

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

February 25, 2010  
Jefferson City, Missouri  
Volume 1

In the Matter of the Petition for )  
an Interim Receiver and for an )  
Order Directing the General )  
Counsel to Petition the Circuit )Case No. SO-2010-0237  
Court for the Appointment of a )  
Receiver for Mill Creek Sewers, )  
Inc., )  
)

DANIEL JORDAN, Presiding  
REGULATORY LAW JUDGE  
ROBERT CLAYTON, III, Chairman,  
Commissioner

REPORTED BY: Monnie S. Mealy, CCR, CSR, RPR  
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A P P E A R A N C E S

For Staff of the Missouri Public Service Commission:

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## 1 PROCEEDINGS

2 JUDGE JORDAN: Good afternoon, everyone. The  
3 Missouri Public Service Commission calls Case No.  
4 SO-2010-0237, which Is Staff of the Missouri Public  
5 Service Commission versus Mill Creek Sewers, Incorporated.

6 We'll begin with entries of appearance. We'll  
7 start with the Petitioner, Staff.

8 MS. HERNANDEZ: Good afternoon. Thank you. My  
9 name is Jennifer Hernandez, and I represent the Staff of  
10 the Missouri Public Service Commission. I also have with  
11 me here Shelly Brueggemann. Our address is P.O. Box 360,  
12 Jefferson City, Missouri, 65102.

13 JUDGE JORDAN: Thank you. And for the Office of  
14 the Public Counsel?

15 MS. BAKER: Thank you, your Honor. Christina  
16 Baker, P.O. Box 2230, Jefferson City, Missouri, 65102,  
17 appearing on behalf of the Office of the Public Counsel  
18 and the customers.

19 JUDGE JORDAN: Thank you. And I will ask if  
20 there is any representative here for Mill Creek Sewers,  
21 Inc.? And I'm not hearing a response, and I'm not seeing  
22 anyone. Does Staff have something they can tell us about  
23 this?

24 MS. BRUEGGEMANN: Your Honor, we have checked  
25 the lobby and the other hearing room to see if anyone is

1 wandering around outside. That hasn't happened. We  
2 haven't seen a representative from Mill Creek.

3 JUDGE JORDAN: Okay. And has someone also  
4 checked Room 305? Yes. I'm seeing heads nodding yes.

5 MS. HERNANDEZ: If I may just add, I did go and  
6 check my phone messages, and there's no indication on my  
7 voice mail that Mr. Stroud was having difficulty getting  
8 here or left any messages.

9 JUDGE JORDAN: Okay. Thank you. Does Office of  
10 Public Counsel have anything to add to that?

11 MS. BAKER: No, your Honor.

12 JUDGE JORDAN: Okay. Thank you. Well,  
13 according to the clock on the wall, it is about 11 or 12  
14 minutes past 1:00, which means we are 11 or 12 minutes  
15 past the time scheduled for this hearing to begin. So I  
16 will go ahead and begin with Staff's case in chief. Do  
17 you have any preliminary matters before you begin  
18 presenting?

19 MS. HERNANDEZ: I -- I just had -- I do have a  
20 short opening, summary of the case that I would like to  
21 give

22 JUDGE JORDAN: I'll hear that.

23 MS. HERNANDEZ: I don't believe we have anything  
24 else. Go ahead?

25 JUDGE JORDAN: Yes.

1 MS. HERNANDEZ: Okay. Thank you.

2 OPENING STATEMENT

3 MS. HERNANDEZ: Good afternoon. May it please  
4 the Commission. We're here today for a hearing on Section  
5 393.145, which is the receivership statute. I think the  
6 key words for us to keep in mind this afternoon are  
7 inability, unwillingness and effective abandonment.

8 This afternoon the staff will provide testimony  
9 that Mr. Stroud is owner and manager of Mill Creek Sewers,  
10 Inc., is unable, unwilling and has effectively abandoned  
11 the sewer system, placing safe and adequate service in  
12 jeopardy for its customers.

13 REPORTER'S NOTE: At this point, an in-camera session was  
14 held, which is contained in Vol. 2, pages 6 through 8, as  
15 requested by Judge Jordan at the end of the hearing.

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1 CONTINUED OPENING STATEMENT

2 BY MS. HERNANDEZ:

3 MS. HERNANDEZ: You'll also hear testimony of  
4 numerous attempts by Staff to contact the company and  
5 offer our assistance in aiding the company in whatever  
6 concerns were given to the Staff.

7 I know this company has a long history in the  
8 SR-2005-016 -- 0116 case. The Commission is well aware of  
9 the -- the problems that have been experienced from this  
10 company. And I won't go into that -- that background.

11 But with the new owner, Mr. Stroud, who took  
12 over in early 2009, the system has not improved. And,  
13 again, I would just like to state that it is placing safe  
14 and adequate service in question for the customers. Thank  
15 you.

16 JUDGE JORDAN: You're welcome. Will OPC have an  
17 opening statement?

18 MS. BAKER: No, your Honor.

19 JUDGE JORDAN: Okay. Thank you. And Mill Creek  
20 is still not here. So I understand that Staff wants to  
21 begin with the testimony of Jason Williamson; is that  
22 correct?

23 MS. HERNANDEZ: Yes, your Honor.

24 JUDGE JORDAN: Mr. Williamson, are you still  
25 there?

1 MR. WILLIAMSON: I'm still here. Thank you.

2 JUDGE JORDAN: Very good. I'd like to ask --  
3 I'd like to ask you to raise your right hand.

4 MR. WILLIAMSON: Okay.

5 JUDGE JORDAN: And I will swear you in. No.  
6 The court reporter will swear you in.

7 MR. WILLIAMSON: Okay.

8 JASON WILLIAMSON,  
9 being first duly sworn to testify the truth, the whole  
10 truth, and nothing but the truth, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. HERNANDEZ:

13 JUDGE JORDAN: Proceed.

14 MS. HERNANDEZ: Thank you.

15 Q (By Ms. Hernandez) Good afternoon,  
16 Mr. Williamson.

17 A Good afternoon.

18 Q Can you hear me okay?

19 A I can.

20 Q Okay. Great. Can you state and spell your name  
21 for the record, please?

22 A Jason Williamson, W-i-l-l-i-a-m-s-o-n.

23 Q And where are you employed?

24 A I'm representing Heartland Utilities, LLC.

25 Q Okay.

1           A     And my address is 5825 East Tennessee Avenue  
2 Suite 547, Denver, Colorado, 80224.

3           Q     And relevant to Staff's Petition, what are your  
4 qualifications in terms of sewer system operation?

5           A     Right. I have been operating, managing and have  
6 been involved in ownership of both small water and small  
7 sewer systems for approximately 15 years.

8           Q     Have you ever been Court-appointed as a receiver  
9 for a system?

10          A     We have. I was named receiver of the Gladlow  
11 Water & Sewer Company, which is in Rolla, Missouri, in  
12 March of 2009.

13          Q     Okay. Have you ever appeared in any other  
14 actions before this Commission?

15          A     I have not.

16          Q     Can you summarize your qualifications in terms  
17 of billing and management for the companies you've been  
18 receiver for?

19          A     Sure. At present, we are the receiver for  
20 Gladlow Water & Sewer and are managing that customer  
21 database, including the billing management and all the  
22 accounts receivable, accounts payable.

