

WHN CONSULTING

19 Morning Arbor Place
The Woodlands, TX 77381

February 25, 2006

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JAMES ROBERTSON

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Via Hand Delivery

Ron Jones, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

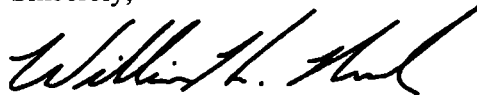
06-00062

Re: Petition of Cartwright Creek, L.L.C. for Exemption from Financial Security as required by the TRA's Proposed Wastewater Regulations

Dear Chairman Jones:

Cartwright Creek, L.L.C. files the attached Petition for Exemption from Financial Security as required by the TRA's proposed wastewater regulations. Please contact either Bob Cochrane, Chief Financial Officer of Sheaffer International, L.L.C., or myself if you should have any questions.

Sincerely,



William H. Novak
Regulatory Agent for Cartwright Creek, L.L.C.

Enclosures

Cc: Bob Cochrane

BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN RE:

**PETITION OF CARTWRIGHT CREEK,)
L.L.C. FOR EXEMPTION FROM FINANCIAL)
SECURITY AS REQUIRED BY THE TRA'S)
PROPOSED WASTEWATER)
REGULATIONS)**

DOCKET NO. _____

PETITION

Pursuant to T.C.A. Section 65-4-201(e) and the Proposed Rules of the Tennessee Regulatory Authority ("TRA" or "Authority") Chapter 1220-4-13, Cartwright Creek, L.L.C. ("Cartwright Creek" or the "Company") respectfully requests that the TRA exempt it from providing financial security.

The full name and address of the principal place of business of the Company are:

Cartwright Creek, L.L.C.
800 Roosevelt Road, Suite B214
Glen Ellyn, IL 60137

All correspondence and communication with respect to this Petition should be sent to the following:

Bob Cochrane
Chief Financial Officer
Cartwright Creek, L.L.C.
800 Roosevelt Road, Suite B214
Glen Ellyn, IL 60137
Telephone: 630-446-4080

William H. Novak
WHN Consulting
19 Morning Arbor Place
The Woodlands, TX 77381
Telephone: 713-298-1760
Facsimile: 615-301-3962

In March 1975, the Tennessee Public Service Commission granted Cartwright Creek Utility Company, Inc. ("CCUC") the authority to provide wastewater services in the 7th Civil District of Williamson County, Tennessee. On November 8, 2004, in Docket 04-00307, the TRA approved the transfer of CCUC to Cartwright Creek, a division of Sheaffer International, L.L.C.

Throughout its operating history, CCUC and Cartwright Creek have operated, and continues to operate, from the debt and equity investments provided by its owners. The Company has never received directly or in kind, any plant that was contributed by a third-party developer to be later served by Cartwright Creek. In this respect, Cartwright Creek has operated like any other traditional utility regulated by the TRA.

In contrast to Cartwright Creek's embedded capital structure, many new wastewater utilities receiving a Certificate of Convenience & Necessity ("CCN") from the TRA have done so by depending fully upon the contribution of utility plant from a third-party developer. This type contributed capital utility has led to a number of significant questions from the TRA over whether such utilities could be considered as reliable going concerns if any type of financial stress arose. As a result, the TRA has now begun implementation of proposed interim and permanent rules for all wastewater utilities that require financial security to be provided.

Cartwright Creek agrees with the concerns of the TRA regarding wastewater utilities that have been created completely from the contribution from third-party developers. In such situations, Cartwright Creek believes that additional financial security is both appropriate and necessary to insure the continuing operation of the utility.

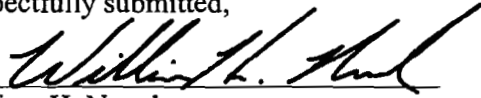
As previously stated however, Cartwright Creek was created and maintained through an equity contribution from its owners and not from any third-party developer. In this respect, Cartwright Creek is the same as any other traditional gas, electric or water utility approved by the TRA to operate in Tennessee. Solely because Cartwright Creek is categorized as a wastewater utility, under the TRA's proposed interim and permanent rules, we are now being required to provide additional financial security to the TRA. If the Company had conducted business as an approved gas, electric or water utility then no additional financial security would be required. The Company feels that this classification of all wastewater utilities into a single group regardless of capital structure is unfair and not what the TRA first intended in addressing its concerns over the contributions of property from third-party developers.

