

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:)	
)	
APPLICATION OF LIMESTONE WATER)	
UTILITY OPERATING COMPANY, LLC)	Docket No. 21-00059
FOR AUTHORITY TO PURCHASE TITLE)	
TO THE ASSETS, PROPERTY AND REAL)	
ESTATE OF A WATER SYSTEM, AND FOR)	
A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY)	

PETITION TO INTERVENE

The Consumer Advocate Unit in the Financial Division of the Office of the Attorney General (“Consumer Advocate”), by and through counsel, pursuant to Tenn. Code Ann. § 65-4-118, respectfully petitions the Tennessee Public Utility Commission (TPUC or the “Commission”) to grant the Consumer Advocate’s intervention into this proceeding because consumers’ interests, rights, duties, or privileges may be determined or affected by the *Application of Limestone Water Utility Operating Company, LLC, for Authority to Purchase Title to the Assets, Property and Real Estate of a Water System and for a Certificate of Public Convenience and Necessity* (“Petition”). For cause, the Consumer Advocate would show as follows:

1. The Consumer Advocate is authorized by Tenn. Code Ann. § 65-4-118 to represent the interests of Tennessee consumers of public utility services by initiating and intervening as a party in any matter or proceeding before the TPUC in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and the TPUC rules.

2. Candlewood Lakes Property Owners Association, Inc. and Candlewood Lakes POA Water Works, Inc. (together, “Candlewood Lakes POA”) are Tennessee non-profit

corporations, and their principal address is 289 Candlewood Drive, Saulsbury, Tennessee 38067. Candlewood Lakes POA provides water services to consumers in Hardeman County, Tennessee.¹

3. Limestone Water Utility Operating Company, LLC (“Limestone”) is a Tennessee limited liability company, whose principal office is located at 1650 Des Peres Rd., Suite 303, St. Louis, MO 63131.² Limestone is managed by CSWR, LLC (CSWR), which is a “Missouri limited liability company, and its principal office is located at 1650 Des Peres Rd., Suite 303, St. Louis, MO 63131.”³ In turn, CSWR is managed by Central States Water, Inc.⁴ (“Central States”), which is a Missouri corporation, and its principal office is located at 1650 Des Peres Rd., Suite 303, St. Louis, MO 63131.⁵

4. On November 3, 2020, Candlewood Lakes POA entered into an *Agreement for Sale of Utility System* (“*Sales Agreement*”) with Central States.⁶ The purchase price is [REDACTED].⁷

5. On May 20, 2021, Limestone filed its *Petition*, seeking authorization for it to purchase all assets, property, and real estate currently used to provide water service to Candlewood Lakes POA consumers.⁸ Limestone also seeks authorization to obtain a Certificate of Public Convenience and Necessity (CCN).⁹

¹ *Petition* at p. 2 (May 20, 2021).

² *Id.* at p. 3.

³ *Id.* at pp. 4, 5.

⁴ “Central States Water Resources, Inc., merely serves as the manager of CSWR.” *Limestone’s Response to the Consumer Advocate’s First Discovery Request*, DR No. 1-4 (“Limestone Response 19-00062”), TPUC Docket No. 19-00062 (February 14, 2020). “US Water Systems, LLC (US Water), is the sole owner and member of CSWR. . . Other than its status as the ultimate parent of the affiliate group . . . US Water performs no duties, provides no services, and has no formal business relationship with either Limestone Operating or Limestone Holding.” *Id.* at DR No. 1-1 and DR No. 1-3.

⁵ Business organization documents regarding Central States Water Resources, Inc. can be found at the Missouri Secretary of State’s website at <https://bsd.sos.mo.gov/e-commerce/company/search/528176> (last visited on June 11, 2021).

⁶ *Petition* at p. 5.

⁷ *Id.* at Exhibit 7, p. 4, § 4, filed under seal.

⁸ *Petition* at p. 1.

⁹ *Id.*

6. This *Petition* was not filed jointly and to date Candlewood Lakes POA has not joined as a party indicating its support of this *Petition*. As the Seller, nonparty Candlewood Lakes POA is in possession of documents and information regarding the water system that Limestone does not possess and cannot access.

7. In reviewing the *Petition*, the Consumer Advocate utilized Tennessee Department of Environment and Conservation's (TDEC) Public Dataviewers to determine if there were any problems or compliance issues that had been documented.¹⁰ TDEC has documented problems and noncompliance at this water system resulting in TDEC issuing Director's Order to Candlewood Lakes Property Owners Association, Inc. on May 15, 2018.¹¹ This public water system is described as having a single drinking well which serves 105 connections and a population of 308 people.¹² Candlewood Lakes Property Owners Association, Inc. appealed the Director's Order on May 21, 2018.¹³ In its appeal, Candlewood Lakes Property Owners Association, Inc. stated that it had purchased three lots next to the existing water plant and well for the sole purpose of installing the backup well in the location and received quotes from two companies.¹⁴ The appeal was set to be heard on January 19, 2021.¹⁵ However, Candlewood Lakes Property Owners Association, Inc. informed TDEC that it had entered into a contract for sale with Central States.¹⁶ As a result,

¹⁰ TDEC's Public Dataviewers can be accessed at www.tn.gov/environment/about-tdec/tdec-dataviewers.html (last visited on June 8, 2021).

¹¹ TDEC Director's Order and Assessment, No. DWS17-0052 (March 15, 2018). A copy of this Director's Order is attached as Exhibit CA-1. The Director's Order was issued for the failure to have duplicate water supply well. *Id.* at p. 3, ¶¶ V, VI.