23                   We also did -- we also managed the physical  
24 plant operations, including the contracting of -- and  
25 subcontracting of the operations, physical plant

1 operations, both the water and sewer side, and have been  
2 doing that now for coming up on a year in this particular  
3 case in Rolla, Missouri.

4 Q Okay. If appointed interim receiver, what would  
5 the fee be that you're requesting?

6 A We're requesting a fixed monthly fee of \$800 per  
7 month.

8 Q And that would be for the billing and management  
9 of the company?

10 A Correct. That would be for the billing and  
11 management of the facilities.

12 Q And you're -- you're aware of Mill Creek Sewers,  
13 Inc.?

14 A Yes. I have read the updates that the Staff has  
15 provided quarterly and the Court documents that were  
16 provided by -- to me prior to this hearing.

17 Q And you're willing to serve as an interim  
18 receiver and possibly as a Court-appointed receiver for  
19 Mill Creek Sewer, Inc.?

20 A Yes. And to clarify, the receiver would be  
21 Heartland Utilities as Heartland Utilities was the  
22 receiver for Gladlow, not myself individually.

23 Q Okay. Do you believe that you could competently  
24 operate the and take over the duties of billing and  
25 management?

1           A     I do.

2                   MS. HERNANDEZ:  I believe that's all the  
3 questions I have.  Thank you, Jason.

4                   MR. WILLIAMSON:  Sure.

5                   JUDGE JORDAN:  Any questions from the Office of  
6 Public Counsel?

7                   MS. BAKER:  No, your Honor.

8                   JUDGE JORDAN:  Mr. Williamson, I have a few  
9 questions for you.

10                   MR. WILLIAMSON:  No problem.

11                                   CROSS-EXAMINATION

12           BY JUDGE JORDAN:

13           Q     First, now, let me make sure which entity would  
14 be -- which entity is which.  You mentioned Heartland  
15 Utilities, LLC.  Is that the correct name?

16           A     That's -- that's correct.  That's the Missouri  
17 LLC that we've established to provide these receiverships.

18           Q     Okay.  And your position at Heartland is what?

19           A     I'm the sole owner of Heartland Utilities.

20           Q     Sole owner.  Okay.  And do you have an office  
21 like President or Chairman or something like that as well?

22           A     No.  That would -- it's just the single --  
23 single owner LLC.

24           Q     Right.  Okay.  That's fine.  Let's see.  Okay.

25           So you're -- you're suggesting that the LLC be the

1 receiver in this case?

2 A That's correct.

3 Q Okay. Let's see. Now, you've examined the  
4 Petition and other documents sent to you by Staff; is that  
5 correct?

6 A That's correct.

7 Q And looking at the financial situation as  
8 alleged in the Petition and the other documents that you  
9 received, do you think that you'll be able to collect  
10 enough to run the system and still -- will you be able to  
11 collect enough to run the system?

12 A Well, based on the information I've been  
13 provided, it appears that the amounts uncollected from  
14 past billings approximately equate to the amount  
15 outstanding as being owed to the various vendors that were  
16 mentioned in the opening statement.

17 Now, whether or not we could collect a hundred  
18 percent of that, I'm doubtful. But I believe that over  
19 time we will be able to at least get these bills as close  
20 to caught up as possible. And our plan would be in the  
21 near term to -- once we get our feet under us a bit to  
22 file a rate case with the Commission.

23 Q Okay. Thank you. So you believe you'll be able  
24 to keep the system operating and providing safe and  
25 adequate service to the customers?

1           A     I do.

2           Q     All right.  And your fee of \$800, will that be  
3 per month if asked for?  I take it that will be adequate  
4 for you to operate the system; is that correct?

5           A     That's correct.  That would be the -- the  
6 monthly fee for the standard -- you know, the functions  
7 that we provide in terms of managing and operating these  
8 types of facilities.  There will be additional costs  
9 incurred, direct fees for things like rate case expense  
10 that would be billed separately.  But that's outside of  
11 the standard contract.

12          Q     Okay.  So what -- we're talking about running  
13 the sewer company according to its current tariffs is what  
14 we're saying?

15          A     That's correct.

16                JUDGE JORDAN:  Okay.  I think that's all the  
17 questions that I have.  Any questions from the Commission?

18                COMMISSIONER CLAYTON:  I have no questions.  
19 Thank you, Judge.

20                JUDGE JORDAN:  Okay.  Any redirect?

21                MS. HERNANDEZ:  No, thank you, your Honor.

22                JUDGE JORDAN:  All right, then.  Thank you,  
23 Mr. Williamson.  We have no more questions for you.  You  
24 may stay on the line if you wish.  Otherwise, I'll ask  
25 Staff, since it is Staff's witness, may Mr. Williamson be

1 excused?

2 MS. HERNANDEZ: He may.

3 JUDGE JORDAN: Okay. Thank you. Thank you,  
4 Mr. Williamson, you may -- you may stay on the line if you  
5 wish, or you can sign off now.

6 MR. WILLIAMSON: Okay. Thank you very much.

7 JUDGE JORDAN: You're entirely welcome.

8 Next witness?

9 MS. HERNANDEZ: Staff would now call Lisa  
10 Hanneken to the stand.

11 JUDGE JORDAN: I see that our reporter has no  
12 microphone, so I will do the swearing in. Please raise  
13 your right hand.

14 LISA HANNEKEN,  
15 being first duly sworn to testify the truth, the whole  
16 truth, and nothing but the truth, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. HERNANDEZ:

19 JUDGE JORDAN: Thank you. Please state your  
20 name and spell it for our reporter.

21 MS HANNEKEN: It's Lisa Hanneken, L-i-s-a  
22 H-a-n-n-e-k-e-n.

23 MS. HERNANDEZ: I do have some exhibits that  
24 Staff intends to introduce, so I'll hand those to the  
25 court reporter at this time and --

1 JUDGE JORDAN: Please do.

2 MS. HERNANDEZ: -- and then the witness may  
3 reference these documents. All of the exhibits have  
4 stickers on the bottom. There's eight of them. Yes. May  
5 I approach, your Honor?

6 JUDGE JORDAN: You may.

7 MS. HERNANDEZ: I do have copies of the exhibits  
8 for you to reference while we're going through them. I  
9 apologize for that delay.

10 Q (By Ms. Hernandez) You previously stated and  
11 spelled your name for the record?

12 A Yes.

13 Q Where are you employed, Ms. Hanneken?

14 A With the Missouri Public Service Commission.

15 Q And how long have you been employed with the  
16 Commission?

17 A Almost ten years.

18 Q And what is your title?

19 A Utility Regulatory Auditor.

20 Q And your duties as an auditor?

21 A I look over the books and records of Missouri  
22 utility companies for rate-making purposes.

23 Q And do the books and records include accounts  
24 payable and receivable, invoices, billing and check  
25 registers --

1 A Yes.

2 Q -- items such as that?

3 A Yes.

4 Q Okay. Are you familiar with Mill Creek Sewer  
5 Company?

6 A Yes, I am.

7 Q And how are you familiar with that company?

8 A Approximately two years ago, I was assigned as  
9 Lead Auditor in the previous rate case No. SR-2005-0116 to  
10 continue the quarterly status reports as ordered by the  
11 Commission.

