

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

In the Matter of the Water Rate Request of)
Hillcrest Utility Operating Company, Inc.) WR-2016-0064

NOTICE OF COMMUNICATION

Issue Date: August 24, 2016

This notice is being filed on behalf of Commissioner Maida Coleman of the Missouri Public Service Commission (“Commission”) along with the attached letter she received from United States Congressman Jason Smith regarding the above referenced case.

The Commission has promulgated rules denoted as the “Standards of Conduct” at 4 CSR 240-4.010 and 4.020. Section 4 CSR 240-4.20 specifically deals with Ex Parte and Extra-Record Communication Rules. This notice is filed in conformance with the rule.



Maida J. Coleman
Commissioner



Charlene R.M. Ketchum
Advisor to Commissioner Coleman

Dated at Jefferson City, Missouri
On this 24th day of August, 2016

JASON SMITH
8TH DISTRICT, MISSOURI

1118 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4404-PHONE
(202) 226-0326-FAX

COMMITTEE ON
WAYS AND MEANS

HUMAN RESOURCES SUBCOMMITTEE

OVERSIGHT SUBCOMMITTEE

<http://www.jasonsmith.house.gov>

Congress of the United States
House of Representatives
Washington, DC 20515-2508

CAPE GIRARDEAU OFFICE
2502 TURNER DRIVE, SUITE 205
CAPE GIRARDEAU, MO 63703
(573) 335-0101-PHONE

FARMINGTON OFFICE
22 E. COLUMBIA STREET
FARMINGTON, MO 63640
(573) 756-9755-PHONE

POPLAR BLUFF OFFICE
2911 N. WESTWOOD BLVD., SUITE C
POPLAR BLUFF, MO 63901

ROLLA OFFICE
830A S. BISHOP
ROLLA, MO 65401
(573) 364-2455-PHONE

WEST PLAINS OFFICE
35 COURT SQUARE, SUITE 300
WEST PLAINS, MO 65775
(417) 255-1515-PHONE

August 12, 2016

Maida J. Coleman, Commissioner
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102-0360

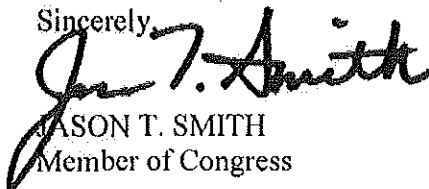
Dear Commissioner Coleman:

I am writing in support of Senator Wayne Wallingford's letter requesting answers dated August 10, 2016 to the Missouri Public Service Commission on behalf of the residents of Hillcrest Subdivision in the Eighth Congressional District. I have been communicating with the residents as well as Senator Wallingford and State Representative Donna Lichtenegger about the exorbitant water and sewer rate increase. It is my hope this situation can be resolved without a 600 percent increase to their current rate from Mr. Josiah Cox's (President) submission to the PSC. Since the last letter to the Public Service Commission, the residents have been alerted of the rate increase but mandatory 3 boil orders in 3 months. This is very disappointing! With supporting facts and testimonies from the residents, if the sewer and water rate is increased 600 percent, I fear the worst for 250 residents in the Hillcrest Subdivision of Cape Girardeau County.

I question whether it is a common practice of the Public Service Commission to approve requests for such aggressive rate increases on homeowners and subdivisions across Missouri. In my understanding, the entire role of the PSC in reviewing rate increase requests is to act as a safeguard against just these types of massive hikes. I request that the Office of Public Counsel provide me with information regarding all request in the past five years for water and sewer rate increases in excess of 100%, along with the PSC's decisions in approving or denying such requests. I also request a copy of the PSC's response to Senator Wallingford's questions submitted via letter to the Commission.

Thank you in advance for the consideration of my request.

Sincerely,


JASON T. SMITH
Member of Congress



MISSOURI SENATE
JEFFERSON CITY

WAYNE WALLINGFORD
27TH DISTRICT

August 10, 2016

Maida J. Coleman, Commissioner
Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102-0360

Dear Commissioner Coleman,

Recently, the Missouri Public Service Commission (PSC) approved a water and sewer rate increase for Hillcrest Utility Holding Company, Inc. / Hillcrest Subdivision) a small subdivision of about 250 residents located in Cape Girardeau County. I know you are familiar with this and appreciate your hard work on this case. We know each of you always give the consumer the first and best consideration in any rate increase request case especially when the expected rate increase is significant to the consumer.

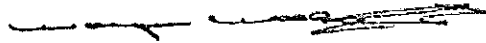
I, Representative Donna Lichtenegger and my Chief of Staff Bill Foster have spent a significant amount of time meeting with our constituents of this subdivision. During our last meeting with the Hillcrest Subdivision residents nine potential concerns were raised and we would like you to evaluate these as you deliberate the reconsideration of the case.