¹² *Id.* at p. 1, ¶II. In its appeal of this Director's Order, Candlewood Lakes POA described its community as consisting "primarily of retired and senior citizens with little business experience with state regulated business or proper business procedures." *Appeal of Candlewood Lakes Property Owners Association, Inc.* ("Candlewood Appeal"), p. 2, TDEC Director's Order No. DWS17-0052 (May 21, 2018). A copy of this Appeal is attached as Exhibit CA-2.

¹³ *Candlewood Appeal*.

¹⁴ *Id.* at p. 2.

¹⁵ *Order of Dismissal*, TDEC Director's Order No. DWS17-0052 and APD Docket No. 04.30-156020J, p. 1 (January 12, 2021). A copy of this *Order of Dismissal* is attached as Exhibit CA-3.

¹⁶ *Id.*

Administrative Law Judge Rachel L. Waterhouse issued an Order of Dismissal on January 12, 2021.¹⁷

8. During the pending appeal of TDEC's Director's Order, TDEC issued a Notice of Violation (NOV), on December 23, 2020, to Central States for the failure to have a duplicate water well supply.¹⁸ The NOV directed Central States to respond no later than January 8, 2021, and the failure to respond can result in the issuance of a Director's Order to Central States.¹⁹ The Consumer Advocate could not locate a response to the NOV in TDEC's Public Dataviewer.²⁰

9. Despite the recent Director's Order and an outstanding NOV that could result in a new enforcement order, Limestone described the water system as "in generally good condition and, from reviewing the previous inspection report, is in good standing with Tennessee Division of Water."²¹ These formal and informal enforcement actions by TDEC involve the legal requirement for a duplicate drinking water well. However, in its *Petition*, Limestone simply stated that it "will explore the need for a second well, as well as alternatives."²²

10. Limestone has proposed to initially adopt the current tariff rates for Candlewood Lakes POA customers.²³ However, the rates charged by Candlewood Lakes POA have never been reviewed and approved by the Commission since it is a non-profit homeowner's association.²⁴ Limestone acknowledged the likelihood of it petitioning the Commission to increase rates "given

¹⁷ *Id.*

¹⁸ TDEC Notice of Violation, PWSID No. TN000797 (December 23, 2020). A copy of this NOV is attached as Exhibit CA-4.

¹⁹ *Id.*

²⁰ Information regarding this Candlewood Lakes POA water system on TDEC's Public Dataviewer can be accessed at https://dataviewers.tdec.tn.gov/pls/enf_reports/?p=9034:34031:::34031:P34031_SITE_ID:59315.

²¹ *Petition* at p. 5. It is unclear what previous inspection report to which Limestone refers, but it could be the Sanitary Survey conducted in 2019. In this letter, TDEC issued a rating of "Approved" for this water system. TDEC Sanitary Survey Letter for PWSID #TN0000797 (March 5, 2019). A copy of this letter is attached as Exhibit CA-5.

²² *Id.* at pp. 5-6.

²³ *Id.* at Exhibit 9, *Direct Testimony of Josiah Cox*, pp. 13-14, TPUC Docket No. 21-00059 (May 20, 2021).

²⁴ It appears that Candlewood Lakes POA falls within the exceptions to the term "Public utility" as defined in Tenn. Code Ann. § 65-5-101(6)(B)(i).

the additional capital investment needed for system upgrades and improvements.”²⁵ Limestone identified the following improvements and proposed capital investments:²⁶

- i. Customer access to 24-hour phone line to report any utility issues;
- ii. Computerized maintenance management system and converted into work orders;
- iii. During normal business hours, customers will have access to customer service representatives;
- iv. A utility-specific webpage, dedicated email address, and social media page;
- v. Online bill paying options;
- vi. GIS mapping of the system;
- vii. Exploring the need for a second well, as well as alternatives;
- viii. Providing vegetation control around the facility by removing trees and cutting grass around the fencing;
- ix. Providing protection of power outlets connected to system power;
- x. Regrading around the well head to prevent rainwater pooling;
- xi. Cleaning corroded piping within the chlorine room and painting with rust preventing paint; and
- xii. Installing a secondary containment device on the chlorine barrel.

Also, Limestone acknowledged that they “may also seek authority to consolidate rates of the system it proposes to acquire in this case with those of other systems it operates in Tennessee.”²⁷

11. The interests of consumers in the transfer of authority to provide utility services from Candlewood Lakes POA to Central States, Limestone, and CSWR may be affected by determinations and orders made by the Commission with respect to its interpretation, application, and implementation of Tenn. Code Ann. § 65-4-113 and other relevant statutory and regulatory provisions. Such interests include, but are not limited to: a determination by the Commission of whether the current rates are just and reasonable; clarification of the water system’s non-

²⁵ *Id.* at Exhibit 9, *Direct Testimony of Josiah Cox*, p. 14.

²⁶ *Id.* at pp. 8-14.


²⁷ *Id.* at p. 14.


compliance with TDEC statutes and regulations; the impact of improvements and capital investments on the rates of the Candlewood Lakes POA consumers; the affiliate relationship of Limestone, Central States, and CSWR; the overall cost and benefits to consumers from the transfer; and the assessment of the suitability, the financial responsibility, and technical capability of both Limestone and CSWR to operate the Candlewood Lakes POA's water system.

12. Only by participating as a party to this proceeding can the Consumer Advocate adequately carry out its statutory duty to represent the interests of Tennessee consumers.

Wherefore, the Consumer Advocate requests the TPUC grant this *Petition to Intervene*.

RESPECTFULLY SUBMITTED,


HERBERT H. SLATTERY III (BPR No. 009077)
Attorney General and Reporter
State of Tennessee


KAREN H. STACHOWSKI (BPR No. 019607)
Senior Assistant Attorney General
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail,
with a courtesy copy by electronic mail, upon:

Charles B. Welch, Jr., Esq.
Tyler A. Cosby, Esq.
Farris Bobango PLC
414 Union Street, Suite 1105
Nashville, TN 37219
Telephone: (614) 726-1200
Email: cwelch@farris-law.com
tcosby@farris-law.com

This the 23rd day of July, 2021.