Cartwright Creek now formally requests that its existing financial structure be considered as fulfilling the TRA's financial security obligation in both its proposed interim and permanent rules as described in Chapter 1220-4-13-.07(5). In further support of its Petition, the Company has attached the prefiled testimony of Robert Ian Cochrane to this Petition.

WHEREFORE, the Company prays:

1. That Notice be issued and a timely hearing be set regarding this Petition prior to the implementation of the TRA's proposed interim and permanent rules;
2. That the Authority approve Cartwright Creek's requested exemption from providing further financial security.

Respectfully submitted,

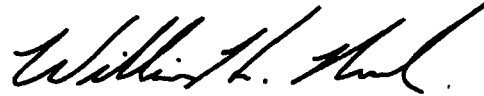
By: 
William H. Novak
WHN Consulting

Regulatory Agent for Cartwright Creek, L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of February 2006, a true and correct copy of the foregoing Petition was served on the persons below by placing same in the U.S. mail, postage pre-paid:

Russell Perkins
Consumer Advocate and Protection Division
Office of the Attorney General
P.O. Box 20207
Nashville, Tennessee 37202

A handwritten signature in black ink, appearing to read "William H. Novak", written over a horizontal line.

William H. Novak
WHN Consulting

**Before The
Tennessee Regulatory Authority
Of The
State of Tennessee**

in re:

**Petition of Cartwright Creek, L.L.C. for Exemption from
Financial Security as required by the TRA's Proposed
Wastewater Regulations**

**Testimony of
Robert Ian Cochrane**

- 1 **Q. Would you state your name for the record, please?**
- 2 A. My name is Robert Ian Cochrane.
- 3 **Q. By whom are you employed, Mr. Cochrane, and what is your position?**
- 4 A. I am the Vice-President of Finance for Sheaffer International, L.L.C the parent
5 company of Cartwright Creek, L.L.C.
- 6 **Q. How long have you been employed by Sheaffer International, L.L.C.?**
- 7 A. Since October of 1999.
- 8 **Q. Please describe the duties that you perform at Sheaffer International, L.L.C.**
- 9 A. I direct and oversee all accounting and finance functions, including the
10 accounting, budget, accounts payable, purchasing, personnel, payroll, and cash
11 management areas. I maintain principal banking, insurance, employee benefit,
12 and investment relationships. I negotiate terms for credit enhancement
13 instruments and coordinate the issuance of tax-exempt revenue bonds through
14 state conduit agencies financing wastewater treatment projects. I also negotiate
15 the terms of customer contracts and related agreements. In addition, I currently
16 serve as the treasurer for the Community Counseling Center of Fox Valley, a
17 mental health and substance abuse rehabilitation agency in west suburban
18 Chicago.
- 19 **Q. What is your educational background, and what degrees and licenses do you**
20 **hold?**
- 21 A. I received a BS degree in accounting from Bradley University, and I received my
22 MBA from Lake Forest Graduate School of Management in Illinois. The
23 University of Illinois issued my CPA certificate in 1981. I participate in
24 continuing professional education as required by my profession. In addition, I
25 have been a financial officer at both Roosevelt University and National-Louis
26 University. Finally, I am a member of the Illinois CPA Society.
- 27 **Q. Mr. Cochrane, what is the purpose of your testimony in this case?**

1 A. The purpose of my testimony is to present information to the TRA on exempting
2 Cartwright Creek, L.L.C. ("Cartwright Creek") from the financial security
3 obligations contained in the TRA's proposed interim and permanent rules for
4 wastewater utilities. I will also present information on the cost required for
5 Cartwright Creek to comply with the TRA's proposed rules.