- 1) On what evidence did the Commission base its decision that the 14% interest rate was reasonable based on the current economic conditions?
- 2) Who is the lender? Is it Mr. Cox or his partner Mr. Glarner?
- 3) If the loan is not from a lending institution, who regulates it?
- 4) Was a bond required in case of default?
- 5) Are all the repairs completed? Is there confirmation from Department of Natural Resources that all repairs are completed?
- 6) What is the character background of Mr. Josiah Cox and Mr. Robert B. Glarner, Jr.? (Review Case Net on Mr. Cox)
- 7) If the residents are unable to pay the increased rate, what is the plan?
- 8) If residents install private wells, how will this affect the loan or the rates paid by the residents?
- 9) What is the Commission's rule or guideline on when a small water and sewer loan is simply too costly for ratepayers to bear and what interest rate would the PSC consider unreasonable?

In addition to these concerns we are attaching documentation showing the 2015 and 2016 Annual Registration with the Secretary of State listing Mr. Josiah Cox as President, Mr. Robert B. Glarner, Jr. as the Secretary and Mr. David Glarner as the Treasurer for Hillcrest Utility Holding Company, Inc. The Glarner brothers both hold a bulk interest in Hillcrest Utility Holding Company, Inc. as well as hold the loan for the Hillcrest Subdivision water and sewer system improvements. The same Glarner brothers purchased Northwest Plaza a once thriving shopping center that was deteriorating and sought out state tax dollars for redevelopment (see St. Louis Post Dispatch article). We also have to question the character of Mr. Josiah Cox, President of Hillcrest Utility Holding Company, Inc. after a search of Missouri Courts (CaseNet) and the breach of contract case and delinquent taxes case. (See Attached).

We would like to thank you for your time and should you have any questions concerning the issues discussed feel free to contact our offices to follow up.

Sincerely,



Wayne Wallingford
State Senator, District 27



Donna Lichtenegger
State Representative, District 146

Attachments

Jason Kander Secretary of State
 2015 ANNUAL REGISTRATION REPORT
 BUSINESS

01378400
Date Filed: 5/20/2015
Jason Kander
Missouri Secretary of State

* SECTION 1, 3 & 4 ARE REQUIRED

REPORT DUE BY: 5/31/2015

01378400
 Hillcrest Utility Holding Company, Inc.
 C T CORPORATION SYSTEM
 120 SOUTH CENTRAL AVENUE, SUITE 400
 CLAYTON MO 63105

RENEWAL MONTH:
 FEBRUARY

I OPT TO CHANGE THE CORPORATION'S RENEWAL MONTH TO FOR A \$25.00 FEE

PRINCIPAL PLACE OF BUSINESS OR CORPORATE HEADQUARTERS: *

500 Northwest Plaza Drive (Required)

1 Suite 500

STREET
 St. Ann MO 63074

CITY / STATE ZIP

If changing the registered agent and/or registered office address, please check the appropriate box(es) and fill in the necessary information.

The new registered agent

IF CHANGING THE REGISTERED AGENT, AN ORIGINAL WRITTEN CONSENT FROM THE NEW REGISTERED AGENT MUST BE ATTACHED AND FILED WITH THIS REGISTRATION REPORT.

The new registered office address

Must be a Missouri address, PO Box alone is not acceptable. This section is not applicable for Banks, Trusts and Foreign Insurance.

OFFICERS NAME AND PHYSICAL ADDRESS (P.O. BOX ALONE NOT ACCEPTABLE). MUST LIST PRESIDENT AND SECRETARY BELOW		BOARD OF DIRECTORS NAME AND PHYSICAL ADDRESS (P.O. BOX ALONE NOT ACCEPTABLE). MUST LIST AT LEAST ONE DIRECTOR BELOW	
A		B	
<u>PRESIDENT</u>	Cox, Josiah M. 500 Northwest Plaza Drive Suite 500 St. Ann MO 63074	<u>NAME</u>	Cox, Josiah M. 500 Northwest Plaza Drive Suite 500 St. Ann MO 63074
<u>SECRETARY</u>	Glarner, Robert B. Jr. 1701 Macklind Ave. St. Louis MO 63110	<u>NAME</u>	Glarner, Robert B. Jr. 1701 Macklind Ave. St. Louis MO 63110
<u>TREASURER</u>	Glarner, P. David 1701 Macklind Ave. St. Louis MO 63110	<u>NAME</u>	Glarner, P. David 1701 Macklind Ave. St. Louis MO 63110
STREET		STREET	
CITY/STATE/ZIP		CITY/STATE/ZIP	
STREET		STREET	
CITY/STATE/ZIP		CITY/STATE/ZIP	

NAMES AND ADDRESSES OF ALL OTHER OFFICERS AND DIRECTORS ARE ATTACHED

The undersigned understands that false statements made in this report are punishable for the crime of making a false declaration under Section 576.060 RSMo. Photocopy or stamped signature not acceptable. *

4 Authorized party or officer sign here James A. Beckemeier (Required)

Please print name and title of signer: James A. Beckemeier / Other

NAME TITLE

REGISTRATION REPORT FEE IS:
 ___\$20.00 If filed on or before 5/31/2015
 ___\$35.00 If filed on or before 6/30/2015
 ___\$50.00 If filed on or before 7/31/2015
 ___\$65.00 If filed on or before 8/31/2015
 ADD AN ADDITIONAL \$25.00 FEE IF CHANGING THE RENEWAL MONTH.

