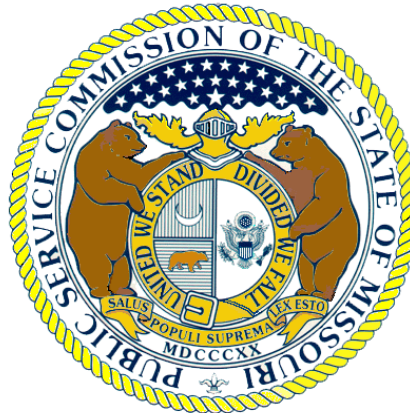


**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 21st day
of August, 2024.

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



The Staff of the Missouri Public Service Commission,
Complainant,

v.

Leon Travis Blevins a/k/a Travis Blevins and
Patricia Blevins, d/b/a Misty Mountain PWS a/k/a
Misty Water Works, Charity PWS, and Rolling
Hills PWS,
Respondents.

File No. WC-2023-0353

REPORT AND ORDER

Issue Date: August 21, 2024

Effective Date: September 20, 2024

APPEARANCES

Appearing for Leon Travis Blevins and Patricia Blevins:

Leon Travis Blevins, 15405 Texas Rd., St. Robert, Missouri 65584.

Appearing for the Staff of the Missouri Public Service Commission:

Carolyn Kerr, Senior Counsel, Governor Office Building, 200 Madison Street, Jefferson City, Missouri 65102-0360.

Casi Aslin, Deputy Counsel, Governor Office Building, 200 Madison Street, Jefferson City, Missouri 65102-0360.

Regulatory Law Judge: John T. Clark

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

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
)	
v.)	
)	
Leon Travis Blevins a/k/a Travis Blevins and Patricia Blevins, d/b/a Misty Mountain PWS a/k/a Misty Water Works, Charity PWS, and Rolling Hills PWS,)	<u>File No. WC-2023-0353</u>
)	
Respondents.)	

This order finds that Leon Travis Blevins (Blevins) is operating a water corporation and public utility providing water for gain without certification where such certification is required by Missouri statute. This order also determines that because Blevins is unable to provide safe and adequate water service it is necessary for the Commission to direct its General Counsel to petition the Circuit Court to appoint a receiver to take control of Blevins’ water systems.

I. Procedural History

On April 10, 2023, in File No. WC-2023-0353, the Staff of the Commission (Staff) filed a formal complaint against Misty Water Works, a water system owned and operated by Blevins. Staff’s complaint contained two counts: 1) that Blevins was operating a water corporation and public utility providing water for gain without Commission certification or authority, and 2) that Blevins failed to protect the public health by failing to provide safe adequate service.¹

¹ File No. WC-2023-0353.

Petition for an Interim Receiver

Approximately four months later, on August 15, 2023, in File No. WO-2024-0036, Staff filed a *Petition for an Interim Receiver and for an Order Directing the General Counsel to Petition the Circuit Court of Cole County for the Appointment of a Receiver for Misty Water Works and Motion for Expedited Treatment*. The petition asks the Commission to direct its General Counsel to petition the Circuit Court to appoint a receiver to take control of Blevins' water systems. Similar to Staff's complaint against Blevins, its petition for a receivership alleged that he was operating a water system in violation of Section 393.170.2, RSMo,² and was not compliant with Missouri Department of Natural Resources (DNR) drinking water safety regulations. Staff's petition states that Staff received complaints from Blevins' water customers expressing concerns about reliability, customer service, managerial, and operational problems and deficiencies with the safety and adequacy of their water service. Staff asserts that Blevins is unable or unwilling to provide safe and adequate water service.

The Commission held a two-day evidentiary hearing beginning on October 25, 2023, on Staff's petition for a receiver. Staff and Blevins appeared at the evidentiary hearing and offered evidence in support of their positions. At the evidentiary hearing, the Commission heard the testimony of five witnesses and received eight exhibits onto the record. Staff Analyst Adam Stamp and Curtis Gateley the Manager of the Water, Sewer, and Steam Department testified for Staff; DNR witnesses, Sebastien Clos-Versailles, Supervisor with the Water Protection Program, and Jackie Johnson,

² Section 393.170.2, RSMo, requires that any water corporation shall seek the Commission's permission prior to operating a water corporation and public utility.

Environmental Program Specialist, also testified for Staff; and Blevins testified on his own behalf.

On December 20, 2023, the Commission directed Staff to provide additional information about Blevins' compliance with a DNR noncompliant well agreement. On January 8, 2024, Staff responded with information that Blevins had up to 240 days to complete corrective actions required under DNR's *Notice and Order to Abate Violations and Pay Administrative Penalties concerning the Misty Mountain Public Water System*. Based upon Staff's response the Commission directed Staff to file monthly status reports beginning March 2024, updating the Commission on Blevins progress toward completing DNR's corrective actions. Staff filed status reports for March, April, and May 2024.

The Complaint

The Commission held a two-day evidentiary hearing beginning on June 24, 2024, on Staff's complaint. Staff and Blevins appeared at the evidentiary hearing and offered evidence in support of their positions. At the evidentiary hearing, the Commission heard the testimony of seven witnesses and received eight exhibits onto the record. Staff Analyst Adam Stamp and Curtis Gateley the Manager of the Water, Sewer, and Steam Department testified for Staff; Homeowner and former Blevins customer Jeff Grube testified for Staff; Blevins' former certified system operator Lori Jean testified for Staff; DNR witnesses Jackie Johnson, Environmental Program Specialist, and Dalton Young, Public Drinking Water Unit Chief for Central Field Operations, also testified for Staff; and Blevins again testified on his own behalf.

Staff filed a list of issues prior to the complaint evidentiary hearing containing seven issues for Commission determination in this complaint:

1. Is Blevins operating as a water corporation pursuant to Section 386.020(59), RSMo, and a public utility pursuant to Section 386.020(43), RSMo?
2. Is Blevins engaging in the unlawful provision of water services to the public for gain, without certification or other authority from the Commission in violation of Section 393.170.2, RSMo?
3. Should Blevins be ordered to file an application with the Commission requesting a certificate of convenience and necessity (CCN) as a water corporation and be regulated as a public utility?
4. Is Blevins engaging in utility service in such a manner as to endanger public health in violation of Section 393.130.1, RSMo?
5. Is Blevins subject to penalties as provided by Section 386.570, RSMo, for violations of chapter 393, RSMo?
6. Should Blevins be ordered to submit all of the wells he owns to inspection by the DNR and make such necessary and desirable improvements to each and every well operation and system DNR recommends in order to safeguard the public health and safety and to maintain and operate the water systems in such a manner as to promote and safeguard the health and safety of its customers and the public, pursuant to Section 386.310, RSMo?
7. Should the Commission authorize its General Counsel to commence an action or proceeding in Circuit Court, pursuant to Section 386.360, RSMo, for the purpose of having violations of Chapter 393, RSMo, stopped and prevented either by mandamus or injunctions?

Consolidation

Commission Rule 20 CSR 4240-2.110(3) permits the Commission to consolidate cases that involve related questions of law or fact. Staff's complaint and its subsequent request for a receiver involve the same parties and have similar facts and questions of law. Both cases require that the Commission determine its jurisdiction over Blevins. Blevins is not currently a Commission regulated entity and the Commission must determine if he should be subject to regulation as a water corporation as defined by Missouri law. The Commission must determine if Blevins is acting as a public water utility. Further, if the Commission finds Blevins is acting as a public water utility, both cases

require that the Commission determine whether Blevins is providing safe and adequate service.

The facts in these cases are largely the same and much of Staff's evidence from the receivership evidentiary hearing was also admitted into evidence in the complaint evidentiary hearing. At the complaint evidentiary hearing the Commission took official notice of DNR witness Sebastian Clos-Versailles' testimony from the receivership hearing and took official notice of Staff's *Petition to Appoint an Interim Receiver*. The Commission also took official notice of Staff's recommendation in File No. WA-2023-0418, which was Blevins' request for a CCN. A regulated utility needs authority from the Commission to lawfully operate in Missouri, the Commission grants a CCN to provide that authority to a regulated utility. The Commission also admitted the testimony of DNR witness Johnson and Staff witnesses Gateley and Stamp. Blevins' testimony from the receivership evidentiary hearing was also admitted into evidence at the complaint hearing. Many of the other exhibits admitted into evidence in the receivership evidentiary hearing were also admitted into evidence at the complaint evidentiary hearing.

The Commission issued an order on July 3, 2024, giving the parties until July 17, 2024, to make any objections to the Commission consolidating File No. WO-2024-0036 into File No. WC-2023-0353. No party filed an objection to consolidating these files and the Commission issued its order consolidating these files under File No. WC-2023-0353 on August 8, 2024.

Confidential Information

Customer specific information is confidential under Commission Rule 20 CSR 4240-2.135(2); however, the Commission may waive this provision under Commission

Rule 20 CSR 4240-2.135(19) for good cause. Good cause exists to waive confidentiality as to water well ownership by landowner customers of Blevins because the Commission would be unable to write findings of fact or a decision that did not use some customer specific information, and because Blevins waived the confidentiality of relevant information at the evidentiary hearing. The confidential information disclosed in this Report and Order is the minimal amount necessary to support the Commission's decision.

II. Findings of Fact and Conclusions of Law³

The Commission, having considered the competent and substantial evidence upon the whole record, makes the following findings of fact and conclusions of law. The positions and the arguments of all of the parties have been considered by the Commission in making this decision. Any failure to specifically address a piece of evidence, position, or argument of any party does not indicate that the Commission did not consider relevant evidence, but indicates rather that omitted material is not dispositive of this decision. Any finding of fact where it appears the Commission has made a determination between conflicting evidence indicates the Commission attributed greater weight to that evidence, and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.

³ Findings of fact and conclusions of law are cumulative. Whether Blevins is subject to the Commission's jurisdiction, whether he is operating a public utility without Commission authority, and whether he is providing safe and adequate service are issues for determination in both the complaint and receivership.

Staff's Complaint Findings of Fact:⁴

1. Staff is a party in all Commission investigations, contested cases and other proceedings, unless it files a notice of its intention not to participate in the proceeding within the intervention deadline set by the Commission. Staff participated as a party in this matter.

2. Blevins acquired the wells because he thought that he could upgrade the wells and receive a regular cash flow in his retirement. Blevins is unsure if that is possible still given his age.⁵

3. At the time of the complaint hearing, Blevins believed he provided service to less than 60 customers between the three public water systems.⁶

4. Blevins has requested that his application for a CCN be withdrawn (File No. WA-2023-0418). Blevins stated that when he received 42 requests for information from Staff, that it was not possible for him to provide that information. Blevins does not believe that his systems are actually utility companies because they do not generate a profit, they do not have employees, and the systems are small.⁷

5. Blevins registered a Home Owners Association (HOA) with Missouri Secretary of State's Office for each of the three water systems, but has not provided information about bylaws or membership to DNR.⁸ The Tigger Water Well HOA is not one

⁴ All citations to the transcript under the Staff's Complaint Findings of Fact heading are to the File No. WC-2023-0353 transcripts Volume 2 and Volume 3. All citations to exhibits under the Staff's Complaint Findings of Fact heading are to exhibits admitted in File No. WC-2023-0353. References to the evidentiary hearing under the Staff's Complaint Findings of Fact heading are to the evidentiary hearing in File No. WC-2023-0353 held on June 24-25, 2024.