6 **Q. Mr. Cochrane, when was Cartwright Creek formed?**

7 A. In March 1975, the Tennessee Public Service Commission granted a Certificate of
8 Convenience and Necessity ("CCN") to our predecessor Cartwright Creek Utility
9 Company ("CCUC"). On November 8, 2004, in Docket 04-00307, the TRA
10 approved the transfer of CCUC to Cartwright Creek, L.L.C., a liability liability
11 company. Sheaffer International LLC owns 90% of Cartwright Creek LLC with
12 the previous owners retaining a 10% interest. Sheaffer International, L.L.C. is
13 the managing member.

14 **Q. How did the Company obtain the capital necessary to commence operations?**

15 A. Throughout its operating history, CCUC and Cartwright Creek have operated, and
16 continue to operate, from the debt and equity investments provided by its owners.
17 The Company has never received any type of contributed plant, either directly or
18 in-kind, from a third-party developer that it would later serve.

19 **Q. Do all wastewater utilities operate with the same capital structure as
20 Cartwright Creek?**

21 A. No. Some utilities have been formed and have received approval to operate in
22 Tennessee entirely through third-party contributions from the developers of the
23 property they would later serve. Although there are a number of concerns
24 regarding a utility that has relied completely on contributed capital, the primary
25 issue is whether this type of utility could be considered a reliable going concern if
26 any type of financial stress arose.

27 **Q. Has the TRA addressed these concerns?**

1 A. Yes. Through its proposed interim and permanent rules, the TRA has now
2 required wastewater utilities to provide additional financial security. Cartwright
3 Creek agrees with the concerns of the TRA regarding wastewater utilities that
4 have been created completely from the contribution of third-party developers. In
5 such situations, we believe that additional financial security is both appropriate
6 and necessary to insure the continuing operation of the utility.

7 **Q. Do these same concerns apply to Cartwright Creek?**

8 A. No. As stated above, Cartwright Creek was created and has been maintained
9 since its inception in 1975 through an equity contribution from its owners and not
10 from any third-party developer. In this respect, Cartwright Creek operates the
11 same as any other traditional gas, electric or water utility approved by the TRA to
12 operate in Tennessee. Solely because Cartwright Creek is categorized as a
13 wastewater utility, it is now being required to provide additional financial security
14 under the TRA's interim and permanent rules. If the Company had conducted
15 business over its life as an approved gas, electric or water utility then no
16 additional financial security would be required. I feel that this classification of all
17 wastewater utilities into a single group regardless of capital structure is unfair and
18 not what the TRA first intended in addressing its concerns over the contributions
19 of property from third-party developers.

20 **Q. What is the Company asking the TRA to do to remedy this situation?**

21 A. We are asking that Cartwright Creek's existing financial structure be considered
22 as fulfilling the TRA's financial security obligation in both the interim and
23 permanent rules as described in Chapter 1220-4-13-.07(5).

24 **Q. If the TRA does not approve the Company's request, then what action would**
25 **the Company take?**

1 A. The Company would obtain the financial security from a provider and pass the
2 cost of this security on to our customers as allowed in the TRA's proposed rules
3 in Chapter 1220-4-13-.07(7).

4 **Q. What is the cost of this financial security and the related cost per customer?**

5 A. Since receiving notice of the proposed regulations, I have contacted two insurance
6 brokers to assess both the availability and cost of the proposed surety bond
7 language. Mark Effrien of Astro National, Inc. in Oakbrook, Illinois reported that
8 Sheaffer International, L.L.C.'s previous surety would not underwrite the
9 necessary bond without a guarantee from Sheaffer International, L.L.C. and a
10 personal guarantee from one of its principals in the form of a demand note due
11 upon any draws that the surety requires in the case of a draw. Mark Toral, Vice
12 President of the Hub Group, in Glenview, Illinois reported similar results from
13 his inquiries. Mr. Toral further reported that the nature of the surety market is
14 such that the guarantee should not come from another entity and must be personal
15 in nature from an individual with substantial net worth and liquidity. He quoted
16 that potential surety companies would require a minimum annual premium of
17 \$6000-\$7500 (\$25 to \$30 per thousand dollars). In addition, Sheaffer
18 International, L.L.C.'s controlling owners have priced the cost of this guarantee at
19 the full value of the required bond plus 20% for the price of tying up capital for a
20 one year period of time along with other risks. Pricing at the full value of the
21 bond allows Cartwright Creek to fund a separate bank account which could be
22 used to fully collateralize and replace the personal guarantees over a timeframe of
23 one year. Conversations with two vice-presidents from banks which Sheaffer
24 International, L.L.C. has relationships with, indicated that they would not issue a
25 standby letter of credit based upon Cartwright Creek's credit alone, and instead
26 would also require corporate guarantees and a collateral pledge.

