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**Cartwright Creek L.L.C.**

March 13, 2006

Filed Electronically in Docket Office 03/20/06

**Via Hand Delivery**

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

**Re: Petition of Cartwright Creek, L.L.C. for Exemption from Financial Security as required by the TRA's Proposed Wastewater Regulations. Docket 06-00062.**

Dear Chairman Jones:

At the request of the TRA's General Counsel, Cartwright Creek, L.L.C. is resubmitting the attached Petition for Exemption from Financial Security as required by the TRA's proposed wastewater regulations.

Sincerely,

Robert Ian Cochrane  
Chief Financial Officer

Enclosures

Cc: William H. Novak

**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        )        **DOCKET NO. 06-00062**  
PROPOSED WASTEWATER                        )  
REGULATIONS                                    )**

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**PETITION**

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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 7<sup>th</sup> 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.

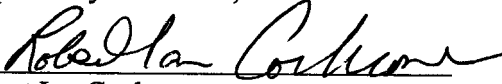
As previously stated however, Cartwright Creek was created and maintained through an equity contribution from its owners and not from any third-party developer. In this respect, Cartwright Creek is the same as any other traditional gas, electric or water utility approved by the TRA to operate in Tennessee. 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: 

Robert Ian Cochrane  
Chief Financial Officer

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of March 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 "Robert Ian Cochrane", is written over a horizontal line.

Robert Ian Cochrane  
Chief Financial Officer

**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**

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**Testimony of  
Robert Ian Cochrane**

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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") 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 9<sup>th</sup> day of January, 2006.

  
Notary Public

My Commission Expires: 1/14/07



## 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%
	-----	-----
TOTAL Income	200,912.38	100.0%
	-----	-----
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%
	-----	-----
TOTAL Expenses	215,798.13	107.4%
	-----	-----
OPERATING PROFIT (LOSS)	(14,885.75)	-7.4%
	-----	-----
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%
	-----	-----
TOTAL Other Income & Expenses	(18,266.00)	-9.1%
	-----	-----
PROFIT(LOSS) BEFORE TAXES	(33,151.75)	-16.5%
	-----	-----
NET PROFIT (LOSS)	(\$33,151.75)	-16.5%
	=====	=====

# 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
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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
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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  
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TOTAL Long-Term Liabilities

410,450.72  
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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)  
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TOTAL CAPITAL

(296,755.42)  
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TOTAL LIABILITIES & CAPITAL

\$206,459.26  
=====