⁵ Transcript Vol. 2, Pages 89-90.

⁶ Transcript Vol. 2, Pages 87-88.

⁷ Transcript Vol. 2, Pages 93-94.

⁸ Transcript Vol. 2, Page 235.

of the HOAs Blevins registered. That HOA is owned by the nine residences served by the Tigger #1 Well as discussed later in this order.

6. None of Blevins business entities (i.e. – The Outlaw’s Corral or Misty Water Works) is a registered entity with the Missouri Secretary of State’s Office.⁹

7. The Office of the Public Counsel “may represent and protect the interests of the public in any proceeding before or appeal from the public service commission.” Public Counsel “shall have discretion to represent or refrain from representing the public in any proceeding.” Public Counsel did not participate in the evidentiary hearing in this matter.

Providing Water for Gain

8. Blevins does not have contracts or agreements with all customers. Blevins estimates that he has written agreements to furnish water with 60-70 percent of his customers.¹⁰

9. Blevins testified that the water system is not profitable and that the cost of the improvements to the water wells “far exceeds” the water systems’ revenues. Blevins paid for most of the improvements himself.¹¹

10. Blevins admitted that he charged customers for the provision of water service from the wells he operates. Blevins stated that the current price he charges for water is \$55.00 per month for existing customers and \$60.00 for new customers. There is an additional charge of \$15.00 per month if the customer owns a pool. So, customers could be charged up to \$70.00 per month if they are an existing customer with a pool.¹²

⁹ Transcript Vol. 2, Page 234.

¹⁰ Transcript Vol. 2, Page 88.

¹¹ Transcript Vol. 2, Page 89.

¹² Transcript Vol. 3, Page 514.

The Water Systems

11. Blevins testified that he owned or controlled 24 water wells.¹³
12. Blevins testified that when he acquired the wells he knew they needed a lot of repair.¹⁴
13. Blevins testified that he acquired the wells from contractors.¹⁵ Blevins said that the wells were built by contractors, not to avoid regulation, but because there was no available water to the subdivisions where those contractors built homes.¹⁶
14. Blevins maintained the wells for the contractors before he owned or controlled them.¹⁷
15. Blevins testified that, in the past, there was never regular water testing for the wells except when they would be sold and the lender required a water test. Blevins stated that in those instances, “That’s when we usually always treat that a day or two before at least, and when they did the testing, then it was basically clear.”¹⁸
16. Blevins testified that he had made improvements to almost all of the wells.¹⁹
17. Blevins has deeds for some of the wells, but not others.²⁰
18. Staff identified 19 wells owned or managed by Blevins. Those wells are identified by name, the number of connections, the location, whether it is a DNR designated Public Water Supply subject to DNR regulation, and owner in the following chart:²¹

¹³ Transcript Vol. 3, Page 497.

¹⁴ Transcript Vol. 3, Page 497.

¹⁵ Transcript Vol. 3, Page 497.

¹⁶ Transcript Vol. 3, Page 498.

¹⁷ Transcript Vol. 3, Page 500.

¹⁸ Transcript Vol. 3, Page 499.

¹⁹ Transcript Vol. 3, Page 505.

²⁰ Transcript Vol. 3, Page 507.

²¹ Staff Recommendation, File No. WA-2023-0418, Filed August 15, 2023.

Well	Connections	Location	DNR PWS	Owner
MW01 (Tigger #1)	10	St. Robert	Misty Mountain	Unknown, Nathan Sampson is the Landowner
MW02 (Trisha)	4	St. Robert	Misty Mountain	Ronald Blevins
MW03 (Taylor)	6	St. Robert	Misty Mountain	Ave Maris Stella LLC
MW04 (Tigger #2)	5	St. Robert	Misty Mountain	HOME LLC
MW05 (Topo)	5	St. Robert	Misty Mountain	Unknown, Jeff Boyd is landowner
MW06 (Rustler)	9	Richland	No	Unknown
MW07 (Rolling Hills)	10	Richland	Rolling Hills	HOME LLC
MW09 (Carthage)	3	Dixon	No	Unknown, Nicolas Perez is landowner
MW12 (Chicago)	3	Dixon	No	Mahurin Charity
MW13 (Corvair)	3	Dixon	No	Kevin Rowden
MW15 (Charity PP #1)	4	Dixon	Charity	Unknown, Mark and Tina Rowden landowners
MW16 (Charity PP #2)	8	Dixon	Charity	HOME LLC
MW17 (Charity #1)	4	Dixon	Charity	Unknown, Brendon Brewer is landowner
MW18 (Charity #2)	10	Dixon	Charity	Leon T. Blevins and Patricia Blevins
MW19-20 (Corvair #2-3)	6	Dixon	No	Unknown
MW21 (Ridge)	2	Waynesville	No	Leon T. Blevins and Patricia Blevins
MW22 (Rowden #1)	3	Waynesville	No	Mark and Jeanie Rowden
MW23 (Rowden #2)	2	Waynesville	No	Mark and Jeanie Rowden
MW24 (Rowden #3)	4	Waynesville	No	Mark and Jeanie Rowden

19. At the complaint evidentiary hearing Blevins testified as to the status of 24 wells operated at one time as shown in the following chart:²²

Well	DNR PWS	Owner
MW01 (Tigger #1)	Misty Mountain	Tigger Water Well HOA
MW02 (Trisha)	Misty Mountain	Sold to landowner (Jack)
MW03 (Taylor)	Misty Mountain	Deed was mailed back to Blevins after sale
MW04 (Tigger #2)	Misty Mountain	Blevins owns, lacking legal description of property
MW05 (Topo)	Misty Mountain	Blevins believes the landowner owns the well. The landowner is Jeff Boyd.
MW06 (Rejoice)	No	Blevins says the owner sold it to LD Property Management a couple of months ago, of which Blevins says he is a part owner.

²² Transcript Vol. 3, Pages 577-591.

		Blevins says that HOME LLC services the wells and collects the money therefrom. ²³
MW07 (Rustler)	Rolling Hills	HOME LLC (Blevins says they will provide the deed to him upon request).
MW08		Blevins sold this well 1 ½ - 2 years earlier to the property owner (Serves 4 homes).
MW09 (Carthage)	No	Blevins says he owns, but does not believe he has a deed. Later Blevins said this was sold to Amanda Rector.
MW10		Sold to property owner.
MW11		Sold to property owner.
MW12 (Chicago)	No	Sold to property owner.
MW13 (Corvair)	No	Sold to Amanda Rector, then to the current property owner.
MW14		Blevins says this was sold a long time ago and is more of a hole in the ground than a well.
MW15 (Charity PP #1)	Charity	Unknown, Mark and Tina Rowden landowners
MW16 (Charity PP #2)	Charity	HOME LLC (Blevins says they will provide the deed to him upon request).
MW17 (Charity #1)	Charity	Blevins says he has deed.
MW18 (Charity #2)	Charity	Leon T. Blevins and Patricia Blevins
MW19-20 (Corvair #2-3)	No	Sold to Amanda Rector.
MW21 (Ridge)	No	Sold to Amanda Rector.
MW22 (Rowden #1)	No	Sold to Amanda Rector.
MW23 (Rowden #2)	No	Sold to Amanda Rector.
MW24 (Rowden #3)	No	Sold to Amanda Rector.

20. Blevins testified that some of his wells that were sold to Amanda Rector (see chart above) did not involve the transfer of a deed as of yet. He says there is the contract for a deed, and that he took a note as down payment. Blevins says he sold these wells to Amanda Rector cheaply for \$6,000 each. Blevins says that he retained the right to sell those wells to somebody else. Blevins helps Amanda Rector manage those wells.²⁴

21. Pulaski County records show Blevins as the owner of the Taylor Well.²⁵

22. At the complaint evidentiary hearing Blevins informed the Commission that he had sold the Taylor Well for \$12,000. Blevins said that he spent \$12,000 to repair the well site and replaced the pump twice at a cost of \$7,000 to \$8,000 each time.²⁶ Blevins

²³ Transcript Vol. 3, Page 596.

²⁴ Transcript Vol. 3, Pages 592-593.

²⁵ Transcript Vol. 2, Page 159.

²⁶ Transcript Vol. 3, Page 509.

said that after the sale the deed to the Taylor Well was mailed back to him with no explanation.²⁷

23. Blevins estimates that it would cost \$50,000 to replace the Charity Well that DNR was requiring him to plug.²⁸ Blevins strongly opposes having to plug that well. He testified that he submitted information to DNR along with the cost to repair the Charity Well.²⁹

24. Misty Mountain, Charity, and Rolling Hills water systems are regulated by DNR as public water supplies.³⁰

25. The Rolling Hills, Charity, and Misty Mountain water systems were built to domestic or multi-family standards. Because they were not built to the proper DNR standards for a public water supply system they are noncompliant systems.³¹

26. Because Blevins' systems are noncompliant they will be subject to additional requirements from DNR, such as not being allowed to add additional connections in the future.³²

Operating a Water Utility

27. Curtis Gateley (Gateley) is employed by Staff as the Regulatory Compliance Manager of the Water, Sewer, and Steam Department. He supervised a team of engineers, analysts and operators. His department investigates complaints. He supervises Adam Stamp.³³

²⁷ Transcript Vol. 3, Page 515.

²⁸ Transcript Vol. 3, Page 516.

²⁹ Transcript Vol. 3, Page 517.

³⁰ Transcript Vol. 2, Page 231.

³¹ Transcript Vol. 2, Page 239.

³² Transcript Vol. 2, Pages 239-240.

³³ Transcript Vol. 3, Pages 341-342.

28. Adam Stamp (Stamp) is employed by Staff as an analyst. Stamp stated that Gateley typically used him as an inspector or field investigator. One of Stamp's duties is to investigate complaints.³⁴

29. Stamp received paperwork from Blevins' customers showing that Blevins was charging for water service. Blevins charged a monthly fee, and customers typically paid in advance. Not all customers were paying the same rate for water service.³⁵

30. Staff received seven complaints from Blevins' customers. The complaints mostly concerned rate increases and skepticism as to whether Blevins owned the wells providing their water service.³⁶

31. Stamp accurately summarized this case when he noted that Blevins willingly put himself in a situation where he was responsible for providing water service to many of his neighbors and was charging them for the responsibility. They were paying him and for reasons, some of which he could control and some he could not, that service was not safe, reliable or adequate.³⁷

32. In December of 2022, DNR contacted Staff with concerns that Blevins was operating a utility company without a CCN.³⁸

33. In the Spring of 2023 Staff met with Blevins. After meeting with Blevins, Staff determined that a case should be filed rapidly to address Blevins' water systems because of the lack of safe and adequate service, and because Blevins was charging money for water service.³⁹

³⁴ Transcript Vol. 3, Page 419.

