

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

In the Matter of the Application of)	
Ridge Creek Water Company, LLC)	
for a Certificate of Convenience and)	Case No. WA-2015-0182
Necessity authorizing it to construct,)	
install, own, operate, control, manage,)	
and maintain a water system for the)	
public located in an unincorporated)	
area in Pulaski County, Missouri)	

APPLICANT’S RESPONSE TO STAFF’S RECOMMENDATION

COMES NOW Ridge Creek Water Company, LLC (hereinafter “Company” or “Applicant”) and submits the following to the Missouri Public Service Commission (“Commission”):

1. On May 22, 2015 Staff filed *Staff’s Recommendation* in this case. On May 26, 2015 the Commission set a deadline of June 5, 2015 for parties to submit responses to the *Staff’s Recommendation* and a deadline of June 10, 2015 for parties to submit requests for evidentiary hearing.

2. Pursuant to the Company’s request, the Commission extended the deadline to response to *Staff’s Recommendation* to June 19, 2015. It also extended the deadline for parties to submit requests for an evidentiary hearing to June 24, 2015.

Staff’s Investigation

Multiple Family Wells

3. The main part of Staff’s report of investigation is found on pages 2 through 5 of its recommendation. On page 3, Staff describes the water system installed by Ridge Creek Development, LLC (RCD) in the Ridge Creek Subdivision. It is true, as Staff reports, that source of water supply consists of some twenty-two (22) domestic and multiple-family wells.

On this same page, Staff asserts that “[t]hese wells were reportedly installed with the intent that no well would serve more than 14 customer connections, apparently intending to avoid [the Missouri Department of Natural Resources’] regulatory authority.”

4. To the contrary, the wells were drilled with the intention and expectation to comply with applicable DNR requirements whatever they might be for a well configuration like the one installed for Ridge Creek. Arguably, the wells installed for the subdivision, as well as variances granted by DNR, lawfully removed Ridge Creek from specific DNR testing and reporting requirements but there was no intention to evade regulation.

5. On November 10, 2005, DNR granted RCD a variance of the Missouri Well Construction Rules. Approval was granted to Ridge Creek to construct up to nine (9) multi-family wells using plastic casing rather than steel. The reason given for the variance was that 8 homes per multi-family well were planned for the subdivision and the well driller anticipated water quality problems due to a high static water level if steel casing was used. A copy of the variance is attached to this order as Exhibit A.

6. RCD contends that DNR knew in 2005 that a multiple well system, rather than a community water system, was designed for the subdivision and DNR approved a variance of the applicable rules allowing such a multiple well system to be installed without additional permitting.

DNR Jurisdiction

7. Also on page 3 of its recommendation, Staff cites to the definition of “public water system” in DNR’s water regulations. Staff contends that the Ridge Creek water system constitutes a “public water system” thus subjecting it to DNR regulations requiring routine bacteriological testing, a certified water system operator, monitoring reports, a permit to dispense

among other requirements. In support, Staff cites *Smith v. McGinnis Estates Homeowners Association*, Case No. 6:11-cv-03135-GAF (W.D. Mo.).

8. The question of whether the Ridge Creek water system is or is not a public water system is still unresolved. Before his death Judge Richard E. Dorr,¹ who was the first judge assigned to *McGinnis Estates*, entered an order granting partial motions for summary judgment in which he ruled that by operating the two wells at issue in the case the defendant was subject to the regulations of the federal Safe Drinking Water Act and the Missouri Safe Drinking Water Law. This case was eventually disposed by Consent Judgment and voluntary dismissal by the parties on September 9, 2013. The case, and particularly the ruling of Judge Dorr on the motion for summary relief, are unreported and supply no definitive precedent. Furthermore, no Missouri court has accepted Judge Dorr's reasoning about the DNR definition of "public water system." Additionally, no court has determined whether or to what extent DNR regulations govern the wells drilled and serving Ridge Creek.

9. Putting all doubts of DNR authority aside, RCD and the Company have agreed to enter with DNR an Administrative Order by Consent (AOC) in which DNR jurisdiction over the Ridge Creek water system is stipulated. A copy of the approved form of the AOC has been delivered to Staff counsel.