Karen H. Stachowski
KAREN H. STACHOWSKI
Senior Assistant Attorney General



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER RESOURCES
William R. Snodgrass - Tennessee Tower
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee 37243-1102

March 22, 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT #9414 7266 9904 2096 0195 03

Mr. David Kennamore, Registered Agent
Candlewood Lakes Property Owners Association, Inc.
290 Oak Grove Drive
Moscow, TN 38057-8214

Subject: **DIRECTOR'S ORDER NO. DWS17-0052**
CANDLEWOOD LAKES PROPERTY OWNERS ASSOCIATION, INC.

Dear Mr. Kennamore:

Enclosed is a Director's Order and Assessment of Civil Penalty issued by Tisha Calabrese Benton, Director of the Division of Water Resources, under the delegation of Commissioner Robert J. Martineau, Jr. Read the Order carefully and pay special attention to the NOTICE OF RIGHTS section. Please note that the required due dates in the Order are based on the date the Respondent receives the Order, and not the date that it was signed by the Director.

Corporations, limited partnerships, limited liability companies, and other artificial entities created by law must be represented in any legal proceeding resulting from an appeal of this Order and Assessment by an attorney licensed to practice law in the State of Tennessee. Non-attorneys may participate in any such proceedings to the extent allowed by law.

If you or your attorney has questions concerning this correspondence, please contact Tom Moss at (615) 532-0170 or you may contact Jessica Murphy at (615) 532-0676.

Sincerely,

Jessica Murphy, Manager
Compliance and Enforcement Unit

EJM:TAM

cc: DWR – EFO-J
DWR – Compliance File
Katherine Barnes, OGC

Agent, Candlewood Lakes Property Owners Association, Inc., 290 Oak Grove Drive, Moscow, Tennessee 38057-8214.

JURISDICTION

III.

Whenever the Commissioner has reason to believe that a violation of the Act has occurred, is occurring, or is about to occur, the Commissioner is authorized to issue an Order to the violator and take corrective action pursuant to Tenn. Code Ann. §§ 68-221-705 and 68-221-712. The Commissioner may also assess civil penalties and damages against any person who violates the Act, pursuant to Tenn. Code Ann. §§ 68-221-705 and 68-221-713. Additionally, the Commissioner may delegate to the Director of the Division of Water Resources any of the powers, duties, and responsibilities of the Commissioner, pursuant to Tenn. Code Ann. § 68-221-705. Furthermore, rules governing operation of public water systems have been promulgated pursuant to Tenn. Code Ann. § 68-221-704 and are effective as the Tenn. Comp. R. & Regs. Chapter 0400-45-01 (the "Rules").

IV.

The Respondent is a "person" as defined at Tenn. Code Ann. § 68-221-703(17). The Respondent is a "supplier of water" within the meaning of Tenn. Code Ann. § 68-221-703(22) because it owns, operates, and/or controls a community system within the meaning of Rule 0400-45-01-.04(11), and as herein described, has violated the Act.

FACTS

V.

The Division issued a previous Director's Order to the Respondent dated August 25, 2010. The 2010 Order (DWS10-0013) included the violation of failing to have the required duplicate water supply well.

On August 1, 2012, the Division performed a Sanitary Survey of the System. A Sanitary Survey is a comprehensive on-site inspection and evaluation, conducted in conjunction with a file review. On August 6, 2012, the Division issued a Sanitary Survey letter to the Respondent documenting the continued failure to install a duplicate water supply well.

A Sanitary Survey was subsequently performed on September 3, 2014. The Division issued a Sanitary Survey letter on September 11, 2014, documenting the continued failure to install a duplicate water supply well.

On April 25, 2017, the Division conducted a Sanitary Survey, during which Division personnel observed the continued failure by the Respondent to install a duplicate water supply well, as required. On May 3, 2017, the Division issued a Sanitary Survey letter to the Respondent documenting this violation.

VIOLATIONS

VI.

The Respondent has failed to install a duplicate well as required by Tenn. Comp. R. & Regs 0400-45-01-.17(13), which states:

- (13) All community water systems serving 50 connections or more shall install duplicate pumps for the raw water, finished water, and distribution pumping stations. A water system will not be required to have duplicate pumps in a distribution pumping station under the following conditions: limited number of service connections, availability of replacement pumps, maintaining adequate flows and pressures without the pumping station, and for emergency use only. All

community public water systems using ground water supplies and having more than 50 service connections must have duplicate wells and/or duplicate pumps in a spring supply unless fed by gravity flow.

By failing to install a duplicate well, the Respondent has violated Tenn. Comp. R. & Regs. 0400-45-01-.17(13).

ORDER and ASSESSMENT

VII.

WHEREFORE, PREMISES CONSIDERED, pursuant to the authority delegated by the Commissioner under the provisions of the Safe Drinking Water Act, I, Tisha Calabrese Benton, hereby issue the following Order and Assessment:

1. The Respondent shall install a duplicate well and pump and connect it to the System.
Within thirty (30) days of the receipt of this Order, the Respondent shall engage the services of a certified professional engineer to design the installation.
2. Within sixty (60) days of receipt of this Order, the Respondent shall submit to the Division design plans for the installation of the duplicate well and necessary infrastructure. The plans shall be submitted to the addresses below. The required fees for plans review shall be submitted to the Drinking Water Unit.