³⁵ Transcript Vol. 3, Page 422.

³⁶ Transcript Vol. 3, Page 426.

³⁷ Transcript Vol. 3, Page 421.

³⁸ Transcript Vol. 3, Pages 342-343.

³⁹ Transcript Vol. 3, Pages 343-344.

34. On June 13, 2023, Blevins filed an application for a CCN in File No. WA-2023-0418.⁴⁰

35. Staff's recommendation was that the Commission not grant a CCN.⁴¹

36. Gateley testified that Staff's reasons for not recommending the Commission grant a CCN were because Blevins lacks the infrastructure to comply with the Commission's customer service rules, Blevins does not appear to have the financial means to operate a water company, Blevins was not fixing problems that needed to be fixed, and there was nothing to suggest that Blevins would be able to provide safe and adequate service.⁴²

37. At the complaint evidentiary hearing Blevins stated that it was the first time he had seen Staff's recommendation that the Commission not grant him a CCN.⁴³ Blevins said: "I don't -- the CCN, I can't meet those requirements with -- it's not a utility company."⁴⁴ Blevins later testified that he could not be a utility company because there is not enough income.⁴⁵

38. If Blevins is acting as a water corporation and charging for service, then he would be subject to Commission regulation, including compliance with the Commission's safety standards, regardless of whether Blevins water systems were too small to be regulated by DNR.⁴⁶ Even if Blevins organized his DNR Public Water Supply systems

⁴⁰ Transcript Vol. 3, Page 349.

⁴¹ Transcript Vol. 3, Page 349.

⁴² Transcript Vol. 3, Page 350.

⁴³ On October 12, 2023, the Commission ordered its Data Center to mail all documents to Blevins in all three of his active Commission cases. *Staff Recommendation* was one of the documents mailed to Blevins. The Commission took official notice of *Staff Recommendation* in File No. WA-2023-0418 at the complaint evidentiary hearing.

⁴⁴ Transcript Vol. 3, Page 352.

⁴⁵ Transcript Vol. 3, Page 549.

⁴⁶ Transcript Vol. 3, Page 361.

under non-profit HOAs, he might still be regulated by the Commission for other non DNR wells he owns (if he is charging for water service).⁴⁷

Certified System Operator

39. DNR requires that the Rolling Hills, Charity, and Misty Mountain water systems have a certified operator.⁴⁸

40. Lori Jean (Jean) is a certified operator for public water systems in Missouri. She is currently the system operator for 17 water systems located in southern Missouri.⁴⁹ She has been a certified system operator for 21 years.⁵⁰

41. The system operator assists the water system owner or operator stay in compliance with DNR regulations.⁵¹

42. Jean was previously the system operator for three of Blevins' water systems. She was the system operator for the Rolling Hills, Charity, and Misty Mountain systems.⁵²

43. Jean first talked to Blevins in August 2022 and took her first water sample for Blevins in September 2022.⁵³ She stopped working for Blevins on March 3, 2024.⁵⁴

44. As of the evidentiary hearing in the complaint case, Jean had not yet been paid for her last month of work despite having sent Blevins multiple invoices.⁵⁵

⁴⁷ Transcript Vol. 3, Page 416.

⁴⁸ Transcript Vol. 2, Pages 236-237.

⁴⁹ Transcript Vol. 2, Page 186.

⁵⁰ Transcript Vol. 2, Page 187.

⁵¹ Transcript Vol. 2, Page 189.

⁵² Transcript Vol. 2, Page 186, and Exhibit 7.

⁵³ Transcript Vol. 2, Page 190.

⁵⁴ Transcript Vol. 2, Page 186.

⁵⁵ Transcript Vol. 2, Pages 212-213.

45. When Jean started working for Blevins, the Topo Well was under a boil order and “was a mess.” She credibly testified that shocking the well with chlorine was not successful in addressing the E. coli problem.⁵⁶

46. Jean credibly testified that the Charity well was never in operation while she was employed by Blevins.⁵⁷

47. When Jean first started working for Blevins she thought that a DNR employee was being very hard on Blevins. However, she believed that Blevins did not see people being without water as being an urgent situation.⁵⁸ Blevins started receiving more assistance from DNR after the DNR employee who was hard on him left the DNR Central Field Office during the summer of 2023.⁵⁹

48. Jean testified that if Blevins did work on the water systems he did not inform her. Blevins would inform her only when there was a problem with a water system and he was already working on it.⁶⁰

49. Jean spoke to Blevins several times about needing to inform her anytime there was anything wrong with the wells. She testified that she did not think there was ever a time that Blevins contacted her the same day that there was an incident with his water systems. Blevins always contacted her two or more days later.⁶¹

50. DNR regulations require water systems to have a backup plan for if the system loses its certified operator.⁶²

⁵⁶ Transcript Vol. 2, Pages 219-220.

⁵⁷ Transcript Vol. 2, Page 210.

⁵⁸ Transcript Vol. 2, Pages 205-206.

⁵⁹ Transcript Vol. 2, Pages 215-216.

⁶⁰ Transcript Vol. 2, Pages 199-200.

⁶¹ Transcript Vol. 2, Pages 201-202.

⁶² Transcript Vol. 2, Page 282.

51. Blevins has been trying to find a new system operator for his systems, but has found it difficult to find a system operator who works in Pulaski County, Missouri.⁶³

52. Blevins' current plan is to take the classes to get a DS-1 certification so he could be the system operator for his water systems.⁶⁴

Water Quality and Safety

53. Jackie Johnson (Johnson) is an Environmental Program Specialist with DNR. She provides compliance assistance to water systems that have been referred to DNR enforcement and compliance assistance to water systems with various violations.⁶⁵

54. Dalton Young (Young) is Public Drinking Water Unit Chief for Central Field Operations for DNR. He supervises three inspectors and an engineer who conduct inspections of public water supplies in the nine counties of central Missouri. Among other things, Young's unit does compliance inspections, compliance assistance, and provides technical assistance.⁶⁶

55. Johnson was the case manager for Blevins' water systems. She drafted the administrative order for Misty Mountain, the administrative order on consent for Rolling Hills, and the revised proposed versions of the administrative order on consent for Charity.⁶⁷

56. Initial DNR water samples from the Misty Mountain system tested positive for E. coli. Action was not being taken to return the system to compliance and it was referred to DNR enforcement faster than a normal water system. Because the Charity

⁶³ Transcript Vol. 2, Page 92.

⁶⁴ Transcript Vol. 2, Page 92.

⁶⁵ Transcript Vol. 2, Page 224.

⁶⁶ Transcript Vol. 2, Pages 306-307.

⁶⁷ Transcript Vol. 2, Page 225.

and Rolling Hills systems had already been identified as noncompliant, Blevins systems went directly to enforcement rather than going through compliance assistance.⁶⁸

57. DNR has two main options for formal enforcement:

1) An administrative order on consent (AOC) – An AOC is a negotiated agreement between DNR and the system to take certain actions with deadlines. The AOC may have an administrative penalty if there were violations.

2) An administrative order (AO) is a unilateral order issued by DNR. DNR issues an AO if a system won't reach an agreement with DNR, if DNR does not believe the AOC process is going to be successful, or if there is an urgent health risk.⁶⁹

58. At the October evidentiary hearing in the receivership proceeding, File No. WO-2024-0036, Johnson testified that she was working on an AOC for the Misty Mountain system. However, DNR determined that instead of extending the negotiation process it would issue an AO.⁷⁰

59. DNR issued an AO for Misty Mountain because there was a lack of action to return the water system to compliance by determining the cause of the E. coli, the boil order had been ongoing for months, and an AO is a faster process than a typical AOC.⁷¹

60. The Rolling Hills and Misty Mountain systems are already subject to DNR orders, but the negotiation process for the Charity system was extended and so there is no currently effective DNR order for the Charity system.⁷²

61. Johnson credibly testified that Blevins missed a lot of deadlines for the completion of DNR required actions.⁷³

⁶⁸ Transcript Vol. 2, Page 228.

⁶⁹ Transcript Vol. 2, Page 229.

⁷⁰ Transcript Vol. 2, Pages 296-297.

⁷¹ Transcript Vol. 2, Page 230.

⁷² Transcript Vol. 2, Page 144, and Exhibit 8.

⁷³ Transcript Vol. 2, Page 290.

62. As of the evidentiary hearing in the complaint case Blevins had not paid the DNR administrative penalty; he had not plugged the Topo Well; he had not submitted technical, managerial and financial capability documentation; he had not registered the continuing operating authority with the Missouri Secretary of State's Office; and he had not paid past due laboratory fees.⁷⁴

63. Young testified that when DNR received concerns from residents in the area, his main job was to go down and investigate those concerns. He would take a water sample, look at a well, or contact Jean about the compliance issue. Young said that he talked to Blevins a few times, but mainly spoke to him by phone because he was fairly responsive.⁷⁵

64. Blevins resolved the issues and deficiencies from the 2023 official DNR report, but was still out of compliance with DNR for not taking bacteriological samples from all three systems, not having a certified operator, and failing to correct the Level 2 assessment from December of 2022 concerning the E. coli issues at the Topo Well.⁷⁶

65. Total coliform is a pocket of bacteria that can house E. coli. Total coliform may contain E. coli or may not, but E. coli is not generally present without total coliform. Young stated that it was very rare that E. coli would be present by itself.⁷⁷

66. Gateley testified that the presence of E. coli was an indicator that there are probably other pathogens in the water like giardia and cryptosporidium, which are harder

⁷⁴ Transcript Vol. 2, Pages 248-249.

⁷⁵ Transcript Vol. 2, Page 309.

⁷⁶ Transcript Vol. 2, Pages 310-311.

⁷⁷ Transcript Vol. 2, Page 319.

to test for. Gateley credibly testified that Staff had significant concerns that people may get sick.⁷⁸

67. Two weeks prior to the evidentiary hearing on Staff's complaint, Young took a noncompliant water sample (a noncompliant sample does not go in the record of the water system) based upon a resident's concern. That sample tested positive for total coliform. Even though the Topo Well collapsed, it is still interconnected to Pulaski County Water Supply No. 2 presenting a danger of cross-contamination until the Topo Well is plugged.⁷⁹

68. Young testified that for the Charity and Rolling Hills waters systems there were not significant concerns, but of the 85-90 compliance water samples since August of 2022 for the Misty Mountain system, 55 of those were total coliform positive and 35 of those were E. coli positive.⁸⁰

69. Young credibly testified that it was extremely uncommon for 35 water samples to come back positive for E. coli.⁸¹ Those samples were not concentrated, but took place over time. Young said the positive E. coli water samples for the Misty Mountain system were "pretty constant."⁸²

70. There has not been E. coli present in water samples from the Charity or Rolling Hills water systems.⁸³

⁷⁸ Transcript Vol. 3, Page 358.

