, or for the value, preservation or safekeeping thereof. The POA shall pay to The County, upon demand, any and all expenses incurred in any such removal of The POA's property.

17. **Indemnification.** The POA will keep The County safe, harmless, and indemnified for any and all liability resulting from or attributable to The POA's use or possession of the Systems under this Lease.
18. **Entire Agreement.** This Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged within this Lease.
19. **Modifications.** This Lease may not be changed, modified, or discharged in whole or in part except by a written instrument authorized by The County Commission of Stone County, Missouri and by the Board of Directors of The POA, duly executed by the Presiding Commissioner of The County and by the President of The POA, and duly attested by the Clerk of The County Commission and the Secretary of The POA.
20. **Severability.** The invalidity of a specific provision thereof shall not affect the validity of the remaining provisions of this Lease.
21. **Governing Law and Venue.** This Lease shall be governed in all respects by the laws of the State of Missouri. Venue shall lie in the Circuit Court of Stone County, Missouri.

In Witness Whereof, The County has approved execution of this Lease, by and through its governing body, The County Commission of Stone County, Missouri, in its regularly scheduled meeting on April 24 2007, by resolution authorizing the Presiding Commissioner to execute, and the Clerk of The County Commission to attest, this Lease.

STONE COUNTY, MISSOURI,
a Missouri County of the Third Classification,
a body politic and corporate

By 
GEORGE CUTBIRTH,
PRESIDING COMMISSIONER

Attest:

Judy Berkstresser
JUDY BERKSTRESSER,
CLERK OF THE COUNTY COMMISSION

IN WITNESS WHEREOF, the Black Oak Mountain Resort Property Owners Association has approved execution of this Lease at the meeting of its Board of Directors held on May 26 2007, by resolution authorizing its president and secretary to execute this Lease.

BLACK OAK MOUNTAIN RESORT
PROPERTY OWNERS
ASSOCIATION,
a Missouri not for profit corporation

By

Scott Davis
PRESIDENT
SCOTT DAVIS

Attest:

Judy Berkstresser
SECRETARY
JUDY BERKSTRESSER

Gary R. Dirum
Secretary
GARY R. DIRUM

JOHN VIEW
351 TIMBER CREEK
Nixa, MO. 65714

SUBLEASE, AND CONSENT TO SUBLEASE, BY
BLACK OAK MOUNTAIN RESORT
PROPERTY OWNERS ASSOCIATION
TO
BLACK OAK MOUNTAIN SEWER COMPANY
AND
BLACK OAK MOUNTAIN WATER COMPANY
OF
NON-EXCLUSIVE LEASE OF REAL PROPERTY,
SANITARY SEWER COLLECTION AND TREATMENT
SYSTEM, AND WATER SUPPLY SYSTEM

This Sublease, and consent to Sublease, entered into by and between

STONE COUNTY, MISSOURI,
a Missouri County of the Third Classification,
a body politic and corporate, ("the "County"),
as Lessor

and

BLACK OAK MOUNTAIN RESORT PROPERTY OWNERS ASSOCIATION
a Missouri not for profit corporation, ("the POA");
as Lessee and Sublessor

and

BLACK OAK MOUNTAIN WATER COMPANY
a Missouri not for profit corporation,
as Sublessee

and

BLACK OAK MOUNTAIN SEWER COMPANY
a Missouri not for profit corporation,
as Sublessee

Witnesseth:

Whereas, The County Commission of Stone County, Missouri is governing body of the Black Oak Mountain Resort Phase 1 Neighborhood Improvement District; and

Whereas, the District caused to be constructed with public funds, certain improvements in and to the District, including, *inter alia*, improvements to the existing sanitary sewer

collection and treatment system, a new sanitary sewer treatment plant constructed upon Tract 1; sanitary sewer lift stations constructed on Tract 2; and a well and water tower constructed upon Tract 3 ("The Systems"); and

Whereas, components of the The Systems were constructed with bond proceeds and public funds from the Black Oak Mountain Resort Phase 1 Neighborhood Improvement District Bonds Series 2000 (Black Oak Mountain Resort Water, Sewer System and Street Improvement Project - Phase 1, Project 1); which funds are administered by a Bond Trustee; and

Whereas, components of the Systems were part of a water supply system and a sanitary sewer collection and treatment system in the Swiss Villa subdivision that were previously operated by S. V. Holding, Inc.; and

Whereas, components of the Systems the Systems were previously owned by Quanah Corporation; and

Whereas, Quanah Corporation conveyed the Systems, or portions thereof, to The County, in trust; and

Whereas, The County intends to hold its interests in the Systems in trust for the Bond Trustee until the bonds are retired, and as trustee for the property owners within the District; and

Whereas, The County intends to retain ownership in trust of the Systems until the District's bonded indebtedness has been fully discharged, at which time The County shall convey the Systems and the Tracts described below to the POA, or to the owner(s) and operator(s) of the sanitary sewer collection and treatment system and the water supply system in the District, provided association, owner(s) or operator(s) are one or more not-for-profit corporations owned by the property owners within the District; and

