

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

In the Matter of the Small Company Rate)
Increase Request of Mill Creek Sewers, Inc.)

Case No. SR-2005-0116

STATUS REPORT

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through Counsel, and for its Status Report states the following to the Missouri Public Service Commission (Commission).

1. On March 23, 2005¹, the Commission issued an **Order Directing Filing** (March 23 Order), in which it directed the Staff to file two status reports regarding the potential transfer of the sewer collection and treatment system owned by Mill Creek Sewers, Inc. to the St. Louis Metropolitan Sewer District, with the reports to be filed on March 25 and April 1.

2. The Staff filed the two status reports required by the Commission's March 23 Order on March 25 and April 1, respectively.

3. As a part of its April 1 status report, the Staff stated that it would continue to file weekly status reports in this case. Consistent with that commitment, the Staff filed its third and fourth weekly status reports on April 8 and April 15, respectively.

4. Consistent with the commitment that the Staff made in its April 1 status report, attached hereto and identified as Appendix A is the Staff's fifth weekly status report.

WHEREFORE the Staff respectfully submits the attached status report for the Commission's information and consideration in this case.

¹ Unless noted otherwise, all dates herein refer to the year 2005.

Respectfully Submitted,

DANA K. JOYCE
General Counsel

/s/ Keith R. Krueger

Keith R. Krueger
Deputy General Counsel
Missouri Bar No. 23857

Attorney for the Staff of the
Missouri Public Service Commission

P.O. Box 360
Jefferson City, MO 65102
573-751-4140 (telephone)
573-751-9285 (facsimile)
keith.krueger@psc.mo.gov (e-mail)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed with first class postage, hand-delivered, transmitted by facsimile or transmitted via e-mail to all counsel and/or parties of record this 25th day of April 2005.

/s/ Keith R. Krueger

Keith R. Krueger

CASE STATUS REPORT
CASE NO. SR-2005-0116

Prepared By:

Dale W. Johansen

Water & Sewer Department

Utility Operations Division

April 25, 2005

Procedural History

On March 16, 2005¹, the Commission conducted an on-the-record presentation (March 16 Presentation) regarding the *Agreement Regarding Disposition of Small Company Rate Increase Request* entered into by the Staff and Mill Creek. During the March 16 Presentation, the parties to this case informed the Commission that the St. Louis Metropolitan Sewer District (MSD) was a potential purchaser of Mill Creek's sewer system, that the Staff was directly involved in the discussions regarding the potential transfer of Mill Creek's sewer system to the MSD, and that the potential transfer also involved the Department of Natural Resources (DNR) and the Attorney General's Office (AGO). (Provisions regarding the potential transfer of Mill Creek's sewer system to the MSD, or another acceptable entity, are included in the above-referenced disposition agreement, which was filed in this case on October 29, 2004.)

On March 23, the Commission issued its **Order Directing Filing**, in which it directed the Staff to: (1) file a status report, no later than March 25, informing the Commission of the progress of the potential sale of Mill Creek's sewer system to the MSD; (2) file a statement, no later than March 25, indicating whether it is likely that a sale of Mill Creek's sewer system to the MSD would occur prior to April 12; and (3) file a second status report, no later than April 1, informing the Commission of the progress of the potential sale of Mill Creek's sewer system to the MSD.

On March 25, the Staff filed its first Status Report, which included information regarding the possible completion date of the potential transfer of Mill Creek's system to the MSD, as required by the above-referenced Commission order.

On April 1, the Staff filed its second Status Report regarding the possible transfer of the Mill Creek system to the MSD, as required by the above-referenced Commission order. As a part of its April 1 status report, the Staff committed to continue to file weekly status reports in this case.

Consistent with the commitment made in the April 1 status report, the Staff filed its third weekly Status Report on April 8 and its fourth weekly Status Report on April 15.

¹ Unless noted otherwise, all dates herein refer to the year 2005.

Actions Taken Subsequent to the April 15 Status Report

I tried on several occasions the week of April 18 to contact Joe Bindbeutel by telephone, and also sent e-mail messages to Mr. Bindbeutel and Paul DeFord during that week, in an attempt to obtain additional information from them regarding the status of the potential transfer of Mill Creek's sewer collection and treatment system to the MSD. Additionally, Jim Merciel of the Water & Sewer Department attempted to contact Mr. Bindbeutel by telephone on Thursday of that week. (As noted in my March 25 Status report, Mr. Bindbeutel is an attorney with the AGO who is familiar with the MSD's potential purchase of Mill Creek's sewer system and who has represented the DNR in past enforcement actions involving Mill Creek, and Mr. DeFord is an attorney representing the MSD in the potential purchase of Mill Creek's sewer system.)