⁷⁹ Transcript Vol. 2, Pages 311-313.

⁸⁰ Transcript Vol. 2, Page 318.

⁸¹ Transcript Vol. 2, Page 319.

⁸² Transcript Vol. 2, Page 321.

⁸³ Transcript Vol. 2, Page 321.

71. DNR has concerns now that the Taylor Well is providing water to residents because there is no water sampling history for bacteria or chemicals. So, DNR does not know the quality of the water being provided to residents from the Taylor Well.⁸⁴

72. Blevins took water samples from the Taylor Well to the county health department that tested negative for any bacteria, but those samples do not count for DNR purposes.⁸⁵

73. DNR requires that routine bacterial samples be collected monthly.⁸⁶

74. Blevins is not in compliance with DNR regulations because no routine bacterial samples have been provided to DNR for the Rolling Hills, Charity, and Misty Mountain water systems for March, April, or May of 2024. There was an additional DNR violation for not having enough samples collected for the Misty Mountain System in February 2024.⁸⁷

75. Blevins does not need a certified system operator to collect and submit routine bacterial samples to DNR.⁸⁸ However, routine bacterial water samples do have to be collected and sent to DNR and not to the county health department.

76. DNR does not have many rules associated with adequacy of service. Simple outages of service are not regulated by DNR. If a boil advisory was necessary then DNR would regulate, but a well being turned off does not necessarily require a boil advisory.⁸⁹

⁸⁴ Transcript Vol. 2, Pages 222-223.

⁸⁵ Transcript Vol. 2, Page 223.

⁸⁶ Transcript Vol. 2, Page 189.

⁸⁷ Transcript Vol. 2, Page 237.

⁸⁸ Transcript Vol. 2, Page 238.

⁸⁹ Transcript Vol. 3, Pages 369-370.

Customer Experience

77. Jeff Grube (Grube) is a former customer of Blevins. He has resided in St. Robert, Missouri since 2014.⁹⁰ Grube lives in the Misty Mountain subdivision approximately 300 yards down the road from Blevins. Blevins has provided his water service since 2016.⁹¹

78. Prior to 2016, Jim Parsons owned the well that Grube received water from and Don Baker with Baker Construction ran the water well. Grube paid a flat fee of \$30 monthly up until 2016.⁹² Grube made payments for his water service at the Baker Construction building in St. Robert, Missouri. He would receive a receipt when he made payment.⁹³

79. In September 2016, Grube received a letter from Blevins indicating that Blevins would be his provider for water service and that payment was to be made directly to Blevins. Grube has never signed a contract or service agreement with Blevins.⁹⁴

80. Grube has never received a water bill unless payment was past due. Then he received notice from Blevins that his water service would be shut off unless payment was received.⁹⁵

81. Prior to Blevins, when Grube had a water issue he could call Jim Parsons or Baker Construction and they would respond quickly and kept Grube informed as to what was going on with the water service. Jim Parsons performed all maintenance on the

⁹⁰ Transcript Vol. 2, Page 98.

⁹¹ Transcript Vol. 2, Page 99.

⁹² Transcript Vol. 2, Pages 99-100.

⁹³ Transcript Vol. 2, Page 103.

⁹⁴ Transcript Vol. 2, Page 100.

⁹⁵ Transcript Vol. 2, Page 100.

well and the well house was maintained. Grube testified that, to that point, he had no issues with his water service.⁹⁶

82. After Blevins took over operation of the water systems Grube would receive notices concerning his water service. Those notices would be under the names of different business entities that Blevins operated.⁹⁷

83. Grube also noticed a lack of maintenance outside the well house. Grube stated that there was pile of trash outside the well house and that it became an eyesore in his community.⁹⁸

84. Grube stated that it just continued to go downhill with service interruptions and Grube became upset over the lack of response by Blevins to those service interruptions.⁹⁹

85. Grube testified that problems with his water service started in 2017, and became significantly worse in 2019.¹⁰⁰

86. Grube's water pressure fluctuated. The water pressure got as high as 110 or 115 PSI, and at other times the water would run slow depending on how many people were using water at the time.¹⁰¹

87. Grube testified that he could tell when DNR was coming out to inspect the well because the water would smell like bleach and he would have to run his garden hose until the bleach smell would disappear.¹⁰²

⁹⁶ Transcript Vol. 2, Page 101.

⁹⁷ Transcript Vol. 2, Page 101.

⁹⁸ Transcript Vol. 2, Pages 101-102.

⁹⁹ Transcript Vol. 2, Page 102.

¹⁰⁰ Transcript Vol. 2, Pages 117-118.

¹⁰¹ Transcript Vol. 2, Page 183.

¹⁰² Transcript Vol. 2, Page 184.

88. In July of 2019, Grube's water service ceased when the Taylor Well water pump failed. Grube went to the well house and turned the water back on, but Blevins called him and told him to shut the water back off because Blevins was trying to fix the Taylor Well pump failure by tying those customers to the Tigger 1 Well that served Grube. Grube was without water for three or four days. Blevins replaced the pump in the Taylor Well by cutting a hole in the well house roof, which was not repaired even though Grube gave Blevins metal to replace the well house roof.¹⁰³

89. A Notice of Identified Water Leak dated March 20, 2024, from the Tigger Water Well HOA informed Blevins that a leak was located in the water line serving the Taylor Well customers connected to the Tigger 1 Well.¹⁰⁴

90. A letter dated May 22, 2024, from the Tigger Water Well HOA informed Blevins that water service to the Taylor Well customers that were being served by the Tigger 1 Well would be shut off on June 5, 2024.¹⁰⁵

91. Water service to the Taylor Well customers being served by the Tigger 1 Well was shut off on June 6, 2024.¹⁰⁶

92. The residences originally served by the Taylor Well were provided water service from the Tigger 1 Well for four years.¹⁰⁷

93. Grube experienced outages three to four times a year.¹⁰⁸ At least two or three times every winter Grube would have to place a heater in the well house so that the

¹⁰³ Transcript Vol. 2, Pages 118-119.

¹⁰⁴ Exhibit 6.

¹⁰⁵ Exhibit 6.

¹⁰⁶ Transcript Vol. 2, Page 157.

¹⁰⁷ Transcript Vol. 2, Page 132.

¹⁰⁸ Transcript Vol. 2, Page 183.

water did not freeze.¹⁰⁹ Grube sprayed foam under the well house door to try to further insulate the well house.¹¹⁰

94. Grube credibly testified that he would try to write a check to Blevins for water service but could not make the check payable to the entity Blevins was operating under. Checks were payable directly to Blevins. Additionally, payment could not be placed in Blevins mailbox, because it could be stolen. Grube testified that payment had to be hand delivered to Blevins and that he never received a receipt from Blevins.¹¹¹ Later Blevins provided a P.O. Box for customers to send payment.¹¹²

95. Grube generally paid for his water service by paying upfront for six to twelve months. After receiving a notice from Misty Water Works that he was past due on payment for his water service on January 9, 2020, Grube had to provide a canceled check to prove that he had paid for his water service. Grube ceased paying a year in advance after receiving the past due notice.¹¹³

96. Grube received notice from Blevins and Misty Water Works on September 5, 2019, that as of September 1, 2019, all payments are to be payable to Travis Blevins and were to be mailed to a P.O. Box in St. Robert, Missouri.¹¹⁴

97. Grube received notice from Misty Water Works on January 9, 2020, that the rates for water service were increasing to \$45.00 a month.¹¹⁵ Grube stated that Blevins provided no calculation explaining the need for the increase, but that DNR and

¹⁰⁹ Transcript Vol. 2, Page 113.

¹¹⁰ Transcript Vol. 2, Page 183.

¹¹¹ Transcript Vol. 2, Pages 102-103.

¹¹² Transcript Vol. 2, Page 113.

¹¹³ Transcript Vol. 2, Pages 104-105, and Exhibit 1.

¹¹⁴ Exhibit 3.

¹¹⁵ Exhibit 1.

Commission involvement were costing him \$1,000 a month and so rates had to increase.¹¹⁶

98. On December 17, 2021, Grube received a letter from Blevins on The Outlaw's Corral letterhead. The letter informed Grube that an attached notice from Misty Water Works was being provided for Grube's reference. The attached notice, dated June 29, 2021, contained changes to fees and rates for early and late payment of water service.¹¹⁷

99. On November 15, 2022, Grube received another letter on The Outlaw's Corral letterhead. That letter informed Grube that the water well that provided water service to Grube's residence had been activated by DNR as a public water supply. The letter noted additional requirements and expenses that Blevins was incurring. The letter informed Grube that the flat fee for water service would be increasing to \$55.00 per month.¹¹⁸

100. Both Misty Water Works and The Outlaw's Corral are located in St. Robert, Missouri, which is in Pulaski County, Missouri.¹¹⁹

101. Grube testified that he frequently received letters from Blevins about his water service.¹²⁰

102. Neither Misty Water Works or The Outlaw's Corral is a registered business entity with the Missouri Secretary of State.¹²¹

¹¹⁶ Transcript Vol 2, Page 106.

¹¹⁷ Exhibit 2.

¹¹⁸ Exhibit 3.

¹¹⁹ Exhibits 1 and 2.

¹²⁰ Transcript Vol. 2, Page 111.

¹²¹ Transcript Vol. 2, Page 234.

103. In January of 2024 Grube discovered that Blevins did not own the Tigger 1 Well he was receiving water from. Grube's neighbor owned that well.¹²²

104. A service agreement existed between Don Baker and the previous owner of the property to provide water. That agreement expired in 2014.¹²³

105. Grube filed a complaint concerning his water service with Blevins in 2022.¹²⁴

106. Ten residences were served by the Tigger 1 Well, including Blevins. After Grube and his neighbors discovered that Blevins did not own the well, nine of the residences served by the Tigger 1 Well agreed to form an HOA to operate the well.¹²⁵ That HOA is called the Tigger Water Well HOA.¹²⁶

107. A Water Shut Off Notice dated March 12, 2024, from the Tigger Water Well HOA informed Blevins that water service to the Taylor Well customers that were being served by the Tigger 1 Well would be disconnected from the Tigger 1 Well on March 22, 2024.¹²⁷

108. The Tigger Water Well HOA also hired Jean to be their certified system operator.¹²⁸

109. Jean was employed by Tigger Water Well HOA for less than a month because Tigger Water Well HOA was not a DNR certified system.¹²⁹ DNR does not require Tigger Water Well HOA to have a system operator.¹³⁰

¹²² Transcript Vol. 2, Page 116.