Manager, Compliance and Enforcement Unit
State of Tennessee, Division of Water Resources
William R. Snodgrass Tennessee Tower, 11th Floor
312 Rosa Parks Avenue
Nashville, TN 37243

Drinking Water Unit
State of Tennessee, Division of Water Resources
William R. Snodgrass Tennessee Tower, 11th Floor
312 Rosa Parks Avenue
Nashville, TN 37243

Manager, Memphis Environmental Field Office
State of Tennessee, Division of Water Resources
8383 Wolf Lake Drive
Memphis, Tennessee 38133

3. Within one hundred twenty (120) days of receipt of this Order, the Respondent shall have installed the well and infrastructure, shall have connected it to the distribution system, and shall notify the Division of the completion of the well and infrastructure.
4. The Respondent is hereby assessed a **CIVIL PENALTY of EIGHTEEN THOUSAND DOLLARS (\$18,000.00) to be paid to the Division of Water Resources as follows:**
 - A) The Respondent shall pay **TWO THOUSAND, SEVEN HUNDRED DOLLARS (\$2,700.00) to the Division on or before the THIRTY-FIRST (31st) day of the receipt of this Order.**
 - B) The Respondent shall pay TWO THOUSAND, SIX HUNDRED FIFTY DOLLARS (\$2,650.00) to the Division if, and only if, the Respondent fails to comply with item 1 above, payable within 30 days of such failure.
 - C) The Respondent shall pay TWO THOUSAND, SIX HUNDRED FIFTY DOLLARS (\$2,650.00) to the Division if, and only if, the Respondent fails to comply with item 2 above, payable within 30 days of such failure.
 - D) Respondent shall pay TEN THOUSAND DOLLARS (\$10,000.00), if and only if, the Respondent fails to comply with item 3 above, payable within 30 days of such failure.

The Respondent shall otherwise conduct business in accordance with the Act and Tenn. Comp. R. and Regs. Chapter 0400-45-01. The Director may, for good cause shown, extend the compliance dates contained within this Order and Assessment. In order to be eligible for this time extension, the Respondent shall submit a written request to be received a minimum of 30

days in advance of the compliance date. The request must include sufficient detail to justify such an extension and at a minimum include the anticipated length of the delay, the precise cause or causes of the delay, and all preventive measures taken to minimize the delay. Any such extension will be in writing.

This Order and Assessment hereby supersede the previous Order and Assessment dated August 25, 2010 (DWS10-0013) against the Respondent for violations under the Act.

Further, the Respondent is advised that the foregoing Order and Assessment is in no way to be construed as a waiver, expressed or implied, of any provision of the law or regulations. However, compliance with the Order and Assessment will be one factor considered in any decision whether to take future enforcement action against the Respondent.

Failure to comply with any of the requirements of this Order could lead to further enforcement actions, which may include additional civil penalties, assessment of damages and/or recovery of costs.

NOTICE OF RIGHTS

Tennessee Code Annotated ("Tenn. Code Ann.") §§ 68-221-712 and 68-221-713 allow the Respondent to appeal this Order and Assessment. To do so, a written petition setting forth the grounds (reasons) for requesting a hearing must be RECEIVED by the Commissioner within THIRTY (30) DAYS of the date the Respondent received this Order and Assessment or this Order and Assessment become final (not subject to review).

If an appeal is filed, an initial hearing of this matter will be conducted by an administrative law judge ("ALJ") as a contested case hearing pursuant to the provisions of Tenn. Code Ann. § 4-5-301 *et seq.* (the Uniform Administrative Procedures Act) and Tenn. Comp. R. & Regs. 1360-04-01 *et seq.* (the Department of State's Uniform Rules of Procedure for Hearing

Contested Cases Before State Administrative Agencies). Such hearings are legal proceedings in the nature of a trial. Individual Respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. **Artificial Respondents (corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee.** Low income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

At the conclusion of any initial hearing the Board has the authority to affirm, modify, or deny the Order and Assessment. This includes the authority to modify (decrease or increase) the penalty within the statutory limits of Tenn. Code Ann. § 68-221-713 (from \$50 to \$5,000 per day per violation). Furthermore, the Board has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing and the hourly fees incurred due to the presence of the ALJ and a court reporter.

Any petition for review (appeal) must be directed to the Commissioner of the Department of Environment and Conservation, c/o Jenny L. Howard, General Counsel, Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa Parks Avenue, 2nd Floor, Nashville, Tennessee 37243. Payments of the civil penalty and/or damages shall be made payable to the "Treasurer, State of Tennessee" and sent to the Division of Fiscal Services - Consolidated Fees Section, Tennessee Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa Parks Avenue, 10th Floor, Nashville, Tennessee 37243. Technical questions and other correspondence involving compliance issues should be sent to Jessica Murphy, State of Tennessee, Division of Water Resources, William R.

Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 11th Floor, Nashville, Tennessee 37243. Attorneys should contact the undersigned counsel of record. **The case number, DWS17-0052, should be written on all correspondence regarding this matter.**

Issued by the Director of the Division of Water Resources, Tennessee Department of Environment and Conservation, on this 15 day of March, 2018.



Tisha Calabrese Benton
Director, Division of Water Resources
TN Department of Environment and Conservation

Reviewed by:



Katherine Barnes
BPR # 032456
Assistant General Counsel
Department of Environment & Conservation
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
615-532-0131
katherine.barnes@tn.gov

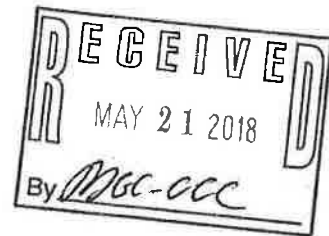


CANDLEWOOD LAKES PROPERTY OWNERS ASSOCIATION, INC.
CANDLEWOOD LAKES WATER WORKS, INC.
389 CANDLEWOOD DR., SAULSBURY, TN., 38067
Ph: 731-433-9708
Email: candlewoodlakespoa@gmail.com

May 15, 2018

Commissioner of the Department of Environment and Conservation
c/o Jenny L. Howard
General Counsel
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa Parks Avenue, 2nd Floor
Nashville, Tennessee 37243

Re: Candlewood Lakes Property Owners Association, Inc.
Director's Order No. DWS17-0052



Dear Ms. Howard:

We are responding to certified receipt of the Director's Order No. DWS17-0052 received by us on April 23, 2018.

