

WHEREFORE, having conducted a full investigation into the finances, operations, and management of Terre Du Lac Utilities Corporation, Staff hereby submits its report on the investigation of the Company for the Commission's consideration.

/s/ Amy E. Moore _____

Amy E. Moore
Deputy Counsel
Missouri Bar No. 61759

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4140 (Telephone)
(573) 751-9285 (Fax)
amy.moore@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed with first-class postage, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 20th day of September, 2013.

/s/ Amy E. Moore _____

MISSOURI PUBLIC SERVICE COMMISSION

**STAFF'S INITIAL
REPORT OF INVESTIGATION**



**Terre Du Lac Utilities Corporation
WW-2013-0196**

*Jefferson City, Missouri
September 20, 2013*

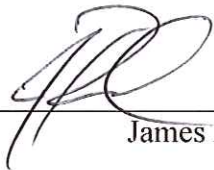
**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

An Investigation into the Operations,)
Management, and Financial Capability of)
Terre Du Lac Utilities Corporation) **File No. WW-2013-0196**

AFFIDAVIT OF JAMES A. BUSCH

STATE OF MISSOURI)
)
COUNTY OF COLE) ss.


COMES NOW James A. Busch, of lawful age, and on his oath states the following: (1) that he is the Regulatory Manager of the Water and Sewer Unit of the Missouri Public Service Commission; (2) that he participated in the preparation of the foregoing *Staff's Initial Report of Investigation into Terre Du Lac Utilities Corporation*; and (3) that he has knowledge of the matters set forth in such Report, and that such matters are true and correct to the best of his knowledge, information, and belief.



James A. Busch

Subscribed and sworn to before me this 20th day of September, 2013.

LAURA BLOCH
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: June 21, 2015
Commission Number: 11203914



Notary Public

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1 STAFF'S INITIAL REPORT OF INVESTIGATION

2 TERRE DU LAC UTILITIES CORPORATION

3 CASE NO.WW-2013-0196

4 On October 19, 2012, Staff of the Missouri Public Service Commission (Staff), filed a
5 *Request for Investigation into Terre Du Lac Utilities, Corp* (Request) with the Missouri Public
6 Service Commission (Commission) to open an investigative docket for the purposes of
7 conducting an in-depth review of the managerial, financial, and operational capabilities of Terre
8 Du Lac Utilities Corporation (Company or TDLU). On October 24, 2012, the Commission
9 granted Staff's request and ordered an investigation into the operations, management, and
10 financial capabilities of TDLU. The investigation was assigned File No. WW-2013-0196. On
11 October 31, 2012, the Missouri Department of Natural Resources (DNR) through the Office of
12 the Attorney General (AGO) filed an application to intervene. Its intervention was granted by
13 the Commission on November 13, 2012. On August 16, 2013, the Commission ordered Staff to
14 file a Status Report by September 20, 2013.

15 As noted above, the purpose of Staff's Investigation was to review the Company's
16 managerial, financial, and operational issues. Staff's Request for the investigation cited TDLU's
17 numerous violations of DNR rules and regulations. The Company, through its President Mr.
18 Mike Tilley, has indicated to Staff, the Office of the Public Counsel, DNR, and the AGO, that
19 the Company's rates are not sufficient to allow the Company to make the necessary
20 improvements currently required to address these violations and other upgrades needed on both
21 the water and wastewater systems.

22 This Report is a culmination of Staff's investigation into the needs of the Company and
23 includes Staff's recommendation as to the appropriate course of action needed to move TDLU

1 towards compliance with DNR rules and regulations and the provision of safe and adequate
2 service to its customers. Members of Staff's Auditing, Engineering & Management Services,
3 and Water & Sewer Units, as well as the Staff's Counsel Office, contributed to this Report.

4 **BRIEF HISTORY**

5 TDLU was originally certificated by the Commission in 1973. TDLU provides both
6 water and wastewater service to approximately 1,300 customers near Bonne Terre, MO in St.
7 Francois and Washington Counties. In a stock sale that closed on May 8, 2000, the then owner
8 of TDLU, Mr. James Kwon, sold the Company to Mr. Francis Tilley and his wife, Mrs. B. Joyce
9 Tilley. In 2001, the Company was transferred to Mr. and Mrs. Tilley's sons, Mike and Paul. Mr.
10 Mike Tilley has been the President of the Company since that transfer. Mrs. Kathy Tilly, Paul's
11 wife, is the Secretary of TDLU. According to the most recent Annual Report filed with the
12 Commission, Mike Tilley and Paul Tilley are the sole shareholders, each with 200 shares of
13 common stock.