¹²³ Transcript Vol. 2, Page 117.

¹²⁴ Transcript Vol. 2, Pages 119-120.

¹²⁵ Transcript Vol 2, Page 123.

¹²⁶ Transcript Vol. 2, Page 128.

¹²⁷ Exhibit 6.

¹²⁸ Transcript Vol. 2, Page 146.

¹²⁹ Transcript Vol. 2, Page 187.

¹³⁰ Transcript Vol. 2, Page 148.

Staff's Petition for a Receiver Findings of Fact:¹³¹

110. Staff is a party in all Commission investigations, contested cases and other proceedings, unless it files a notice of its intention not to participate in the proceeding within the intervention deadline set by the Commission. Staff brought this case petitioning for an interim receiver and for an order directing the general counsel to petition the circuit court to appoint a Receiver for Misty Water Works.

111. Blevins retired from the military. Both he and his wife have a lot of medical problems.

112. Blevins testified that he owns the wells that are part of the water systems he operates in three ways:

1) Deed.

2) Contract of sale (where there is a problem with the legal description of a well or a discrepancy in the easement).

3) Some of Blevins' wells have no written ownership documents and were done by handshake.

Jurisdiction

113. Blevins has not been issued a CCN from the Commission and is not currently regulated by the Commission.¹³²

114. The first well sites Blevins acquired were from Don Baker.¹³³

¹³¹ All citations to the transcript under the Staff's Petition for a Receiver Findings of Fact heading are to the File No. WO-2024-0036 transcripts Volume 2 and Volume 3. All citations to exhibits under the Staff's Petition for a Receiver Findings of Fact heading are to exhibits admitted in File No. WO-2024-0036. References to the evidentiary hearing under the Staff's Petition for a Receiver Findings of Fact heading are to the evidentiary hearing in File No. WO-2024-0036 held on October 25-26, 2023.

¹³² Transcript Vol. 2, Page 59.

¹³³ Transcript Vol. 3, Page 52

115. Blevins acquired the wells to create something (an asset) that could be returned (sold or provide income) to him and his wife on their retirement.¹³⁴

116. Blevins had a total of 24 wells at one point, but stated at the receivership evidentiary hearing that he had eight wells left that make up the three DNR public water supplies.¹³⁵

117. Blevins' three DNR public water systems are located in Pulaski County, Missouri. The Charity system is near Dixon Missouri; the Misty Mountain System is near St. Robert, Missouri; and the Rolling Hill system is located near Richland, Missouri.

118. When the contractors owned the wells the monthly charge for water was \$25 to \$30 per month. The current rate Blevins charges and contained in his agreements to furnish water is \$55. Blevins provides a discount if customers pay for multiple months at a time.¹³⁶

119. Blevins testified that he has never cut people's water off for non-payment. He also doesn't issue paper bills. He does send out notices for customers that are ten days overdue for payment.¹³⁷

120. Blevins says he had no real complaints about his water rates until DNR and Staff became involved with his systems.¹³⁸

The Water Systems

121. Blevins provided Staff with a list of 19 wells he was operating.¹³⁹

122. Each well serves five to ten connections.¹⁴⁰

¹³⁴ Transcript Vol. 3, Page 53.

¹³⁵ Transcript Vol. 3, Page 53.

¹³⁶ Transcript Vol. 3, Pages 58-59.

¹³⁷ Transcript Vol. 3, Page 67.

¹³⁸ Transcript Vol. 3, Page 59.

¹³⁹ Transcript Vol. 2, Page 116.

¹⁴⁰ Transcript Vol. 2, Page 130.

123. All of Blevins' DNR public water supply wells are classified as noncompliant wells.¹⁴¹ Noncompliant wells are not constructed to the proper standards for public water supply wells. In order for the water system to continue using noncompliant wells there must be a noncompliant well agreement acknowledging that the wells are noncompliant and containing some stipulations. A noncompliant well agreement in general will have some sampling requirements.¹⁴²

124. There are four wells on the Charity system.¹⁴³

125. There are five wells on the Misty Mountain system¹⁴⁴ (four after the Topo Well failure).

126. There were originally two wells on the Rolling Hills system serving 19 connections prior to one of the wells being sold.¹⁴⁵

127. DNR classifies a public water system as at least 15 connections or serving 25 customers a minimum of 60 days of the year.¹⁴⁶

128. Three of Blevins' water systems are considered public water systems under DNR regulations.¹⁴⁷ Those public water supply systems are the Charity system near Dixon, Missouri; the Misty Mountain system (Misty Water Works) near St. Robert, Missouri; and the Rolling Hill system near Richland, Missouri.¹⁴⁸

¹⁴¹ Transcript Vol. 2, Page 132-133.

¹⁴² Transcript Vol 2, Pages 212-213.

¹⁴³ Transcript Vol. 2, Page 117.

¹⁴⁴ Transcript Vol. 2, Page 130.

¹⁴⁵ Transcript Vol. 2, Page 130.

¹⁴⁶ Transcript Vol. 2, Page 127.

¹⁴⁷ Transcript Vol. 2, Page 26-27.

¹⁴⁸ Transcript Vol. 2, Page 27.

129. The DNR regulated systems primarily differ from Blevins' unregulated systems by size. The DNR regulated systems are larger than Blevins' other water systems.¹⁴⁹

130. DNR does not regulate some of Blevins' water systems, but the Commission's statutes do not address the size of the system. The Commission regulates water systems that are charging customers for the provision of water service.¹⁵⁰

131. Blevins' customers' only options for water service are either to get water from Blevins or dig their own well.¹⁵¹ Staff's investigation determined there were no other existing water sources. Staff reached out to local municipalities and it would be cost prohibitive for them to provide service to Blevins' customers due to topography and distance.¹⁵²

Safe and Adequate Service

132. Sebastian Clos-Versailles (Clos-Versailles) is a unit supervisor for DNR. During the time he was involved with Blevins' case Clos-Versailles was a supervisor overseeing a unit that did drinking water inspections of water systems in central Missouri, including Pulaski County. At that time he inspected public water systems and oversaw DNR staff who inspected public water systems to verify that they were in compliance with Missouri safe drinking water laws and regulations.¹⁵³

133. Clos-Versailles has been involved with Blevins and his water systems since March of 2022.¹⁵⁴

¹⁴⁹ Transcript Vol. 2, Page 27.

¹⁵⁰ Transcript Vol. 2, Pages 27-28.

¹⁵¹ Transcript Vol. 2, Page 123.

¹⁵² Transcript Vol. 3, Page 25.

¹⁵³ Transcript Vol. 2, Pages 125-126.

¹⁵⁴ Transcript Vol. 2, Page 126.

134. Johnson was an Environmental Program Specialist with DNR at the time of the complaint evidentiary hearing, but recently received a promotion. She works with water systems referred to DNR enforcement.¹⁵⁵ Referring to water systems, Johnson said that she sees the worst of the worst.¹⁵⁶

135. In March of 2022 DNR received customer complaints about some wells that Blevins potentially owned. Those customer complaints concerned the rates customers were being charged for water service and issues with total coliform bacteria and E. coli.¹⁵⁷

136. In the summer of 2022 DNR made the determination that three of Blevins water systems should be regulated by DNR.¹⁵⁸

137. When DNR regulates a water system, that system is required to monitor its wells and water quality for bacteria and chemicals.¹⁵⁹

138. Clos-Versailles testified that when they are performing inspections to verify that wells are providing safe and adequate water, one of the main things DNR looks at is whether there are openings in the water system itself that would allow bacteria to enter the well, storage tanks, or water lines.¹⁶⁰

139. The certified system operator should be the person making operational decisions for the water system. The certified system operator should be the person shocking the water system.¹⁶¹ Shocking a water system involves putting chlorine or bleach down the well to disinfect it.¹⁶² People can get sick or get chemical burns if there

¹⁵⁵ Transcript Vol. 2, Page 206.

¹⁵⁶ Transcript Vol. 2, Page 235.

¹⁵⁷ Transcript Vol. 2, Page 127.

¹⁵⁸ Transcript Vol. 2, Page 127.

¹⁵⁹ Transcript Vol 2, Page 129.

¹⁶⁰ Transcript Vol 2, Page 129.

¹⁶¹ Transcript Vol. 2, Page 138-139.

¹⁶² Transcript Vol. 2, Page 137.

is too much chlorine in the water and the customers are not notified.¹⁶³ One of the significant deficiency findings Clos-Versailles made was that Blevins was shocking the well with bleach without the certified system operator's knowledge.¹⁶⁴

140. While Clos-Versailles was conducting his inspection, a customer approached him and said that his house smelled like a swimming pool over the previous two days and during that time Blevins was working in the well house.¹⁶⁵

141. During an inspection DNR found chlorine in several samples that Clos-Versailles took. Jean was not aware that the system had been shocked.

142. Blevins denied shocking the wells without contacting Jean first.¹⁶⁶

143. Gateley is employed by Staff as Manager of the Water, Sewer, and Steam Department. He oversees staff who review and provide recommendations on applications and he also oversees staff who perform investigations and inspections.¹⁶⁷

144. Stamp is an analyst for Staff. He investigates consumer complaints, does site visits, and investigates water and sewer systems (both regulated and unregulated).¹⁶⁸

145. In December of 2022, DNR contacted Staff due to the failure of bacteria tests from the Topo Well, and because Blevins was charging for water service.¹⁶⁹ At approximately the same time Staff received several customer complaints about Blevins' water service and billing practices.¹⁷⁰

¹⁶³ Transcript Vol. 2, Pages 139-140.

¹⁶⁴ Transcript Vol. 2, Page 140.

¹⁶⁵ Transcript Vol. 2, Page 140.

¹⁶⁶ Transcript Vol. 3, Page 78.

¹⁶⁷ Transcript Vol. 3, Page 8.

¹⁶⁸ Transcript Vol. 2, Page 25.

¹⁶⁹ Transcript Vol. 2, Page 55.

¹⁷⁰ Transcript Vol. 2, Page 26.

146. Stamp spoke with Blevins, visited well sites and customers' homes, and examined customers' bills and other notices Blevins had sent them.¹⁷¹

147. Stamp looked at some of Blevins' records. Stamp credibly testified that he could not understand why Blevins was charging the rates he charged. The records that Blevins provided were handwritten and difficult to understand.¹⁷² The records Blevins provided Stamp were incomplete.¹⁷³ Later Stamp described Blevins' records as unorganized and not legible.¹⁷⁴

148. It was difficult for Staff to ascertain what wells Blevins owned or had easements for, which is problematic because he should not be charging customers for service from wells he does not have an easement for or own.¹⁷⁵

149. Stamp talked to approximately 25 of Blevins' customers. Those customers expressed discontent with Blevins' billing practices and quality of service. Customers complained of lines freezing in the winter, bacteria, and inconsistent billing because customers were paying different amounts for water service.¹⁷⁶

150. Staff held a public meeting on June 1, 2023, at the public hall in Waynesville, Missouri. Stamp testified that there were between 60 and 80 people in attendance, and there was a very high level of discontent among those in attendance.¹⁷⁷

151. DNR also attended that public meeting.¹⁷⁸

¹⁷¹ Transcript Vol 2, Page 34.

