

**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

STATUS REPORT

COMES NOW the Missouri Public Service Commission Staff (Staff), by and through Counsel, and for its Status Report, states the following to the Missouri Public Service Commission (Commission).

1. On March 23, 2005,¹ the Commission issued an **Order Directing Filing** (Order) that directed the Staff to file two status reports regarding the progress of the potential transfer of the sewer collection and treatment system owned by Mill Creek Sewers, Inc. to the St. Louis Metropolitan Sewer District, with the reports to be filed on March 25 and April 1.

2. The Staff filed its first status report on March 25 as required by the above-referenced Order.

3. The Staff filed its second status report on April 1 as required by the above-referenced order. As a part of its April 1 status report, the Staff noted that it would file an additional status report on April 8.

4. Attached hereto, and identified as Appendix A, is the Staff's third status report, as promised by the Staff.

WHEREFORE the Staff respectfully submits the attached status report for the Commission's information and consideration in this case.

¹ Unless noted otherwise, all dates herein refer to the year 2005.

Respectfully Submitted,

DANA K. JOYCE
General Counsel

/s/ Cliff E. Snodgrass

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed with first class postage, hand-delivered, transmitted by facsimile or transmitted via e-mail to all counsel and/or parties of record this 8th day of April 2005.

/s/ Cliff E. Snodgrass

Cliff E. Snodgrass

APPENDIX A

Staff's Case Status Report

Case No. SR-2005-0116

April 8, 2005

CASE STATUS REPORT
CASE NO. SR-2005-0116

Prepared By:

Dale W. Johansen

Water & Sewer Department

Utility Operations Division

April 8, 2005

Procedural History

On March 16, 2005,¹ the Commission conducted an on-the-record presentation (March 16 Presentation) regarding the *Agreement Regarding Disposition of Small Company Rate Increase Request* entered into by the Staff and Mill Creek. During the March 16 Presentation, the parties to this case informed the Commission that the St. Louis Metropolitan Sewer District (MSD) was a potential purchaser of Mill Creek's sewer system, that the Staff was directly involved in the discussions regarding the potential transfer of Mill Creek's sewer system to the MSD, and that the potential transfer also involved the Department of Natural Resources (DNR) and the Attorney General's Office (AGO). (Provisions regarding the potential transfer of Mill Creek's sewer system to the MSD, or another acceptable entity, are included in the above-referenced disposition agreement, which was filed in this case on October 29, 2004.)

On March 23, the Commission issued its Order Directing Filing, in which it directed the Staff to: (1) file a status report, no later than March 25, informing the Commission of the progress of the potential sale of Mill Creek's sewer system to the MSD; (2) file a statement, no later than March 25, indicating whether it is likely that a sale of Mill Creek's sewer system to the MSD would occur prior to April 12; and (3) file a second status report, no later than April 1, informing the Commission of the progress of the potential sale of Mill Creek's sewer system to the MSD.

On March 25, the Staff filed its first Status Report, which included information regarding the possible completion date of the potential transfer of Mill Creeks system to the MSD, as required by the above-referenced Commission order.

On April 1, the Staff filed its second Status Report regarding the possible transfer of the Mill Creek system to the MSD, as required by the above-referenced Commission order. As a part of its April 1 status report, the Staff noted that it would file an additional status report on April 8.

Actions Taken Subsequent to the April 1 Status Report

I have attempted on two occasions to contact both Joe Bindbeutel and Paul DeFord regarding the potential transfer of Mill Creek's sewer collection and treatment system to the MSD, as a follow-up to the e-mail message I sent them on March 31. (As noted in my March 25 Status report, Mr. Bindbeutel is an attorney with the AGO that is familiar with the MSD's potential purchase of

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Mill Creek's sewer system and that has represented the DNR in past enforcement actions involving Mill Creek, and Mr. DeFord is an attorney representing the MSD in the potential purchase of Mill Creek's sewer system.)

I have not yet been able to talk with either Mr. Bindbeutel or Mr. DeFord, but Mr. DeFord did leave me a voice message the evening of April 7. Also, Mr. Bindbeutel will be out of the office until this afternoon (April 8).