As of the writing of this report, I have not yet been able to talk with Mr. Bindbeutel, but did talk with Mr. DeFord on April 20. Additionally, Mr. Bindbeutel responded to Mr. Merciel's phone call by e-mail.

In addition to the follow-up activities regarding the potential system transfer, Steve Loethen of the Water & Sewer Department conducted on-site visits to Mill Creek's sewage treatment plant on April 19 and April 21. A summary of Mr. Loethen's on-site visits is included in the section of this report titled "Current Condition of the Sewer Plant".

Current Status of the Potential System Transfer

AGO/DNR: Although I have not spoken with Mr. Bindbeutel recently, I have also not received any information from him that would indicate that these agencies' interest in the transfer has changed since the filing of my April 1 Status Report.

MSD: During my April 20 phone conversation with Mr. DeFord he indicated that the MSD continues to periodically evaluate the condition of Mill Creek's sewage treatment plant, has plans to conduct an evaluation of the collection system and continues to be interested in taking over the Mill Creek system. However, I have not yet obtained any detailed information directly from the employees of the MSD directly involved in this matter regarding any concerns that may need to be rectified before a transfer could happen.

Mill Creek: It continues to be clear from recent discussions with Mr. Afshari, the owner of Mill Creek, that he is still committed to the transfer, under acceptable terms.

Possible Completion Date: Regarding a possible completion date for a transfer, it is still not yet clear how much time might be needed to finalize the arrangements for a successful transfer of Mill Creek's system to the MSD. However, I believe that the necessary parties are all still interested in seeing the transfer accomplished and continue to work toward that goal with the thought in mind that "sooner is better".

Current Condition of the Sewage Treatment Plant

On April 19, Steve Loethen of the Water & Sewer Department met representatives of Commercial Pumping (Commercial) at the Mill Creek sewage treatment plant. Jim Holmes with Mill Creek was also present.

Commercial pumped one load of solids out of the clarifier and Mr. Loethen then tried to unclog the sludge returns, but could still not get them to work properly. Commercial then used their hydraulic line "jet flusher" and jetted out both sludge returns. After that work was completed, one of the sludge returns was working properly. However, efforts to get the second sludge return working properly were not successful. Apparently, the sludge in one side of the clarifier is still too thick to flow through the sludge return, and Mr. Loethen recommended that the clarifier be pumped out completely.

Commercial was going to try to complete the job on April 19, but when the sludge truck was pulling up the incline out of the plant site the truck's driveshaft broke. Because of that, a tow truck had to be called in along with another sludge truck to download the solids out of the broken truck. Once that work was completed, there wasn't enough time left to finish the job. Additionally, due to past transactions with Mill Creek, Commercial is requiring that Mill Creek pay "up-front" before it will do more work at the sewage treatment plant. When Mr. Loethen left the plant on April 19, Commercial was going to give Mill Creek a bid on how much it would cost to pump out the clarifier completely and make sure that both sludge returns were unclogged.

On April 21, Mr. Loethen returned to Mill Creek's sewage treatment plant and found that the sludge return that had been fixed on April 19 was again clogged. Mr. Loethen was, however, able to unclog that sludge return and get it running again. Mr. Loethen again noted that there is such a large amount of sludge in the plant that the plant will not run properly until all of the sludge is hauled out.

On April 22, Mr. Loethen called Commercial to see if arrangements had been made for the additional sludge hauling, but was not able to reach anyone and left a message to be called. Mr. Loethen also contacted Mr. Holmes of Mill Creek and was advised that Mill Creek was waiting on the bid from Commercial for the additional work.

Planned Follow-Up Activities

I will be attempting to contact Mr. Bindbeutel and Mr. DeFord again this week (the week of April 25) by telephone for the purpose of obtaining additional information regarding their clients' current positions regarding the possible transfer of Mill Creek's system to the MSD, and for the purpose of setting a date for a meeting or conference call to further discuss the possible transfer. If those contacts are not successful by the end of day on Tuesday, April 26, I will be sending each of them e-mail messages asking that they provide me any additional available information, and asking for their input on an acceptable time for a conference call or meeting.

Case Status Report
Case No. SR-2005-0116
April 25, 2005 – Page 4 of 4 Pages

Regarding further Staff work concerning the operation of the sewage treatment plant, Mr. Loethen will be attempting to contact both Mill Creek and Commercial on April 26 to see if a date has been scheduled to pump out the clarifier. Once that work has been done, Mr. Loethen will return to the plant to ensure that the needed adjustments are made to the sludge returns so that the plant will be able to operate properly.

Regarding future status reports, the Staff will continue to file weekly status reports, or will advise the Commission that additional information is not available and that a status report will thus not be filed for a given week.