¹⁷² Transcript Vol. 2, Pages 63-63

¹⁷³ Transcript Vol. 2, Pages 64-65.

¹⁷⁴ Transcript Vol. 2, Page 118.

¹⁷⁵ Transcript Vol. 2, Page 64.

¹⁷⁶ Transcript Vol. 2, Page 35.

¹⁷⁷ Transcript Vol. 2, Pages 36-37.

¹⁷⁸ Transcript Vol. 2, Page 37.

152. Blevins' customers at the public meeting also expressed issues with water quality, service issues, lines freezing in winter, issues with how Blevins tried to fix service problems, and inconsistent billing.¹⁷⁹

153. Customer comments filed in File No. WC-2023-0353 were similar to concerns expressed at the public meeting.¹⁸⁰

154. Stamp testified that he was given access to a private social media group where neighbors talked about issues with the neighborhood including lots of traffic about their water service.¹⁸¹

155. Stamp visited 17 or 18 wells. Stamp believed that at the time he visited Blevins had 19 wells. Stamp testified that he made numerous visits, particularly in January and August of 2023.¹⁸²

156. Some of the wells were newer and better kept, but most were in a state of disrepair and were poorly maintained and lacked safety measures to prevent problems. Stamp said it was not uncommon to see the well house falling apart and some had holes in the roof. Some well houses were missing doors, which can lead to tampering, freezing, and wildlife issues.¹⁸³

157. Photographs of the well houses presented at the evidentiary hearing showed a lack of cleanliness, exposed wiring, and no door on one of the well houses.¹⁸⁴

158. The Topo Well on the Misty Mountain system failed bacteria tests in August of 2022. DNR then put that well on boil order and requested that Blevins fix the problem.

¹⁷⁹ Transcript Vol. 2, Page 38.

¹⁸⁰ Transcript Vol. 2, Page 39.

¹⁸¹ Transcript Vol. 2, Page 41.

¹⁸² Transcript Vol. 2, Pages 42-43.

¹⁸³ Transcript Vol. 2, Pages 43-44.

¹⁸⁴ Exhibits 3 and 4.

The Topo Well remained on a boil order and continued to fail tests until April of 2023, when the well failed permanently.¹⁸⁵ The DNR boil order remained effective for eight months.¹⁸⁶

159. During the month of August 2022 the Topo Well had upwards of 20 positive E. coli samples over the course of a two week period, which resulted in the system being referred to DNR enforcement.¹⁸⁷

160. On August 16, 2022, DNR issued a Notice of Violation Boil Water Order due to the presence of E. coli in the water.¹⁸⁸

161. E. coli can kill humans depending upon the strain and the quality of an individual's immune system.¹⁸⁹

162. Gateley testified that E. coli can be cultured readily and that there are good quick tests for E. coli. E. coli is an indicator that shows some gut bacteria is getting into the water. However, there are a host of other pathogens that are more dangerous to human health. But, those things are very hard to test for so E. coli is used as a benchmark for possible other pathogenic organisms.¹⁹⁰

163. On August 23, 2022, a Letter of Warning was issued to Blevins due to Blevins not having a certified system operator.¹⁹¹

164. On September 21, 2022, DNR issued a Level 2 Assessment for E. coli. The assessment form indicated that there was a loss of pressure below 21 PSI due to a valve leak, operation/maintenance activities that could introduce contamination, a dirty well

¹⁸⁵ Transcript Vol. 2, Page 53.

¹⁸⁶ Transcript Vol. 2, Page 54.

¹⁸⁷ Transcript Vol. 2, Page 151.

¹⁸⁸ Exhibit 7.

¹⁸⁹ Transcript Vol. 3, Page 34.

¹⁹⁰ Transcript Vol. 3, Page 34.

¹⁹¹ Exhibit 7.

house, and improper shocking.¹⁹² Low pressure is a concern because there has to be enough pressure in the water line so that if water is leaking, it is leaking out and not in, water leaking in could introduce contaminants.¹⁹³

165. Pulaski County, where Blevins operates, is an area of karst topography and it's relatively easy for surface water to enter ground water.¹⁹⁴

166. On November 21, 2022, DNR issued a Referral Notice of Violation for an accumulation of violations including maximum E. coli contaminant levels from August 19, 2022, October 19, 2022, and November 17, 2022.¹⁹⁵

167. Also on November 21, 2022, DNR issued another Level 2 Assessment listing the following sanitary defects:

- 1) Defective/damaged well cap/well seal
- 2) Well recently repaired/wellhead open
- 3) Potential source of contamination near well
- 4) Damaged pitless adaptor
- 5) Recent main breaks or leaks.¹⁹⁶

168. The Topo Well structurally failed permanently in April of 2023.¹⁹⁷

169. The Topo Well failed when the well collapsed just below the pitless adapter.¹⁹⁸

170. Topo Well customers were without water for three days.¹⁹⁹

¹⁹² Exhibit 7.

¹⁹³ Transcript Vol. 3, Page 22.

¹⁹⁴ Transcript Vol. 3, Page 39.

¹⁹⁵ Exhibit 7.

¹⁹⁶ Exhibit 7.

¹⁹⁷ Transcript Vol. 2, Page 54.

¹⁹⁸ Transcript Vol. 2, Page 154.

¹⁹⁹ Exhibit 6.

171. Clos-Versailles testified that he got a call from one of Blevins' customers indicating that they didn't have water. DNR was going to mandate that Blevins provide customers with water, but he refused. DNR was in the process of writing an emergency order when he informed DNR (for the first time in eight months) that he had a hookup to Pulaski County Water Supply District No. 2. Blevins paid the deposit to get the water from Pulaski County Water Supply District No. 2 that was already connected to the wellhouse to provide water. After that those customers served by the Topo Well had clean water for the first time in eight months.²⁰⁰

172. Stamp did not know a reason why the Topo Well customers could not have been connected to the Pulaski County Public Water Supply District No. 2 prior to the Topo Well failure.²⁰¹

173. Blevins stated that he inquired about the Pulaski County Water Supply District No. 2 water line, but did not get any information about it until a later date after talking to Don Baker, who said his brother installed the water line connecting to Pulaski County Water Supply District No. 2. Blevins says he hooked the line up to his system.²⁰²

174. Clos-Versailles credibly testified that Blevins' water system was one of the more problematic systems he had seen with a lengthy list of unsatisfactory findings and deficiencies.²⁰³

²⁰⁰ Transcript Vol. 2, Page.

²⁰¹ Transcript Vol. 2, Pages 54-55.

²⁰² Transcript Vol. 3, Page.

²⁰³ Transcript Vol. 2, Page 166.

175. Around October 5, 2023, Blevins met with Johnson at DNR. She gave him inspection reports where she highlighted significant deficiencies, unsatisfactory findings, and required actions and due dates.²⁰⁴

176. While Johnson believes Blevins is capable of completing required actions due to his prior history working with Don Baker and Blevins' access to equipment and qualified people, Johnson conceded that Blevins has not followed through.²⁰⁵

177. At a meeting between Johnson, Clos-Versailles, and Blevins, DNR pressed Blevins to set a date and fix the Level 2 Assessment including excavating and trying to determine the cause of the E. coli. However, Blevins never performed the steps required by the Level 2 Assessment.²⁰⁶

178. Johnson credibly testified that she is concerned because at Misty Mountain the Topo Well customers were under a boil order for eight months. DNR provided a list of ways to try and troubleshoot to try and prevent that ongoing boil order, but those actions were not taken. Eight months is a very long time for a boil order. An average boil order is days to weeks, not months. Johnson is also concerned that if the boil order went on for so long that it shows maybe there is an issue with properly operating and maintaining the systems.²⁰⁷

179. Johnson stated that Jean did a great job of collecting water samples.²⁰⁸

²⁰⁴ Transcript Vol. 2, Page 220.

²⁰⁵ Transcript Vol. 2, Pages 226-227.

²⁰⁶ Transcript Vol. 2, Pages 226-227.

²⁰⁷ Transcript Vol. 2, Pages 233-234.

²⁰⁸ Transcript Vol. 2, Page 234.

180. Johnson noted that there have been a lot of total coliform positive samples outside of the Topo Well. She noted that there have been a lot of bacteriologically contaminated drinking water samples but not all the time.²⁰⁹

181. DNR has asked Blevins to plug the Topo Well to give nearby residents the best chance for safety. If a well is not being used and maintained it is a potential risk to the drinking water, especially if it is connected to the distribution system. DNR has regulations concerning well abandonment.²¹⁰

182. As of the evidentiary hearing in the complaint case, the DNR deadline to plug the Topo Well was June 25, 2024. The well had not been plugged as of the first day of the complaint evidentiary hearing, and because Blevins was present at the hearing on June 25, 2024, it is highly unlikely the Topo Well was plugged within DNR's deadline.²¹¹

183. Johnson credibly testified that at her meeting in early October 2023 with Blevins, he stated more than once that it is not a priority for him to fix the Topo Well (fix could mean plug or repair).²¹²

184. DNR wants the Topo Well and the nonfunctioning Charity Well to be properly plugged.²¹³ Blevins would rather repair the well than plug it.²¹⁴

185. Staff does not believe that this is a situation where Blevins could get a CCN and bring the facilities into compliance. Gateley believes that a utility company that has demonstrated an ability to bring facilities into compliance and operate them properly is the best choice for Blevins' customers going forward.²¹⁵

²⁰⁹ Transcript Vol. 2, Page 235.

²¹⁰ Transcript Vol. 2, Page 239.

²¹¹ Transcript Vol. 2, Pages 248-249.

²¹² Transcript Vol. 2, Page 239.

²¹³ Transcript Vol. 2, Pages 240-241.

²¹⁴ Transcript Vol. 3, Page 57.

²¹⁵ Transcript Vol. 3, Page.

186. Blevins testified at one point that he was not opposed to a receivership, but thought it would be too expensive for customers under the Commission's requirements. Blevins stated that he could not meet those requirements.²¹⁶ It is unknown how well Blevins understands what is involved in a receivership. Later in the receivership evidentiary hearing Blevins said that he did not think a receivership was good.²¹⁷

187. Staff does not have a recommendation for an interim receiver and is still seeking an interim receiver.²¹⁸

Staff's Complaint Conclusions of Law:

A. Complainants bear the burden of proof.²¹⁹ The burden of proof is the preponderance of the evidence standard.²²⁰ In order to meet this standard, Staff must convince the Commission it is "more likely than not" that Respondents violated an applicable statute, rule, or provision of a Commission-approved tariff.²²¹

B. The issues for determination are whether the Commission has jurisdiction in this matter, and if so, whether Respondents have violated any state law, Commission rule, or company tariff.