12 Q Okay. And how many audits have you conducted on  
13 companies comparable in size to Mill Creek?

14 A Between seven to ten.

15 Q And are you familiar with the books and records  
16 of Mill Creek?

17 A Yes.

18 Q And when was your last review of the books and  
19 records of the company?

20 A January 19th of this year.

21 Q Okay. And what is your findings on this date of  
22 Mill Creek's records based on your January 19th, 2010,  
23 review?

24 A They are quite disorganized. They have either  
25 been misplaced or lost. They're very sketchy at best.

1 Q All right. And you have the exhibit in front of  
2 you?

3 A Yes, I do.

4 Q Can you refer to Exhibit 1, which is marked  
5 Highly Confidential?

6 A Yes.

7 Q Do you recognize that document?

8 A Yes. This is the billing register from Mill  
9 Creek Sewer.

10 Q And what does the billing register indicate?

11 A It indicates that 2008, they had fairly good  
12 records of customers, checks received. And then in 2009,  
13 it looks to be that Mr. Stroud had used a new format for  
14 the records.

15 And you can see where he started in January and  
16 February of '09 to fill this out. And we actually  
17 received this the beginning of March. So I would not  
18 expect the rest of the months to be filled out.

19 And the next set of them is beginning in July of  
20 '09, and you can clearly see that there is a period from  
21 March to June missing. As well, I know that this one was  
22 obtained in January, so the periods of October, November  
23 and December also appear to be missing for most of the  
24 customers.

25 When I inquired as to the missing pieces from

1 Mr. Stroud, he indicated he would provide those to Staff.  
2 However, I have not received those to date.

3 Q Okay. So the billing register indicates what  
4 months were not billed for customers again?

5 A As far as I can tell from the registers and  
6 conversations with customers, Mr. Stroud did not bill the  
7 customers for service periods of February, March and April  
8 of 2009 as well as September, October, November and  
9 December of 2009 in addition to January of 2010.

10 Q And you stated the books -- the billing register  
11 for 2008 was in pretty good order. Who managed the  
12 company at that time?

13 A Up until approximately September of 2008,  
14 Mr. Jim Holmes managed the company. He resigned at that  
15 time. And Mr. Affshari (ph.) took over the management for  
16 approximately a month.

17 And then he hired a bookkeeper, Ms. Marilyn  
18 Wyatt, to take over from the period of approximately the  
19 middle of October through the end of December where she  
20 was terminated by Mr. Stroud.

21 Q Okay. And can you clarify who Mr. Affshari is?

22 A Mr. Joseph Affshari is the previous owner to  
23 Mill Creek sewer, which was involved in the last rate  
24 case, SR-2005-0116. So he was the previous owner who sold  
25 the company to Mr. Stroud.

1 Q And when did that sale occur?

2 A I'm -- the actual sale negotiations began in  
3 December of 2008. The agreement sale contract actually  
4 went into effect in March of 2009.

5 Q You indicated there was missing information from  
6 the billing register. Have we asked the company to  
7 provide missing information?

8 A Yes, we have. I have not received it to date.

9 Q Okay. Can you summarize since Mr. Stroud's  
10 purchase of the company and becoming owner and manager the  
11 attempts that Staff has made at seeking information from  
12 the company and what the company's response has been?

13 A Yes. Beginning in December of 2008 when  
14 Mr. Stroud started having an interest in the company, we  
15 had visited with him and got some preliminary information.  
16 And that continued through January of 2009.

17 He provided us everything that we requested.  
18 Most of that information had been done by Ms. Wyatt, so he  
19 was just basically giving us what she had performed in her  
20 duties.

21 And then in March of 2009, we did visit with  
22 Mr. Stroud for purposes of gathering information for the  
23 status report that was due in March of '09. At that time,  
24 when we visited with him, he was missing information. And  
25 it took him about two weeks to provide that information

1 after several phone calls and e-mails requesting that  
2 information.

3           And then in May, I requested a meeting with him  
4 for a Q status report. It took approximately two weeks  
5 for him to return my calls and e-mails.

6           At that time, he sat up a meeting for June 5th.  
7 Approximately an hour and a half before the meeting, he  
8 e-mailed me and said he had to cancel because he was not  
9 prepared for the meeting.

10           We rescheduled the meeting for June tenth. He  
11 e-mails me about 45 minutes after the meeting was to take  
12 place stating that, sorry, he couldn't make the meeting.  
13 So we again said, okay, that was fine. He said, well, I  
14 will get back with you later today to reschedule.

15           After that, it took several e-mails and calls.  
16 And I did not get any contact with him until July 31st,  
17 which was basically six weeks later. And at that point,  
18 we had refiled a status report stating that we could not  
19 contact the company.

20           At that time, he stated that he was frustrated  
21 with the company and that if we were to place the company  
22 in receivership, he would not have a problem with that.

23           On August 5th, Staff requested that we have a  
24 meeting with him to discuss the status of the company. We  
25 did have that meeting on August 28th. And there were some

1 items that Mr. Stroud was to provide and some actions to  
2 be taken.

3           However, after that meeting, we were unable to  
4 contact him again. Then at the end of October, we sent a  
5 demand letter to the company requesting contact as we had  
6 several months without contact. He was to respond to us  
7 by about mid November. He failed to do so.

8           I believe he contacted Staff counsel at the end  
9 of December. And at that time, we set up another meeting  
10 with him for January 4th, which did take place with Staff.  
11 And subsequent to that, I set up a meeting as Auditor to  
12 review his books and records on January 19th.

13           Q     In terms of that November 13th date, do you  
14 remember what Mr. Stroud was to respond to by that date?

15           A     I believe, as far as I'm aware, he was just to  
16 contact the company to discuss a plan for addressing the  
17 information required by Staff and review the status of the  
18 company.

19           Q     Was -- was the letter to address concerns the  
20 Staff was having in lieu of placing the company into a  
21 receivership?

22           A     Yes. I believe it was stated in the demand  
23 letter that if no contact was made that Staff would take  
24 -- the necessary steps to start the receivership  
25 proceedings.

1 Q Okay. You mentioned several months without  
2 billing. What's the revenue amount that Mill Creek could  
3 have collected if the bills had been sent out for those  
4 periods in 2009 and early 2010?

5 A It's close to \$18,000.

6 Q And would that amount bring Mill Creek current  
7 with its vendors?

8 A It would cover all the outstanding vendor  
9 amounts for the daily operations of the company, yes.

10 Q Okay. All right. If you could just turn to  
11 Exhibit 2 now marked Staff's Exhibit 2. I believe that's  
12 the demand letter that you were referencing.

13 A Yes.

14 Q Since we discussed that, we won't go into too  
15 much more detail. Are you aware if Mr. Stroud or when  
16 Mr. Stroud replied to that October 23rd letter?

17 A I believe it was the end of December, possibly  
18 like the 30th or 31st of December.

19 Q And are you aware, is that -- had Staff filed a  
20 Petition for a receiver at that point?

21 A I believe -- I believe we had filed a  
22 receivership filing.

23 Q Okay. And when did Staff set up a meeting to  
24 discuss compliance issues with Mr. Stroud in lieu of the  
25 receivership?