WHEN THIS FORM IS ACCEPTED BY THE SECRETARY OF STATE, BY LAW IT WILL BECOME A PUBLIC DOCUMENT AND ALL INFORMATION PROVIDED IS SUBJECT TO PUBLIC DISCLOSURE

E-MAIL ADDRESS (OPTIONAL): _____

Jason Kander Secretary of State
 2016 ANNUAL REGISTRATION REPORT
 BUSINESS

01378400
Date Filed: 5/17/2016
Jason Kander
Missouri Secretary of State

* SECTION 1, 3 & 4 ARE REQUIRED

REPORT DUE BY: 5/31/2016

01378400
 Hillcrest Utility Holding Company, Inc.
 C T CORPORATION SYSTEM
 120 SOUTH CENTRAL AVENUE, SUITE 400
 CLAYTON MO 63105

RENEWAL MONTH: FEBRUARY <input type="checkbox"/> I OPT TO CHANGE THE CORPORATION'S RENEWAL MONTH TO FOR A \$25.00 FEE	
PRINCIPAL PLACE OF BUSINESS OR CORPORATE HEADQUARTERS: * 500 Northwest Plaza Drive (Required) Suite 500 STREET St. Ann MO 63074 CITY / STATE ZIP	1

If changing the registered agent and/or registered office address, please check the appropriate box(es) and fill in the necessary information.

The new registered agent
 IF CHANGING THE REGISTERED AGENT, AN ORIGINAL WRITTEN CONSENT FROM THE NEW REGISTERED AGENT MUST BE ATTACHED AND FILED WITH THIS REGISTRATION REPORT.

The new registered office address _____

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OFFICERS NAME AND PHYSICAL ADDRESS (P.O. BOX ALONE NOT ACCEPTABLE). MUST LIST PRESIDENT AND SECRETARY BELOW	A	BOARD OF DIRECTORS NAME AND PHYSICAL ADDRESS (P.O. BOX ALONE NOT ACCEPTABLE). MUST LIST AT LEAST ONE DIRECTOR BELOW	B
<p>PRESIDENT Cox, Joslah M. 500 Northwest Plaza Drive STREET Suite 500 CITY/STATE/ZIP St. Ann MO 63074</p> <p>SECRETARY Glarner, Robert B. Jr. 1701 Macklind Ave. STREET CITY/STATE/ZIP St. Louis MO 63110</p> <p>TREASURER Glarner, P. David 1701 Macklind Ave. STREET CITY/STATE/ZIP St. Louis MO 63110</p> <p>STREET _____ CITY/STATE/ZIP _____</p>	3	<p>NAME Cox, Joslah M. 500 Northwest Plaza Drive STREET Suite 500 CITY/STATE/ZIP St. Ann MO 63074</p> <p>NAME Glarner, Robert B. Jr. 1701 Macklind Ave. STREET CITY/STATE/ZIP St. Louis MO 63110</p> <p>NAME Glarner, P. David 1701 Macklind Ave. STREET CITY/STATE/ZIP St. Louis MO 63110</p> <p>NAME _____ STREET _____ CITY/STATE/ZIP _____</p>	*
NAMES AND ADDRESSES OF ALL OTHER OFFICERS AND DIRECTORS ARE ATTACHED			

The undersigned understands that false statements made in this report are punishable for the crime of making a false declaration under Section 576.060 RSMo. Photocopy or stamped signature not acceptable. *

4 Authorized party or officer sign here James A Beckemeier (Required)

Please print name and title of signer: James A Beckemeier / Other
 NAME TITLE

REGISTRATION REPORT FEE IS:
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WHEN THIS FORM IS ACCEPTED BY THE SECRETARY OF STATE, BY LAW IT WILL BECOME A PUBLIC DOCUMENT AND ALL INFORMATION PROVIDED IS SUBJECT TO PUBLIC DISCLOSURE

E-MAIL ADDRESS (OPTIONAL): _____



Name Search Results by Case
All Participating Courts

Displaying 1 thru 8 of 9 records returned for parties with a name of COX, JOSIAH for All case types in ALL court locations.

