

Exhibit No.:	_____
Issue:	Admin. Order
Witness:	Lance Dorsey
Type of Exhibit:	Direct
Sponsoring Party:	Intervenor DNR
Case No.:	WA-2015-0182
Date Testimony Prepared: July 31, 2015	

BEFORE THE
DEPARTMENT OF NATURAL RESOURCES
STATE OF MISSOURI

IN THE MATTER OF:

Ridge Creek Development LLC
Ridge Creek Water Company LLC
Unpermitted Public Water System
Identification Number: No Permit

No. PDWB-2015-063

SERVE:

Michael and Denise Stoner,
Ridge Creek Development, LLC
And Ridge Creek Water Company, LLC
Members
P.O. Box KK
Dixon, Mo 65459

ADMINISTRATIVE ORDER ON CONSENT

I. NOTICE TO RECIPIENTS OF ADMINISTRATIVE ORDERS

The issuance of this Administrative Order on Consent No. PDWB-2015-063 (Order) by the Missouri Department of Natural Resources (DNR) is a formal administrative action by DNR. DNR, Ridge Creek Development LLC, and Ridge Creek Water Company LLC are joining in this Order to resolve violations of the Missouri Safe Drinking Water Law, Section 640.100 RSMo et seq., and its implementing regulations ("MSDWL&R"). This Order is issued pursuant to Chapter 640 RSMo, specifically Section 640.130.3 and Section 640.131 RSMo. DNR has emphasized, and Ridge Creek Development and Ridge Creek Water understand, that failure to comply with this Order is, by itself, a violation of the MSDWL&R that may trigger penalties and other forms of relief pursuant to Sections 640.130-131 RSMo.

II. FINDINGS OF FACT

A. Ridge Creek subdivision was developed as a housing community by Ridge Creek Development. Ridge Creek subdivision is a geographical area more particularly described in the attached plats. Ridge Creek Development also created a water system to serve Ridge Creek subdivision. The subdivision and water system are located in Pulaski County, Missouri. Ridge Creek Development's mailing address is: Ridge Creek Development, LLC, P.O. Box KK, Dixon, MO 65459.

B. Michael and Denise Stoner are the sole members of Ridge Creek Development and Ridge Creek Water.

C. Ridge Creek Development currently owns and operates the water system located in the Ridge Creek subdivision. Ridge Creek Water intends to acquire the water system in the Ridge Creek subdivision. DNR staff investigated a concern raised by a resident of Ridge Creek subdivision and in the course of that investigation conferred with the Stoners about the Ridge Creek water system.

D. According to information provided by the Stoners on December 2, 2013, on a Community Public Water System Inventory form, there are 130 service connections in the Ridge Creek subdivision. The Ridge Creek water system has 22 wells each with bladder pressure tanks that provide water throughout the Ridge Creek subdivision.

E. All the wells in the Ridge Creek water system are multi-family wells as defined by 10 CSR 23-1.030(3).

F. As defined by Section 640.102(6) and 10 CSR 60-2.015, a public water system is a system that provides piped water to the public for human consumption and has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year or has multiple separate systems with a common owner. The Ridge Creek water system that

serves the Ridge Creek subdivision has 130 service connections and 22 multi-family wells with no more than 14 connections per well. The system serves more than 25 individuals more than 60 days each year.

G. On February 4, 2015, Ridge Creek Water filed an application with the Missouri Public Service Commission to obtain a Certificate of Convenience and Necessity to “extend, install, own, acquire, construct, operate, control, manage and maintain a water system for the public” at the Ridge Creek water system. That application is pending in the matter styled “In the Matter of the Application of Ridge Creek Water Company, LLC for a Certificate of Convenience and Necessity authorizing it to construct, install, own, operate, control, manage, and maintain a water system for the public located in an unincorporated area in Pulaski County, Missouri,” Case No. WA-2015-0182.

H. Neither Ridge Creek Development nor Ridge Creek Water has a permit to dispense water to the public.

III. CITATIONS AND CONCLUSIONS OF LAW

A. DNR contends that Ridge Creek Development committed the following violations of the MSDWL&R, Chapter 640, RSMo, and its implementing regulations thereby subjecting Ridge Creek Development to penalties as described in Sections 640.130 and/or 640.131 RSMo:

1. Ridge Creek Development had wells drilled and utilized these wells (22 total) that were constructed after October 1, 1979, that do not meet community water system construction standards – 10 CSR 60-4.080(5).

2. Ridge Creek Development failed to obtain written authorization (Construction Permit) from DNR prior to the construction, alteration, or extension of the water system - 10 CSR 60-3.010.

