

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

**In the Matter of the Small Company Rate)
Increase Request of Mill Creek Sewers, Inc.)**

Case No. SR-2005-0116

STAFF'S STATUS REPORT

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its Status Report on Mill Creek Sewers, Inc. (Company) states the following to the Missouri Public Service Commission (Commission):

1. On September 29, 2005, the Commission issued its *Order Approving Tariff and Agreement* approving an increase in the Company's monthly sewer rate effective October 12, 2005. The Commission also ordered the Staff to file status reports.
2. Attached as Attachment A, hereto, is the Staff's Tenth Quarterly Status Report outlining the Company's activities for the months of June, July and August 2009.
3. Staff notes that the Company is still accumulating information Staff requested and will deliver that information soon, as outlined in Attachment A. Therefore, Staff will be able to complete its status report shortly, after the Company's information is received.

WHEREFORE, the Staff respectfully submits Staff's Tenth Quarterly Status Report for the Commission's information and consideration in this case.

Respectfully submitted,

/s/ Shelley Syler Brueggemann

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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 and/or parties of record this 15th day of September 2009.

/s/ Shelley Syler Brueggemann

Public Service Commission Staff's Tenth Quarterly Status Report for Mill Creek Sewers, Inc.

September 14, 2009

Prepared by Lisa Ferguson

ORDER REGARDING STATUS REPORTS

As part of its Order Regarding Status Reports (Order), effective April 3, 2007, the Commission granted the Staff permission to reduce the frequency of filing of its Status Reports for Mill Creek Sewers, Inc. (Mill Creek's or Company) from a monthly basis to a quarterly basis. Staff's last monthly Mill Creek status report was filed on March 15, 2007 and the first quarterly status report was filed on June 15, 2007. Also, as part of its Order, the Commission directed the Staff to immediately notify the Commission if at any time changes are made regarding the operation or management of Mill Creek, particularly a change in the management company from Testing, Analysis and Control, Inc. (TAC) to a different entity.

OCCURENCES SINCE LAST REGULAR FILING

- March 12, 2009: Staff filed a complete quarterly report updating the status of the Company's current situation;
- June 12, 2009: Staff filed a motion for extension to file its quarter status report due to Staff being unable to schedule a meeting with the Company to verify its current status;
- June 30, 2009: Staff filed its quarterly report from information obtained from vendors and customers;
- July 31, 2009: Staff filed an update to the ninth quarterly status report, detailing the Company's contact of Staff as of this date and conversation regarding the status of several items. The verification of this information was to be provided at a later date.

Charles Stroud, owner and manager of Mill Creek, met with several members of the Commission Staff at the Commission's St. Louis, Missouri office on August 28, 2009. Some of the records necessary to evaluate the status of the Company were provided and a meeting was scheduled with Staff to perform the next quarterly review on September 8, 2009. At the meeting on September 8th, some of the information required to complete Staff's quarterly review was provided. In addition, the Company subsequently faxed various other documents needed for evaluation. However, at the present time, Staff does not have all the data necessary to complete the entire review. Staff expects this information to be provided soon and will file a supplemental submission to complete its review.

CURRENT STATUS OF MILL CREEK'S OPERATIONS

Staff noted in its last quarterly report filed June 30, 2009, the status of the change in the day-to-day management of Mill Creek. Currently, Mill Creek is managed by Charles Stroud. The operations of the plant continue to be performed by TAC, and no current DNR violations exist.

However, it should be noted that due to new DNR regulations, Mill Creek will be required to upgrade its facilities in the next 3 years.

In addition, Staff is aware of the following items of note, which are discussed individually below.

CONTACT WITH COMPANY

As part of Staff's last three filings in this case, it has been noted that Staff was unable to contact the Company to obtain the books and records needed to complete its June status report. However, as discussed previously, at the end of July Staff was successful in contacting the Company and arranging a meeting with Mr. Stroud, the manager, which was attended by Staff members from Auditing, Staff Counsel, Water and Sewer, and Engineering and Management Services departments. This meeting, to discuss various aspects of Mill Creek's operations, took place on August 28, 2009. The issues discussed were as follows:

- Back billing of customers that were not billed during the months of March, April, and May 2009.
- Discussion as to the status of the Company's sale to Mr. Stroud.
- The Water and Sewer Department assistance with manhole and collection sewers inspections. A tentative inspection date of October 2009 was scheduled.
- Staff also referred Mr. Stroud to the Missouri Rural Water Association for smoke testing of the sewer lines.
- Engineering Management Services provided assistance with customer service related templates for letters and compilation packet of information that will be useful to the Company.

