

Exhibit No.: 1
Issue: Certificate of Convenience and Necessity
Witness: Carl Richard Mills
Sponsoring Party: Applicant
Type of Exhibit: Direct Testimony
Case No.: WA-2018-0370
Date Prepared: January 3, 2019

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

In the Matter of Carl R. Mills Trust for a)
Certificate of Convenience and Necessity)
Authorizing it to Install, Own, Acquire,)
Construct, Operate, Control, Manage, and)
Maintain Water Systems in Carriage Oaks)
Estates) File No. WA-2018-0370

DIRECT TESTIMONY OF CARL RICHARD MILLS ON BEHALF OF APPLICANT

**Stone County, Missouri
January 3, 2019**

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1
2 **DIRECT TESTIMONY OF CARL RICHARD MILLS**

3 ***Introductions and Witness Qualifications***

4 **Q: Please state your name.**

5 My name is Carl Richard Mills.

6 **Q: Where do you current reside?**

7 I currently reside in the Carriage Oaks Estates subdivision at 209 Falling Leaf Court,
8 Branson West, Missouri.

9 **Q: How long have you live there?**

10 I have lived at my current residence since 1999.

11 **Q: Where are you currently employed?**

12 I am currently retired. Prior to retiring, I was the owner and founder of Chicago Power
13 Fluid Corporation, a company which specialized in designing actuators and other power fluid
14 mechanism for municipal projects, nuclear and non-nuclear power stations, refineries, defense
15 projects, offshore oil and gas, dams, water control and wastewater projects all across the world.
16 Prior to starting my own company, I served in the military and taught fluid power mechanics. In
17 1990, I sold Chicago Power Fluid and eventually moved back to the Ozarks to retire. In 1999,
18 my late wife and I bought a large plot of land in Stone County and began developing Carriage
19 Oaks Estates.

20 **Q: What is your relationship to the case today?**

21 I am the Applicant seeking a Certificate of Convenience and Necessity from the Public
22 Service Commission.

23 ***Application for Certificate of Convenience and Necessity***

1 **Q: Why did you file for a Certificate of Convenience and Necessity with the Public Service**
2 **Commission?**

3 As mentioned in my previous answer, I am the developer and owner of Carriage Oaks
4 Estates, a small subdivision located in Stone County. As the developer, I have operated the water
5 system in Carriage Oaks Estates since the subdivision's creation in approximately 1999. In early
6 2017, select homeowners from the subdivision filed a complaint with the Public Service
7 Commission in the case of *Derald Morgan et al. v. Carl R. Mills et al.* (WC-2017-0037),
8 demanding, among other things, that the Public Service Commission force me to turn over the
9 water and wastewater system of Carriage Oaks Estates to the homeowners. While the
10 Commission found that they did not have jurisdiction over the wastewater system of Carriage
11 Oaks Estates, they found that they did have jurisdiction over the water system, and as a result, a
12 Certificate of Convenience and Necessity was necessary.

13 **Q: When did you originally file your Application for a Certificate of Convenience and**
14 **Necessity with the Public Service Commission?**

15 I originally filed my Application for a Certificate of Convenience and Necessity on June
16 9, 2018.

17 **Q: Did you ever amend your Application for the Certificate of Convenience and Necessity?**

18 Yes, I filed the Amended Application for Convenience and Necessity on October 2, 2018.

19 **Q: Why did you amend your Application?**

20 On the original Application, the Carl R. Mills Trust was listed as the applicant because I
21 was under the belief that the water system of Carriage Oaks Estates had been transferred into my
22 personal trust in previous years. I later learned that the water system had not been transferred
23 into my personal trust and was still held by myself as an individual. The Amended Application

1 revised the name of the applicant to Carl R. Mills to reflect the true owner of the water system.
2 Aside from that distinction, the Amended Application had no other changes from the originally
3 filed Application.

4 **Q: Does Exhibit 1 attached hereto represent a truthful and accurate depiction of the**
5 **Amended Application for Certificate of Convenience and Necessity you filed with the**
6 **Public Service Commission on October 2, 2018?**

7 Yes.

8 **Q: Are there any areas of your Amended Application for Certificate of Convenience and**
9 **Necessity that you would like to provide additional comments on?**

10 Yes, in particular I would like to shed some additional light on Exhibit D and Exhibit E
11 of the Amended Application as the Intervenors in this case have misconstrued these Exhibits in
12 their opposition.

13 In Appendix D, I was asked to set forth the cost associated with the construction of water
14 system used in Carriage Oaks Estate. In contrast to the underlying assumption that this water
15 system was newly constructed, the water system for Carriage Oaks Estates was constructed in
16 approximately 1999 and had been operating without the PSC's oversight for the past 19 years.
17 Given that such a long period of time had passed, the records associated with such construction
18 were no longer easily accessible, despite multiple efforts to locate them. The information set
19 forth in Appendix D represents my good faith estimate and recollection of the various cost
20 associated with such water system construction. Please note the various expenses have been
21 separately listed so outside sources can easily verify and independently evaluate such estimates.