Please be aware that all future mailings should be directed to our office located at 389 Candlewood Dr., Saulsbury, TN 38067 to ensure prompt delivery.

At this time, we are respectfully requesting an appeal to the Director's Order No. DWS17-0052. We would like the opportunity to address what we believe is a miscommunication in regard to our intentions as well as issues that are hindering our compliance of installation regarding the backup well.

Candlewood Lakes POA, Inc. and Candlewood Lakes POA Water Works, Inc. employ no full time employee. We operate solely by the donation of time and effort put forth by a few board members after they have worked their full time jobs or completed their prior commitments.

Historically, directors and community members that volunteered, worked out of their homes. This has resulted in documents regarding POA and Water Works business to be located outside of the office. In spite of multiple attempts, entire bookkeeping systems and communications regarding critical information are unobtainable due to illness and death. This has resulted in not receiving communication regarding issues that should have been dealt with that we have had no knowledge of.

In the Director's Order No. DWS17-0052, page 3 under FACTS V. it is stated that a "Sanitary Survey letter was sent to the Respondent documenting the continued failure to install a duplicate water supply well" on August 6, 2012, September 11, 2014 and May 3, 2017. None of these documents can be found in the office. We are curious as to where and to whom they were sent and if any reply was received and from whom.

Candlewood Lakes POA community consists primarily of retired and senior citizens with little business experience dealing with state regulated business or proper business procedures. This has made maintaining a board that is capable of making sound business decisions difficult as many of them are questioning approval of issues we face in terms of how it will impact them financially.

Candlewood Lakes POA is fully aware that this is a mandate from the State of Tennessee and that as a public utility we are tasked with complying. While we have taken action to complete the necessary steps, we have met with obstacles and set backs. The following are steps we have taken in an effort to comply:

- In November 2010, TLM was retained to assist with the project. Partial papers were recovered from files that were brought to us from a community member.
- Quotes/Information for installation were obtained from two companies, Water Well Solutions and Garner Houston after several companies were queried as to the ability to perform the job.
- A grant application was made through USDA (in 2012?) for assistance to install the well. All papers relating to this application process is missing from the office as well as any declarations regarding the outcome.
- Correspondence was found that indicated specifications for a second water supply well was received by Mr. R. William Hench, P.E., Drinking Water Engineering, Division of Water Resources. It asked for copies of engineering plans and a fee. We have no knowledge or record of whether a response was made as these documents were recovered from a community member and that was all they brought us in 2017.
- We contacted engineers in the TDEC office for their recommendations regarding the backup well specifications.
- On March 20, 2018 we purchased 3 lots next to our existing water plant and well for the sole purpose of installing the backup well in that location.
- In April 2018 we were referred to A2H Engineering, by Hardeman County Mayor Sain, as a company who could help us with the entire backup well project.

Candlewood Lakes POA community consists primarily of retired and senior citizens with little business experience dealing with state regulated business or proper business procedures. This has made maintaining a board that is capable of making sound business decisions difficult, as many of them are questioning approval of issues we face in terms of how it will impact them financially. This has contributed to the financial issue that we are facing to install the backup well, as a special assessment to meet financial needs is unlikely to be approved.

It is our understanding that TDEC recommended a 12" backup well. We are currently served with a 6" well with a 2 1/2" fill pipe. We are asking and would appreciate any consideration in examining if a 6" backup well would suit our needs. This would greatly reduce the expense, putting us in a position to have the ability to make a down payment sizeable enough to retain an engineering company while allowing us to hopefully work out a payment plan and move forward with installation of the backup well.

Our bookkeeper, Julie Perrine, is the former director of the Fayette County Chamber of Commerce and has ten years' experience in economic development and dealing with agencies such as TNECD, TDOT, USDA, MTAS and others on projects. She has agreed to assist, to the

extent of her ability, in moving this project forward and to completion. She will work with the necessary entities, is available to attend meetings and relate any issues or problems that might occur in a timely manner to the appropriate party. I am authorizing you to include her as a contact for this matter and include her in any communication.

We appreciate any and all consideration and look forward to bringing this matter to a conclusion.

Sincerely,

A handwritten signature in black ink, appearing to read "David Kennamore". The signature is fluid and cursive, with the first name "David" written in a larger, more prominent script than the last name "Kennamore".

David Kennamore
President
Candlewood Lakes POA, Inc.
Candlewood Lakes POA Water Works, Inc.

Julie Perrine
Office Ph: 731-433-9708
Cell Ph: 901-262-2651

enclosures

CC: Katherine Barnes



State of Tennessee
Department of State
Administrative Procedures Division
312 Rosa L. Parks Avenue
8th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243-1102
Phone: (615) 741-7008/Fax: (615) 741-4472

January 12, 2021

Katherine B. Barnes, Esq.
Assistant General Counsel
Tennessee Department of Environment &
Conservation
Office of General Counsel
2nd Floor, William R. Snodgrass Tower
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

David Kennamore, President
and Julie Perrine
Candlewood Lakes Property Owners
Association, Inc.
Candlewood Lakes POA, Inc.
Candlewood Lakes POA Water Works, Inc.
1259 Crestwood Drive
Saulsbury, TN 38067

David Kennamore, President
and Julie Perrine
Candlewood Lakes Property Owners
Association, Inc.
Candlewood Lakes POA, Inc.
Candlewood Lakes POA Water Works, Inc.
389 Candlewood Drive
Saulsbury, TN 38067

RE: In the Matter of: Candlewood Lakes Property Owners Association, Inc.
Docket No. 04.30-156020J

Enclosed is an order rendered in the above-styled cause of action.