C. The Commission has jurisdiction over this Complaint. Pursuant to Section 386.390, RSMo, "1. Complaint may be made ... by petition in writing, setting forth any act

²¹⁶ Transcript Vol. 3, Page 57.

²¹⁷ Transcript Vol. 3, Page 75.

²¹⁸ Petition for Interim Receiver and for an Order Directing the General Counsel to Petition the Circuit Court of Cole County for the Appointment of a Receiver for Misty Water Works and Motion for Expedited Treatment, August 15, 2023.

²¹⁹ *State ex rel. GS Technologies Operating Co., Inc. v. Pub. Serv. Comm'n of State of Mo.*, 116 S.W.3d 680, 693 (Mo. App. 2003).

²²⁰ *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007); *State ex rel. Amrine v. Roper*, 102 S.W.3d 541, 548 (Mo. banc 2003); *Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104, 110 (Mo. banc 1996).

²²¹ *Holt v. Director of Revenue, State of Mo.*, 3 S.W.3d 427, 430 (Mo. App. 1999); *McNear v. Rhoades*, 992 S.W.2d 877, 885 (Mo. App. 1999); *Rodriguez*, 936 S.W.2d at 109 -111; *Wollen v. DePaul Health Center*, 828 S.W.2d 681, 685 (Mo. banc 1992).

or thing done or omitted to be done by any corporation, person or public utility, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law or of any rule or order or decision of the commission; ...”.

D. Commission Rule 20 CSR 4240-2.070(1) states that a complaint may also be filed by the Commission on its own motion, Staff, or the Office of the Public Counsel.

E. Witness credibility is solely a matter for the fact-finder, “which is free to believe none, part, or all of the testimony.”²²²

F. An administrative agency, as fact-finder, also receives deference when choosing between conflicting evidence.²²³

G. As set out in Section 386.250, RSMo, the Commission has jurisdiction over all water corporations.²²⁴

H. Section 386.020(59), RSMo, defines a water corporation: “Water corporation” includes every corporation, company, association, joint stock company or association, partnership and **person**, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling or managing any plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or selling or supplying for gain any water[.]” (Emphasis added)

²²² *State ex rel. Public Counsel v. Missouri Public Service Comm'n*, 289 S.W.3d 240, 247 (Mo. App. W.D. 2009).

²²³ *State ex rel. Missouri Office of Public Counsel v. Public Service Comm'n of State*, 293 S.W.3d 63, 80 (Mo. App. S.D. 2009).

²²⁴ Section 386.250(3), RSMo.

I. Section 386.020(43), RSMo, defines a “Public Utility” to include every water corporation as defined in Section 386.020(59), RSMo, to be a public utility and to be subject to the jurisdiction, control and regulation of the Commission.

J. Section 386.020 (60), RSMo, defines a "Water system" to include all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal property, owned, operated, controlled or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing or carriage of water for municipal, domestic or other beneficial use.

K. Blevins is a person within the meaning of Section 386.020, RSMo, because he owned some of the wells in the water system, and managed, operated, and controlled all of the water wells and was solely responsible for the distribution of water to his customers.

L. Missouri courts have held that before the Commission has authority over a utility it must be devoted to a public use.²²⁵

M. A public utility is devoted to the public use “where it offered service indiscriminately to all persons located within that service area.”²²⁶

N. Section 386.020(59), RSMo. requires that the utility services are being offered for gain.

O. Providing water services for gain has been interpreted by the courts to mean providing water services for compensation.²²⁷ The utility does not need to receive

²²⁵ *State ex rel. M.O. Danciger & Co. v. Pub. Serv. Comm'n*, 275 Mo. 483, 205 S.W. 36, 40 (1918)

²²⁶ *Hurricane Deck Holding Co. v. PSC*, 289 S.W.3d 260, 266 (Mo. App., W.D. 2009)

²²⁷ *Hurricane Deck Holding Co. v. PSC*, 289 S.W.3d 260, 267 (Mo. App., W.D. 2009)

compensation; issuing the bill is sufficient.²²⁸ *Hurricane Deck* even addresses the potentiality of operating at a loss, "...Hurricane Deck seeks — a legal rule exempting entities from PSC regulation unless and until the PSC first determined that the entity's "collections . . . are in excess of the expenditures necessary to operation of those systems."²²⁹ The court found such a determination would be inconsistent with the overriding purpose of public utility regulatory laws.

P. Under Section 393.170.2, RSMo, no corporation shall exercise any right or privilege under any franchise hereafter granted without first having obtained the permission and approval of the Commission.²³⁰

Q. Section 393.130.1, RSMo, provides that every water corporation shall furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects.

R. Section 386.310.1, RSMo, concerning the safety and health of the public and employees, provides that the Commission shall have power, after a hearing to require every person, corporation, and public utility to maintain and operate its line, plant, system, equipment, apparatus, and premises in such manner as to promote and safeguard the health and safety of its employees, customers, and the public.

Staff's Petition for a Receiver Conclusions of Law:

S. Under Section 393.145.1, RSMo, "[I]f after hearing, the Commission determines that any sewer or water corporation that regularly provides service to eight thousand or fewer customer connections is unable or unwilling to provide safe and

²²⁸ *Hurricane Deck Holding Co. v. PSC*, 289 S.W.3d 260, 267 (Mo. App., W.D. 2009)

²²⁹ *Hurricane Deck Holding Co. v. PSC*, 289 S.W.3d 260, 268 (Mo. App., W.D. 2009)

²³⁰ See also *State ex rel. Harline v. Pub. Serv. Comm'n of Mo.*, 343 S.W.2d 177 (Mo. Ct. App. 1960).

adequate service... the Commission may petition the circuit court for an order attaching the assets of the utility and placing the utility under the control and responsibility of a receiver.”

T. Section 393.145.2, RSMo, permits the Commission to order its General Counsel to petition the circuit court for a receiver under section 1 above. It also allows for the same order to appoint an interim receiver.

U. Section 393.145.3, RSMo, states that the Commission must attach a copy of its determination under section 1 above, but it may not file its petition for a receiver with the circuit court until its determination under subsection 1 is final and unappealable.

III. Discussion and Decision

Staff’s complaint in File No. WC-2023-0353 contains two counts. Count I. is that Blevins is engaged in the unauthorized operation of a public utility and Count II. is protection of the public health and failure to provide safe and adequate service. Staff proposed seven issues for the Commission’s determination within that complaint. File No. WO-2024-0036 is Staff’s petition for the Commission to appoint an interim receiver to take over day-to-day operation of Blevins DNR regulated water systems and direct the Commission’s General Counsel to petition the Circuit Court for appointment of a receiver.

Before analyzing how the facts of this case interact with Missouri law and the Commission’s rules, it is important to clarify that while the Commission is determining that Blevins is a water corporation and public utility subject to Commission regulation and that, due to the current situation, Blevins’ water systems should be placed under the control and responsibility of a receiver, the Commission is not making any judgment about Blevins’ private intentions for these water systems. Those intentions are not relevant to

the Commission's determination. As stated in the Commission's findings of fact, "Blevins willingly put himself in a situation where he was responsible for providing water service to many of his neighbors and was charging them for the responsibility. They were paying him and for reasons, some of which he could control and some he could not, that service was not safe reliable or adequate." However, given Blevins age, health, and previous management and operation decisions, it is clear to the Commission from the evidence adduced at the hearing that he is unable to operate a public water utility and provide his customers with safe and adequate water service as required by statute.

Count I of Staff's Complaint – Unauthorized Operation of a Public Utility

The Commission has jurisdiction over Blevins if it can demonstrate that Blevins is a person owning, operating, controlling or managing any plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or selling or supplying for gain any water.

However, before Blevins may be regulated by the Commission his water systems must be devoted to public use. The requirement that a utility be devoted to public use prior to regulation does not exist in statute, but has evolved through Missouri case law.²³¹

In *Osage Water Co. v. Miller County Water Auth., Inc.*, the Court refines the requirement that a facility be devoted to the public use before they are subject to Commission regulation.²³² The court in *Osage Water* found service to the two subdivisions satisfied *Danciger*. The *Osage Water* court stated:

The record is void of any testimony which suggested that Defendant has refused to provide water service to any of the residents in the two subdivisions at issue. Indeed, the testimony suggested that Defendant has undertaken the responsibility to provide water service to everyone within its

²³¹ *Danciger*, 205 S.W. at 39.

²³² *Osage Water Co. v. Miller County Water Auth., Inc.*, 950 S.W.2d 569 (Mo. App. S.D. 1997)

capability, not merely for particular persons.

This refinement addresses both the geographic area of service indicating that a smaller service area would qualify for regulation. The Commission currently regulates small systems encompassing single subdivisions. The court notes the lack of refusal of service as further evidence that the entity was devoted to public use.

In *Hurricane Deck Holding Co. v. Public Serv. Com'n*, the Court further refined what it is for a utility to be devoted to a public use.²³³ The court in *Hurricane Deck* held that the Commission did not err in finding that Hurricane Deck was operating as a public utility subject to its regulation. The court reviewed the Commission's order in that case, which stated:

The key fact in that by sending out bills to the residents, Hurricane Deck Holding Company offered service to all residents of the given subdivisions. It is not purporting to merely offer services to a few friends. By offering water and sewer utility services to the public, even if that public is confined to the residents of a few subdivisions, Hurricane Deck Holding Company has made itself subject to regulation as a public utility.

These cases address the requirement that before an entity can be subject to regulation by the Commission it must be devoted to a public use. If an entity providing utility services holds itself out within a defined area as the provider for that area and offers service in that area within its capabilities it meets the threshold for devoted to public use.

Here Blevins served customers in three areas largely defined by DNR designating them as three separate water supplies. Blevins did not indicate that there were any qualifications to be met prior to him providing water service. It does not appear from Grube's testimony that Blevins even required a signed contract or agreement. The only barriers to receiving water service from Blevins are his ability to provide it and the

²³³ *Hurricane Deck Holding Co. v. Public Serv. Com'n*, 289 S.W.3d 260 (Mo. App. W.D. 2009).

customer's ability to pay for it. Some contracts or agreements to furnish water exist, but Blevins provided water service even without a contract or agreement as long as a customer continued to pay for water service. Indeed, it appears that Blevins only provided notices that he was now the one providing water service and that payments were to be made directly to him, notices that rates for water service were changing, and past due payment notices. Blevins did not testify that he had ever refused to supply water service to anyone who would be served by a well that he owned, operated, managed, or controlled. Therefore, Blevins' water systems are devoted to public use.