1 A It was the January 4th meeting.

2 Q And what did Mr. Stroud convey during that  
3 January 4th, 2010 meeting?

4 A He conveyed that he was very interested in  
5 continuing the ownership and management of Mill Creek. He  
6 wished to comply with the items that Staff had concerns  
7 with, and he was willing to set up some time lines by  
8 which certain items would be met.

9 Q Okay. And a verbal agreement was reached  
10 between the Staff and the company requiring certain  
11 corrective action by specific dates?

12 A Yes.

13 Q And can you detail those requirements?

14 A Yes. I think there is an e-mail that kind of  
15 outlines those items. But, basically --

16 Q Would it help if I --

17 A Yes. That would be help.

18 Q -- let you look at the e-mail?

19 MS. HERNANDEZ: May I approach, your Honor?

20 JUDGE JORDAN: You may.

21 MS. HERNANDEZ: Thank you.

22 Q (By Ms. Hernandez) And can you explain what  
23 that document is, please?

24 A This is an e-mail from Staff's counsel to  
25 Mr. Stroud dated January 12th, 2010. The subject is draft

1 agreement terms, privileged settlement discussions. It  
2 was the draft of the agreement that we were to enter into  
3 with the company in lieu of receivership proceedings.

4 Q Okay. And can you summarize the -- the  
5 requirements within that e-mail that Mr. Stroud had  
6 conveyed that he was willing to comply with?

7 A Yes. He had -- stated that he was willing to,  
8 by February 1st of this year, develop and implement  
9 slightly revised customer billing statement with a payment  
10 stub attached and things like that.

11 That by January 15th, he would deposit all  
12 customer checks that he had in his possession that had  
13 been undeposited for several months, that he would  
14 back-bill his customers during the February and April --  
15 or February, March and April 2010 monthly billings so he  
16 would catch up on his billings.

17 By January 19th, he was to submit the proper DNR  
18 ownership change applications so that they would have the  
19 proper records on file. Also by that date, he was to meet  
20 with individuals with the St. Louis County Tax Division  
21 regarding his personal property taxes and dispute of them.

22 By January 19th, he was also supposed to put in  
23 place payment -- payment plans for his vendors to become  
24 current with them. January 25th, he was supposed to have  
25 provided information to Staff as to what the details of

1 those payment plans would be.

2 By January 19th, he was supposed to have  
3 reliable cell phone service with an active account so that  
4 his customers and vendors may contact the company in case  
5 of an emergency or if they had concerns with their  
6 billings. I believe as of yesterday, that phone had been  
7 disconnected.

8 On January 19th, he was also supposed to change  
9 the cell phone voice mail message so that an emergency  
10 contact number would be placed on it as the customers did  
11 not have that number.

12 By the February 2010 billing, he was to have  
13 given customer notification letters to the customers so  
14 that they were aware of the back-billing, the status of  
15 the company and the contact information should they need  
16 to contact the company.

17 And, also, by February 1st this year, he should  
18 have developed like an application for new customers, a  
19 company brochure, door hangers, standard customer  
20 documentation that most companies have for their  
21 customers.

22 In addition, he was to provide written status  
23 reports weekly beginning January 15th. I believe I  
24 received one of those when -- immediately after the  
25 meeting. And that was all I have received on that.

1           By January 25th, he was to provide the proper  
2 documentation to the Auditing Department so that we may  
3 complete and file an accurate status report with the  
4 Commission. And part of that information was provided on  
5 January 19th, but the remainder has not been provided to  
6 date.

7           And he was to meet with Staff at least one week  
8 prior to the due date of each quarterly status report to  
9 give the proper documentation and records required for  
10 such a report.

11           And, finally, on January 19th, he was to have  
12 contacted the operating company, which is Testing Analysis  
13 & Control, Incorporated. Also, we refer to it as TAC. So  
14 schedule a sludge hauling. And -- excuse me -- any  
15 necessary repairs to the plant as they had previously  
16 indicated there were things that needed to be taken care  
17 of. And both of those items were to have occurred no  
18 later than January 31st.

19           To date, it's, to my knowledge, they have not  
20 been done. And that's all.

21           JUDGE JORDAN: Counselor, will you be having  
22 that marked and putting it into evidence?

23           MS. HERNANDEZ: I hadn't intended to, but,  
24 certainly, I can if you believe that will be of  
25 assistance. I guess I would have to mark that No. 9.

1 JUDGE JORDAN: That would make it 9.

2 MS. HERNANDEZ: Okay. If it's okay, I'll  
3 reserve offering all of the exhibits till the end, your  
4 Honor.

5 JUDGE JORDAN: No. That's fine.

6 Q (By Ms. Hernandez) Okay. Let me ask you, at  
7 the -- at the January 4th meeting that Staff conducted  
8 with Mr. Stroud, were there any indications about payments  
9 made to vendors and what those payments might have been?

10 A He had indicated that he had written the check  
11 to TAC, the operating company, as well as set up a payment  
12 plan with them.

13 In addition, he had said he had paid for the  
14 electric bill to AmerenUE. And he was trying to either  
15 pay or catch up with other vendors but had not stated  
16 specifically other checks being written.

17 Q Are you aware if a payment was made to TAC?

18 A As of yesterday when I spoke with Judy, the  
19 account manager at TAC, she had still not received a check  
20 from him.

21 Q Was TAC aware of a payment arrangement, or did  
22 they enter into a payment arrangement with Mr. Stroud?

23 A She indicated that Mr. Stroud had contacted her  
24 in the early part of January, I believe, and set up a  
25 payment plan that he was to pay the normal monthly charge,

1 and in addition to that, pay \$400 per month until the  
2 arrears was current.

3 Q And we'll discuss the account status a little  
4 bit later. But I also wanted to ask you about -- also  
5 during that January 4th meeting, did Charlie indicate  
6 customer bills had been sent out for any periods around  
7 December 30th, 2009?

8 A Yes. He had stated that he had billed the  
9 customers, and he had said that he had back-billed them.  
10 So he had billed them for service periods of October,  
11 November and December of 2009. So he had billed them for  
12 three months is what he had said.

13 Q Was the Staff able to verify that?

14 A No, we were not. Given the documentation that  
15 he provided to us on January 19th, in addition to  
16 contacting the customers numerous times over the last two  
17 months, there seems to be no bill sent to customers, any  
18 of the customers.

19 Q Are you of the opinion that the statements made  
20 by Mr. Stroud to the Staff on January 4th were truthful  
21 statements?

22 A Given the documentation and conversations I have  
23 had with customers and vendors, I believe the statements  
24 he made were not truthful.

25 Q Since Mr. Stroud began managing the system, has

1 communication -- how has communication been with -- by  
2 phone or e-mail with the Staff?

3 A It's been very difficult. On e-mails, at the  
4 earliest would be responded to in maybe a week. Voice  
5 mails left on the company cell phone, which is to be  
6 checked frequently during the day, would, again, not be  
7 responded to.

8 On several occasions, I actually had to call the  
9 previous owner, and he now resides in California, to have  
10 him prompt Mr. Stroud to respond to my calls.

11 MS. HERNANDEZ: I'd now like to discuss Staff  
12 Exhibit 3, and that's also marked HC. That has some  
13 confidential customer information -- customer account  
14 information. I don't know if we need to go off camera  
15 right now so that that information -- in camera so that  
16 information is not disclosed.

