

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

In the Matter of the Application of Confluence        )  
Rivers Utility Operating Company, Inc. to Acquire    )        File No. SA-2024-0307  
Certain Sewer Assets and for a Certificate            )  
of Convenience and Necessity (Timber Ridge)        )

**SECOND SUPPLEMENT TO APPLICATION**

**COMES NOW** Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers” or “Applicant”) and states the following to the Missouri Public Service Commission (“Commission”) as its *Second Supplement to Application*:

1.       On April 18, 2024, Confluence Rivers filed an *Application and Motion for Waiver* requesting that the Commission approve the acquisition of the unregulated sewer assets of Barbara E. Rampone located in and around the Timber Ridge subdivision in Johnson County, MO (Timber Ridge System) and grant Confluence Rivers a certificate of convenience and necessity to provide service in the area.

2.       Confluence Rivers previously supplemented its Application with an Engineering Memorandum applicable to Timber Ridge through a *Supplement to Application* filed on May 1, 2024.

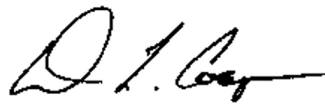
3.       As reflected in the Application, authority for the requested certificate of convenience and necessity (“CCN”) is contained in Section 393.170. That statutory section states that Confluence Rivers must demonstrate that the requested authority “is necessary or convenient for the public service.” When reviewing whether a utility should be granted a CCN, the Commission typically applies the five “Tartan Energy Criteria” established in *In the Matter of Tartan Energy Company, et al.*, 3 Mo. PSC 3d 173, 177 (1994), which includes examination of whether the project will promote the public interest.

4. Consistent with this requirement, Confluence Rivers has recently received two letters that further support Confluence Rivers' position that the Application is "necessary or convenient for the public service" and promotes the "public interest." One of those letters is from the Director of the Water Protection Program of the Missouri Department of Natural Resources ("MDNR") (Appendix H) and the other is from John H. Edmiston, Attorney at Law, who represents the five Timber Ridge Subdivision residents (Appendix I). The letter from MDNR, among other things, describes the past wastewater treatment failures and non-compliance in the Timber Ridge Subdivision from MDNR's perspective. Mr. Edmiston's letter describes the current situation for residents, to include that "[d]ue to the lack of a permitted, environmentally responsible sewer system, current customers are unable to sell their homes."

5. Confluence Rivers provides this *Second Supplement to Application* in order to aid the Commission and parties understanding of circumstances surrounding the area for which a certificate of convenience and necessity is sought and the public interest that will be served by a grant of the Application.

**WHEREFORE**, Confluence Rivers Utility Operating Company, Inc. respectfully requests that the Commission consider this *Second Supplement to Application* and issue such orders as it should find to be reasonable and just.

Respectfully submitted,



Dean L. Cooper MBE #36592

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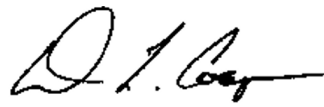
**ATTORNEYS FOR CONFLUENCE RIVERS  
UTILITY OPERATING COMPANY, INC.**

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on June 7, 2024, to the following:

Mark Johnson  
Office of the General Counsel  
[staffcounsel@psc.mo.gov](mailto:staffcounsel@psc.mo.gov)  
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**Michael L. Parson**  
Governor

**Dru Buntin**  
Director

June 6, 2024

**OFFICIAL COPY VIA EMAIL**

Josiah Cox  
Confluence Rivers Utility Operating Company, Inc.  
1650 Des Peres Road, Suite 303  
Des Peres, MO 63131

RE: Timber Ridge Subdivision, Unpermitted, Johnson County

Dear Josiah Cox:

The Missouri Department of Natural Resources' primary goal as the regulatory authority in administering the Missouri Clean Water Law (MCWL) is to ensure protection of the environment and human health and safety from pollution and health risks that may be caused by failing or improperly operating wastewater treatment systems, or in severe cases, the heightened risks from the disposal of untreated wastewater at sites where there is no wastewater handling, treatment, or disposal system in place.

Occasionally, subdivisions with no wastewater system are referred to the department's Compliance and Enforcement Section of the Water Pollution Control Branch for resolution. These cases are often particularly difficult to resolve, due to the limited resources and available solutions for the responsible parties, who are frequently left with limited feasible solutions that are typically cost prohibitive. Further, when these cases involve ongoing pollution from existing residential areas that lack an approved method of wastewater handling, they also pose a significant risk to human health and the environment, in addition to being in noncompliance with the law.

When the responsible parties of these sites, typically the developers, are unable to resolve their wastewater non-compliance themselves, two reliable possible solutions are either connecting the site to an existing wastewater treatment plant and/or selling the system to a higher-performing utility operating company. In Missouri, Confluence Rivers Utility Operating Company, Inc. (CRUOC) has been one of the few utility operating companies to date that is willing to acquire some of the most difficult failing systems, including some sites with unengineered, unpermitted, and unapproved systems, and even some sites with no system at all. CRUOC has demonstrated that it has the resources and sophistication to help resolve the noncompliance associated with these types of sites and ultimately provide solutions to residents in situations that are otherwise nearly unresolvable.