22 In Appendix E, I was asked to propose the rates to charge for water service. In
23 determining what would be a fair and comparable rate to propose, I reached out to Ozarks Clean

1 Water, a local competitor, to request a quote as to what they would charge for providing water
2 services in Carriage Oaks Estates. The proposed rates attached in Appendix E represent the exact
3 figures provided by Ozarks Clean Water for similar services.

4 **Q: In connection with your Amended Application, did the PSC staff ask you to provide**
5 **additional information?**

6 Yes.

7 **Q: Did you fully comply with the request of the PSC staff?**

8 Yes, I turned over all information which was available to the PSC staff. I will note,
9 however, the PSC staff asked for a large quantity of information which did not exist. For the past
10 19 years, I have operated the water system like that of a small subdivision, not a large regulated
11 water utility. Therefore, a number of the information requested by the PSC was simply not
12 applicable to how the water system had previously been operating.

13 After I turned over all of my materials to the PSC Staff, these materials were
14 independently examined and the PSC Staff ultimately recommended that the Certificate of
15 Convenience and Necessity be granted.

16 ***Tartan Factors***

17 **Q: Are you generally familiar with what is commonly referred to as the Tartan Factors?**

18 Yes, these are the five (5) criteria the Public Service Commission examines in
19 determining whether it is appropriate to issue a Certificate of Convenience and Necessity to an
20 applicant.

21 **Q: Do you believe your application has fulfilled all of the Tartan Factors?**

22 Yes, despite the claims of the Intervenors, I believe all of the Tartan Factors have been
23 met within my Application.

1 *(A) Need for Service*

2 **Q: Is there a need for your water service within Carriage Oaks Estates?**

3 Yes. Absent my provision of water services, there are no other parties which provide
4 water services within the boundaries of Carriage Oaks Estates. Pursuant to the Easements,
5 Covenants and Restrictions governing all lots within Carriage Oaks Estates (a copy of which was
6 properly recorded with the Stone County Recorder of Deeds and supplied to each homeowner
7 prior to the purchase of their lot), all residents of Carriage Oaks Estates must connect to the
8 water system provided by the developer of the subdivision. The use of private wells is strictly
9 prohibited in accordance with the Easements, Covenants and Restriction and the Department of
10 Natural Resources regulations.

11 *(B) Qualification of the Applicant*

12 **Q: Are you qualified to operate the water system within Carriage Oaks Estates?**

13 Yes, I am qualified to operate the water system within Carriage Oaks Estates. The
14 Intervenors have painted me out to be an elderly man who only has experience as a developer.
15 What the Intervenors fail to mention, or even acknowledge, is my career prior to developing
16 Carriage Oaks Estates.

17 While I may not have fancy degrees like some of the Intervenors, my experience speaks
18 for itself. In the 1960s I formed Chicago Fluid Power Corporation. My company specialized in
19 designing actuators and other power fluid mechanics for municipal projects, nuclear and non-
20 nuclear power stations, refineries, defense projections, offshore oil and gas, dams, water control
21 and wastewater projects all across the world. Among some of my greatest accomplishments was
22 assisting in developing a solution to solve the water control and wastewater issues for the city of
23 Chicago, which was later adopted by cities across the United States. Additionally, the

1 development of an actuator which withstood over three years of countless testing and was later
2 approved for use in nuclear power plants ranks high in my professional accomplishments.

3 Attached as Exhibit 2 are a select group of pictures which capture projects I worked on
4 during my years at the company. In 1990, I sold Chicago Fluid Power to Hanna Corporation.

5 Additionally, I have successfully operated the water system of Carriage Oaks Estates for
6 the past 19 years with no issues and have regularly complied with all testing requirements. In
7 their recommendation, the PSC Staff also found that I have provided safe and adequate water
8 service for Carriage Oaks Estates in past years, and, as such, was qualified to operate the water
9 system.

10 **Q: The Intervenors also claim that you do not have the temperament or good judgment to**
11 **operate the water system. Is that true?**

12 I do not believe temperament is an element within the Tartan Factors, I can reassure the
13 Commission that my temperament is fair.