17 JUDGE JORDAN: Do you need to discuss the  
18 customer -- do you need to account customer accounts?

19 MS. HERNANDEZ: I'm sorry, your Honor.

20 JUDGE JORDAN: Do you need to -- do you need her  
21 discussion to include information identifiable to customer  
22 accounts?

23 MS. HERNANDEZ: We won't indicate the -- the  
24 invoice number or the account numbers, but there will be  
25 information on how much is owed by the company to TAC.

1 JUDGE JORDAN: Well, refresh me on what  
2 information needs to be highly confidential. I'm pretty  
3 familiar with customer account information. But is vendor  
4 information also highly confidential?

5 MS. HERNANDEZ: I -- I did mark all the company  
6 information that contained its invoice numbers with the  
7 amounts Highly Confidential to protect the company's  
8 account information. But if it's your --

9 JUDGE JORDAN: Because it's financial  
10 information; is that correct?

11 MS. HERNANDEZ: Correct.

12 JUDGE JORDAN: Okay. Then we will do that. We  
13 will go in-camera.

14 MS. BRUEGGEMANN: Your Honor?

15 JUDGE JORDAN: Yes.

16 MS. BRUEGGEMANN: One question. Did -- sorry.  
17 One. This is Shelly Brueggemann. Is Jason Williamson  
18 still on the phone?

19 JUDGE JORDAN: Mr. Williamson, are you still on  
20 the phone, or have you left as you said you would?

21 MR. WILLIAMSON: I am here.

22 MS. BRUEGGEMANN: Okay. I think if we go  
23 in-camera that we have to mute the phone so that he -- as  
24 he's not a party yet and he hasn't been appointed  
25 receiver --

1           MR. WILLIAMSON: I actually was going to drop  
2 off here in a minute anyway, Shelley, so I can do that  
3 right now.

4           MS. BRUEGGEMANN: Okay. I'm sorry. Thank you.

5           MR. WILLIAMSON: Bye.

6           JUDGE JORDAN: Thank you, Mr. Williamson. Okay.  
7 Okay. Anything else that we need to do before we mute?

8           MS. HERNANDEZ: I don't believe so, your Honor.

9           JUDGE JORDAN: Okay. Let's see. Find my mute  
10 button. All right. Then we'll go -- let's see. Okay.  
11 All right. I believe -- and we are muted.

12           MS. HERNANDEZ: Okay. Thank you.

13           REPORTER'S NOTE: At this point, an in-camera session was  
14 held, which is contained in Vol. 2, pages 34 through 40.

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1 CONTINUED DIRECT TESTIMONY OF LISA HANNEKEN

2 BY MS. HERNANDEZ:

3 JUDGE JORDAN: And we are out of chambers. You  
4 may resume.

5 MS. HERNANDEZ: Thank you.

6 Q (By Ms. Hernandez) Turning to Staff Exhibit 8,  
7 do you recognize this document?

8 A Excuse me. Yes. This is a copy of the record  
9 and account for Mill Creek sewer with the St. Louis County  
10 Personal Property Tax Authority.

11 Q And, again, this is a public document. But how  
12 much does it indicate the balance is?

13 A Currently, as of February 23rd, 2010, the  
14 company owes \$7,885.39.

15 Q And are you aware of what actions accounting can  
16 take to receive payment for this amount that's owed?

17 A When I last discussed it with them, they were  
18 intending to put it on -- up for sale. Basically, put it  
19 on the courthouse steps.

20 Q Okay. And did Mr. Stroud agree to any action on  
21 January 4th in regard to this property tax amount?

22 A Yes. He agreed to actually go to the taxing  
23 authority and discuss with them the amount. There was  
24 some dispute as to whether it is a correct amount and/or  
25 in addition to that discuss payment arrangements with the

1 County.

2 Q Can you identify for the record attempts that  
3 Staff has made to assist Mr. Stroud with certain issues,  
4 either recognized by the Staff or brought to our  
5 attention?

6 A Staff has made numerous attempts to assist  
7 Mr. Stroud in getting acc -- acclimated to the company as  
8 well as becoming familiar with the vendors and customers  
9 of the company.

10 We have assisted Mr. Stroud with preparation of  
11 the annual report to the Commission, Secretary of State  
12 filings, filings for the taxing authorities. We have even  
13 provided Mr. Stroud with a customer historical billing  
14 register that Staff has actually put together from the  
15 records of the company.

16 And as of January, it was current. And all  
17 Mr. Stroud needed to do was input the amount that he  
18 billed the customer and the amount received from the  
19 customer.

20 However, I don't believe he kept that file up to  
21 date. We had numerous phone calls with Mr. Stroud to  
22 assist him, e-mails and as well on-site visits with  
23 Mr. Stroud to assist him with the -- the company.

24 And that's auditing Staff. I know that Staff  
25 here in the Jefferson City office with the Engineering &

1 Management Services Department, the Water & Sewer  
2 Department, the General Counsel's office all also offered  
3 their assistance to Mr. Stroud.

4 Q To your recollection, has Mr. Stroud ever  
5 expressed an unwillingness to manage the company?

6 A There were two instances that I'm personally  
7 aware of. In the one, he stated that he believed the  
8 receivership would probably be the best outcome for the  
9 company. And in the other one, he stated that he was so  
10 frustrated that he became angry and just stopped  
11 performing his management duties for several months.

12 Q And can you give, for the record, a reference to  
13 time when those statements were made?

14 A Yes. For the receivership statement, that was  
15 on July 31st of 2009. And the statement concerning his  
16 frustration and ceasing his management duties, he made  
17 that statement on January 4th of 2010 during the meeting  
18 with Staff. And he was actually referring to the time  
19 period of March through June of 2009.

20 Q Okay. How can a customer contact Mr. Stroud if  
21 they are -- have a question about any service issue that  
22 they're encountering?

23 A Currently, if a customer has a question about a  
24 bill, service issues or an emergency sewer back-up, there  
25 is no way to contact Mr. Stroud. He -- the Mill Creek

1 cell phone has been disconnected. There is no actual  
2 physical address, business address for the company other  
3 than Mr. Stroud's home. But the customers are not aware  
4 of that address. Most of them are not aware of his name.

5 Q Okay. And in your opinion, is Charlie -- excuse  
6 me -- Mr. Stroud unwilling or unable to provide safe and  
7 adequate service for the -- for the system's customers?

8 A Given the documentation and information that I  
9 have from vendors and customers and -- and the information  
10 provided by Mr. Stroud himself, I believe so.

11 Q Okay. Are you aware of any other party having  
12 difficulty contacting Mr. Stroud?

13 A Customers have -- when I have spoken with  
14 customers, they actually -- one of them actually flagged  
15 down the operator from TAC, asking me, Hey, where can I  
16 send my payment? Mr. Allgire from TAC did not know that  
17 information because he himself could not get a hold of  
18 Mr. Stroud.

