

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

Case No. SR-2005-0116

Prepared by Lisa Hanneken, Auditing Department

September 30, 2008

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.'s (Mill Creek's or Company) status reports 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.

**NOTIFICATION OF RESIGNATION OF JIM HOLMES, MILL CREEK'S
OFFICE MANAGER**

As was also noted in the STAFF'S NOTICE OF MANAGER RESIGNATION AND REQUEST FOR EXTENSION TO FILE QUARTERLY STATUS REPORT, filed on September 12, 2008, there has been a change in the day-to-day management of Mill Creek. On August 28, 2008 the Staff received a faxed letter from Mr. Jim Holmes, who had been employed as the office manager of Mill Creek, informing them that he had resigned effective immediately. After receiving a copy of the resignation letter, the Staff spoke with Mr. Holmes to determine the current status of the Company's operations and customer billing. Mr. Holmes indicated that he had boxed up all Mill Creek records and left a list of recent transactions and all items that were pending. He indicated he had not and did not intend to process the September 1st billing for the Company.

On September 4, 2008 Staff was able to contact the owner of the Company, Mr. Joseph Afshari to determine what action he was taking to ensure that Mill Creek's billing, collections and accounts payable functions would proceed without interruption. Mr. Afshari indicated to Staff that he was not up-to-date on the daily operations of the Company, but would meet with Staff to allow them to go through all Mill Creek records for the pending review. Mr. Afshari also indicated that he was actively seeking a potential purchaser for his system.

On September 11, 2008, Lisa Hanneken and Lisa Ferguson of Staff's Auditing Department in St. Louis met with Mr. Afshari to conduct its quarterly review. The Staff was not able to complete a review for its status report because of the resignation of the office manager and resulting disorganization, however, during this meeting Staff assisted

Mr. Afshari in processing payments to vendors, and organized Mill Creek's books and records. At the time of this review, the Staff also met with a person that Mill Creek had hired as a new office manager, Mrs. Marilyn Wyatt. Staff has subsequently met with the new office manager in order to assist her in becoming familiar with Mill Creek's records and general operations. Mrs. Wyatt has previous experience as a book-keeper, which has allowed her to assimilate Mill Creek's records in a proficient manner and assume her duties promptly. On September 16, 2008, Mrs. Wyatt issued the September 1st billing to Mill Creek customers. Because of the delay in issuing the customer billing for the month, Mill Creek customers were allowed an appropriate amount of additional time to make payments for service. Customers were also notified of a new mailing address for Mill Creek and were provided with the name and contact information for the new office manager. Staff has also confirmed that Mrs. Wyatt is up-to-date on accounts payable with the exception of some outstanding items which are discussed later in this status report.

On September 11, 2008, Mr. Afshari indicated to the Staff that he and Mrs. Wyatt and her husband are considering a transfer of Mill Creek to Mr. and Mrs. Wyatt for the sum of \$1. Mr. Wyatt is an electrical contractor who performs works on Mr. Afshari's real estate and commercial properties located throughout the St. Louis area. It is unclear to the Staff at this time exactly when a possible sale might take place, or exactly what type of transaction might occur (stock sale versus a transfer of assets). The Staff will continue to work with the Company and Mr. and Mrs. Wyatt to assist them during this transition as well as for any potential sale of the Company to new owners.

INFORMATION REGARDING CUSTOMER BILLINGS

Since the time of the Staff's previous quarterly status report dated June 15, 2008, Mill Creek has issued additional customer billings. On or about June 1, July 1 and August 1, 2008, Mill Creek issued its thirty-first, thirty-second and thirty-third customer billing under its new rates, for service provided during the months of May, June, and July 2008 respectively. Given the transition to the new office manager the thirty-fourth billing did not take place until September 16th for service provided during the month of August 2008 as previously discussed. This billing period will be addressed as part of the Staff's six quarterly review of the Mill Creek's books and records, scheduled to be filed by December 15, 2008.

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

As previously discussed, Lisa Hanneken and Lisa Ferguson of the Auditing Department's St. Louis Office met with Mr. Afshari on September 11, 2008 and reviewed all available Mill Creek books and records to determine if the Company's use of the funds that were collected from its June 1, July 1 and August 1, 2008 customer billings complied with the provisions of the Second Supplemental Agreement applicable to that matter.