1 To provide some background to this position, I have attached copies of the
2 financial reports of Cartwright Creek as of December 31, 2005. These reports
3 show operating losses for the year of almost \$78,000. Sheaffer International,
4 L.L.C. funded this loss through a shareholder loan. For several years CCUC also
5 experienced operating losses which were similarly funded by its owners in the
6 form of a note.

7 Since the likelihood of a bonding draw for flow exceedance, financial
8 stress, and a large unplanned expenditure is quite high, it must be assumed in any
9 bond pricing. Given the history of operating losses and lack of operating
10 reserves, Sheaffer International, L.L.C. has had to advance funds to Cartwright
11 Creek to cover repairs to their existing facility. In addition, the facility has had a
12 history of minor permit violations due to high infiltration and inflow ("I&I").
13 Cartwright Creek's existing NPES have a permit renewal this coming Fall and
14 this situation also has an uncertain financial impact, as funding of the I&I control
15 program is a likely requirement. As a result, Cartwright Creek cannot obtain the
16 required surety without a backup guarantee. A doubling of the rate for one year
17 will produce sufficient cash to fund a Certificate of Deposit in lieu of the surety
18 with the backup corporate guarantee.

19 It should be noted that Sheaffer International, L.L.C. stands committed to
20 build on the existing site, one of our patented sludge elimination systems at an
21 estimated cost of \$300,000. On February 17, 2006, Cartwright Creek received a
22 letter from the Tennessee Department of Environment and Conservation
23 ("TDEC") authoring authorizing the design and construction of the Sheaffer
24 Sludge Elimination System for use at the wastewater treatment plan. Earlier this
25 month, we had soil borings completed in order to facilitate the system design and
26 have now ascertained that the existing site will accommodate the proposed
27 facility. This system will allow Cartwright Creek to save approximately \$50,000

1 per year in reduced sludge handling costs. These savings will allow Cartwright
2 Creek to become self-sustaining on a prospective cash flow basis, although a
3 significant amount of deferred maintenance will still exist. In addition, the
4 proposed technology will significantly reduce the potential for offensive odors
5 from the facility.

6 Sheaffer International, L.L.C. has formulated a plan to begin addressing
7 the I&I problem. In addition, several property owners in the area recently have
8 approached us with an interest in hooking onto the system and also expressed a
9 willingness to partially contribute to some of these repairs. Sheaffer
10 International, L.L.C. is currently evaluating the feasibility of proceeding with this
11 plan, however we are hesitant to put this capital at-risk in conjunction with the
12 financial security requirements of the TRA's proposed rules.

13 Sheaffer International, L.L.C. has also sought to expand the operations of
14 Cartwright Creek beyond the existing customer base through several proposed
15 deep cell aerated lagoon projects which are permitted or have permits pendings in
16 Williamson and Robertson County. These projects are scheduled to begin adding
17 customers in the latter half of 2006 and recording their first customer revenues in
18 early 2007. These new projects will help lessen the high administrative burden
19 paid by the approximate 500 current customers of Cartwright Creek. We expect
20 that the total number of customers served by the utility could double within the
21 next five (5) years and triple within the next seven (7). Cartwright Creek's
22 owners intend to provide the required surety funding for these systems, but would
23 be hesitant to put this capital at-risk in conjunction with the approximate
24 \$250,000 surety for the current Grassland facility

25 **Q. Does this conclude your testimony?**

26 **A.** Yes, it does.

VERIFICATION

STATE OF ILLINOIS)

COUNTY OF DUPAGE)

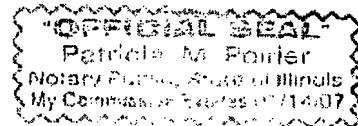
I, Robert Ian Cochrane, being duly sworn state that I am authorized to make this verification on behalf of Sheaffer International, LLC; that I have read the foregoing testimony and know the content thereof; that the same are true and correct to the best of my knowledge, information and belief.