19 JUDGE JORDAN: And can you spell the name  
20 Allgire for the court reporter?

21 A I'm sorry?

22 JUDGE JORDAN: Can you spell the name of  
23 Allgire?

24 A Mr. Allgire is A-l-l-g-i-r-e. His first name is  
25 Tim. He's the operator assigned to Mill Creek by TAC.

1 JUDGE JORDAN: Thank you.

2 A In addition, I know that I spoke with a customer  
3 yesterday, and he had recently been contacted by AmerenUE.  
4 They were requesting information to find out where to  
5 contact the company in regards to past due balance on the  
6 electric.

7 Q (By Ms. Hernandez) Okay. And is it your  
8 opinion that a receiver is the best option for the company  
9 at this point in time?

10 A I believe so. Yes.

11 Q And are you aware with who the Staff recommended  
12 to the Commission to be an interim receiver?

13 A I believe it is Mr. Jason Williamson.

14 Q Okay. And in your opinion, is the rate of \$800  
15 per month recommended by the Staff a just and reasonable  
16 rate for Mr. Williamson's service as a receiver?

17 A As a receiver and given the other receiver  
18 amounts in the state, I believe it is.

19 MS. HERNANDEZ: All right. I -- at this time, I  
20 would like to move to have Staff's Exhibits 1 through 9  
21 admitted.

22 JUDGE JORDAN: Okay. We did have 9 marked,  
23 didn't we?

24 MS. HERNANDEZ: May I approach the witness? She  
25 may still have No. 9 in her possession.

1 JUDGE JORDAN: Please do. Please do.

2 MS. HERNANDEZ: This I did not originally intend  
3 to enter, so it doesn't have a sticker. But I can label  
4 that with a pen or however the court reporter --

5 JUDGE JORDAN: The reporter will do that.

6 MS. HERNANDEZ: You can label it? Okay. And  
7 the witness will give her stack of exhibits to the  
8 reporter. You have a copy.

9 JUDGE JORDAN: Okay.

10 MS. BAKER: Except for No. 9.

11 MS. HERNANDEZ: Let me --

12 MS. BAKER: Can you give me a copy some other  
13 time?

14 MS. HERNANDEZ: Do you want to review it prior  
15 to admission?

16 MS. BAKER: No.

17 MS. HERNANDEZ: Okay. And if I could, just for  
18 the record, Exhibits 1, 3, 4, 5, 6 and 7 have Highly  
19 Confidential information and are marked as such.

20 JUDGE JORDAN: And that's 1, 3, 4, 6 and 7; is  
21 that correct?

22 MS. HERNANDEZ: 1, 3, 4, 5, 6, 7, correct.

23 JUDGE JORDAN: 5, 6 and 7. All right. Let me  
24 know when Exhibit 9 is marked, please.

25 THE COURT REPORTER: It is.

1 JUDGE JORDAN: Okay. Then -- and you've moved  
2 all those into evidence, correct, 1 through 9?

3 MS. HERNANDEZ: Yes.

4 JUDGE JORDAN: Any objection?

5 MS. BAKER: No, your Honor.

6 JUDGE JORDAN: Not hearing any objection, so  
7 they're admitted into the record.

8 (Exhibit Nos. 1 through 9 were offered and  
9 admitted into evidence.)

10 MS. HERNANDEZ: Okay. I believe that's all I  
11 have for this witness.

12 JUDGE JORDAN: Okay. Office of Public Counsel,  
13 any cross-examination?

14 MS. BAKER: No, your Honor.

15 CROSS-EXAMINATION

16 BY JUDGE JORDAN:

17 Q I have a few questions to get some things  
18 straight to make sure I understand, and it mostly has to  
19 do with sequence of events. You mentioned Mr. Holmes who  
20 once owned Mill -- let's start -- let's start this way.

21 Throughout the events that you've discussed, the  
22 entity providing sewer service has been Mill Creek Sewers,  
23 Incorporated; is that correct?

24 A Correct.

25 Q Okay. You mentioned Mr. Holmes who now lives in

1 California.

2 A Actually, it's Mr. Joseph Affshari that lives in  
3 California.

4 Q Okay.

5 A He was the previous owner.

6 Q Okay. Who is this Holmes person?

7 A Mr. Jim Holmes was the previous manager of the  
8 company hired by Mr. Affshari to manage Mill Creek. So he  
9 actually did the billing and accounts payable and -- and  
10 that type of clerical work, so to speak.

11 He would also, if there were plant issues, would  
12 get with Mr. Allgire at TAC and discuss whether they  
13 should repair a pump or whatever. But he basically ran  
14 the day-to-day operations of the company for Mr. Affshari.

15 Q Okay. Mr. Affshari owned the -- owned this  
16 company when?

17 A I -- I do not know how far back. I believe it  
18 was 1970-something he actually originally put in the  
19 system.

20 Q So -- so he's the original owner. Okay. And  
21 let's see. If I recall, the Petition says that the  
22 company's held the certificate of -- held the certificate  
23 since 1973 or '72. So it would go back around there is  
24 what you're saying?

25 A Yes. I believe he started the development a

1 couple, three years prior to that.

2 Q Okay. And then he transferred ownership of the  
3 company to --

4 A Correct. He sold the company to Mr. Stroud.

5 Q -- to Stroud, Mr. Stroud?

6 A The effective date was sometime in March of  
7 2009.

8 Q 2009 or 2008?

9 A It was 2009.

10 Q 2009.

11 A Mr. Stroud -- actually, he does other work for  
12 Mr. Affshari.

13 Q Okay.

14 A And knowing that he was looking at buying the  
15 company, he began the management duties such as Mr. Holmes  
16 had performed for the company --

17 Q Okay.

18 A -- beginning late December of '08 --

19 Q Okay.

20 A -- and kind of managed the company to get a feel  
21 for it before the sale went through in March.

22 Q Okay. Okay. I'm just -- I'm just checking my  
23 notes. So right now, Mr. Stroud -- is that Charles  
24 Stroud? Is that correct?

25 A Correct.

1 Q Okay. He is the sole owner of Mill Creek  
2 Sewers, Incorporated; is that correct?

3 A Yes.

4 Q Okay. All right. Okay. Okay. That looks like  
5 all I wanted to clear up --

6 A Okay.

7 Q -- as to this.

8 JUDGE JORDAN: So I don't have any more  
9 questions.

10 MS. HERNANDEZ: Neither do I.

11 MS. BAKER: No.

12 JUDGE JORDAN: Okay. Then you may be excused.

13 MS. HANNEKEN: Thank you, your Honor.

14 JUDGE JORDAN: May this witness be excused?

15 MS. HERNANDEZ: Yes. She may be dismissed.

16 JUDGE JORDAN: Okay. All right. Thank you.

17 MS. HANNEKEN: Thank you.

18 JUDGE JORDAN: Your next witness?

19 MS. HERNANDEZ: Yes. Staff will now call  
20 Mr. Steve Loethen.

21 JUDGE JORDAN: I'll be doing the swearing in  
22 again. Please raise your right hand.

23 STEVE LOETHEN,  
24 being first duly sworn to testify the truth, the whole  
25 truth, and nothing but the truth, testified as follows:

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DIRECT EXAMINATION

BY MS. HERNANDEZ.

Q And can you state and spell your name for the record, please?

A Steve Loethen, L-o-e-t-h-e-n.

Q And where are you employed?

A Missouri Public Service Commission.

Q And what is your title with the Commission?

A Utility Operations Technical Specialist.

Q And how long have you held that position?

A Since -- as of January, ten years.