As part of this review, the Staff contacted each of the Company's vendors to determine the current amount due to each entity. Based on this review of the books and records and

additional investigation, Staff determined Mill Creek had appropriately spent the customer funds collected from its June 1, July 1 and August 1, 2008 customer billings on the following items: (1) payment for operations and maintenance of the wastewater treatment plant; (2) payment for electricity expense; (3) compensation paid to Jim Holmes, Mill Creek's office manager, for customer billing and office manager duties; (4) payment for telephone expense; (5) payment for sludge hauling; (6) payment to the Missouri Department of Natural Resources (DNR); and (7) payment to the Missouri Public Service Commission, for its annual assessment.

During Staff's last Staff review conducted on June 5, 2008, the Staff discovered that Mill Creek had fallen behind in making payments to some of its vendors. Presently, Mill Creek is current on all payments, with the exception of its annual fees to DNR and for its St. Louis County personal property taxes both of which are discussed in greater detail below. The Company is not in a position at this time to pay these outstanding balances, but will need to budget for these items and make payments as the funds are available to them.

INFORMATION REGARDING PAST-DUE ACCOUNT BALANCES AND COLLECTION EFFORTS PERTAINING TO CERTAIN OF THOSE ACCOUNTS

As of August 31, 2008, Mill Creek's customer account past-due balances totaled approximately \$3,535. Seven of Mill Creek's current customers are responsible for \$1,762 (approximately 50%) of this total. Additionally, there is one account that is responsible for approximately \$753 (approximately 21%) of the total, for which the current customer did not create the past-due balances. Mill Creek is still attempting to collect the past-due balances for this account from the real estate title company. The Staff discovered that on or about August, 15, 2008 Mr. Holmes was able to collect \$1,456 from one of the title companies that was part of the previous past due balances prior to his leaving the Company. The Staff also found that one additional customer besides those discussed above continues to pay extra amounts, as part of a special payment plan arrangement. This customer is responsible for approximately \$118 (approximately 3%) of the past due total. The remaining amount of past due amounts pertain to small past due balances owed by various customers.

A historical summary of Mill Creek's total past-due account balances, which include the outstanding balances related to title company matters, is set out below, with the amounts shown being rounded to the nearest \$5 increment.

Balance at October 31, 2005	\$10,445
Balance at November 30, 2005	\$8,775
Balance at December 31, 2005	\$7,100
Balance at January 31, 2006	\$7,185
Balance at February 28, 2006	\$6,825
Balance at March 31, 2006	\$6,535

Balance at April 30, 2006	\$6,260
Balance at May 31, 2006	\$4,995
Balance at June 30, 2006	\$4,670
Balance at July 31, 2006	\$4,875
Balance at August 31, 2006	\$4,945
Balance at September 30, 2006	\$5,010
Balance at October 31, 2006	\$5,030
Balance at November 30, 2006	\$5,615
Balance at December 31, 2006	\$6,455
Balance at January 31, 2007	\$6,100
Balance at February 28, 2007	\$5,720
Balance at March 31, 2007	\$4,745
Balance at April 30, 2007	\$5,110
Balance at May 31, 2007	\$5,500
Balance at June 30, 2007	\$5,740
Balance at July 31, 2007	\$5,970
Balance at August 31, 2007	\$4,990
Balance at September 30, 2007	\$4,915
Balance at October 31, 2007	\$5,050
Balance at November 30, 2007	\$4,890
Balance at December 31, 2007	\$4,980
Balance at January 31, 2008	\$3,850
Balance at February 29, 2008	\$4,110
Balance at March 31, 2008	\$4,175
Balance at April 30, 2008	\$3,955
Balance at May 31, 2008	\$4,090
Balance at June 30, 2008	\$4,610
Balance at July 31, 2008	\$4,450
Balance at August 31, 2008	\$3,535

The Staff will continue to work with Mrs. Wyatt and also monitor the progress of Mill Creek's collection efforts regarding its past-due customer accounts, will assist the Company in those efforts as deemed appropriate and will include updates regarding this matter in its future quarterly status reports.

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 customer service complaints or inquiries made since the time of the last quarterly review that was conducted in June 2008.

However, an informal 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 some time ago. The customer was requesting

assistance in obtaining reimbursement of clean-up expenses as well as consideration for damages to property. The Staff believes that the PSC does not have jurisdiction over the Company involving a matter of reimbursement for damages, but did speak with Mr. Holmes to discuss the concept of good customer relations. Subsequently when Staff met with Mrs. Wyatt regarding this matter it was suggested that she speak with Mr. Afshari regarding the possibility of reaching an agreement with this customer.