To be subject to Commission regulation, the Commission must determine if Blevins meets the statutory definition of a water corporation under Section 386.020(59), RSMo.

Blevins previously worked construction for local contractors. It was from these contractors that he acquired some of the wells he owns, operates, and manages. The transactions by which Blevins acquired the wells are varied ranging from formal legal transactions whereby a deed is transferred and recorded with the county to transactions that were merely a handshake or word of mouth. The ownership of the wells has been a point of contention with Staff because it is difficult to tell exactly what wells Blevins legally owns. However, there is no question that Blevins has been operating and managing the three water systems determined by DNR to be public water supplies, as well as his non-DNR regulated wells.

It appears that many of Blevins' customers were originally provided water by Jim Parsons and Don Baker and paid their monthly water bill at Don Baker Construction in St. Robert, Missouri. Don Baker Construction built wells with the purpose of serving the subdivisions they also built. It is unknown what awareness, if any, they had of the

Commission or its regulations. It appears that Jim Parsons and Don Baker Construction may have fallen under the Commission's jurisdiction as a regulated utility where they were charging customers for water service. However, the Commission was not aware if they were providing water service for gain and so the question of regulation arose after the water systems were transferred to Blevins. Similarly, Blevins had no awareness of the Commission or its regulations prior to Staff contact.

Staff only became aware that Blevins was providing water service for gain in December of 2022, when DNR contacted Staff with concerns that Blevins was operating a utility company without a CCN. After that the Commission started receiving complaints from customers like Grube who were dissatisfied with the quality of their water service, the cost of their water service, and the safety of their water service.

Blevins entered into written agreements to furnish water for monetary compensation with some customers. Other customers he merely collected payment from. If Blevins did not receive payment for water service he sent past due notices threatening to discontinue water service. Blevins admitted that he was charging money for water service. But, Blevins' argued that he was not a water utility because the water systems were not profitable. However, *Hurricane Deck* determined that a public utility does not need to make a profit to be a regulated entity, just as a business that operates at a loss does not cease to be a business, but is merely an unprofitable business.

The evidence in this case demonstrates that Blevins was a person who owned some of the wells, and operated, controlled and managed all of the wells at issue. Further that he distributed water for monetary compensation. Therefore, Blevins is a water corporation and public utility within the meaning of Section 386.020, RSMo, and is subject

to regulation by the Commission. Blevins has violated Section 393.170.2, RSMo, by operating a public water utility without first having obtained the permission and approval of the Commission.

Count II of Staff's Complaint – Protection of the Public Health and Failure to provide Safe and Adequate Service

Blevins' customers were concerned about the quality and safety of the water service they were receiving from Blevins. DNR found E. coli in Blevins' Topo Well on the Misty Mountain system. DNR regulations required Blevins to hire a certified system operator. Blevins hired Jean as his certified system operator, but they were unable to successfully address the E. coli problem.

DNR and Staff witnesses at both hearings noted that total coliform bacteria pockets are generally necessary for E. coli, and E. coli itself is an indicator that there may be other pathogens in the water. The Topo Well was not the only Blevins well to test positive for total coliform bacteria pockets.

Customers served by the Topo Well were under a DNR Boil Order for eight months due to E. coli. That alone violates the Section 393.130.1, RSMo, requirement that every water corporation shall furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects. This was further exacerbated by Blevins refusal to provide an alternative water supply to his customers that were without water for three days after the Topo Well collapsed.

Had the line connecting the Topo Well to Pulaski County Public Water Supply District No. 2 not been discovered, it is highly likely that DNR or Staff would have had to take emergency action. The fact that there was a connection to Pulaski County Public Water Supply District No. 2 that could have been turned on anytime during the eight

months the Topo Well customers were receiving unsafe water also points to a lack of due diligence by Blevins.

DNR issued level assessments and warnings of system deficiencies that went unacted upon. DNR witness Johnson said Blevins was missing a lot of deadlines. She also said that Blevins said fixing the Topo Well was not a priority. Blevins' certified system operator said that Blevins did not consider being without water an urgent situation.

The Commission is unpersuaded by Blevins' assertion that he was not shocking the wells without Jean's knowledge. Both the positive chlorine test and Blevins' testimony that when he worked for contractors they used to shock wells two days prior to the lender visiting do not support that assertion. One of Blevins' customers complained that his house smelled like a swimming pool.

Grube testified that Blevins would fail to repair or maintain the well house located close to his residence. He testified that several times a year he would have to put a heater in the well house to prevent freezing and that he sprayed foam under the door to insulate the well house. In doing so, Grube was addressing problems that Blevins was responsible for, but failed to address.

As of now, Blevins has not had a certified system operator since March 3, 2024, and Blevins has not provided any water samples to DNR since then. He has also put the Taylor Well online, but instead of providing a water sample to DNR from that well, he took it to the county health department. Blevins seems unwilling to execute DNR required actions that run counter to his own "fixes" for water system problems.

After being given a list of possible actions to take to address the E. coli contamination, Blevins chose instead to wait believing that he would fix the collapsed well

on a future date. As of the evidentiary hearing in the complaint case, the DNR deadline to plug the Topo Well was June 25, 2024. The well had not been plugged as of the first day of the complaint evidentiary hearing, and because Blevins was present at the hearing on June 25, 2024, it is highly unlikely the Topo Well was plugged within DNR's deadline.

The evidence shows that Blevins violated Section 386.310.1, RSMo, by failing to promote and safeguard the public health. The evidence further shows that Blevins violated Section 393.130.1, RSMo, by failing to provide safe and adequate service.

Staff's Issues

1. Is Blevins operating as a water corporation pursuant to Section 386.020(59), RSMo, and a public utility pursuant to Section 386.020(43), RSMo?

- As discussed above, Blevins is a water corporation and public utility.

2. Is Blevins engaging in the unlawful provision of water services to the public for gain, without certification or other authority from Commission in violation of Section 393.170.2, RSMo?

- As discussed above, Blevins is selling water to the public without a CCN.

3. Should Blevins be ordered to file an application with the Commission requesting a CCN as a water corporation and be regulated as a public utility?

- Blevins has filed for a CCN in File No. WA-2023-0418. No action has occurred on that case since October of 2023. Blevins has repeatedly expressed that he wants to withdraw his application for a CCN.
- The Commission agrees with its Staff that Blevins is not capable of being successful as a regulated utility.

4. Is Blevins engaging in utility service in such a manner as to endanger public health in violation of Section 393.130.1, RSMo?

- Yes, Blevins' choices endanger the public health.

5. Is Blevins subject to penalties as provided by Section 386.570, RSMo, for violations of Chapter 393, RSMo?

- Yes, Blevins would be subject to penalties, but the Commission is more interested in Blevins' water systems providing safe and adequate service. The Commission is not directing its General Counsel to seek penalties at this time.

6. Should Blevins be ordered to submit all of the wells he owns to inspection by the DNR and make such necessary and desirable improvements to each and every well operation and system DNR recommends in order to safeguard the public health and safety and to maintain and operate the water systems in such a manner as to promote and safeguard the health and safety of its customers and the public, pursuant to Section 386.310, RSMo?

- Yes, at least until such time as an appropriate receiver is appointed.

7. Should the Commission authorize its General Counsel to commence an action or proceeding in Circuit Court, pursuant to Section 386.360, RSMo, for the purpose of having violations of Chapter 393, RSMo, stopped and prevented either by mandamus or injunctions?

- This is unnecessary because the Commission is authorizing its General Counsel to seek a receiver for Blevins' water systems in the Circuit Court.

Staff's Petition for an Interim Receiver and for an Order Directing the General Counsel to Petition the Circuit Court for the Appointment of a Receiver

The Commission is authorized to petition the circuit court for an order of receivership against a water corporation that regularly provides service to eight thousand or fewer customers upon finding the utility is unable or unwilling to provide safe and adequate service, or has been actually or effectively abandoned by its owners. The Commission may also appoint an interim receiver to serve until the circuit court appoints a receiver.

Blevins meets the statutory definition for a water corporation and public utility. Blevins owns or operates the wells in his three water systems. Blevins provided water to approximately 60-100 households in Pulaski County, Missouri at the time Staff's formal complaint was filed. Blevins admits he charges for his provision of water to customers.

So, he is selling water for gain as defined in Missouri case law. Blevins meets the jurisdictional requirements of Section 393.145.1, RSMo.

Blevins is unable to provide safe and adequate service as discussed above. The Commission is concerned for the safety of Blevins' customers. Therefore, a receiver is appropriate to bring the system into compliance with Commission and DNR requirements. Staff has been unable to locate an interim receiver so the Commission will not order an interim receiver at this time, but will reserve the right to order one if Staff locates an appropriate interim receiver.

The Commission will authorize its General Counsel to petition the circuit court of Cole County or the circuit court of Pulaski County for an order attaching the assets of the utility and placing the utility under the control and responsibility of a receiver for Blevins' water systems, pursuant to Section 393.145.1, RSMo.

Any requests for rehearing shall be filed prior to the effective date of this Report and Order.

THE COMMISSION ORDERS THAT:

1. Blevins is operating public utility without authorization from the Commission in violation of Section 393.170.2, RSMo.

2. Blevins has failed to furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable in violation of Section 393.130.1, RSMo.

3. Blevins is unable to provide safe and adequate service pursuant to Section 393.145, RSMo, and the General Counsel of the Commission is authorized and ordered to file a petition for an order attaching the assets of the Blevins water systems and placing

the utility under the control and responsibility of a receiver in the circuit court of Cole County or the circuit court of Pulaski County, Missouri.

4. This Report and Order shall become effective on September 20, 2024.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

Hahn, Ch., Coleman, Holsman
Kolkmeier, and Mitchell CC., concur.

Clark, Senior Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 21st day of August 2024.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

August 21, 2024

File/Case No. WC-2023-0353

MO PSC Staff

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

**Office of the Public Counsel
(OPC)**

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opc@opc.mo.gov

Charity Public Water Supply

Legal Department
24410 Tigger Lane
St. Robert, MO 65584

**Leon Travis Blevins and
Patricia Blevins**

Travis Blevins
24410 Tigger Lane
St. Robert, MO 65584
leontravis@yahoo.com

**Misty Mountain Public Water
Supply**

Legal Department
24410 Tigger Lane
St. Robert, MO 65584

Misty Water Works

Legal Department
15405 Texas Rd.
St. Robert, MO 65584
leontravis@yahoo.com

MO PSC Staff

Carolyn Kerr
200 Madison Street
Jefferson City, MO 65101
carolyn.kerr@psc.mo.gov

**Rolling Hills Public Water
Supply**

Legal Department
24410 Tigger Lane
St. Robert, MO 65584

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Nancy Dippell
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.