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

IN THE MATTER OF:)	DIVISION OF WATER RESOURCES
)	
TENNESSEE DEPARTMENT OF)	
ENVIRONMENT AND)	
CONSERVATION,)	CASE NO. DWS17-0052
<i>Petitioner,</i>)	
)	
v.)	DOCKET NO. 04.30-156020J
)	
CANDLEWOOD LAKES)	
PROPERTY OWNERS)	
ASSOCIATION, INC.)	JUDGE WATERHOUSE
<i>Respondent.</i>)	

It is so ORDERED.

This Order entered and effective this ^{12th}~~11th~~ day of January, 2021.

Rachel L. Waterhouse

**RACHEL L. WATERHOUSE
ADMINISTRATIVE JUDGE
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE**

TN SOS-APD Mon, Jan 11, 2021 11:00 AM : 2 of 2 pages received



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER RESOURCES

William R. Snodgrass - Tennessee Tower
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee 37243-1102

December 23, 2020

Central States Water Resources, Inc.
CT Corporation System, Registered Agent
120 South Central Avenue
Clayton, Missouri 63105

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#9414 7266 9904 2152 3382 65

Central States Water Resources, Inc.
Josiah Cox, President
500 Northwest Plaza Drive
Suite 500
Saint Ann, Missouri 63074

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#9414 7266 9904 2152 3382 58

Subject: Notice of Violation
PWSID No. TN0000797
Hardeman County

To Whom it May Concern,

The Tennessee Department of Environment and Conservation, Division of Water Resources, is aware that Central States Water Resources, Inc. recently entered into a contract for sale of the Candlewood Lakes Water System. This letter is to inform you that the water system is in violation of Tenn. Comp. R. & Regs. 0400-45-01-.17(13), which states:

All community water systems serving 50 connections or more shall install duplicate pumps for the raw water, finished water, and distribution pumping stations. A water system will not be required to have duplicate pumps in a distribution pumping station under the following conditions: limited number of service connections, availability of replacement pumps, maintaining adequate flows and pressures without the pumping station, and for emergency use only. All community public water systems using ground water supplies and having more than 50 service connections must have duplicate wells and/or duplicate pumps in a spring supply unless fed by gravity flow.

A backup/duplicate well is required and must be installed at the Candlewood Lakes Water System. **In order to resolve this violation, please contact Tom Moss at 615-532-0170.** You may also contact me at 615-532-0676, or Katherine Barnes with the TDEC Office of General

Counsel at 615-253-9928, **no later than January 8, 2021**. Failure to respond may result in the issuance of a Director's Order and Assessment, to central States Water Resources, Inc., which may include civil penalties up to \$5,000.00 per day for each day of the violation, in accordance with Tennessee Code Annotated section 68-221-713.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jessica Murphy".

Jessica Murphy
Manager, Compliance and Enforcement Unit

TAM:EJM

cc: OGC: Katherine Barnes, katherine.barnes@tn.gov
Memphis EFO: Joellyn Brazile, joellyn.brazile@tn.gov
Central Office: Anna Sartors, anna.sartors@tn.gov



TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION

Memphis Environmental Field Office

8383 Wolf Lake Drive

Bartlett, TN 38133-4119

Phone (901) 371-3000 Statewide 1-888-891-8332 Fax (901) 371-3170

March 5, 2019

Mr. David Kennamore
389 Candlewood Drive
Saulsbury, TN 38067

**Re: Sanitary Survey Report (Community Water System)
Candlewood Lakes Water System
PWSID # TN0000797
Hardeman County**

Dear Mr. Kennamore:

On February 19, 2019, Mr. Gharib A. Khan from the Division of Water Resources (DWR) visited the Candlewood Lakes Water System and performed a Sanitary Survey. The survey consisted of a records review to document the operational performance of the system and an on-site inspection of the water treatment and distribution system. The survey covered the time period from April 2017–February 2019. The Division would like to thank you, Mrs. Julie Perrine (Administrator) and Mr. Loren Agee (Maintenance Operator) for your courtesy, willingness to work with the Division, and timely responses to Division requests. In accordance with the Sanitary Survey Manual, the Candlewood Lakes Water System earned 593 points out of a possible 599 points for a numerical score of ninety nine percent (**98%**). This rating retains the Candlewood Lakes Water System in the State's "**Approved**" category.

The following deficiencies, comments, and/or recommendations as outlined in the Sanitary Survey Rating Form were identified during the survey and should be addressed as applicable:

1. Section 1: System Management and Operation

• **Subsection A. Record Keeping**

Rule 400-45-01-.20, requires records of bacteriological analysis made pursuant to the Public Water System rules shall be kept for not less than five (5) years. Records of chemical analyses made pursuant to these rules shall be kept for not less than ten (10) years. Lead and copper analysis made pursuant to these rules shall be kept for not less than twelve (12) years. During the Sanitary Survey it

Mr. David Kennamore
March 5, 2019
Page 2

was noted that all records were available for inspection, but not in chronological order. It is recommended that records be kept in chronological order.

2. Section 1: System Management and Operation

• Subsection D. Reporting Requirement

Division Rule 0400-45-01-.17(2), states the daily operating records shall be submitted in a timely manner so they are received by the Division no later than ten days after the end of the reporting month. Any special reports, deemed necessary by the Division to assure continuous satisfactory operation of the water system, shall be submitted to the Division.

During the file review it was noted that a few Monthly Operation Reports (MORs) were received late. Please be aware that the water supplier is required to submit the MOR to the Division within the first ten days following the month in which the result is received or the first ten days following the end of the required monitoring period. This item was mentioned in the previous Sanitary Survey as well.