12

Party Name	Case Number	Party Type	Style of Case	Case Type	Filing Date
Address on File		Circuit	County	Location	
COX, JOSIAH	12SL-CC04264	Defendant	JAY HERIGODT ET AL V TRUMPET BUILDERS ET AL	CC Breach of Contract	11/07/2012
SAINT LOUIS, MO		Circuit 21	St. Louis County	St Louis County	
COX, JOSIAH	13SL-AC25391	Defendant	REE PARTNERSHIP LLC V TRUMPET LLC ET AL	AC Landlord Actions (Bulk)	07/31/2013
FENTON, MO		Circuit 21	St. Louis County	St Louis County	
COX, JOSIAH M	13T050000001	Defendant	ST V JOSIAH M COX	AC TR State Traffic Ticket	01/03/2000
FULTON, MO		Circuit 13	Callaway	Circuit Division	
COX, JOSIAH M	13T069503478	Defendant	ST V JOSIAH M COX	AC TR State Traffic Ticket	12/15/1995
FULTON, MO		Circuit 13	Callaway	Circuit Division	
COX, JOSIAH M	06JE-CC00588	Defendant	FRIBIS ENGINEERING INC V TRUMPET LAND SERVICES LLC	CC Other Tort	10/12/2006
FESTUS, MO		Circuit 23	Jefferson	Jefferson Circuit Court	
COX, JOSIAH M	1222-CC02896	Defendant	P. W. & D., INC V TRUMPET BUILDERS, LLC	CC Breach of Contract	06/08/2012
SAINT LOUIS, MO		Circuit 22	The City of St. Louis	City of St. Louis	
COX, JOSIAH M	1322-AC03405	Defendant	DISCOVER BANK V JOSIAH M COX	AC Suit on Account	03/07/2013
ST LOUIS, MO		Circuit 22	The City of St. Louis	City of St. Louis	
COX, JOSIAH M	1422-AC09085	Defendant	CITY OF ST. LOUIS COLLECTOR V. JOSIAH COX	AC Delinquent City Taxes	07/08/2014
ST LOUIS, MO		Circuit 22	The City of St. Louis	City of St. Louis	

Displaying 1 thru 8 of 9 records returned for parties with a name of COX, JOSIAH for All case types in ALL court locations.

12



Name Search Results by Case All Participating Courts

Displaying 9 thru 9 of 9 records returned for parties with a name of COX, JOSIAH for All case types in ALL court locations.

1 2

Party Name	Case Number	Party Type	Style of Case	Case Type	Filing Date
Address on File		Circuit	County	Location	
COX, JOSIAH M	13SL-TJ03306	Defendant	PW&D LLC V TRUMPET BUILDERS LLC ETAL	CC Transcript Judgment	12/27/2013
		Circuit 21	St. Louis County	St Louis County	

Displaying 9 thru 9 of 9 records returned for parties with a name of COX, JOSIAH for All case types in ALL court locations.

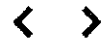
1 2

Political Fix

http://www.stltoday.com/news/local/govt-and-politics/northwest-plaza-deal-cost-taxpayers-millions/article_faa6615e-2124-523e-b317-e6222de2d55f.html

Northwest Plaza deal cost taxpayers millions

By Jeremy Kohler jkohler@post-dispatch.com 314-340-8337 Jun 16, 2013



Heavy machinery moves chunks of rubble as demolition continues on portions of Northwest Plaza in St. Ann on Thu 2013. Photo by Christian Gooden, cgooden@post-dispatch.com

The crowds and stores were long gone. Northwest Plaza, once billed as the world's largest shopping center, stood decaying at one of the busiest intersections in metro St. Louis, done in by new malls in more upscale areas.

Brothers Robert and P. David Glarner announced plans to buy the mall at Lindbergh Boulevard and St. Charles Rock Road and began seeking tax money for most of the redevelopment costs — nearly \$50 million.

The city of St. Ann would devote \$33 million in tax-increment financing. St. Louis County would kick in \$10 million in New Market tax credits. But the Glarners told the state \$7.8 million in additional tax credits were needed for the project to go through. They relied on a consultant with a track record of getting tax credits from Gov. Jay Nixon's administration. But the work had to be a hazardous waste cleanup to qualify for those.

The consultant, Environmental Operations Inc. of St. Louis, said more than 1.1 million square feet of materials in the mall contained asbestos, enough to cover 20 football fields.

Now Northwest Plaza wasn't just blighted. According to Environmental Operations it was brimming with hazardous waste requiring careful removal by specialists.

The company decided what work was needed for the cleanup. Then it invited companies to bid on the asbestos removal. It submitted its own bids for the work and told the state it was the low bidder.