3. Ridge Creek Development dispensed water to the public without first obtaining from DNR a written Permit to Dispense water – 10 CSR 60-3.010(1)(D).

B. Ridge Creek Development contends that it installed the 22 wells and made the service connections to those wells in conformity with state and federal law and applicable federal, state and local regulations

C. Section 640.131, RSMo and 10 CSR 60-6 authorizes the imposition of a civil penalty in the amount of 50 dollars per day or part thereof for the first violation of the MSDWL&R and 100 dollars per day or part thereof for the second violation and for each violation thereafter.

D. Ridge Creek Development and the Stoners dispute that the facts and circumstances described in this Order used to invoke the penalty provisions of the statutes cited and deny any liability for penalties.

IV. AGREEMENT

A. DNR and Ridge Creek Development desire to amicably resolve this dispute and resolve all claims or defenses that might be brought or asserted against Ridge Creek Development or DNR based upon the facts and circumstances described herein. Neither the DNR nor Ridge Creek Development admit the validity or accuracy of any such claims. It is understood and agreed to by the parties that this Order is a compromise of disputed claims and that execution of this Order and performance of the terms and conditions hereof is not to be construed as an admission of liability on the part of DNR, Ridge Creek Development or any person or entity, all of whom expressly deny any liability.

DNR, Ridge Creek Development, and Ridge Creek Water agree that this Order resolves only the specific claims and purported violations described herein, that this Order shall not be construed as a waiver or a modification of any requirements of the MSDWL&R or any other source of law, and that

this Order does not resolve any claims based on any failure by Ridge Creek Development or Ridge Creek Water to meet the requirements of this Order, or claims for past, present, or future violations of any statutes or regulations other than those purported violations referenced herein.

B. The provisions of this Order shall apply to and be binding upon the parties signing this Order, their members, successors, assigns, agents, contractors, subsidiaries, affiliates and lessees, including the members, officers, agents, servants, corporations and any persons acting under, through, or for the parties.

C. In accordance with Section 640.115.1 RSMo and 10 CSR 60-3.020(4), Ridge Creek Development shall notify DNR in writing by certified mail at least 90 calendar days prior to transfer of ownership or operation of the public water system, or transfer of ownership of the real estate containing the public water system. Ridge Creek Water agrees that it shall similarly notify DNR.

D. Ridge Creek Development and Ridge Creek Water agree to immediately contact Permits and Engineering, P.O. Box 176, Jefferson City, MO 65102-176 or at 573-751-1127, and submit an application for a Permit to Dispense and to timely perform all required actions to obtain the permit. DNR agrees to issue a Permit to Dispense subject to the terms and conditions contained herein.

E. Ridge Creek Development agrees no more than 14 service connections shall be connected to each existing multi-family well or three connections to each existing domestic well per 10 CSR 23-1.030. In the event the number of existing service connections to a well already exceeds its legal capacity, as of the effective date of this Order, Ridge Creek Development agrees that no new service connections shall be made.

F. Ridge Creek Development and Ridge Creek Water agree not to drill any additional community or multi-family wells.

G. DNR and Ridge Creek Development and Ridge Creek Water agree that DNR will allow Ridge Creek Development and Ridge Creek Water to continue using the existing wells and infrastructure currently serving the subdivision provided that the wells produce water that meets drinking water standards in this Order and contained in the MSDWL&R and that Ridge Creek Development and Ridge Creek Water promptly correct all significant deficiencies found during DNR inspections of the Public Water Supply. If any of the existing wells fail to produce water that meets drinking water standards in this Order and contained in the MSDWL&R, then Ridge Creek Development and Ridge Creek Water shall implement a resolution as indicated in Section L of this Order. If the infrastructure fails to maintain minimum safe water pressures (20 psi) or if positive microbiological samples are obtained from the distribution systems and not the wells, Ridge Creek Development and Ridge Creek Water agree to take actions directed by DNR to protect the public health and to correct the cause of the positive samples or low water pressures.

H. To ensure that the water being produced by all existing wells meets required standards, Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) agrees to allow DNR to perform monitoring within 90 days from the effective date of this Order, as described below. Upon the effective date of this Order, Ridge Creek Development agrees to comply with all applicable monitoring requirements.

1. In addition to required routine microbiological monitoring, Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) agrees to allow DNR to collect five microbiological source water samples from each well within 90 days, taken directly from the well through a dedicated sample tap located prior to any treatment or storage/pressure tank. Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) shall apply no disinfectant into the well, the water line

prior to the dedicated sample tap, or the sample container itself prior to collection of samples;

2. Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) agrees to allow DNR to collect one nitrate/nitrite sample within 90 days directly from the well. Should any sample result exceed the Maximum Contaminant Level (MCL) for nitrate/nitrite, the system agrees to collect a confirmation sample within 24 hours of receipt of notification of analytical results for the initial sample.