14 Rates for both the water and wastewater systems became effective on April 1, 2000.
15 TDLU filed a small company rate request for both systems on November 21, 2008. On May 18,
16 2009, Staff received a notice from TDLU that it no longer wished to pursue its rate requests, and
17 the rate cases were closed on May 19, 2009.

18 **BASIC OPERATIONS**

19 TDLU operates both a water system and a wastewater collection and treatment system.

20 The water system consists of approximately 100 miles of water mains, mostly four to
21 eight-inch PVC. Due to the terrain of the service area, there are variations in pressure throughout
22 the system, but on average, the pressure is maintained near 40 PSI. The water system consists of
23 three wells. Well one is located near the Company's office and is currently not in service. An

1 issue with well one prior to its being taken out of service and well two is high levels of
2 radionuclides. This is a common problem with water systems in this area of the State. The
3 entire community is thus served by wells two and three. Well two can produce 100 gallons per
4 minute, and well three can produce 250 gallons per minute. Storage is provided by two elevated
5 storage tanks. One storage tank has a capacity of 50,000 gallons, and the other storage tank has a
6 capacity of 100,000 gallons. The water system is required to have chlorination which is
7 accomplished by injecting a chlorine solution into each wellhead output pipe while the well-
8 pump is pumping. If the largest well is out of service, the system may have problems meeting its
9 average daily demand and cannot meet peak daily demand.

10 The wastewater system consists of approximately 45 miles of collecting sewer pipelines.
11 Twenty-five miles of this system are four-inch force mains, and the remaining twenty miles are
12 mainly eight-inch gravity sewers. The Company operates three treatment facilities: a single-cell
13 lagoon; a three-cell lagoon; and an oxidation ditch. The force main collection system delivers
14 septic discharge from approximately 700 customers utilizing septic tank effluent pump units to
15 the oxidation ditch. The three-cell lagoon provides treatment to approximately 525 customers
16 and the single-cell lagoon provides treatment to approximately 20 customers.

17 **CURRENT OPERATIONAL PROBLEMS**

18 Due to violations reported by DNR, an enforcement action has been filed by the AGO
19 against TDLU. The initial filing by the AGO was filed on August 11, 2010, in the St. Francois
20 County Circuit Court. It has been assigned Case No. 10SF-CC00186. In that action, several
21 violations were noted by the AGO.

1 **Water System**

2 According to the *First Amended Petition for Preliminary and Permanent Injunction and*
3 *Civil Penalties (Petition)* filed by the AGO on August 24, 2012, TDLU has committed violations
4 regarding the failure to meet Maximum Contaminant Levels for Radium 226 and 228 and for
5 Gross Alpha particles. This means that at various times, the water provided by TDLU had
6 excessive amounts of Radium 226 and 228 and Gross Alpha particles. It was further alleged in
7 the *Petition* that TDLU failed to properly provide public notice when it failed to perform
8 required water quality monitoring.

9 Staff’s investigation has noted other problem areas and necessary improvements
10 regarding the water system that need to be addressed by TDLU.

11 The major necessary improvement that should be undertaken is an increase in the water
12 production capacity. Based upon the current situation with the three wells (two operating and
13 one not in operation), a new well is probably the only solution to the issue of lack of production
14 capacity. As noted earlier, if the larger of the two operational wells is out of service, the system
15 is not capable of meeting the demands of its customers. This observation was also noted in a
16 Sanitary Survey conducted by DNR in late 2007 and reported in a letter to TDLU on January 7,
17 2008.

18 In conjunction with the above necessary improvement, storage capacity should also be
19 enhanced. Other areas that should be investigated on the water system include:

- 20 Inspection, painting, and rehab of storage tanks;
- 21 Maintenance on well-house and security fencing;
- 22 Employment of a certified operator;
- 23 Improvements in operations regarding pressure; and

1 Fire hydrant evaluation and repair.

2 **Wastewater System**

3 All wastewater systems are required to be permitted by DNR. Under this permitting,
4 each facility is given a Missouri State Operating Permit (MSOP). TDLU operates three
5 wastewater treatment facilities as noted above. All three permits have expired. Therefore,
6 TDLU has been operating all three of its facilities without approved operating permits from DNR
7 since January, 2012. Staff believes that the issues involved regarding the wastewater system are
8 of the most critical nature and need to be addressed as soon as practical by the Company.