Its bids for removing the hazardous waste and demolishing the mall totaled \$7.8 million. In October, the state Department of Economic Development authorized brownfield redevelopment tax credits to cover Environmental Operations' work. The mall is about two-thirds demolished.

A Post-Dispatch investigation has found that Environmental Operations overestimated the job to bidders — driving up the cost — and devised a bidding process that ensured it would win. And officials in the Nixon administration rubber-stamped the firm's actions at every step.

The newspaper found:

- Environmental Operations solicited three bids for the asbestos work but did not submit the lowest bid to the state. Instead, it represented its own bid as the lowest, even though it was \$288,000 higher.
- Environmental Operations provided bidders with vastly overestimated asbestos quantities. Just a month after the state director of the Department of Economic Development authorized the tax credits, the firm began filing for permits to remove less than half as much asbestos as it had used to solicit bids.
- Environmental Operations got bids to “completely remove” asbestos containing materials from the mall. But once it had the contract, it left asbestos in some of the mall buildings that were being renovated. That change was made without notifying the Department of Natural Resources, which oversees cleanups.
- Because the state will pay demolition costs equal to the amount of the remediation, the bids on overestimated quantities of hazardous waste helped the developers dramatically increase the amount of subsidies they could get for demolition.
- The owners of the mall received bids for demolishing the mall from three companies: Environmental Operations and two companies that do not specialize in big demolition projects. The mall’s owners also obtained a lower estimate from one of the region’s largest demolition companies, Spirtas Wrecking Co., but did not disclose it to the state.

Stacy Hastie, the owner of Environmental Operations, through a spokesman, has defended his handling of the Northwest Plaza project. In response to questions from the state, he said in an April 23 email obtained through a Sunshine Law request that he had “better things to do than jump through hoops for a witch-hunting reporter.”

“You will see all is aboveboard,” Hastie’s email said.

Environmental Operations' domination of Missouri's taxpayer-funded environmental cleanups has been the subject of an ongoing Post-Dispatch investigation. The company has been both the consultant and the environmental contractor on cleanups totaling \$85 million at high-profile sites such as Busch Stadium, the NorthPark business park and River City Casino.

The Post-Dispatch revealed last year that Environmental Operations designs Missouri brownfield cleanups, chooses which companies can bid, submits its own bids and sometimes hires itself for the job. The firm sometimes seeks bids from companies that are too small or unqualified to perform the full scope of the work.

It is highly unusual for a consultant to be allowed to design a job, manage the bidding process and bid to itself in a public or private construction, demolition or environmental project. A consultant is supposed to get the best price from a contractor for its client. A contractor wants to maximize his profit.

"You're either in one role or the other role in this industry," said Chip D'Angelo, owner of WCD Group in Pennington, N.J., who is credited with helping develop the procedures that have become standard for asbestos abatement.

Since the Post-Dispatch stories last year, Missouri Auditor Tom Schweich has criticized the lack of competition at an earlier cleanup funded with the brownfield redevelopment tax credits. His staff has started an audit of the hazardous waste program within the Department of Natural Resources and plans an audit of the brownfield redevelopment tax credit program in the Department of Economic Development.

Tax credits do not come directly from state coffers. Instead, they reduce the taxes owed by the individuals and companies that buy them, resulting in reduced state tax revenue.

The newspaper's examination of the Northwest Plaza cleanup shows the extent to which Missouri has lost control of taxpayer-funded environmental projects — and how Environmental Operations has benefited from that lack of oversight.

Until the Post-Dispatch began asking questions, neither the Department of Economic Development nor the Department of Natural Resources knew about the low bidder for asbestos abatement, the significantly reduced quantities of asbestos being removed from the mall, or that some asbestos was being left in place, according to spokesmen for the agencies.

"To date we have not received notification of a revised scope of work for the project; however, the tax credit will be limited to actual costs incurred regardless of the amount authorized," John Fougere, spokesman for the Department of Economic Development, said in an email in April.

But because Environmental Operations is also the consultant on the project, the department has no independent source to determine the project's actual cost. Asked whether Environmental Operations would reduce its billings to reflect a smaller scope of work, owner Hastie responded through his spokesman with an email: "The scope is not smaller."

Other bidders on the project said Hastie's response was absurd. They said their bids were based on the 20 football fields of asbestos-containing material. Not nine.

"If it was half the quantities, our bid would have been half," said Jim Daiber, vice president of CENPRO Services of Madison, one of the bidders.

At Northwest Plaza, state officials gave Environmental Operations the latitude to design a cleanup that maximized its own profits, said Gabriel Bluestone, an antitrust consultant with Bloom Strategic Counsel in Washington, who reviewed files for the Post-Dispatch.

Bluestone, a former adviser to the U.S. Senate on antitrust issues, said the way Environmental Operations was awarded the contracts at Northwest Plaza was unfair to competitors and may violate the Sherman Antitrust Act, the landmark federal statute that restricts anticompetitive business activities.