STATUS OF THE SALE OF THE COMPANY

In March 2009, Staff received documentation from Mr. Stroud indicating that an "Agreement to Sell Business," referred to herein as the Agreement, had been reached regarding his purchase of the Company. During the meeting on August 28, 2009, Mr. Stroud provided staff with several documents in reference to this Agreement. A copy of the Deed of Trust was provided for the property at 141 Kings Drive Lot A, which is the Mill Creek treatment facility location. A Real Property Certificate of Value and a General Warranty Deed were also provided. After reviewing the sale agreement and other documents, Staff does not believe a Transfer of Assets case is required.

INFORMATION REGARDING CUSTOMER BILLINGS

In the previous status report, it was noted that on June 26th and June 29th, Staff contacted three of Mill Creek's customers and confirmed that the Company had not billed these individual customers since March. The last bill the customers received was for the March billing period for services rendered during February. Two of these customers continued to pay their monthly payment, but stated that they do not believe their checks have been cashed. During the meeting with the Company it was confirmed that the Company had not billed customers for the months of

March, April, and May 2009, but the June 2009 billing was sent out on time and the Company received payments from customers that had not received bills. Per the Company's check register it appears that the checks which were received from these customers were deposited in the months of March and June. It was discussed with Mr. Stroud that all customers would need to be back billed for billing consistency, with credits for payments received noted for the customers who voluntarily sent in payments.

In addition, an informal complaint filed on June 29th from one of the Company's customers stated that she has not received a bill for the past four months and has been unable to contact the Company regarding the issue. This complaint was reviewed by Jim Busch from the Commission's Water and Sewer Department on June 29th. Mr. Busch informed the customer that the Commission was aware of the billing problems with Mill Creek and that he had attempted to contact the manager of the Company. Mr. Busch followed up with the customer and it was reported that billing had resumed as normal and that there was no further complaints reported.

Since the time of the Staff's previous quarterly status report filed June 30, 2009, Mill Creek has issued additional customer billings. On or about July 1, August 1 and September 1, 2009, Mill Creek issued customer billings under its current rates, for service provided during the months of June, July, and August 2009 respectively. Additional information regarding these billings has not yet been provided by the Company and will be included in Staff's supplemental filing.

COMMISSION FILINGS

The Company has submitted its 2008 Statement of Revenues to the Commission, however it was noted in Staff's last report filed on June 30, 2009 that the Company was delinquent in filing its 2008 Annual Report with the Commission. Since that time, Mr. Stroud has filed the 2008 Annual Report for Mill Creek. As a result of its review of the annual report, Staff deemed the report deficient due to lack of notary information on the verification page. The Company has since mailed a completed verification page to the Commission to resolve this deficiency.

STAFF'S REVIEW OF MILL CREEK'S BOOKS AND RECORDS AND CONCLUSIONS REGARDING MILL CREEK'S USE OF ITS FUNDS

Mrs. Hanneken and Ms. Ferguson, of the Auditing Department's St. Louis Office, met with Mr. Stroud on September 8, 2009 to review all of Mill Creek's available books and records to determine if the Company's use of the funds that were collected from customer billings complied with the provisions of the Second Supplemental Agreement applicable to that matter.

Based on this review of the books and records and additional investigation, Staff determined Mill Creek appropriately spent the funds collected from its customer billings. Payments were made for the following items: (1) operations and maintenance of the wastewater treatment plant; (2) electricity expense; (3) compensation paid to Charles Stroud, Mill Creek's office manager, for customer billing and office manager duties; (4) telephone expense; (5) postage; (6) Metropolitan Sewer District for storm drain service; (7) office supplies; (8) the Missouri Public

Service Commission assessment fee; (9) tax preparation services; (10) service calls; and (11) sludge hauling.

Presently, Mill Creek has worked to catch up on most payments, but has a few outstanding balances with the following: St. Louis County personal property taxes, franchise tax, one quarter of its Missouri Public Service Commission assessment for the 2010 FY, AT&T, Department of Natural Resources permit fees, Testing Analysis and Control, AmerenUE, and the Metropolitan Sewer District. Each of these are discussed in greater detail below. The Company is not in a position at this time to pay all of these outstanding balances, but is budgeting for these items and will make payments as the funds are available to them.