TESTING, ANALYSIS & CONTROL, INC. (TAC)

On September 1, 2008 Mill Creek entered into a new two-year contract with TAC. The contract increases TAC's current monthly fees from \$730 to \$790 for the period of September 2008 to September 2009, with an additional increase from \$790 to \$820 per month for the period of September 2009 to September 2010.

METROPOLITAN ST. LOUIS SEWER DISTRICT (MSD)

Recently Mill Creek and its customers began receiving statements from MSD for a Storm Water Service Charge. Based on this billing, Mill Creek will have the added expense of approximately \$2 per month related to its plant facility for storm water drainage. This expense is being incurred because MSD is responsible for maintaining the storm water sewer collection sewers that are located in Mill Creek's wastewater service territory. This charge has recently been added to all users of MSD's storm water system regardless if they are a MSD wastewater customer.

COMMERCIAL GENERAL LIABILITY INSURANCE

In the past Staff has recommended to the Company that they should obtain liability insurance and Mr. Holmes had obtained a quote from an insurance company. However, Mr. Holmes never obtained insurance for the Company. Staff has reiterated its recommendation to the new manager, Mrs. Wyatt, who has agreed to investigate insurance coverage for Mill Creek's operations.

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, with that permit fee normally being 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. As recently as August 2006, Mill Creek owed DNR approximately \$10,000 for past due operating permit fees and related late fees. Since that time Mill Creek has made significant progress towards paying for this past due balance owed.

The Company currently owes \$2,500, plus a \$150 late fee to DNR for its 2008 operating permit fee. Mill Creek was recently able to make a payment of \$3,000 to address

previous past due balances. Mill Creek needs to continue to budget its expenses in order to address the amounts owed to DNR for its current past due annual operating permit fees.

DNR NOTICE OF VIOLATION

On August 11, 2008 Staff received a copy of a DNR Notice of Violation sent to Mill Creek, copy attached. The violations included missing signs, weeds at the facility, sagging barbed wire, expired permit, past due fees, sludge blanket height, burrowing animals and fence repair. Since that time, TAC, the contract operator handling the operations at Mill Creek's treatment facility has addressed these issues and has submitted their response letter to DNR. Further discussion of the plant situation is addressed in the attached memo from Steve Loethen of the Water and Sewer Department, who has performed an inspection of the plant.

PERSONAL PROPERTY TAXES

During October 2007, Mill Creek received from the St. Louis County Collector of Revenue, a personal property tax bill for approximately \$6,590. On August 11, 2008, the Staff contacted the St. Louis County Collector of Revenue (Collector) to obtain the current balance that Mill Creek owed and discovered that this past due balance continues to accrue interest and penalties and has increased to a \$7,339 past due balance. This past due balance reflects amounts owed for the current year's assessment, as well as delinquent amounts owed from four prior years' assessments, for taxes pertaining to Mill Creek's plant facilities. The Collector indicated to the Staff that it plans to start its collection and court process with regard to this past due bill.

In addition to non-payment, the Company has also not submitted its declaration forms for the past 5 years, which prevents it from seeking any recourse on the taxes owed. In the past, Mr. 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, but could on a going-forward basis if the Company were to ask for a reassessment and submit its required declaration. Staff has recommended to the new office manager that she or Mr. Afshari should contact the taxing authority to address the assessed value issue and to submit all necessary documents.

Mill Creek will need to budget its expenses in order to pay for any outstanding balance that is owed to St. Louis County Collector of Revenue for the personal property taxes, much in the same way as it has previously done to address its large past due balances owed to DNR.

OTHER ITEMS REQUIRING ACTION

During its review, Staff discovered correspondence from various authorities requiring Company action that it appears had not been previously addressed by Mr. Holmes or Mr. Afshari. For example, both the Internal Revenue Service, and Missouri Department of Revenue had requested forms to be filled out and returned to them several months ago, however it does not appear to Staff as if these matters had been addressed. At this time, it is unclear to the Staff if the Company has properly filed its Income Tax Returns to these authorities. Mrs. Wyatt is to meet with Mr. Afshari to determine if any of these items were addressed by him and what steps still need to be taken. Since Mr. Afshari handles the income tax reporting for Mill Creek, more than likely he will need to address any pending issues with the taxing authorities.