14 While the Intervenors have made several allegations that I have a short temperament,
15 they have failed to provide any specific examples of my tendency to “seek vengeance on the
16 homeowners”. In the past, in my role as both the developer and President of Carriage Oaks
17 Estates Homeowners Association, I have had to issue warnings to certain homeowners for blatant
18 violations of the subdivision rules, such as failure to install a water meter or overgrown
19 vegetation on the easements. None of these acts were done in an effort to be spiteful, but rather
20 to ensure that all residents follow the rules and regulations of the subdivision. My desire to
21 enforce the rules and regulations of Carriage Oaks Estates should not be equated to having a
22 short temperament or being classified as a vindictive person.

23 ***C. Financial Ability of the Applicant***

1 **Q: Moving on to the next factor, do you have the financial ability to install and operate the**
2 **water system within Carriage Oaks.**

3 Yes, I have the financial ability to install and operate the water system within Carriage
4 Oaks. In my role as a developer, I paid for the entire installation of the water system within
5 Carriage Oaks Estates when it was constructed in 1999. I also paid for the subsequent upgrade to
6 the water system entirely out of my own pocket.

7 ***D. Economic Feasibility***

8 **Q: Do you believe your proposal to operate the water system in Carriage Oaks Estates is**
9 **economically feasible?**

10 Yes, I believe my proposal to operate the water system in Carriage Oaks Estates is
11 economically feasible. As noted in the Public Service Commission Staff's recommendation, the
12 economic feasibility of the operation is demonstrated through the fact that the operations support
13 the current expenses.

14 ***E. Public Interest***

15 ***Q: Do you believe your proposal to operate the water system in Carriage Oaks Estates***
16 ***promotes public interest?***

17 Yes, I believe my operation of the water system promotes public interest. In addition to
18 meeting all of the four prior elements (which in most cases supports a finding of public interest),
19 the successful operation of the water system for the past 19 years with no major issues helps to
20 support the finding of public interest.

21 **Quality Allegations**

22 ***Q: In recent filings, the Intervenors have made certain allegations concerning the water***
23 ***quality in Carriage Oaks Estates. In particular, they have noted: 1) reduced water pressure***

1 *and/or water slow restrictions; 2) the presence of rock, grit and sediments; and 3)*
2 *extraordinary iron content. Would you like to address these allegations?*

3 Yes, I would like to address these allegations raised by the Intervenors. First and
4 foremost, as I have stated to the PSC in my response to Data Request No. 5, Intervenors have
5 never mentioned these alleged issues with the water system until their filing with the PSC. Why,
6 after over two years of litigating the issues surrounding the water system, are these issues just
7 now being raised? If these were truly issues, why were they not mentioned sooner? I ask that you
8 please do not fall for the Intervenors' feeble attempt to try to muddy the water of the issues at
9 hand.

10 In the 19 years of the water and sewer service existence in Carriage Oaks Estates, I have
11 not had a single request come from any residence regarding problems involving volume, flow or
12 pressure. The drinking water is tested by the county at least once or twice per year for quality,
13 and has not had a negative report in any years.

14 Regarding the claim of sediments, Carriage Oaks Estates furnishes tap on capabilities for
15 both water and sewer at each residential lot. The lot owner will contract a developer to build their
16 house and plumbers to install their plumbing, complete with pleated paper filters as required on
17 drawings given to each purchaser of a lot. We do not filter water at the well house—a fact which
18 every resident knows. Consequently every house is to be equipped with at least one 10" Pleated
19 Paper Filter. By doing this they will guarantee there will be NO rock, grit or sediment or even
20 rust in their system, provided they change the filter at least twice per year which everyone has
21 done as far as I know. If there were any complainers of this kind of issue it would only be
22 someone who did not follow the requirements everyone else did.

23 *Future of Water Service in Carriage Oaks Estates*

1 **Q: What is your plan for the future of the water system in Carriage Oaks Estates?**

2 In the near future, I would like to turn over the operation side of the water system to
3 Ozarks Clean Water, a local certified not-for-profit water corporation. I have spoken many times
4 to Ozarks Clean Water about their desire and ability to operate the water system, and have been
5 assured they are both willing and able to take over operations. I will, however, remain as the
6 owner of the water system.

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File No. WA-2018-0370

AFFIDAVIT OF CARL RICHARD MILLS

STATE OF MISSOURI)
) ss.
COUNTY OF STONE)

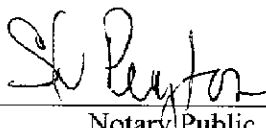
Carl Richard Mills, being first duly sworn on his oath, states as follows:

1. My name is Carl Richard Mills. I am a Respondent in the above-reference matter. I am over 18 years of age and competent to give testimony.
2. Attached hereto and made a part of for all purposes is my Direct Testimony consisting of 11 pages, Exhibit(s) 1,2, all of which have been prepared in written form for introduction into evidence in the above reference docket.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.



Carl Richard Mills

Subscribed and sworn to me this 3rd day of January, 2019.



Notary Public

My commission expires: Oct. 25, 2021

