

2007 NOV 26 AM 3: 37

TRA DOCKET ROOM

NASHVILLE, TENNESSEE

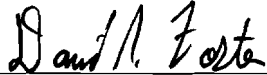
IN RE: DOCKET TO DETERMINE THE)
RESERVE/ESCROW REQUIREMENT)
FOR CARTWRIGHT CREEK, LLC) Docket 07-00058
PURSUANT TO TRA RULE 1220-4-12-.07(8))

Background

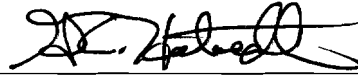
The TRA Wastewater Rules are intended to ensure continued adequate and reasonable service. This docket was opened to consider whether an escrow account should be established for Cartwright Creek, LLC and, if so, what monthly escrow amount is necessary.

The Utilities Division hereby files its Report with the Tennessee Regulatory Authority
as a public record and requests approval of the recommendations contained therein.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "David Foster", written over a horizontal line.

David Foster, Deputy Chief
Utilities Division
Tennessee Regulatory Authority

A handwritten signature in black ink, appearing to read "Gary Hotvedt", written over a horizontal line.

Gary Hotvedt, Counsel
Legal Division
Tennessee Regulatory Authority

CERTIFICATE OF SERVICE

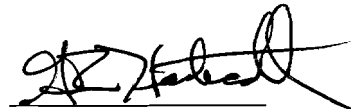
I hereby certify that on this 21st day of November, 2007, a true and exact copy of the foregoing has been either hand-delivered or delivered via U.S. Mail, postage pre-paid, to the following persons:

Eddie Roberson, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

Mr. Robert Cochrane
Cartwright Creek, LLC
c/o Shaeffer International, LLC
800 Roosevelt Road, Suite 214
Glen Ellyn, IL 60137

Mr. Bruce Meyer
Vice President-Operations
Cartwright Creek, LLC
1551 Thompson's Station Road West
Thompson Station, TN 37179

Hal Novak
WNH Consulting
19 Morning Arbor Place
The Woodlands, TX 77381



Gary Hotvedt

STAFF REPORT

CONCERNING THE RESERVE/ESCROW ACCOUNT

OF

CARTWRIGHT CREEK, LLC

DOCKET 07-00058

PREPARED BY

TENNESSEE REGULATORY AUTHORITY

UTILITIES DIVISION

NOVEMBER 26, 2007

INTRODUCTION

TRA Rule 1220-4-13-.07 requires a review of the financial condition of each wastewater utility in order to determine whether an escrow/reserve fund should be created to pay for non-routine operation and maintenance expenses for those companies that do not have such funds in place or adjusted for the companies that have an established escrow fund. The pertinent language of the aforementioned TRA Rule provides:

- (8) The requirement for a public wastewater utility to maintain a reserve/escrow account shall be determined by the Authority on a case by case basis. Within eighteen (18) months from the effective date of these rules, the Authority shall review the financial condition of any public wastewater utility holding a CCN to provide wastewater service as of the effective date of these rules to determine whether such wastewater utility shall establish or adjust the amount of a reserve/escrow account as described in this Chapter. Upon the filing of an initial CCN application, a determination shall be made regarding the establishment of a reserve/escrow account. The Authority may review the financial condition of any public wastewater utility at any time to determine whether a reserve/escrow account balance is adequate or an account should be established.
- (9) Reserve/escrow accounts established by the public wastewater utility to pay for non-routine operation and maintenance expenses shall meet the conditions as specified by the Authority. The public wastewater utility shall file bank statements and a report that details the expenses on all disbursements from the escrow account with its annual report or as the Authority may direct. Public wastewater utility employees having signature authority over such account may be subject to a fidelity bond. The public wastewater utility's tariff shall set forth the specific amount charged to customers to fund the reserve/escrow account.