In addition, Mr. Stroud has recently opened a savings account for Mill Creek. This account was established to set aside funds for large expenditures due to unforeseen circumstances which would require the cash on hand to pay for these items as they occur. Currently, this account has a \$325 balance.

MO PSC ANNUAL ASSESSMENT PAYMENTS

As of Staff's last review filing, Mill Creek was past due on its FY2009 and FY2010 annual assessment payments. Of the total FY2009 assessment of \$2,424.34, a balance of \$1,212 remained past due. However, since that time the FY2009 assessment has been paid in full. The Company has not yet made any payments toward FY2010 annual assessment fees which total \$3,287. Mr. Stroud indicated that payment for the July 15 and October 15 scheduled payments would be made in October.

TESTING, ANALYSIS & CONTROL, INC. (TAC)

TAC continues to maintain and monitor the system, as well as ensuring compliance with DNR standards. Mr. Stroud made a payment on July 6, 2009 in the amount of \$1,607, but the Company still remains delinquent in the amount of \$3,160 as of July 27, 2009. Mr. Stroud is currently budgeting for these payments in an attempt to become current.

COMMERCIAL GENERAL LIABILITY INSURANCE

As discussed in Staff's previous reports, Staff has recommended that the Company obtain liability insurance. When the Staff met with the Company on September 8, 2009, Mr. Stroud indicated he was experiencing difficulty in finding insurance companies which provide insurance to utility companies. Staff provided Mr. Stroud with a list of several insurance companies which offer utility company insurance. Mr. Stroud intends to contact these companies to obtain quotes for insurance coverage.

DNR OPERATING PERMIT FEES

The Missouri Clean Water Law requires that all sewer utilities pay an annual operating permit fee to the Missouri Department of Natural Resources (DNR) for each wastewater treatment plant that discharges to the waters of the State. The permit fee is based on the design flow of each

particular treatment plant. Mill Creek is assessed \$2,500 annually for this permit fee based on the design flow of its wastewater treatment plant. Currently, Mill Creek owes \$2,650 related to this fee, which includes \$150 of penalties/late fees. Mr. Stroud is aware that the fee is due and is budgeting to meet this obligation.

PERSONAL PROPERTY TAXES

As of September 9, 2009, Mill Creek has a delinquent personal property tax bill of approximately \$7,713. This past due balance reflects delinquent amounts owed from five prior years' assessments, for taxes pertaining to Mill Creek's plant facilities. Of this amount, \$5,129 represents a past due balance which continues to accrue interest and penalties as shown below:

| Tax Year | Taxes | Interest | Penalties | Amount Due |
|----------------------------------|--------------|-----------------|------------------|-------------------|
| 2008 | \$1,085 | \$177 | \$23 | \$1,286 |
| 2007 | \$1,057 | \$344 | \$26 | \$1,427 |
| 2006 | \$1,029 | \$502 | \$29 | \$1,560 |
| 2005 | \$1,005 | \$652 | \$31 | \$1,688 |
| 2004 | \$953 | \$768 | \$32 | \$1,753 |
| Total Amount Due >> | | | | \$7,714 |

According to the taxing authority, because the Company had not submitted its declaration forms for these years, it is prevented from seeking any recourse on the taxes owed. In the past, Jim Holmes had contended that the tax bill was inaccurate given the fact that the amount of assessment was an estimated amount and thought the property should be reassessed. However, when speaking with the taxing authority, they indicated that because the declarations had never been sent indicating what type of property was present and the Company had not requested a reassessment, they could not change the previous tax amounts. On a going-forward basis, any property tax inaccuracies could be addressed if the Company were to ask for a reassessment and submit its required declaration.

During Staff's visit on March 2, 2009, Mr. Stroud indicated that he had submitted the necessary declaration for the current year and was contacted by the taxing authority regarding the submission. Mr. Stroud is to contact the taxing authority shortly and arrange a time to discuss the declaration and the past due situation. Currently the taxing authority lists the Company's assessed value for personal property at \$17,000.

Mr. Stroud has indicated he will keep Staff apprized of the developments of this situation as it progresses.