Interruptions in Service

10. On page 4 of its recommendation Staff reports that "[c]ustomers have reported extended and frequent outages, beginning with the high water usages periods in summer 2013 due to drought." RCD is aware that from March 2013 to the present – a period of 28 months – there have been nine (9) interruptions in service none of which was system wide; the longest of which was three days. None of the interruptions in service affected more than one well. The

¹ At Judge Dorr's death, the case was reassigned to Judge Gary A. Fenner.

Company is unaware of any customer complaint of extended and frequent outages during the drought of 2012 or any other time.

Revenue Requirement and Rates

11. On pages 5 through 6 of its recommendation, Staff submits its recommendations concerning the Company's revenue requirement and rates for service. The Company disagrees with the Staff's analysis of the Company's costs and expenses in providing service and attached as Exhibit B is a schedule comparing the Staff's expense run and the Company's.

12. Based upon an analysis of available books and records and the Company's projections of expenses for DNR compliance and other items not considered by the Staff in its recommendation, the Company's revenue requirement through March 31, 2015, using a return on equity ("ROE") of 8.090%, is \$78,832.00. Company recommends that the Commission approve monthly residential rates of \$20.77 as a customer charge, and a commodity charge of \$5.10 per 1,000 gallons, which would result in a monthly bill of \$48.30 for a customer using 5,400 gallons per month. The Company believes that a flat rate of \$48.30 per month should be used temporarily for up to three months for any existing customers that do not presently have working meters.

WHEREFORE, the Company respectfully requests that the Commission reject so much of the Staff's Recommendation in conflict with the above and foregoing.

Respectfully submitted

/s/ Mark W. Comley

Mark W. Comley, Mo. Bar #28847

Newman, Comley & Ruth P.C.

601 Monroe Street, Suite 301

P.O. Box 537

Jefferson City, MO 65102-0537

(573) 634-2266 (voice)

(573) 636-3306 (facsimile)

comleym@ncrpc.com

Attorneys for Ridge Creek Water Company,
LLC

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 19th day of June, 2015, to Thais Ann Folta at thais.folta@ago.mo.gov; Mueth, Marcella at marcella.mueth@psc.mo.gov; General Counsel's Office at staffcounsellservice@psc.mo.gov; Christina Baker at christina.baker@ded.mo.gov; and Office of Public Counsel at opcservice@ded.mo.gov.

/s/ Mark W. Comley

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

Matt Blunt, Governor • Doyle Childers, Director

www.dnr.mo.gov

VARIANCE: Approved

VARIANCE NUMBER: 3040

WELL OWNER INFORMATION

NAME: Ridge Creek Deyelopment Mike Stoner

ADDRESS: P.O. Box KK

FAX:

CITY: Dixon

STATE: MO

ZIP: 65459-

TELEPHONE:

WELL LOCATION

COUNTY: PULASKI

LAT.

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LONG.

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1/4

SEC. 18

TWN. 36 N

RNG.

12 11 W

CONTRACTOR INFORMATION

COMPANY NAME: IBERIA WELL DRILLING & PUMP

PERMIT NUMBER: 003187

CONTRACTOR NAME: MELANIE WILSON

ADDRESS: 13 SAGEBRUSH LANE

FAX:

CITY: IBERIA

STATE: MO

ZIP: 65486-

TELEPHONE: (573)793-3111

VARIANCE INFORMATION

VARIANCE EXPLANATION

Approval granted to allow the construction of up to 9 multiple family wells using plastic casing rather than steel.

REQUIRED: Well must be constructed so that the casing is grouted full length using the tremie grout method of placement. All other applicable construction standards for a multiple family well under the Missouri Well Construction Rules (MWCR) must be met.

RULE NUMBER MODIFIED: 10 CSR 23-3.030

REASON FOR VARIANCE

8 homes per multiple family well is planned for subdivision. Contractor anticipates water quality problems due to a high static water level if steel casing is used.