Robert L. Corliss

Sworn and subscribed before me this 9th day of January, 2006.

Notary Public

My Commission Expires: 1/14/07



Cartwright Creek, LLC Balance Sheet

October 2005

ASSETS

Current Assets:

Fifth Third Bank - MMA	\$1,177.20
Pinnacle - Operating	(864.73)
Customer accounts receivable	14,634.97

TOTAL Current Assets

\$14,947.44

Fixed Assets:

Utility plant in service	956,947.02
A/D & amort of utility plant	(765,911.00)

Utility Plant in Service

Structures & improvements	\$25,757.36
Collection sewers - gravity	219,974.97
Flow measuring devices	5,413.91
Flow measuring installations	7,160.00
Receiving wells	95,903.29
Pumping equipment	127,224.80
Treatment & disposal equipment	409,085.06
Plant sewers	11,157.71
Outfall sewer lines	21,757.52
Other plant & misc equipment	31,303.40
Other tangible plant	2,209.00
Utility plant in service offset	(956,947.02)

TOTAL Utility plant in service offset

0.00

TOTAL Fixed Assets

191,036.02

Other Assets:

Misc current & accrued assets	475.80

TOTAL Other Assets

475.80

TOTAL ASSETS

\$206,459.26
=====

LIABILITIES

Current Liabilities:

Accounts payable	\$39,335.83
Accrued Franchise Tax	468.00
Accrued Ad Valorem Tax	3,069.00
Accrued Gross Receipts tax	11,329.00
Loan from Shareholders - Sheaffer	38,562.13

TOTAL Current Liabilities

\$92,763.96

Attachment 1: Historical Financial Statements

Long-Term Liabilities:

Long Term debt - Reese/Steve Smith
Note to Shareholder

409,450.72
1,000.00

TOTAL Long-Term Liabilities

410,450.72

TOTAL LIABILITIES

503,214.68

CAPITAL

Other contributed capital - tap fees
Retained earnings (deficit)
Year-to-Date Earnings

1,150,293.31
(1,413,896.98)
(33,151.75)

TOTAL CAPITAL

(296,755.42)

TOTAL LIABILITIES & CAPITAL

\$206,459.26
=====

Cartwright Creek, LLC

Income Statement

10 Months Ended
October 31, 2005

Income		
Residential revenues	\$155,943.25	77.6%
Commercial revenues	44,353.90	22.1%
Other sewer revenues	615.23	0.3%
	<hr/>	<hr/>
TOTAL Income	200,912.38	100.0%
	<hr/>	<hr/>
Expenses		
Sludge removal expense	55,922.50	27.8%
Purchased power	18,940.26	9.4%
Chemicals	9,473.51	4.7%
Materials & supplies	18,040.99	9.0%
Engineering	470.00	0.2%
Plant Management	25,350.00	12.6%
Accounting	22,500.00	11.2%
Repairs & Maint to plant	45,475.61	22.6%
Legal fees	67.55	0.0%
Insurance expenses	453.39	0.2%
Postage	1,494.47	0.7%
Regulatory commission expense	707.98	0.4%
Bad debt expense	15.60	0.0%
Interest Exp - Smith Note	14,501.01	7.2%
Bank charges	1,183.50	0.6%
Miscellaneous expense	1,201.76	0.6%
	<hr/>	<hr/>
TOTAL Expenses	215,798.13	107.4%
	<hr/>	<hr/>
OPERATING PROFIT (LOSS)	(14,885.75)	-7.4%
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Other Income & Expenses		
Depreciation	(22,005.00)	-11.0%
Taxes other than income	(8,435.00)	-4.2%
Interest & dividend income	3.67	0.0%
Other Income-Gain refinance	12,170.33	6.1%
	<hr/>	<hr/>
TOTAL Other Income & Expenses	(18,266.00)	-9.1%
	<hr/>	<hr/>
PROFIT(LOSS) BEFORE TAXES	(33,151.75)	-16.5%
	<hr/>	<hr/>
NET PROFIT (LOSS)	(\$33,151.75)	-16.5%
	<hr/>	<hr/>