"Since the owner is permitted to submit bids however it sees fit, EOI has abused its consultant role to assign itself the work and receive an inflated tax credit at the expense of the other bidders and taxpayer funds," he said in an email.

ASBESTOS BIDS

The Missouri Department of Economic Development requires a brownfield tax credit applicant to obtain at least three bids for remediation. But the department said brownfield tax credits are not subject to state laws requiring competitive bidding for goods and services. There are no rules about how companies are invited to bid, no requirement to advertise bids or open them in public, and no requirement to hire the low bidder.

Environmental Operations invited three firms to bid on removing asbestos at Northwest Plaza: CENPRO, of Madison; General Waste Services, of Alton; and Spray Services, of Washington, Mo., according to a copy of Environmental Operations' emailed invitation shared by CENPRO.

Spray Services submitted the high bid of \$4.3 million. President Jim Bennight said his company's biggest project until then had been about \$1.6 million.

"I assumed we wouldn't be doing the whole project," he said, adding that he hoped Environmental Operations would hire his company as a subcontractor. "I doubt that I would take the whole project. It is a very large project."

The middle bid came from General Waste, at \$3.8 million, which also was also hoping to get a piece of the project, according to the company's director of operations, Donnie Breden.

Environmental Operations came in at \$3.7 million.

The state file reviewed by the Post-Dispatch under a Sunshine Law request included no mention that CENPRO had even been invited to bid on asbestos.

SOUTHEAST MISSOURIAN

Subdivision near Cape faces steep water-rate hike

Sunday, June 12, 2016

By Jacob Barker ~ St. Louis Post-Dispatch



David Lane uses a hose to water a bed of flowers in the front yard of his home Wednesday in the Hillcrest Manor neighborhood in Cape Girardeau.

Glenn Landberg

Residents of the Hillcrest Manor subdivision near Cape Girardeau often were told not to drink their water.

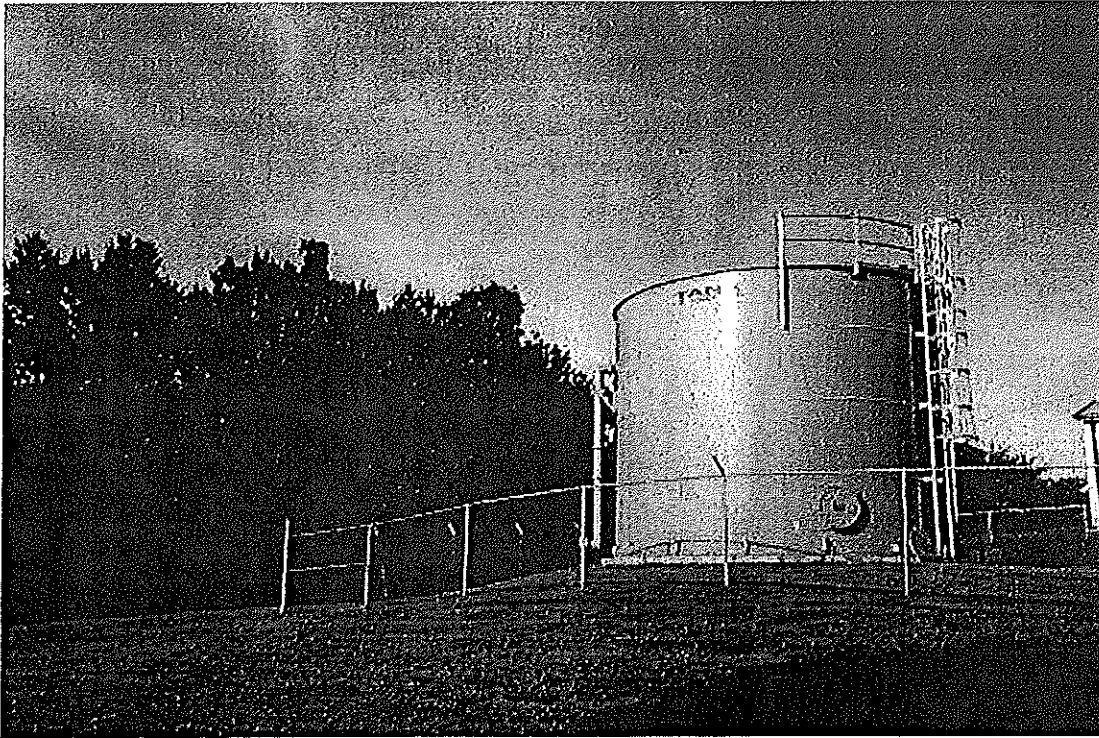
Contamination led to frequent boil orders in the failing water and wastewater system that serves close to 250 homes. But two years ago, a St. Ann, Missouri, company bought the utility and spent more than \$1 million to fix it up.