SCOPE OF THE REPORT

Pursuant to the rules, the purpose of this report is to analyze Cartwright Creek, LLC's ("Cartwright" or "Company") existing financial condition and determine (1) whether an escrow fund should be established and, if so, what monthly escrow amount is necessary and (2) the types of expenses and repairs that may be funded by the escrow.

IS AN ESCROW ACCOUNT NEEDED GIVEN THE FINANCIAL CONDITION OF CARTWRIGHT CREEK, LLC?

As stated herein, the purpose of an escrow account established pursuant to Rule 1220-4-13-.07 is to assist utilities in meeting non-routine maintenance and expenses and to assist in funding plant additions/repairs that a utility might otherwise not be able to pay for. The utility's financial condition should be reviewed in order to determine whether an escrow account is necessary for the above stated purposes or if the utility will be able to fund necessary non-routine expenses and/or plant additions and repairs absent an escrow account.

Plant Condition

Cartwright states that substantially all of its plant was placed in service in 1974¹ and much of its plant is in need of immediate replacement.² Cartwright further states that:

There are deferred maintenance needs that do need to be addressed over a period of time. We have been engaged throughout the last – since Shaeffer International has owned the facility, we've made substantial improvements to the facility, and we have undergone a significant engineering analysis to determine a plan to upgrade and potentially replace the facility, if necessary.³

The Company provided the following options for improving the exiting plant:

We believe there are three general options for Cartwright Creek to improve and expand wastewater service for the long term. One is replacement of the existing system with a completely new system utilizing state of the art technology. The second option is refurbishing and possibly adding new treatment steps (to meet tougher discharge standards) on the existing system. The third is shutting down the existing wastewater treatment system and pumping the untreated wastewater to a treatment system with available capacity, such as Harpeth Valley Utility. At this point in time, we believe that replacement of the treatment system will be the only practical option. Once TDEC issues the discharge permit we will be able to confirm this.

Regardless of the option selected, major repairs will also be required to eliminate I&I⁴ in the 10,000 feet of collection piping and manholes.

Funding of any long-term solution is also a concern that we have discussed with TRA. Replacement of the existing wastewater treatment system with technology capable of meeting the potential discharge standards as well as repair of the existing collection system is estimated to be between \$2.5 million and \$3 million. As the TRA is aware, the historical tariff of Cartwright Creek did not provide for a maintenance reserve or replacement reserve that would be applied to the rebuilding costs. Therefore, the project would need to be paid for by increases in the monthly user and tap fees.

The Grasslands area is currently limited in growth by the road infrastructure and availability of large parcels. We expect this will limit new taps in the near term to approximately 25 per year. Therefore, a majority of the Cartwright Creek improvements would need to come from increased user fees.⁵

¹ Company data response dated March 19, 2007, Docket 07-00058, response to question 1.

² Company data response dated August 7, 2007, Docket 07-00058, response to question 4.

³ Transcript, pages 50-51, Docket 07-00180, *Petition of Cartwright Creek, LLC to Amend Its Existing CCN to Provide Service to the Stillwater Development in Williamson County*

⁴ Infiltration and inflow.

⁵ Company data response dated September 7, 2007, Docket 07-00180, response to question 7.e.

Cartwright also states that it receives frequent requests from landowners for service, but continues to deny such requests for service because the existing system is hydraulically overloaded due to infiltration and inflow (“I&I”) problems and therefore there is no capacity available for additional taps.⁶ And, although the Company has been evaluating options for necessary improvements and expansion, Cartwright states that it cannot complete its evaluation until its discharge permit is renewed by TDEC.⁷

Financial Condition

Over the past several years, Cartwright Creek, LLC has been losing money. For the year ended 2005, the Company reported a net operating loss of \$49,255 and a net overall loss of \$126,559; for 2006, Cartwright reported a net operating loss of \$61,555 and a net overall loss of \$138,743.⁸ The most recent financial information was provided in Docket No. 07-00180, *Petition of Cartwright Creek, LLC to Amend Its Existing CCN to Provide Service to the Stillwater Development in Williamson County*, wherein the Company reported a net operating loss of \$68,330 and an overall net loss of \$103,393 for the six months ended June 30, 2007.⁹

