

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

In the Matter of the Petition for an Interim)
Receiver and for an Order Directing the)
General Counsel to Petition the Circuit)
Court for the Appointment of a Receiver)
for Ridge Creek Water Company, LLC,)
and for Ridge Creek Development, L.L.C.)

Case No. WO-2017-

**PETITION FOR INTERIM RECEIVER SEEKING
AN ORDER DIRECTING THE GENERAL COUNSEL TO PETITION
THE CIRCUIT COURT OF COLE COUNTY FOR THE APPOINTMENT OF
A RECEIVER FOR RIDGE CREEK WATER COMPANY, LLC,
AND RIDGE CREEK DEVELOPMENT, L.L.C.,
AND MOTION FOR EXPEDITED TREATMENT**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and for its *Petition to Appoint an Interim Receiver* (“*Petition*”), to authorize a circuit court action, and for *Motion for Expedited Treatment* states:

Introduction:

1. This matter concerns an action for an interim receiver pursuant to § 393.145.1 and 393.145.2 RSMo¹, due to an inability or unwillingness to provide safe and adequate service by Ridge Creek Water Company LLC, Ridge Creek Development, L.L.C., (collectively, the “Ridge Creek Parties”). The Ridge Creek Parties own, operate, and are responsible for a public drinking water system (System) serving approximately 138 customers. Due to the nature of the potentially unsafe and inadequate service, which could negatively affect the health and wellbeing of the customers, Staff has herein included a *Motion for Expedited Treatment*.

¹ All statutory references are to RSMo (2000), as currently supplemented, unless otherwise noted.

Utility Entities:

2. Ridge Creek Water Company, LLC (Water Company) is a Missouri certificated public water utility corporation as defined in § 386.020 RSMo. Its principal place of business is located at 18499 Highway 133, Dixon, MO 65459. Water Company's registered agent is Mr. Mark Comley, whose mailing address is 601 Monroe Street, Suite 301, Jefferson City, MO 65101.

3. Ridge Creek Development, LLC., (Development Company) is a Missouri limited liability company with active status. Development Company does not have a principle place of business listed with the Missouri Secretary of State. The registered agent is Mr. Michael Stoner, whose address is listed as 18499 Highway 133, Dixon, MO 65459. Development Company does not hold a Certificate of Convenience and Necessity (CCN). Staff previously brought a complaint against Development Company for operating a public utility without a CCN in Case No. WC-2015-0011.²

4. While Development Company does not hold a CCN from the Public Service Commission, it is a "water corporation" as defined by § 386.020(59) RSMo because it continues to own, have control over the System, and receives money from customers of, the System.

5. The System is a "water system" as that term is defined in § 386.020(60) RSMo.

6. Mr. Michael Stoner (Mr. Stoner) and Ms. Denise Stoner (Ms. Stoner) are individuals.

² WC-2015-0011 was dismissed when the CCN case for Water Company, Case No. WO-2015-0182, was completed and closed. The facts as understood by Staff at the close of WO-2015-0182 and WC-2015-0011 are currently different, in part precipitating this matter.

7. Mr. Stoner and Ms. Stoner are the owners and members of both Development Company and Water Company.

Verified Petition for Interim Receiver

8. In the event a water or sewer corporation providing service to less than eight thousand customers is unable or unwilling to provide safe and adequate service or has been abandoned, § 393.145.1 RSMo provides that the Missouri Public Service Commission (Commission) may, after hearing, order its general counsel to petition the circuit court for the appointment of a receiver. The Commission may also appoint an interim receiver, pursuant to § 393.145.2 RSMo, to serve until such time as the circuit court determines whether to appoint a receiver.

9. A brief history of this system provides important context. On July 14, 2014, Staff filed a complaint against Development Company, Mr. Stoner individually, and Ms. Stoner individually, for operating a water corporation public utility without a CCN from the Commission.³ In that complaint, Staff noted that discussions with “the Missouri Department of Natural Resources (DNR) indicate that Respondents have no permit from that agency and have evidently structured their operation in an effort to evade regulation.”⁴ In response to that complaint, Mr. Stoner and Ms. Stoner created the Water Company, and filed for a CCN.⁵ Staff understood that Water Company would become wholly responsible for owning and managing the System. At the close of the matter, the Commission issued an order approving a non-unanimous stipulation and agreement that granted the CCN, and included a clear warning to the Water Company

³ See, Case No. WC-2015-0011.