Now, the Hillcrest residents are facing a new problem: a huge rate hike that could boost monthly bills from some of the cheapest in Missouri to some of the most expensive.

The hike proposed by the Hillcrest Utility Operating Co. from around \$25 a month to nearly \$150 a month has put a vexing question in front of state regulators: How do you get investors to pay to

fix failing water and sewer systems without sending customers into rate shock?

The problem is acute for small, failing systems without enough customers to spread the costs of big capital increases.



A water tank sits near the entrance of the Hillcrest Manor neighborhood Wednesday in Cape Girardeau.
Glenn Landberg

But there's more at stake than a big rate increase, according to the Missouri Office of Public Counsel, which represents ratepayers in front of the Missouri Public Service Commission.

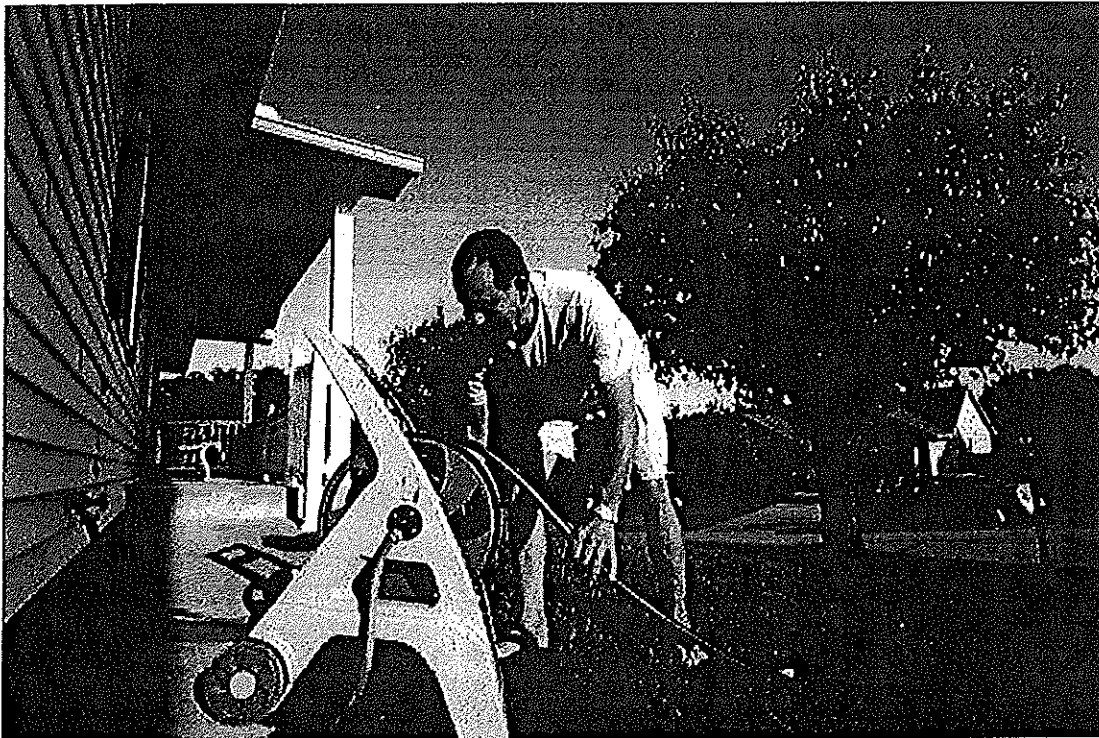
While even that office sees as necessary an increase almost as large as that proposed by Hillcrest Utility, the office is raising questions about the truthfulness of the company's president: Josiah Cox, who leads St. Ann-based Central States Water Resources Inc., the company that runs Hillcrest.

Regulatory staff and the Office of Public Counsel have questioned whether the 14 percent interest rate on a loan made to Hillcrest to fix the failing water and sewer system is the best deal for ratepayers. They point out the company that holds the loan to Hillcrest is owned by the same people who hold a majority stake in Hillcrest: Robert and David Glarner, the St. Louis developers behind the Northwest Plaza redevelopment.

Beyond costs to ratepayers, the Office of Public Counsel even presented evidence Cox may not have disclosed all of his future income and assets during a personal bankruptcy in 2014, raising questions about whether a bankruptcy trustee could reopen the case and put the utility holding company at risk.

"This has not been a very transparent or cooperative relationship so far," said Cydney Mayfield, deputy counsel for the Office of Public Counsel. "When you're working with regulated entities, that

transparency and flow of information is critical."



David Lane rolls up a garden hose after watering a bed of flowers in the front yard of his Hillcrest Manor subdivision home Wednesday in Cape Girardeau.