3. Section 7: Pumps, Pump Facilities and Controls

• Subsection A. Pump Facilities

Division Rule 0400-45-01-.17(13) requires all water system using groundwater supplies and having more than 50 service connections must have duplicate water wells. Failure to meet this requirement could result in a serious water supply shortage for customers or total loss of water. At the time of survey, it was noted that this water system has 105 service connections, but operates only from one water well. Candlewood Lakes Water System has hired A2H Engineering to send a plan and specification for backup water well to Central Office in Nashville for approval. According to Mr. Ed Hargraves with A2H, the plan and specifications are ready and waiting for Candlewood official's signature.

4. Section 6: Finished Water Storage

• Subsection B. Inspection and Maintenance of Reservoirs, Tanks and Clearwell

Division Rule 0400-45-01-.17(17), requires all buildings and equipment used in and for the production and distribution of water must be well maintained and be reliable and fit for the purpose for which they are used.

During the tank inspection, it was noted that the 55,000 gallon standpipe water storage tank was inspected, repaired and painted by Leher Painting Enterprise in 2017. As a reminder this tank needs to be inspected again in 2022. Also, it was noted that the tank's ladder does not contain any anti-climb device. This condition could result in a possible security threat and safety

Mr. David Kennamore
March 5, 2019
Page 3

concern. Additionally, at the time of this Sanitary Survey it was noted that the overflow pipe of the storage tank did not have a protective flapper. Please have qualified personnel check the deficiencies and remedy the existing problems. These deficiencies were mentioned in Sanitary Survey dated May 3, 2017 as well. On or before **May 31, 2019**, submit a written response which explains the actions taken or will be taken to remedy these noted deficiencies.

The following comments are general reminders/comments:

1. The Candlewood Water System now has 105 connections serving an estimated population of 308. The number of required bacteriological samples taken from the distribution system remains one (1) per month.
2. Candlewood Water System completed nitrate and lead and copper chemical monitoring for 2018. As a reminder, please be aware that monitoring for 2019 nitrate chemical monitoring should be conducted prior to September 30, 2019. Also, the due date for Haloacetic (HAA) Acids and Total Trihalomethanes (TTHM) is August 2019. Please refer to the waiver letter dated February 23, 2017 for more information regarding additional monitoring required to be conducted in 2019 and 2021.
3. According to the Revised Total Coliform Rule (RTCR), which took effect on April 1, 2016, please be aware if the sample result is positive for total fecal or E. coli, it means the laboratory found bacteria. If this occurs then the system must submit three repeat samples marked R. Repeat samples must be collected within 24-hours of being notified of the positive results. If all repeat samples are negative it means that the water system is in compliance for that month. Please refer to Rule 0400 - 45-01-.07 and 0400-45-01-.41 for more information.
4. No new construction or modification may be made without approval of the Division.
5. The Candlewood Water System submitted a drought management plan to the Division in December 2018 as required. The drought management plan has been approved by the Division.
6. At the time of Sanitary Survey, it was noted that there were no water tap records. As a reminder, new service taps on existing mains that must be uncovered to make the tap, shall be flushed and free chlorine residual measured and recorded prior to connecting the service lines. These records shall be retained for three years.
7. Division Rule 0400-45-01-.41(3) (ii) requires all water system to update their wellhead protection plan every three years and submit a copy to DWR. A copy of the Wellhead Protection Plan was submitted to DWR in September 2018.

Mr. David Kennamore
March 5, 2019
Page 4

8. Division Rule 0400-45-01-.41 requires all water system to have a written bacteriological sample site plan completed according to Revised Total Coliform Rule (RTCR) by March 31, 2016. A copy a written bacteriological sample site plan was submitted to the Division on September 8, 2017.

We appreciate the courtesy shown to members of our staff during the survey. If you have any questions about this letter, please contact me at (901) 371-3015 or by email at Gharib.Khan@tn.gov.

Sincerely,



Gharib A. Khan
Environmental Protection Specialist
Division of Water Resources
Memphis Environmental Field Office

Enclosures: Sanitary Survey Rating form

cc: TDEC/DWR/MEFO File
TDEC/DWR/Nashville Central Office File
Mr. James Kirk, Certified Operator

Sanitary Survey Rating

Exhibit 5

PWSID:	TN0000797	Water System Name:	Candlewood Water System
Survey Date:	2/19/2017	System Category (Points):	599

421 - Consecutive Systems/Distribution Only
488 - Treatment Systems/Wholesalers
599 - Both Treatment and Distribution

1. System Management and Operation (94)

Requirement	Points Range	Deduction	Comments
A. Record Keeping 0400-45-01-.20	(0)	Narrative	Records should be organized, in chronological order and available for inspection.
B. Construction Projects 0400-45-01-.05, 0400-45-01-.17	(1-5)		OK
C. Submission of Monthly Operations Reports 0400-45-01-.17	(0)	Narrative	
D. Reporting Requirements 0400-45-01-.18	(4-30)		OK
E. Public Notification 0400-45-01-.19	(3-10)		OK
F. Facility Maintenance Fee	(0)	Narrative	OK
G. Enforcement – TCA §68-221-701 et seq.	(4-10)		OK
H. Emergency Operations Plan 0400-45-01-.17	(3)		OK
	Deficiency Subtotal		

2. Operator Compliance (23)

Requirement	Points Range	Deduction	Comments
A. Certified Operator – Plant and Distribution System 0400-45-01-.17(1) and 0400-49-01-.04	(3-15)		OK
	Deficiency Subtotal		

3. Source (25)

Requirement	Points Range	Deduction	Comments
A. Source Adequacy 0400-45-01-.02, .05, .16, .17(13) and .34(3)	(3-5)		OK
B. Intake 0400-45-01-.05, .17	(2)		OK
C. Wellhead/Springbox Construction 0400-45-01-.05(12), .16 and .17(3) and (16)	(2)		OK
D. Source Protection Plans 0400-45-01-.34	(1-2)		
	Deficiency Subtotal		