⁴ Case No. WC-2015-0011, EFIS Item No. 1, *Complaint*, ¶ 9, p. 4.

⁵ Case No. WA-2015-0182.

and Mr. Stoner and Ms. Stoner that failure to abide by Commission requirements could result in a receivership or an administrative order to protect health or property.⁶

10. The tariff under which the Commission authorized the Water Company to provide drinking water service became effective on October 22, 2015.

11. Since the effective date of its tariff, Water Company and Development Company, and Mr. Stoner and Ms. Stoner, has demonstrated an inability and or an unwillingness to provide safe and adequate service to its customers.

12. The Ridge Creek Parties are unable or unwilling to provide safe and adequate service primarily due to ineffective management of the System. Examples include, but are not limited to:

- a. Mingling public utility funds with other non-regulated transactions and with other company operations; and
- b. Allowing a customer to go without water service for approximately fourteen days;⁷
- c. Failure to comply with conditions agreed to in CCN case No. WA-2015-00182, such as:⁸

⁶ Case No. WA-2015-0182, EFIS Item No. 39, *Order Approving Nonunanimous Stipulation and Agreement*, p.4: "As a condition of granting this certificate, the company hereby agrees that in the future, should the Commission determine a receiver process is appropriate, the company consents to the appointment of an interim receiver until such time as the circuit court grants or denies the petition for receivership.

Ridge Creek is also placed on notice that § 386.310.1, RSMo (2000), provides that the Commission can, without first holding a hearing, issue an order in any case, 'in which the commission determines that the failure to do so would result in the likelihood of imminent threat of serious harm to life or property.' "

⁷ Staff filed a Complaint WC-2017-0200 against the Ridge Creek Parties in that instance for violating § 393.130.1 RSMo by failing to provide safe and adequate service.

⁸ Case No. WA-2015-0182, EFIS Item 39, *Order Approving Nonunanimous Stipulation and Agreement*, ¶ 3, p. 5; Attachment 1, p. 2.

- That Water Company shall install 22 master meters within 12 months of the effective date of the Commission's order approving that Stipulation;

- That Water Company shall enter into and at all times maintain a contract for a MoDNR certified operator to operate its system within 30 days of the effective date of the Commission's order approving that Stipulation; and

- That Water Company shall maintain its books according to the National Association of Regulatory Utility Commissioners *Uniform System of Accounts* and shall conduct its business according to usual and accepted business practices, retaining all records for audit by the Staff and OPC.

13. Moreover, since before Respondents' tariff became effective in October 2015, and continuing to the present, the System was and is non-compliant with several DNR drinking water safety regulations.

a. Since April 2016, and continuing to the present, the Ridge Creek Parties have not conducted microbiological sampling to ensure the water is fit for human health and consumption, in violation of DNR regulations 10 CSR 60-4.025.

b. Since April 1, 2016, and continuing to the present, the System has operated without a properly certified operator, in violation of DNR regulations 10 CSR 60-14.010.

14. Development Company and Mr. Stoner have not responded to Staff's attempts at contact for the purposes of addressing water outages or other managerial or operational concerns.

15. Development Company legally owns all of the public drinking water system's assets that are necessary for the provision of safe and adequate service. Therefore, to the extent Development Company owns plant-in-service necessary for the continued operation of the System, Receivership over those aspects of Development Company that are water system and utility plant-in-service is necessary to ensure safe and adequate service under § 393.130.1 RSMo.

Conclusion

16. Staff recommends the Commission appoint Mr. Terry Jarrett, of Healy Law Offices, LLC, 514 E. High St., Suite 22, Jefferson City, MO 65101, as an interim receiver to control and be responsible for Ridge Creek Water Company, LLC, and Ridge Creek Development, L.L.C., until the circuit court makes its determination in this matter.