Glenn Landberg

The PSC will have to decide whether it wants to continue working with Cox and Central States, because Cox plans to acquire as many as 30 more small, failing wastewater and water systems. Already, Central States runs two other water and wastewater systems in Missouri near Cuba and near Sedalia.

Cox said he's providing a service no one else will, and acquiring more systems will allow it to spread the costs to fix them up over more customers.

"I saw there were a ton of water and wastewater utilities that no one wanted," he said. "The big utilities aren't interested for various reasons, and there was a need for someone to come in and fix them."

Regulators agree the systems appear to have improved from a dismal state.

"And obviously, for far too long, these residents have not been paying what they should've been paying," PSC commissioner Bill Kenney said during a hearing on Hillcrest's rate increase. "I mean, because it's been just in disarray."

Cox said homeowners struggled to sell their houses because of the frequent boil orders, a problem that since has been fixed.

Resident Tonya South, who has lived in Hillcrest since 2012, worries the huge proposed increase could have similar effects. She said one of her neighbors ended up losing a buyer for her house after the real-estate agent disclosed water and sewer bills could be increased to \$150.

"We understand you need to raise it, but do a gradual increase," South said.

Another resident, David Lane, said he wished there had been more warning upfront about what it would cost.

"I know they did a lot of upgrades to it and everything, but we never had a meeting on what it was going to cost," he said. "I know the man's got a right to get his money back, but he doesn't have to get it all back in one year."

But even the Office of Public Counsel is proposing a large rate increase. However, it wants to see a combined average rate of \$133 per month for water and sewer phased in over two years, something Cox opposes.

Cox said while he empathizes with the Hillcrest residents, a gradual increase won't work.

"There's just no shortcuts," Cox said. "There's just no easy way to do it. You can't gradually repair systems that have completely failed. It's hard on residents, I understand that, but unfortunately there's no other way to do it."

The PSC will make a final decision on how to structure rates in a ruling expected later this summer.

'Not really a great solution'

Part of the reason Cox is proposing a large increase is the 14 percent loan from the Glarners. Cox said in testimony to the PSC the company wouldn't be able to make its debt payment with phased-in rates.

But the Office of Public Counsel and the PSC staff said Cox didn't try to renegotiate the loan term, even after the Glarners bought Fresh Start LLC, the company that held it. They were given a nearly 90 percent stake in the utility company's parent, far larger than the previous debt investors, but the rate on the loan stayed the same.

Cox, a builder who used to own Trumpet Builders and worked in water and wastewater engineering, filed for Chapter 7 bankruptcy in February 2014. In January, Central States Water Resources was formed, as was its parent company, First Round CSWR LLC.

By February, Fresh Start, made up of 12 investors, was formed to invest in Hillcrest Utility. Later, the Glarners bought Fresh Start and the loan. When they did, they also received 87 percent in a company that owned Central States' parent.

In a brief, the PSC staff said because the Glarners are the debt and equity investors, it had concerns the financing agreement wasn't an arms-length transaction.

Because Robert and David Glarner are the equity and debt investors, there is less risk, the PSC staff wrote, and so it recommended a lower return than pitched by Hillcrest.

Bob Glarner, in an email, said the high rate was already set by a group of California investors Cox worked with.

"But the California investors didn't really have the financial resources nor the tolerance for risk necessary to actually close and fix up a system," Bob Glarner wrote. "So Josiah approached us to buy out the California investors and make financing and capital available to the various companies he set up."

The high rate is appropriate, Glarner said, because the environmental liability would fall to them if the system fails or Cox fails to perform.

Banks wouldn't take on environmental risk, and Cox came to them after one bank mentioned the Glarners as possible investors, Bob Glarner wrote.

Beyond costs, the Office of Public Counsel argues Cox's past bankruptcy raises serious questions about his trustworthiness. During testimony, Mayfield presented evidence that suggested Cox did not disclose all of his assets or income when he was filing for bankruptcy.

"There are potential criminal violations related to the fact that he signed a document under oath and was not truthful about it," Mayfield said.

Cox, during testimony, said he was advised by an attorney through his bankruptcy. Asked about Public Counsel's allegations, he told a reporter: "It's factually not true."

Without Cox, however, or investors such as the Glarners, Missouri has to find some other way to deal with the large number of small, failing water and wastewater systems. Combining them under ownership of one company may be a better approach, Bob Glarner suggested.

"Having small independent systems throughout the state without common control or adequate resources is what has contributed to the high number of systems currently in noncompliance with (the Missouri Department of Natural Resources) and in violation of environmental regulations," Glarner wrote in an email.

But to fix small water and sewer systems and, at the same time, protect ratepayers, Mayfield said regulators shouldn't just accept any offer they see.

"There's not really a great solution," she admitted. "But just because Mr. Cox presented this solution does not mean he's the right solution."

COMMENTS

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