4. Treatment (153)

Exhibit 5

<u>Requirement</u>	<u>Points Range</u>	<u>Deduction</u>	<u>Comments</u>
A. Aerator 0400-45-01-.05, .17	(2)		N/A
B. Chemicals/Chemical Feeders 0400-45-01-.05(8), and .17, .36	(2)		OK
C. Mixing 0400-45-01-.02, .05, .17	(2)		OK
D. Flocculation 0400-45-01-.02, .05, .17	(2)		N/A
E. Sedimentation 0400-45-01-.02, .05, .17	(2)		N/A
F. Filtration/Alternative Technology 0400-45-01-.17(12) and (27)	(2-30)		N/A
G. Re-wash/Filter-to-waste 0400-45-01-.17 (35)	(2)		N/A
H. Turbidimeters/Calibration 0400-45-01-.05 (11).17, .31, .39	(2-4)		N/A
I. Disinfection 0400-45-01-.02, .17, .31, .36	(2-30)		OK
J. Disinfection Contact Time 0400-45-01-.02, .17, .31	(2-4)		OK
K. Master Meter 0400-45-01-.17 (b)	(1-2)		OK
L. Maintenance of Equipment, Buildings and Grounds 0400-45-01-.17	(1)		OK
M. Laboratory Facilities 0400-45-01-.02, .14, .17(3)	(1-3)		OK
N. Safety 0400-45-01-.02	(2)		OK
O. Sludge Handling/Backwash Handling 0400-45-1-.05	(2)		N/A
P. Sanitary Conditions 0400-45-01-.17 (17)	(2)		OK
Q. Fluoridation Techniques 0400-45-01-.06, .12, .17	(2)		N/A
R. Design Capacity 0400-45-01-.05 (10)	(2-4)		OK
S. Filter Backwash Recycling 0400-45-01-.31 (9)	(1)		N/A
	Deficiency Subtotal		

5. Monitoring, Data Verification and Compliance (175)

Exhibit 5

Requirement	Points Range	Deduction	Comments
A. Laboratory-Process Monitoring (excluding Turbidity and Chlorine Residual) 0400-45-01-.17(3)	(5)		OK
B. Bacteriological Monitoring	(2-6)		OK
C. Bacteriological Compliance 0400-45-01-.06	(4-7)		Ok
D. Turbidity Monitoring	(2-3)		N/A
E. Turbidity Compliance	(4-7)		N/A
F. Chlorine Residual Monitoring 0400-45-01-.17, .31, .36	(2-3)		OK
G. Primary Chemicals Monitoring	(2-3)		Ok
H. Primary Chemicals Compliance	(4)		Ok
I. Lead and Copper Monitoring 0400-45-01-.33	(2-3)		Ok
J. Lead and Copper Action Level 0400-45-01-.33	(3-5)		OK
K. Disinfection/Disinfection By-Products and Precursors Monitoring 0400-45-01-.36, .37, .38	(2-3)		OK
L. Disinfection/Disinfection By-Products and Precursors Compliance 0400-45-01-.06, .36	(2-30)		OK
M. Secondary Chemicals 0400-45-01-.12	(2)		OK
N. Secondary Chemicals Compliance 0400-45-01-.12	(3)		N/A
O. Cryptosporidium Monitoring 0400-45-01-.39	(0)	Narrative	
	Deficiency Subtotal		

6. Finished Water Storage (25)

Requirement	Points Range	Deduction	Comments
A. Adequate Storage 0400-45-01-.17 (14)	(2-4)		OK
B. Inspection and Maintenance of Reservoirs, Tanks and Clearwell 0400-45-01-.17 (16), (17), (33) and (34)	(1-10)	2	Failure to provide adequate security or provide flap for overflow pipe
	Deficiency Subtotal	2	

7. Pumps, Pump Facilities and Controls (18)

Exhibit 5

Requirement	Points Range	Deduction	Comments
A. Pump Facilities 0400-45-01-.17 (9) and (13)	(1-4)	4	Failure to provide duplicate well
B. Maintenance of Pumping Equipment 0400-45-01-.17(13)	(1-3)		Ok
	Deficiency Subtotal	4	

8. Distribution System and Cross Connection Controls (86)

Requirement	Points Range	Deduction	Comments
A. Notification, Inspection, Disinfection and Sample Collection of New or Existing Facilities 0400-45-01-.17 (8) and (19)	(3-5)		OK
B. Flushing Program/Blow Offs 0400-45-01-.17(10) and (23)	(3-4)		OK
C. Fire Hydrants 0400-45-01-.17 (18)	(0)	Narrative	OK
D. Adequate Pressure 0400-45-01-.17 (9)	(5)		Ok
E. Map of Distribution System 0400-45-01-.17 (15)	(3)		OK
F. Approved Cross Connection Policy or Ordinance and Plan 0400-45-01-.17 (6)	(4)		Ok
G. Working Cross Connection Program 0400-45-01-.17(6)	(3-9)		N/A
H. Unaccounted Water Loss	(0)	Narrative	
	Deficiency Subtotal		

Total Deficiency Points: 6

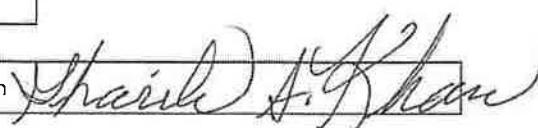
Points Available: 599

Overall Rating: 98

Points Available

421 - Consecutive Systems/Distribution Only
 488 - Treatment Systems/Wholesalers
 599 - Both Treatment and Distribution

Inspector: Gharib A. Khan


Additional Comments/Explanations:

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