

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

In the Matter of the Application of Confluence)
Rivers Utility Operating Company, Inc. and)
Terry Jarrett, Receiver, for Confluence Rivers to) File No. SA-2023-0215
Obtain a Certificate of Convenience and)
Necessity and to Acquire Certain Sewer Assets)

RESPONSE TO THE STAFF REPORT AND RECOMMENDATION

COMES NOW Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers”), and, as its *Response to the Staff Report and Recommendation*, states as follows to the Missouri Public Service Commission (“Commission”):

1. On June 5, 2023, the Staff of the Commission (“Staff”) filed its *Staff Report and Recommendation* recommending the Commission approve Confluence River’s request for a Certificate of Convenience and Necessity to provide sewer service in the Lost Valley service area, to include further recommendations described in the Staff *Memorandum* (pp. 7-8).

2. Confluence Rivers moved for, and was granted, an extension until June 22, 2023, to respond to the *Staff Report and Recommendation*.

3. Confluence Rivers has reviewed the proposed conditions listed on pages 7-8 of Staff’s *Memorandum* and states that it has no objection to proposed conditions 1-14 and 16.

4. Condition 15 states as follows:

Require Confluence Rivers to complete installation of the subsurface irrigation system within 18 months of closing.

5. While Confluence Rivers does not object (and, in fact, would expect) a deadline for the completion of this construction, it believes the deadline will ultimately be set by the Missouri Department of Natural Resources, which is responsible for the enforcement of the Missouri Clean

Water Law and whose action led to the receivership from which Confluence Rivers will make the proposed purchase of the Lost Valley system.

6. The subject system is the subject of litigation brought by the Missouri Attorney General's Office. In December of 2021, the Missouri Attorney General's Office filed its *Petition and Motion to Appoint Receiver* in Ralls County Circuit Court, Case No. 21RL-CV00330, citing continued violation of the Missouri Clean Water Law, §§ 644.006 through 644.150, RSMo, in that the subject sewage lagoon has periodically discharged effluent into a tributary of the Salt River since its construction due to improper maintenance.¹

7. Because there is assumed to be an existing violation of the Missouri Clean Water Law, Confluence Rivers' purchase of the system will require that an Agreement on Consent (AOC) be in place with the Missouri Department of Natural Resources on or before the day of closing. The AOC will determine the steps and timing with which Confluence Rivers must comply in order to be considered to not be in violation of the Missouri Clean Water Law.

8. Accordingly, Confluence Rivers believes that rather than requiring a specific construction timeline of 18 months as proposed by the Staff, the Commission should instead order Confluence Rivers as follows:

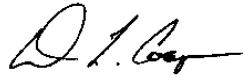
Confluence Rivers shall complete installation of the subsurface irrigation system within the time permitted by any Agreement on Consent entered into with the Missouri Department of Natural Resources.

9. Utilizing the condition proposed by Confluence Rivers will emphasize the need for installation of the subsurface irrigation system, while recognizing the state entity that will be responsible for reviewing and enforcing Confluence Rivers' compliance with the Missouri Clean Water Law.

¹ See also: *Report and Order*, pp. 4-5, Commission Case No. SO-2008-0358 (July 15, 2008).

WHEREFORE, Confluence Rivers requests that the Commission consider this response to the *Staff Report and Recommendation* and issue such orders as it should find to be reasonable and just.

Respectfully submitted,



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**ATTORNEYS FOR
CONFLUENCE RIVERS UTILITY
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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on June 22, 2023, to the following:

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