The results of these initial and confirmation samples shall be averaged, and DNR will determine compliance with Section K of this Order;

3. Within 90 days of entering into this Order, DNR shall collect one volatile organic chemical contaminant sample collected directly from the well; should the sample exceed the MCL for any volatile organic chemical, Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) agrees to conduct quarterly monitoring for three additional quarters. The results of the quarterly monitoring shall be averaged, and DNR will determine compliance with Section K of this Order. Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) agrees to continue to conduct quarterly monitoring in compliance with the MSDWL&R.

4. Within 90 days of entering into this Order, DNR shall collect one inorganic chemical contaminant sample collected directly from the well; should the sample exceed the MCL for any inorganic chemical, Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) agrees to conduct quarterly monitoring for three additional quarters. The results of the quarterly monitoring shall be averaged, and DNR will determine compliance.

I. Microbiological samples collected under the terms of this Order shall be submitted to the appropriate Department of Health and Senior Services Laboratory or a laboratory certified by DNR to conduct the appropriate drinking water analyses.

J. Chemical samples collected under the terms of this Order shall be submitted to DNR's Environmental Services Program laboratory, or a laboratory certified by DNR, to conduct the appropriate drinking water analyses.

K. Should any contamination or violations as specified in (1) through (6) below be detected, Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) shall immediately notify DNR and discuss appropriate resolution. Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) shall also continue monitoring as directed by DNR until resolution is satisfactorily completed.

1. One *Escherichia coli* bacteria (*E. coli*) positive source water sample requires collection and analysis of five additional source water samples from the well(s) with the positive result. If one of the five additional source water samples is *E. coli* positive, for a total of two *E. coli* positive source water; or

2. Four or more total coliform MCL violations; or

3. Six or more microbiological monitoring violations; or

4. One or more confirmed nitrate/nitrite result (average of initial and confirmation samples) exceeding the nitrate/nitrite MCLs; or

5. Exceedance of any chemical contaminant MCL based upon a four quarter annual average; or

6. Two or more chemical contaminant monitoring violations.

L. In the absence of serious and significant factors warranting other action, to be

determined solely by DNR, resolution of any contamination or violations enumerated in Section K. may consist of any one or a combination of the following corrective actions as directed by DNR:

1. Correct any significant deficiencies as identified by the DNR that may relate to or cause the unsatisfactory samples; or
2. Remove identified sources of contamination;
3. Plug the well in accordance with state standards (10 CSR 23-3.110), obtain a construction authorization from DNR, and with DNR approval, connect to another public water system;
4. Plug the well in accordance with state standards (10 CSR 23-3.110) obtain construction authorization from DNR, and construct a new well to meet construction standards appropriate to a public water system well; or
5. Obtain a construction authorization and install a DNR approved treatment facility; **provided however**, approval of corrective actions, or a combination of corrective actions, other than the construction of a treatment facility alone, or combined with other corrective actions, will not be unreasonably withheld by DNR. If DNR directs implementation of this resolution Ridge Creek Water agrees to properly operate and maintain a DNR-approved treatment facility and perform daily monitoring and recordkeeping until otherwise directed by DNR. Ridge Creek Water further agrees that DNR may evaluate the treatment facility at any time and subsequently direct other corrective action.
6. DNR shall not direct the implementation of a particular corrective action if another corrective action can achieve compliance with applicable drinking water standards at a lesser cost. However, any corrective action that is proposed must be in accordance with the

DNR's *Minimum Design Standards for Missouri Community Water Systems – Effective Dec. 10, 2013* and approved by the DNR.

M. This Order does not in any way relieve either Ridge Creek Development or Ridge Creek Water of the regulatory obligation to conduct routine monitoring as specified in 10 CSR 60-4 and 10 CSR 60-11 (lead and copper monitoring) or to comply with other provisions of the MSDWL&R including all chemical and radionuclide monitoring requirements.

N. Should it become necessary to implement a resolution as described in Section L, Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) may continue to use the existing well until the resolution is in place, under the following conditions:

1. Ridge Creek shall use DNR-approved public notification methods, as specified in 10 CSR 60-8, to notify all customers of contaminants detected in the water, including special instructions and precautions as directed by DNR;
2. Ridge Creek may, as an alternative, provide bottled water to consumers on a temporary basis but shall obtain prior DNR approval and shall provide public notification as required in 10 CSR 60-8 or as directed by DNR; and
3. For microbiological MCL exceedances only, Ridge Creek may provide disinfection using a chlorine delivery system, including contact time, acceptable to and approved by DNR prior to installation. If this option is directed, Ridge Creek may use only liquid sodium hypochlorite as the disinfecting agent and must maintain a free available chlorine residual as directed by DNR but not less than 0.5 milligrams per liter in water entering the distribution system. This chlorine residual shall be monitored daily using analytical equipment acceptable to DNR and the results of this residual disinfection monitoring shall be recorded daily.