9 The *Petition* filed by the AGO in its injunction case against TDLU cited other violations
10 alleged by DNR including causing pollution to the waters of the state, discharging water
11 contaminants, failure to prevent and report a bypass, failure to comply with permit effluent
12 limits, failure to submit discharge monitoring reports, and failure to upgrade facilities, among
13 other allegations.

14 There are many options that TDLU can choose to address these situations. According to
15 information gathered by Staff, the Company has indicated that it is in the early stages of hiring
16 an engineering firm to begin the process of addressing some of these issues.

17 Staff agrees that a complete evaluation of the entire sewage treatment system (all three
18 treatment facilities and the collection system) needs to be conducted. Options to be considered
19 include the rehabilitation of the three lift stations that deliver wastewater to the three-cell lagoon,
20 repair or replacement of the aeration rotor on the oxidation ditch, elimination of the single-cell
21 lagoon, installation of appropriate security fencing, providing regular maintenance and
22 inspection of the manholes and the pump units installed at the customer's premises, and
23 providing for sludge hauling/disposal.

1 **FINANCIAL**

2 Staff conducted a full audit of the Company's books and records, as if the Company had
3 filed a small company rate request. The test year that Staff chose was the twelve months ending
4 September 30, 2012, updated through December 31, 2012. The results of Staff's audit indicate
5 that the Company is materially under-earning and a rate request should be filed by the Company.

6 A major issue affecting the Company and its operations is the Company's inability to
7 secure financing to undergo the level of investment required by the Company to address the
8 violations outlined in the AGO's Injunction and other necessary improvements. Staff at various
9 times over the past few years has worked with the Company in an attempt to assist the Company
10 in securing financing for the various projects and improvements that are required to meet DNR
11 standards. Unfortunately, those efforts have not led to a satisfactory result.

12 One concern that Staff does have is the level of dividends that the Company has paid to
13 the two named stockholders. Over the past ten years, the Company has paid a total of \$332,646
14 in dividends. The dividends have increased from a total of \$29,992 in 2003 to a total of \$43,400
15 in 2012. Staff does not normally have an issue with a Company paying dividends to
16 stockholders, as this is the normal course of business for corporations. However, Staff does
17 question TDLU paying dividends in its current financial and operational situation. TDLU has
18 received numerous violations from DNR and has been referred to the AGO for enforcement.
19 TDLU has not been operating under an approved MSOP from DNR for its wastewater system.
20 TDLU has a major problem with its capacity to meet demand on its water system. But of even
21 greater concern, TDLU has experienced difficulty securing financing to pursue corrective actions
22 demanded by the AGO's Injunction and other necessary improvements. With all of these
23 problems, Staff believes that the suspension of dividend payments should be considered.

1 **CUSTOMER SERVICE AND OTHER ISSUES**

2 TDLU’s tariffs were originally approved in 1974 and have had minimal changes since
3 that time. TDLU needs to have its tariff completely reviewed and updated to address any
4 changes that have occurred over the past forty years. Further, the Company’s rate structure
5 should be reviewed and updated.

6 Staff’s investigation of customer service operating procedures also revealed issues that
7 the Company should address in the following areas: job descriptions, timesheets, vehicle logs,
8 meter reading, bill format, and the timing of collection actions.

9 If the Company files rate cases, as Staff recommends below, Staff would complete a
10 more thorough review of the Company’s customer service and business operations at that time.

11 **STAFF’S RECOMMENDATION**

12 Based upon Staff’s initial investigation and its knowledge of TDLU, Staff recommends
13 that the Company file a series of rate cases starting immediately to ensure that proper cash flow
14 is being generated to meet the Company’s cost of service. Staff does not believe a complaint
15 case at this time is the appropriate mechanism to address the various issues identified. Instead, to
16 address the concerns of financing the major projects necessary for the water and wastewater
17 systems, during the initial rate case, the Company should include a complete engineering report
18 with cost estimates and timelines to transition the Company’s water and wastewater systems into
19 compliance with its statutory requirement to provide safe and adequate service to its customers.
20 This report would be reviewed by Staff, the Office of the Public Counsel, DNR and the AGO. It
21 is Staff’s recommendation that all interested parties work together to create an appropriate
22 regulatory plan based upon the Company’s report to ensure that the Company has the financial
23 capabilities necessary to meet its obligations of providing safe and adequate service to its

1 customers. If the Company does not initiate an initial rate request in the next 90-days, Staff will
2 consider taking further action.