Whereas, S V Holding, Inc. owns all of the corporate stock of Swiss Villa Utilities, Inc., which has received operating authority from the Missouri Public Service Commission ("PSC"); and

Whereas, the PSC heretofore required that S V Holding, Inc. acquire a lease of the System from the County; and

Whereas, a nonexclusive lease between the County and SV Holding, Inc. was executed in 2006; and

Whereas, in said Lease, The County granted to S V Holding, Inc. the non-exclusive right to use and occupy the Systems for the purposes herein described; and

Whereas, in the Board of Directors of S V Holding, Inc. thereafter resigned; and

Whereas, S V Holding, Inc. thereafter failed or refused to operate the sanitary sewer collection and treatment system and the water supply system in the District; and

Whereas, the POA thereafter applied to the PSC to operate the sanitary sewer collection and treatment system and the water supply system in the District; and

Whereas, in furtherance thereof, the PSC required that the POA acquire a lease of The Systems from the County; and

Whereas, the County has heretofore leased The Systems to the POA. under a certain *Non-Exclusive Lease of Real Property, Sanitary Sewer Collection and Treatment System, and Water Supply System*; and

Whereas, the PSC suggested or required that the POA form two new not-for-profit entities to operate The Systems; otherwise, the PSC would allow a private contractor to operate The Systems

Whereas, the POA has formed two new not-for-profit entities to operate The Systems, to-wit, the Black Oak Mountain Water Company, and the Black Oak Mountain Sewer Company; and

Whereas, the PSC now suggests or requires that the POA sublet its interest in the water supply system to the Black Oak Mountain Water Company, and that the Black Oak Mountain Water Company hereafter operate and maintain the water supply system; and

Whereas, the PSC now suggests or requires that the POA sublet its interest in the sanitary sewer collection and treatment system to Black Oak Mountain Sewer Company, and that Black Oak Mountain Sewer Company hereafter operate and maintain the sanitary sewer collection and treatment system;

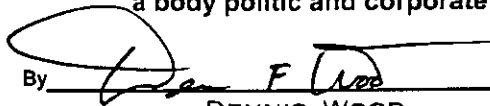
Now, therefore, it is agreed between the parties as follows:

1. The County consents that S V Holding, Inc. be permitted to sublease the water supply system in the District to the Black Oak Mountain Water Company, as sublessee, subject to the following conditions. As a condition of the sublease, Black Oak Mountain Water Company shall properly and fairly operate, and properly maintain, the water supply system.
2. The County consents that S V Holding, Inc. be permitted to sublease the sanitary sewer collection and treatment system in the District to the Black Oak Mountain Sewer Company, as sublessee, subject to the following conditions. As a condition of the sublease, Black Oak Mountain Sewer Company shall properly and fairly operate, and properly maintain, the sanitary sewer collection and treatment system.

3. The sublessees shall comply with all terms of the original lease between the County and the POA.
4. The sublessees shall provide services to all property owners within the District at the same rate schedule, and shall not discriminate between or among users on the basis of membership or nonmembership in the POA.
5. No property owner or user shall be required to join the POA in order to be served by The Systems.
6. The County and the District shall be exempt from any fees, charges, or assessments from the POA, the Black Oak Mountain Water Company, and/or the Black Oak Mountain Sewer Company.
7. No property held by the County, or by the County's trustee, shall be in any way assessed, or be subject to fees or charges claimed by, the POA, or the Black Oak Mountain Water Company, or the Black Oak Mountain Sewer Company.


In Witness Whereof, The County approved execution of this document, by and through its governing body, The County Commission of Stone County, Missouri, in its regularly scheduled meeting on October 6 2009.

STONE COUNTY, MISSOURI,
a Missouri County of the Third Classification,
a body politic and corporate

By 
DENNIS WOOD,
PRESIDING COMMISSIONER

In Witness Whereof, Black Oak Mountain Resort Property Owners Association approved execution of this document at the meeting of its Board of Directors held on October 31, 2009.

BLACK OAK MOUNTAIN RESORT
PROPERTY OWNERS ASSOCIATION,
a Missouri not for profit corporation

By 
PRESIDENT

Attest:


SECRETARY

In Witness Whereof, Black Oak Mountain Water Company approved execution of this document at the meeting of its Board of Directors held on October 31, 2009.

BLACK OAK MOUNTAIN
WATER COMPANY,
a Missouri not for profit corporation

By 
JOHN VIEW,
PRESIDENT

Attest:


SECRETARY

In Witness Whereof, Black Oak Mountain Sewer Company approved execution of this document at the meeting of its Board of Directors held on October 31, 2009.

BLACK OAK MOUNTAIN
SEWER COMPANY,
a Missouri not for profit corporation

By 
JOHN VIEW,
PRESIDENT

Attest:


SECRETARY