Q Okay. And what does your position, duty-wise, include?

A One of the major duties I perform is inspections on water and sewer companies that we regulate. We also work with -- when the rate case is filed for, we do inspections -- or investigations on complaints.

We offer assistance with the operations and maintenance and various items with the companies to help them perform their duties.

Q And prior to working for the Commission, what did you do?

A I worked for a regulated company called Aqua Missouri for eight years.

Q Okay. And what were your duties there?

1           A     I was Manager of New Operations. Through my  
2 eight years, I done everything from operations, help  
3 design, build, operate, troubleshoot, rehab water and  
4 wastewater systems similar to this one.

5           Q     Do you possess any certifications or training  
6 for the operation of plants?

7           A     I have an A certification in wastewater, C  
8 certification in water and a DS-3 certification in water.

9           Q     And what does A, C and -- you'll have to -- I  
10 apologize. I can't remember the other abbreviation.

11          A     The four levels are A, B, C and D, A being the  
12 highest level.

13          Q     Okay. Are you familiar with Mill Creek?

14          A     Yes, I am.

15          Q     And how many customers does Mill Creek currently  
16 have?

17          A     Around 76, I think, somewhere around that.

18          Q     Okay. How are you familiar with Mill Creek?

19          A     I've performed the inspections, the yearly  
20 inspections for probably six or eight years now, somewhere  
21 around there.

22          Q     Okay. How many systems similar to Mill Creek  
23 have you in total operated or been involved in operations  
24 while here at the Commission or during your prior  
25 employment?

1           A     With my prior employment, we operated and  
2 maintained approximately 40 systems similar to this. Here  
3 at the Commission, I have done inspections on  
4 approximately 60 systems similar to this.

5           Q     And what is your understanding of Mill Creek's  
6 compliance with DNR's permitted levels for the National  
7 Pollutant Discharge Elimination System standards?

8           A     I requested information from TAC the last year  
9 samples -- the sample results. And currently, there are  
10 no violations as far as the discharge.

11          Q     Okay. And with you having more expertise in  
12 that area, what does -- can you just give a laymen's term  
13 about the NPDES system? What does DNR use that for?

14          A     It's a -- discharge monitoring reports have to  
15 be filed with the Department of Natural Resources. A  
16 sample has to be taken out of what's called the affluent  
17 or the discharge of the wastewater treatment facility.

18                 That sample is taken to a lab and tests are ran  
19 on it. The results are regulated by the Department of  
20 Natural Resources as to what those parameters or limits  
21 that they can exceed.

22          Q     Okay. And you previously stated that they were  
23 in compliance all of 2009?

24          A     Operationally, yes.

25          Q     And what do you contribute that compliance to?

1           A     TAC doing the operations.

2                   REPORTER'S NOTE:  At this point, an in-camera  
3 session was held, which is contained in Vol. 2, pages 44  
4 through 45 as requested by Judge Jordan at the end of  
5 hearing.

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1           CONTINUED DIRECT EXAMINATION OF STEVE LOETHEN

2 BY MS. HERNANDEZ:

3           Q     I apologize. From that testimony, is it your  
4 opinion that that company could terminate its service at  
5 any time?

6           A     Yes.

7           Q     And regarding the electric bill that was --  
8 there was testimony earlier about its delinquency. Do you  
9 remember that testimony?

10          A     Yes, I do.

11          Q     And does this -- does Mill Creek sewer use  
12 electricity?

13          A     Yes, it does.

14          Q     And how -- how was electricity used?

15          A     The treatment process is done with a -- an  
16 aerobic bacteria. They need oxygen to live. If the --  
17 the electric meter run pumps that pump air into the  
18 system. Without the electricity, the aerobic bacteria  
19 would die and the plant would become septic and pollute  
20 the waters of the state.

21          Q     Okay. And are there currently any operating  
22 issues with the plant?

23          A     It needs sludge hauled very badly. Sludge has  
24 to be hauled periodically out of the wastewater treatment  
25 plant, sludge build-up. It essentially fills up -- if the

1 plant fills up with sludge, it will lose it into the creek  
2 which will be a violation and pollute the waters of the  
3 state.

4 Q Okay. And is it your understanding that the  
5 Staff and Mr. Stroud had talked about arranging sludge  
6 hauling during its January 4th --

7 A Yes.

8 Q -- discussion?

9 A He was supposed to have -- make arrangements to  
10 have sludge hauled. Or contact TAC and have them have  
11 sludge hauled. It's my understanding that payment has to  
12 be made up front because of past due delinquencies, so --  
13 before they can actually haul the sludge or call somebody  
14 out there.

15 Q And the payment has to be made up front to -- to  
16 the person -- can you just clarify -- I'm sorry. Can you  
17 clarify that?

18 A TPCMTS, they're the sludge haulers.

19 Q Okay. If TAC was to discontinue its service for  
20 the plant, in your professional opinion, how long can the  
21 plant operate before either environmental or service  
22 quality issues arise?

23 A It could operate for some time. But without --  
24 without an operator there, many things can happen. Sludge  
25 can clog. Electric can -- you can throw a breaker because

1 of an electric charge or the belts can come off the  
2 motors. Air filters can clog. Numerous things can  
3 happen. And without an operator checking on it and fixing  
4 those problems, the plant could malfunction and pollute  
5 the waters of the state.

6 Q Do you remember the testimony Ms. Hanneken gave  
7 earlier about Mill Creek's phone being disconnected?

8 A Yes, I do.

9 Q And what is your understanding of the  
10 alternative ways customers can notify the company of  
11 service issues?

12 A The only ways I was aware of is through mail or  
13 through the cell phone. But it's my understanding that  
14 he's not checking his mail or receiving mail, and the cell  
15 phone is disconnected.

16 Q In your experience, what are common problems a  
17 collection system might encounter?

18 A You can have back-ups in collection systems.  
19 And immediate response is needed to remedy those problems.

20 Q What would happen if -- what's the result for  
21 the customer if there is no response?

22 A It can result in their home or basement filling  
23 up with sewer.

24 Q And what's -- what's the necessary response  
25 time?

1           A     There's no exact -- but, you know, within a  
2 couple hours. The customer should at least be contacted  
3 to find out what the problem is and the severity of the  
4 problem.

5           Q     Are you aware of assistance the Water & Sewer  
6 Department has offered Mr. Stroud in the past year?

7           A     I, along with others in the Water & Sewer  
8 Department and the Management Services and other  
9 departments here at the Commission, have offered  
10 assistance in several different areas.

11                     The Water & Wastewater Department, we've offered  
12 to go out and help him map the system, walk the system,  
13 learn -- learn the collection system and look in --  
14 actually look in the man holes and see what kind of issues  
15 are out there.

16                     We've also offered to help -- there's quite a  
17 few delinquent accounts out there. We've offered  
18 assistance in how to do the rules of the tariff, enforce  
19 the disconnection policy and also talk to him with  
20 possibly getting an arrangement with Missouri American,  
21 the water provider, to disconnect the water.

22                     There's contracts that can be done to disconnect  
23 the water in order to get the customers to pay the  
24 delinquent accounts.

25           Q     And is it your opinion that the system is

1 currently in need of placement with the receiver?