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To date, based on the department's experience of regulating CRUOC's acquisition of multiple failing or nonexistent systems, the department has found CRUOC to be capable of taking on these situations involving extreme non-compliance by taking swift actions after acquisition to complete the engineering and construction requirements to bring these sites into compliance promptly. CRUOC's willingness to acquire systems with long-standing compliance issues has proven to be beneficial to human health and the environment, by bringing them into compliance with environmental laws despite the significant effort required to bring these sites into compliance.

The Timber Ridge Subdivision, located in Johnson County, is a prime example of a situation where CRUOC's acquisition of the subdivision's wastewater utility services is critically important to promptly resolving discharges of untreated wastewater to the environment. The Timber Ridge Subdivision was constructed sometime prior to the year 2000 and has never had a department-approved method of wastewater handling, treatment, or disposal. The department brought a lawsuit against the developer and obtained a judgment requiring him to establish an approved method of wastewater handling and disposal in the subdivision, and he removed the illegally constructed wastewater lagoons in approximately 2016. Unfortunately, the developer then passed away, and ever since 2016, each of the five homes in the Timber Ridge Subdivision have continued to discharge untreated wastewater directly into the environment.

The department and the subdivision's owner, the original developer's widow, worked cooperatively together to find a feasible solution for the subdivision. Because of the distance to the nearest Publicly Owned Treatment Works, connecting the subdivision would likely be cost prohibitive. Therefore, the subdivision's remaining options were either to establish a Homeowners' Association and build their own treatment plant or engage a utility operating company to do so. It is the department's understanding that the subdivision's owner contacted the Johnson County Department of Health and an engineer to investigate configuring the Timber Ridge Subdivision lots to accommodate individual onsite systems, but that route ultimately was not a practicable solution. Concurrently, department staff contacted several utility operating companies to gauge their interest in being put in touch with the subdivision's owner to discuss acquiring the subdivision's wastewater utility services; CRUOC was the only one willing to consider the acquisition. Further, it is the department's understanding that CRUOC's acquisition of the Timber Ridge Subdivision's wastewater utility services is welcomed and supported by the subdivision's owner and by the individual property owners, because to date CRUOC has presented the only practical solution to an otherwise unresolvable situation that has caused pollution to environment and posed a significant threat to human health for over two decades.

The department has determined CRUOC's acquisition of the Timber Ridge Subdivision's wastewater utilities services is the best alternative for the prompt resolution of this matter and the protection of human health and the environment. To that end, the department has entered into Abatement Orders on Consent with both the subdivision's owner and CRUOC for the intended acquisition of the subdivision's wastewater utilities services. The department looks forward to

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continuing to work with CRUOC on resolving the Timber Ridge Subdivision's wastewater system to achieve compliance with the MCWL.

If CRUOC is unable to move forward with the acquisition of the Timber Ridge Subdivision, then the problem of the ongoing non-compliance will revert to the subdivision's owner and the residents in that subdivision, all of whom lack expertise and experience in compliance with the MCWL. They will be back at square one in dealing with the non-compliance, with no other viable and cost-effective potential solutions in sight.

In conclusion, although the department is usually neutral regarding pending approvals before the Public Service Commission (PSC), in this case, the department supports CRUOC's acquisition of the Timber Ridge Subdivision and is willing to testify at the PSC hearing to that effect. The department appreciates CRUOC's willingness to acquire undesirable systems and bring them into compliance with the MCWL.

If you have any questions regarding this correspondence, you may contact Joe Clayton at Department of Natural Resources, Water Protection Program, Compliance and Enforcement Section, P.O. Box 176, Jefferson City, MO 65102-0176; by phone at 573-522-1120; or by email at [cwenf@dnr.mo.gov](mailto:cwenf@dnr.mo.gov). Thank you for your cooperation in this matter.

Sincerely,

WATER PROTECTION PROGRAM



John Hoke  
Director

JC/ehc

c: Michael Abbott, Case Manager, Public Service Commission  
Karen Rouse, Director, Kansas City Regional Office

**JOHN H. EDMISTON**  
*ATTORNEY AT LAW*  
118 HOUT STREET, SUITE A  
WARRENSBURG, MO 64093-1700

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**PUBLIC COMMENT**

To: Public Service Commission  
Official Case File SA-2024-0307

From: John H. Edmiston, Attorney at Law

Date: June 4, 2024

I write on behalf of the five residents in the Timber Ridge Subdivision in support of the acquisition of the sewer assets currently owned by Barbara Rampone and used to serve the Timber Ridge community. These the limited sewer assets are currently owned by Ms. Rampone.

It is my understanding that the current sewer assets consist entirely of some service lines that, as a result of a past dispute with the Department of Natural Resources, were simply abandoned at some point. As a result, while solids are collected in individual customer - owned septic tanks, the wastewater is simply discharged into the backyards of customers. Due to the lack of a permitted, environmentally responsible sewer system, current customers are unable to sell their houses. That is to say, since prospective buyers are not able to meet all necessary conditions to receive a mortgage, no buyers would even consider this community. Not only can current homeowners not sell their homes, the two vacant lots in the neighborhood have stood vacant for many years as home construction is not feasible.

Confluence Rivers' proposed acquisition of these assets, and the certification of this service area, represents the ideal solution to this long-standing problem. As has been previously recognized by the Department of Natural Resources, Confluence Rivers is one of the few entities willing to take on such failing system and bring them into compliance by employing qualified operators and investing in repairs and upgrades. The Timber Ridge homeowners encourage the Public Service Commission to approve the Confluence Rivers' application.

Respectfully,



John H. Edmiston