In addition to the follow-up activities regarding the potential system transfer, a Staff member from the Water & Sewer Department, Steve Loethen, conducted an on-site inspection of Mill Creek's sewer treatment plant on April 6. The purpose of Mr. Loethen's inspection was to evaluate Mill Creek's initial efforts in complying with the provisions of the *Unanimous Supplemental Agreement Regarding Disposition of Small Company Rate Increase Request* that was filed in this case on April 1. During his inspection, Mr. Loethen was accompanied by Phil Pagano a resident that lives near the treatment plant, that has a key to the plant and that has done some work at the plant in the past.

Current Status of the Potential System Transfer

AGO/DNR: Although I have not talked to or heard from Mr. Bindbeutel, I have also not received any information from him that would indicate that these agencies interest in the transfer has changed since the filing of my April 1 Status Report.

MSD: In his voice message to me, Mr. DeFord indicated that he had recently been in contact with representatives of the MSD and that it was clear to him that the MSD is still interested in taking over the Mill Creek system. Mr. DeFord also stated he is aware that MSD personnel inspected Mill Creek's treatment plant on at least one occasion during this week, and that the MSD plans to conduct additional inspections as a part of its due diligence in evaluating the possible takeover. Mr. DeFord stated he did not know if MSD representatives had had any further discussions with DNR representatives regarding this matter.

Mill Creek: It continues to be clear from recent discussions with Mr. Afshari, the owner of Mill Creek, that he is still committed to the transfer, under acceptable terms.

Possible Completion Date: Regarding a possible completion date for a transfer, it is still not yet clear how much time might be needed to finalize the arrangements for a successful transfer of Mill Creek's system to the MSD. However, I believe that the necessary parties are all still interested in seeing the transfer accomplished and continue to work toward that goal with the thought in mind that "sooner is better".

Current Condition of the Sewer Treatment Plant

Mr. Loethen reported that several improvements have been made to the plant since his last visit on March 2. Both blowers and motors were operational, and Mr. Loethen was informed by Mr. Pagano that electrical work had been done and that one of the motors had been replaced. Also, Mr. Loethen reported that it was obvious that the sludge holding tank had been pumped out.

Additionally, during Mr. Loethen's inspection, Jim Holmes, an employee of Mill Creek, arrived with a representative from Midwest Testing and effluent samples were taken. Mr. Loethen reported that both operational and monthly required samples were taken, which is according to DNR regulations. Mr. Holmes also informed Mr. Loethen that the owner of Mill Creek (Joe Afshari) was in the process of negotiating an agreement with Midwest Testing for Midwest to do the required monthly sampling at the plant.

While the condition of the plant is definitely better, Mr. Loethen reported there is still some work that needs to be done. In particular, the sludge returns are apparently clogged, which allows sludge to accumulate in the plant's clarifier. Mr. Loethen attempted to unclog these, but did not have the proper tools to do so. Also, it appears that the clarifier may need to be pumped out to get the sludge returns unclogged, as the sludge in the clarifier is pretty thick. Mr. Loethen and Mr. Holmes discussed what needed to be done in this regard, and Mr. Holmes said he would talk to Mr. Afshari about getting this done. Mr. Loethen noted that once the sludge returns are unclogged the plant should be completely operational.

Planned Follow-Up Activities

I will be attempting to contact Mr. Bindbeutel and Mr. DeFord today (April 8) by telephone for the purpose of obtaining additional information regarding their clients' current positions regarding the possible transfer of Mill Creek's system to the MSD, and for the purpose of setting a date for a meeting or conference call to further discuss the possible transfer.

Regarding further inspection of the sewer treatment plant, Mr. Loethen will be conducting inspections at another company in the St. Louis area on April 11 & 12 and in conjunction with that work plans to conduct a follow-up inspection of Mill Creek's plant on April 13.

Regarding future status reports, the Staff will continue to file weekly status reports until such time that it is advised by the Commission or the presiding judge that such reports are no longer necessary.