2 A Yes. I believe so.

3 Q And are you aware of who the Staff has  
4 recommended?

5 A Jason Williamson, who is Heartland Utilities.

6 Q Are you familiar with his background?

7 A I've worked with him on the Gladlow receivership  
8 case.

9 Q And do you think he would serve as a competent  
10 receiver for Mill Creek Sewers, Inc.?

11 A Based on my knowledge on the work he's done at  
12 Gladlow, he's done a very good job there and -- and  
13 already fixed several ongoing problems that we've had  
14 there for years, so, yes, I believe he would do a good job  
15 here, too.

16 MS. HERNANDEZ: Okay. I believe that's all the  
17 questions I have, your Honor.

18 JUDGE JORDAN: Any cross-examination from the  
19 Office of Public Counsel?

20 MS. BAKER: No, your Honor.

21 JUDGE JORDAN: I have no questions. So may this  
22 witness be excused?

23 MS. HERNANDEZ: Yes, your Honor.

24 JUDGE JORDAN: Okay. You are excused. Thank  
25 you.

1 MR. LOETHEN: Thank you.

2 JUDGE JORDAN: Anything else from Staff?

3 MS. HERNANDEZ: I do have a few matters, your  
4 Honor. I did reference a couple of numbers in my opening.  
5 And then, also, in Mr. Loethen's direct, I did ask a  
6 question that had a number included. I would just ask  
7 that those portions of the transcript be marked Highly  
8 Confidential. Or in a -- however the matter your Honor  
9 believes is most appropriate.

10 JUDGE JORDAN: Let's go off the record for  
11 discuss this procedure for just a second. Hang on, if you  
12 will, and I will put this camera in the proper place, and  
13 we'll go off the record for just a minute.

14 (Break in proceedings.)

15 JUDGE JORDAN: We are back on the record.

16 MS. HERNANDEZ: Yes, your Honor. I just have a  
17 few matters to take care of. In terms of the exhibits  
18 that were entered, if -- the exhibits that were previously  
19 marked Highly Confidential, it appears from further review  
20 of the rules that they should be marked properly as  
21 Proprietary information, and so those would be No. 3, 4,  
22 5, 6, and 7 would be the ones that we're requesting change  
23 and designation for.

24 JUDGE JORDAN: Okay. So Exhibits 3, 4, 5, 6 and  
25 7, how do you want those designated?

1           MS. HERNANDEZ: They were previously designated  
2 as HC. It appears they should be marked as Proprietary  
3 instead.

4           JUDGE JORDAN: Okay. And Exhibit 1?

5           MS. HERNANDEZ: Highly Confidential --

6           JUDGE JORDAN: All right.

7           MS. HERNANDEZ: -- for customer information.

8           JUDGE JORDAN: Okay. Anything else about those  
9 exhibits that you feel you need to tell me right now?

10          MS. HERNANDEZ: Also, in my opening and in  
11 questioning Mr. Loethen, there was some information about  
12 certain accounts that I would ask that the Commission and  
13 the court reporter place those items in-camera and give it  
14 the appropriate treatment that way.

15          JUDGE JORDAN: All right. And anything else?

16          MS. HERNANDEZ: If I may do just a short closing  
17 addressing what remedy the Staff is seeking?

18          JUDGE JORDAN: Sure. I will go ahead and grant  
19 your motions, and you can proceed to your closing  
20 argument.

21          MS. HERNANDEZ: Thank you, your Honor.

22                                   CLOSING ARGUMENT

23 BY MS. HERNANDEZ:

24          MS. HERNANDEZ: I'll just bring your attention  
25 and, also, that of the Commissioners back to the Petition

1 that was filed by the Staff requesting that under 393.145  
2 that the Commission grant an interim receivership giving  
3 -- being Mr. Williamson as interim receiver and then  
4 allowing the General Counsel to Petition the Circuit Court  
5 of whatever county it determines is most appropriate to  
6 have a hearing on placing Mill Creek in full receivership.

7 I'm sorry. I still referred to Mr. Williamson,  
8 but it should be Heartland Utilities as Mr. Williamson's  
9 testimony did identify that's how he would like to be  
10 identified.

11 I believe that the testimony that was given by  
12 the witnesses today shows that not only through actions,  
13 but Mr. Stroud's own words, that he is unwilling, unable  
14 and has effectively abandoned the system.

15 There are concerns about past accounts being  
16 overdue where certain very critical services to the system  
17 could be discontinued at any time placing the service to  
18 the customers at great risk. Also, concerns of the  
19 customer's health and welfare and, also, that of their  
20 property. There's concerns there based on the operation  
21 of the company.

22 And so, again, I would just like to reiterate  
23 that under 393.145, we believe the testimony shows such  
24 that Mr. Stroud has abandoned, is unwilling and unable to  
25 manage the system even through efforts of the Staff to

1 assist in doing so. And we would ask for interim receiver  
2 and, also, the General Counsel to have the appropriate  
3 authority to petition as it sees fit in the Circuit Court.

4 JUDGE JORDAN: Okay.

5 MS. HERNANDEZ: I appreciate your time this  
6 afternoon.

7 JUDGE JORDAN: Thank you. Thank you. Anything  
8 else from Staff, then?

9 MS. HERNANDEZ: No. I believe that's all.

10 JUDGE JORDAN: Anything from the Office of the  
11 Public Counsel?

12 MS. BAKER: Public Counsel would say that the  
13 testimony today does show that Mr. Stroud is unwilling and  
14 unable to operate Mill Creek sewer system and the actions  
15 of Mr. Stroud are those of one who has abandoned the  
16 system.

17 The testimony also showed that the customers are  
18 in danger of losing their utility service and having a  
19 negative effect on their health and safety. Therefore,  
20 Public Counsel would -- would join with -- or would not  
21 object to Staff's motion to ask for a receiver of -- of  
22 Heartland utilities and, also, to seek a permanent  
23 receiver as well.

24 JUDGE JORDAN: Okay. Anything else from the  
25 Office of Public Counsel?

1 MS. BAKER: No, your Honor.

2 JUDGE JORDAN: Okay. And I want the record to  
3 reflect that Mill Creek Sewers, Incorporated. Still has  
4 not appeared for this hearing today. And with that, we  
5 will go off the record. Thank you.

6 (The proceedings were concluded at 2:50 p.m. on  
7 February 25, 2010.)

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## 1 REPORTER'S CERTIFICATE

2

3 STATE OF MISSOURI )  
 )ss.  
4 COUNTY OF OSAGE )

5

6 I, Monnie S. Mealy, Certified Shorthand Reporter,  
7 Certified Court Reporter #0538, and Registered  
8 Professional Reporter, and Notary Public, within and for  
9 the State of Missouri, do hereby certify that I was  
10 personally present at the proceedings as set forth in the  
11 caption sheet hereof; that I then and there took down in  
12 stenotype the proceedings had at said time and was  
13 thereafter transcribed by me, and is fully and accurately  
14 set forth in the preceding pages.

15

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21 Monnie S. Mealy, CSR, CCR #0539

22

Registered Professional Reporter

23

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25

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1				
2				
3	1-HC	Billing Register	47	47
4	2	10/23/09 Letter to	47	47
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6	3-P	Testing Analysis &	47	47
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		to Mill Creek		
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15		Information for		
		Mill Creek		
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