Discussion

From the information contained herein, it is apparent that the Cartwright’s existing plant is in need of repair and/or replacement. While Cartwright has reviewed various options for plant repair/replacement, Staff agrees with the Company that discharge limits are necessary prior to engaging in plant upgrades. If Cartwright receives discharge limits that would allow for expansion, then a larger facility may be warranted so that additional customers could be added to the system, thus spreading system replacement costs over a larger customer base. And, although Shaeffer International, LLC, 90% owner of Cartwright, has contributed approximately \$575,000 in capital to Cartwright’s operations since January 2005¹⁰, Cartwright’s existing financial condition, along with the uncertainty surrounding its discharge permit, may place limitations on the Company’s ability make major repairs at this time.

Cartwright’s financial condition, however, should improve when it expands service into the Stillwater Development in Williamson County, Tennessee.¹¹ The wastewater system serving the Stillwater Development is being constructed by Eagle Ridge Investments, LLC and upon completion, the land, wastewater system, irrigation system and collection system will be transferred to Cartwright as contributions in aid of construction totaling \$5,334,880.¹² The Developer has also committed to fund any operating deficiencies for the Stillwater Development for a three year period. Moreover, Cartwright asserts that the capital additions received from the

⁶ Company data response dated September 7, 2007, Docket 07-00058, response to question 7.g.

⁷ Company data response dated September 7, 2007, Docket 07-00180, response to questions 7.c and 7.e.

⁸ Company data response dated August 7, 2007, Docket 07-00058, response to question 4.

⁹ Company data response dated September 7, 2007, Docket 07-000180, response to question 8.

¹⁰ \$240,000 of this amount is currently held in a bank deposit by Cartwright as financial security pursuant to TRA Rule 1220-4-13.07.

¹¹ Cartwright received approval for its CCN expansion (Docket 07-00180) by the Authority at a hearing held on October 22, 2007.

¹² Company data response dated October 10, 2007, Docket 07-00180, response to question 3.d.

developer for the Stillwater Development will allow the utility to obtain financing to upgrade the existing facility.¹³

The purpose of an escrow account pursuant to TRA Rule 1220-4-13-.07 is in part to accumulate funds to pay for major plant repairs and/or replacement. Cartwright's existing plant and financial condition suggests that an escrow would be beneficial. However, since repairs will more than likely have to be made over the next few years, establishing an escrow account at this time would not allow for substantial amounts to accumulate when compared to the costs facing Cartwright to repair or replace its plant. Furthermore, at the time additional plant is added, Cartwright may need to seek rate increases in order for the Company to earn a fair and reasonable return on its added investment, and a rate case proceeding appears to be the most appropriate time to address whether an escrow is needed for Cartwright.

Conclusion and Recommendations

It is evident that Cartwright's existing sewer system is in need of repairs and the Company contends that a new system is the most logical solution. Although Cartwright has performed engineering analysis to determine a plan to upgrade and/or replace the existing sewer system, a new sewer system cannot be installed until Cartwright receives its discharge limits from TDEC. Moreover, unlike other wastewater utilities, Cartwright has never established an escrow fund to assist in pre-funding plant replacement. Accordingly, the time to pre-fund plant replacement by establishing an escrow account has past and the pressing issue now is how to fund plant replacements for Cartwright's existing sewer system. Therefore, Staff recommends that within sixty (60) days after Cartwright receives its discharge limits from TDEC, the Company file a detailed plan for plant replacement including a proposal for funding the replacement.

In sum, Staff recommends that:

- 1. The Authority not establish an escrow account for Cartwright at this time; and**
- 2. Within sixty (60) days after Cartwright receives its discharge limits from TDEC, the Company file a detailed plan for plant replacement including a proposal for funding the replacement.**

¹³ Company data response dated October 11, 2007, Docket 07-00180, response to question 3.a.