Cartwright Creek, LLC

Balance Sheet

DECEMBER 31, 2005

ASSETS

Current Assets:

Fifth Third Bank - MMA	\$882.68
Pinnacle - Operating	2,584.25
Customer accounts receivable	1,470.17

TOTAL Current Assets		\$4,937.10
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Fixed Assets:

Utility plant in service	956,947.02
A/D & amort of utility plant	(773,248.00)

Utility Plant in Service

Structures & improvements	\$25,757.36
Collection sewers - gravity	219,974.97
Flow measuring devices	5,413.91
Flow measuring installations	7,160.00
Receiving wells	95,903.29
Pumping equipment	127,224.80
Treatment & disposal equipment	409,085.06
Plant sewers	11,157.71
Outfall sewer lines	21,757.52
Other plant & misc equipment	31,303.40
Other tangible plant	2,209.00
Utility plant in service offse	(956,947.02)

TOTAL Utility plant in service offse	0.00	
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TOTAL Fixed Assets		183,699.02
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Other Assets:

Misc current & accrued assets	297.35
Permits - Waterbridge	125,000.00

TOTAL Other Assets		125,297.35
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TOTAL ASSETS		\$313,933.47
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LIABILITIES

Current Liabilities:

Accounts payable	\$27,852.72
Accrued Franchise Tax	465.00
Accrued Ad Valorem Tax	3,997.00
Accrued Gross Receipts tax	6,615.00
Loan from Shareholders - Sheaffer	191,840.13
Misc current & accrued liab	3,173.00

TOTAL Current Liabilities		\$233,942.85
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ATTACHMENT 1: HISTORICAL FINANCIAL STATEMENTS

Long-Term Liabilities:		
Long Term debt - Reese/Steve Smith	407,864.82	
Note to Shareholder	1,000.00	

TOTAL Long-Term Liabilities		408,864.82
Other Liabilities:		
Pending tap - Madison Land Co.	12,250.00	

TOTAL Other Liabilities		12,250.00

TOTAL LIABILITIES		655,057.67
	CAPITAL	
Other contributed capital - tap fees	1,150,293.31	
Retained earnings (deficit)	(1,413,896.98)	
Year-to-Date Earnings	(77,520.53)	

TOTAL CAPITAL		(341,124.20)

TOTAL LIABILITIES & CAPITAL		\$313,933.47
		=====

Cartwright Creek, LLC

Income Statement

January 1, 2005 TO December 31, 2005

Income		
Residential revenues	\$186,929.97	77.6%
Commercial revenues	53,224.68	22.1%
Other sewer revenues	861.62	0.4%

TOTAL Income	241,016.27	100.0%

NET INCOME	241,016.27	100.0%

GROSS PROFIT	241,016.27	100.0%

Expenses		
Sludge removal expense	72,997.50	30.3%
Purchased power	24,152.26	10.0%
Chemicals	11,145.41	4.6%
Materials & supplies	22,780.45	9.5%
Engineering	470.00	0.2%
Plant Management	30,900.00	12.8%
Accounting	30,000.00	12.4%
Repairs & Maint to plant	71,867.22	29.8%
Legal fees	67.55	0.0%
Insurance expenses	631.84	0.3%
Postage	1,747.47	0.7%
Regulatory commission expense	707.98	0.3%
Bad debt expense	15.60	0.0%
Interest Exp - Smith Note	19,598.54	8.1%
Bank charges	1,592.91	0.7%
Miscellaneous expense	1,597.07	0.7%

TOTAL Expenses	290,271.80	120.4%

OPERATING PROFIT (LOSS)	(49,255.53)	-20.4%

Other Income & Expenses		
Depreciation	(29,342.00)	-12.2%
Permits & Taxes other than income	(11,097.00)	-4.6%
Interest & dividend income	3.67	0.0%
Other Income-Gain refinance	12,170.33	5.0%

TOTAL Other Income & Expenses	(28,265.00)	-11.7%

PROFIT(LOSS) BEFORE TAXES	(77,520.53)	-32.2%

NET PROFIT (LOSS)	=====	-32.2%