INCOME TAXES

As discussed in Staff's previous quarterly reports, the status of Mill Creek's income tax filings was unclear. At a previous meeting with Staff on March 2, 2009, Mr. Stroud indicated that his

investigation into the matter resulted in determining that the returns for 2005 through 2008 had not been filed with either the Federal or State authorities. He did indicate that Mr. Afshari had presented all data related to these periods to a tax preparer and that Mr. Afshari indicated that the situation was in the process of being corrected. However, in a subsequent email, Mr. Stroud indicated that the documents the preparer submitted to Mill Creek were inadequate to file the necessary returns and that Mill Creek would need to acquire a new preparer in order to resolve the situation.

During the September 8, 2009 meeting, Mr. Stroud indicated that a tax preparer was engaged and the federal and state income tax returns for 2005 through 2008 were now complete. Mr. Stroud has yet to receive any response to these submissions as of the date of this report. Staff will continue to monitor the Company's progress on this issue.

FRANCHISE TAX

The Company received notice that it was required to pay Missouri Corporate Franchise Tax for the 2003 and 2004 tax years, due to incorrect declaration filings. The Company has been able to correct its filings which resulted in its 2004 amount being reduced to zero. The 2003 amount is currently pending review; however the Company anticipates that a similar adjustment will be made to reduce this amount to zero. Subsequent years after 2004 were filed correctly and no amounts are owed for 2005 through 2008.

REAL ESTATE TAXES

The Company was assessed \$117 of real estate taxes for the 2008 tax year, which were paid by the due date. The current tax year's bill will not be received until December of 2009.

CELL PHONE EXPENSES

The Mill Creek Cell Phone is used to conduct Company business and as a means for customers to contact Company management if they have questions or problems. The Company made a payment as of July 7, 2009 in the amount of \$156 which was applied toward a previous balance of \$209. The total amount currently due is \$148. The current payment is overdue, but is scheduled to be paid soon, subject to the availability of funds.

COMMERCIAL PUMPING SERVICES

Mill Creek uses Commercial Pumping Services, LLC to haul sludge that is removed from plant facilities. The Company was delinquent on payments to this Company from a sludge haul that occurred on March 6, 2009, however as of July 6, 2009 the Company is current and no further payments are required until such time as more sludge removal is necessary.

ELECTRIC EXPENSES

As of the last quarterly report filed on June 30, 2009, Mill Creek was delinquent in its payment to AmerenUE by an estimated amount of \$900. The Company made a payment to AmerenUE

on July 6, 2009 in the amount of \$927.51 in an effort to become current. However, the current balance of \$465 is overdue at this time. This amount consists of a prior balance of \$204, late fees, and current charges. The Company is aware of the need to pay its electric expenses in a timely manner and will make payment as soon as funds are available.

METROPOLITAN ST. LOUIS SEWER DISTRICT

The Metropolitan St. Louis Sewer District provides storm drain service for the area in which Mill Creek owns property. The Company has a prior balance due of \$2.54 and combined with current charges that are overdue will need to make a payment of \$4.37 plus any accrued late fees.

CUSTOMER SERVICE COMPLAINTS AND INQUIRIES

A review of the Consumer Quality data base in the Commission's electronic filing and information system (EFIS) revealed that there were no formal customer service complaints or inquiries made since the time of the last quarterly review, with the exception of an entry related to a previous telephone call received June 29, 2009, which was made but not closed during the previous review. This billing complaint has been addressed and there are no more complaints at this time.

Prior to this, as discussed in Staff's previous quarterly reports, an email to the Missouri Public Service Commission (PSC) and the Attorney General's Office was received from a Mill Creek customer on August 21, 2008 regarding a sewer back-up that occurred on July 20, 2007. The customer was requesting assistance in obtaining reimbursement of clean-up expenses as well as consideration for damages to property. Since the time of assuming his duties as office manager, Mr. Stroud has met with this customer to discuss the matter. At the present time, Mill Creek and the customer are in the process of determining an equitable solution to this incident. Mr. Stroud has indicated that a resolution will be reached soon and he is to inform Staff of new developments in this matter as they become available.

CONCLUSION

As discussed previously, when the complete books and records are available, Staff will complete its review and file a supplemental report to the Commission. The Staff will continue to monitor Mill Creek's payments and monthly billings and collections through contact with the Company as well as its vendors and customers.