

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

In the Matter of the Application of Timber)
Creek Sewer Company for Permission,)
Approval, and a Certificate of)
Convenience and Necessity Authorizing It)
to Construct, Install, Own, Operate,)
Control, Manage and Maintain a Sewer)
System for the Public, Located in an)
Unincorporated Area in Clay County,)
Missouri.)

Case No. SA-2005-0297

STAFF'S RESPONSE TO ORDER DIRECTING FILING

COMES NOW the Staff of the Missouri Public Service Commission and, for its Response to Order Directing Filing, states to the Commission as follows:

1. On November 22, 2005, the Staff filed a pleading recommending that the Commission grant Timber Creek Sewer Company a certificate to provide sewer service to the Oakbrook Subdivision in Clay County, Missouri. On December 7, 2005, the Commission issued an order directing the Staff to inform the Commission whether the Company will be in compliance with certain rules of the Missouri Department of Natural Resources ("DNR"), which become effective on December 31, 2005.

2. The DNR has issued a construction permit to Timber Creek for the facilities that will serve the Oakbrook Subdivision, but has not yet issued an operating permit. The construction permit simply states that the facilities must meet the effluent limitations established by Rule 10 CSR 20-7.015. It does not, however, specify the operating permit limits, as those limits have not yet been determined. As a result, neither Timber Creek, nor the Staff, nor the DNR, for that matter, knows specifically what limits the facilities will have to meet.

3. Rule 10 CSR 20-7.015 includes various effluent limits. The actual limits applied depend on the designated uses of the receiving body of water.

4. Effluent from the Company's facilities will discharge to an unnamed tributary to the Fishing River. The Staff understands that these streams are presently designated for "livestock and wildlife watering" and "aquatic life." The Company's effluent will meet the requirements for discharges to such streams.

5. It is possible, however, that the discharge permit, when issued, will require that the effluent also meet the limits for both "whole body contact" and for "aquatic life" streams. The limits for whole body contact use are more stringent than the limits for livestock and wildlife watering use. These include limitations on the permissible ammonia levels, and a requirement to disinfect the effluent. The Staff believes the Company's plant effluent will satisfy either set of limits.

6. If a new ammonia limit is imposed, it would apparently be 1.5 milligrams per liter daily maximum. The plant for which the Company received the construction permit is expected to produce an effluent with 1 milligram per liter of ammonia, meeting any anticipated ammonia limit. Additionally, the plant for which the Company received the construction permit will have ultraviolet disinfection capability. Thus, even if new disinfection requirements are imposed, the proposed plant would already be capable of meeting those requirements, without any modification to the plant.

7. The developer of the Oakbrook Subdivision is paying for the construction cost of the facility. As a result, if changes to the plant need to be immediately made to meet more stringent discharge limits, the developer will have to bear the construction cost, and the Company will not have to bear any of this construction cost. The only additional costs that the Company would

incur as a result of more stringent discharge requirements would be the nominal cost of some operational adjustments. Therefore, the Company's proposed rates should be adequate, as they reflect the currently expected costs. Additional requirements may be imposed by regulation in the future, but the nature of such requirements and the cost of implementing them cannot be predicted at this time.

8. Lastly, the Staff notes that it has contacted Timber Creek's attorney and has received permission to answer questions from the Commissioners at any future agenda meeting at which this case is discussed. The Staff also notes it will contact Timber Creek's attorney and advise him of when this case is scheduled to be discussed during an agenda meeting.

WHEREFORE, the Staff submits its Response to Order Directing Filing.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ Keith R. Krueger

Keith R. Krueger
Deputy General Counsel
Missouri Bar No. 23857

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or e-mailed to all counsel of record as shown on the attached service list this 23rd day of December 2005.

/s/ Keith R. Krueger

AFFIDAVIT OF DALE W. JOHANSEN

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Dale W. Johansen, of lawful age, on his oath states: (1) that he is a member of the Staff of the Missouri Public Service Commission and holds the position of Manager – Water & Sewer Department in the Commission's Utility Operations Division; (2) that he participated in the preparation of the foregoing Response to Order Directing Filing; (3) that he has knowledge of the matters set forth in the Response; and (4) that the matters set forth in the Response are true and correct to the best of his knowledge and belief.



Dale W. Johansen – Manager
Water & Sewer Department
Utility Operations Division

Subscribed and sworn to before me this 23rd day of December 2005.



Notary Public

My Commission Expires: _____