P. If it is determined by DNR that a new well must be constructed, the parties agree to all of the following:

1. Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) shall promptly contract with an engineer registered in the State of Missouri to submit to DNR for review and approval an engineering report, plans and specifications, a construction authorization application, and a schedule for installing the new well;
2. Prior to submittal of plans and specifications, Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) shall arrange with DNR for a site inspection to ensure that the proposed location of the new well is in conformance with appropriate construction standards relative to separation distance from any potential contamination source or any other well that may be on the property or on any adjoining property and that the proposed well is the type appropriate for this public water system; and
3. No construction shall take place until DNR has issued a construction authorization. Upon completion of the construction, the engineer shall certify in writing that the construction has been completed in conformance with the requirements of the construction authorization.

Q. Upon construction of a new well, Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) shall properly abandon and plug the existing well in accordance with 10 CSR 23-3.110.

R. Under no circumstances shall pellet chlorinators be used or approved as acceptable means of disinfecting the public water system, nor shall ultraviolet light disinfection be the primary disinfectant.

S. Upon compliance with the terms and conditions of this Order, DNR agrees not to bring or cause to be brought any civil action against Ridge Creek Development for the alleged violations described herein.

T. It is further understood and agreed that if, at any time after the 90 days of initial monitoring, Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) violates MCLs or monitoring requirements, DNR will reevaluate the continued use of the well using criteria established in Section L of this Order and may require Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) to implement an appropriate resolution as described in Section M of this Order.

U. Should Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) fail to comply with the terms outlined in Section IV, Item (A) through (T) of this Order, Ridge Creek Development (or Ridge Creek Water if it has acquired the water system) shall be subject to pay stipulated penalties of 100 dollars per day of non-compliance. Stipulated penalties shall be paid in the form of a certified or cashier's check made payable to "Pulaski County Treasurer, as custodian of the Pulaski County School Fund." Any such stipulated penalty shall be paid within ten business days of demand by DNR and shall be delivered to:

Accounting Program
Missouri Department of Natural Resources
P.O. Box 477
Jefferson City, MO 65102-0176

V. The parties understand that the final terms of this Order will be a public record under Chapter 610, RSMo.

W. Nothing in this Order forgives Ridge Creek Development or Ridge Creek Water for any future non-compliance with the laws of the State of Missouri, and DNR expressly reserves the right to address future non-compliance in any manner authorized by law.

X. Ridge Creek Development and Ridge Creek Water agree to comply with the MSDWL&R at all times in the future.

Y. The terms stated herein constitute the entire and exclusive agreement of the parties with respect to the matters described herein. The terms of this Order supersede all previous memoranda of understanding, notes, conversations, and agreements, whether express or implied. This Order may not be modified orally. No changes, alterations, modifications, or qualifications to the terms herein shall be made or be binding unless in writing and signed by DNR.

Z. This Order shall be governed by and construed in accordance with the laws of the State of Missouri.

AA. All signatories to this Order acknowledge that they have thoroughly read and reviewed the terms and provisions of this Order and are familiar with the same, that the terms and provisions contained herein are clearly understood by them and have been fully consented to by them.

V. RIGHT OF APPEAL

By signing this Order, Ridge Creek Development and Ridge Creek Water waives any right to appeal this Order pursuant to Sections 621.250, 640.010, 640.013, 640.130 through 640.131, Chapter 536, RSMo, 10 CSR 60-6.070(5), the Missouri Constitution, or any other source of law. This Order will become final and fully enforceable upon the date DNR signs.

VI. CORRESPONDENCE AND DOCUMENTATION

All correspondence or documentation with regard to this Order shall be directed to the following persons, subject to change upon written notification from either party:

For the DNR:

Lance Dorsey
Compliance and Enforcement Section
Public Drinking Water Branch
Water Protection Program
Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

For the Ridge Creek Development LLC and
Ridge Creek Water Company LLC:

Michael Stoner, Member OR
Denise Stoner, Member
Ridge Creek Development LLC
P.O. Box KK
Dixon, MO 65459

Agreed to and Ordered this 10th day of July, 2015

John Madras
John Madras
Director Water Protection Program
Department of Natural Resources

7/10/15
Date

Ridge Creek Development, LLC

By: Michael Stoner
Michael Stoner, Member

6-22-15
Date

Ridge Creek Water Company, LLC

By: Denise Stoner
Denise Stoner, Member

6/22/15
Date