DATE APPROVED: 11/10/2005

BY: Mathew Parker

COPY SENT TO OWNER (DATE): 11/14/05

BY: Kay Harris

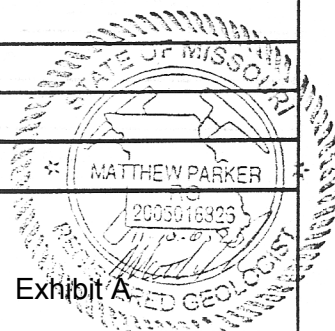
COPY SENT TO CONTRACTOR (DATE): 11/14/05

BY: Kay Harris

CC: Pulaski County Health Department

P.O. Box 498

Crocker, MO 65452-



	OWC Rate Design Schedule	Projections Under Ridge Creek Water Company
1 OPERATIONS EXPENSES		
2 Management Salary	\$0.00	\$4,080.00
3 Operators Salary/Contractor Services	\$7,392.00	\$13,100.00
4 Electricity	\$10,876.00	\$10,876.00
5	\$0.00	\$0.00
6	\$0.00	\$0.00
7 TOTAL OPERATIONS EXPENSE	\$18,268.00	\$28,056.00
8 MAINTENANCE EXPENSES		
9 Outside Services Employed	\$1,200.00	\$6,000.00
10 System Repairs & Maintenance	\$0.00	\$3,000.00
11 Lab & Testing Fees	\$4,400.00	\$8,800.00
12 Supplies Expense	\$0.00	\$0.00
13 TOTAL MAINTENANCE EXPENSE	\$5,600.00	\$17,800.00
14 CUSTOMER ACCOUNT EXPENSE		
15 Meter Reading	\$2,097.00	\$5,400.00
16 Billing & Collections	\$2,191.00	\$3,264.00
17 Office Supplies	\$1,267.00	\$0.00
18 Postage Expense	\$0.00	\$0.00
19 Uncollectable Accounts	\$0.00	\$0.00
20 TOTAL CUSTOMER ACCOUNT EXPENSE	\$5,555.00	\$8,664.00
21 ADMINISTRATIVE & GENERAL EXPENSES		
22 Administrative & General Salaries	\$0.00	\$0.00
23 Accounting Fees (Tax Preparation)	\$200.00	\$800.00
24 Legal Fees	\$500.00	\$500.00
25 Engineering Fees	\$0.00	\$10,000.00
26 Telephone	\$240.00	\$1,644.00
27 Office Utilities (phone)	\$0.00	\$0.00
28 Vehicle Expense	\$0.00	\$0.00
29 Vehicle Insurance	\$0.00	\$0.00
30 Medical Insurance	\$0.00	\$0.00
31 Property & Liability Insurance	\$0.00	\$0.00
32 Rent	\$600.00	\$600.00
33 Other Misc. Expenses	\$0.00	\$0.00
34	\$0.00	\$0.00
35	\$0.00	\$0.00
36	\$0.00	\$0.00
37	\$0.00	\$0.00
38	\$0.00	\$0.00
39 TOTAL ADMINISTRATION & GENERAL	\$1,540.00	\$13,544.00
40 OTHER OPERATING EXPENSES		
41 MO DNR Fees (Primacy Fees)	\$0.00	\$0.00
42 PSC Assessment	\$383.00	\$717.00
43 Corporate Registration	\$20.00	\$20.00
44 CIAC Amortization Expense	-\$11,188.00	-\$11,188.00

45 Depreciation	\$14,785.00	\$14,785.00
46 Rate of Return	\$2,505.00	\$2,505.00
47 Interest	\$1,528.00	\$1,528.00
48 License and Permit Fees	\$24.00	\$24.00
49 TOTAL OTHER OPERATING EXPENSES	<u>\$8,057.00</u>	<u>\$8,391.00</u>
50 TAXES OTHER THAN INCOME		
51 Real & Personal Property Taxes	\$1,215.00	\$1,215.00
52 Sales Tax	\$0.00	\$0.00
53 Payroll Taxes	\$0.00	\$0.00
54 TOTAL TAXES OTHER THAN INCOME	<u>\$1,215.00</u>	<u>\$1,215.00</u>
55 INCOME TAXES	\$625.00	\$1,162.00
TOTAL OPERATING EXPENSE	<u>\$40,860.00</u>	<u>\$78,832.00</u>