Motion for Expedited Treatment

17. Pursuant to 4 CSR 240-2.080(14), Staff asks the Commission for expedited treatment of this matter. Ridge Creek Water Company, LLC and Ridge Creek Development, L.L.C. are either unwilling or unable to operate the System, or, despite their ownership, have effectively abandoned the System. Therefore, safe and adequate service for approximately 138 customers is currently in jeopardy. Staff filed this motion as soon as a plan was in place to ensure the effective operation of the System by an interim receiver. However, if a hearing is scheduled, Staff recommends that the hearing be scheduled as soon as possible starting after April 10, 2017.

WHEREFORE, Staff asks the Commission to enter an order appointing Mr. Terry Jarrett, of Healy Law Offices, LLC, 514 E. High St., Suite 22, Jefferson City, MO 65101, as interim receiver for Ridge Creek Water Company, LLC, and Ridge Creek Development, L.L.C., authorizing the General Counsel to pursue appointment of Mr. Jarrett as a court-appointed receiver for the water Company and Development Company, and expediting this matter for resolution.

Respectfully submitted,

/s/ Jacob T. Westen

Jacob T. Westen
Deputy Counsel
Missouri Bar No. 65265
Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
573-751-5472 (Voice)
573-526-6969 (Fax)
jacob.westen@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was either hand delivered or served electronically on this 14th day of March, 2017, to the parties of record.

/s/ Jacob T. Westen

In the Matter of the Petition for an Interim Receiver and for an Order Directing the General Counsel to Petition the Circuit Court for the Appointment of a Receiver for Ridge Creek Water Company, LLC, and for Ridge Creek Development, L.L.C.

JESSICA LUEBBERT
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: February 19, 2019
Commission Number: 15633434

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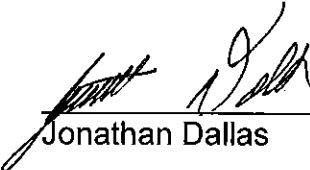
Case No. WO-2017-

AFFIDAVIT

State of Missouri)
) ss.
County of Cole)

COMES NOW Jonathan Dallas and on his oath declares that he is of sound mind and lawful age; that he contributed to the attached *Petition for Interim Receiver* and that that for his knowledge on the matter, the information is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.



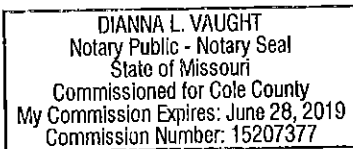
Jonathan Dallas

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in the City of Jefferson City, on this 14th day of March, 2017.



NOTARY PUBLIC



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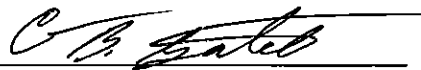
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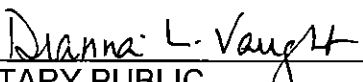
COMES NOW Curt B. Gateley and on his oath declares that he is of sound mind and lawful age; that he contributed to the attached *Petition for Interim Receiver* and that that for his knowledge on the matter, the information is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.


Curt B. Gateley

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in the City of Jefferson City, on this 14th day of March, 2017.


NOTARY PUBLIC

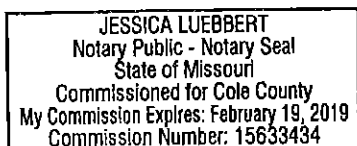
DIANNA L. VAUGHT Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: June 28, 2019 Commission Number: 15207377

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Paul R. Harrison
Paul Harrison

Jessica Luebbert
NOTARY PUBLIC



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AFFIDAVIT

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County of Cole)

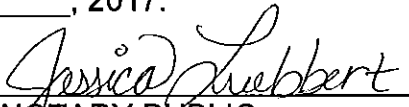
COMES NOW Mark Kiesling and on his oath declares that he is of sound mind and lawful age; that he contributed to the attached *Petition for Interim Receiver* and that that for his knowledge on the matter, the information is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.


Mark Kiesling

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in the City of Jefferson City, on this 14th day of March, 2017.


NOTARY PUBLIC

