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CHRISTIAN R. HARRIS (WV & KY)

June 3, 2013

RECEIVED

JUN 7 2013

PUBLIC SERVICE
COMMISSION

Hon. John N. Hughes
124 West Todd Street
Frankfort, Kentucky 40601

Re: McCoy et al v. Mountain Water District

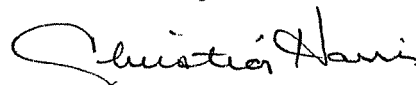
Dear Mr. Hughes:

Enclosed herewith please find Petitioners' Responses to Respondent's First Requests For Data. Please let me know if you have any questions.

My clients are encouraged by Mountain Water's actions since the filing of the Complaint and are hopeful that your client will eventually provide the service they are requesting. To that end, please know that my clients are, and will remain, open to suggestions to resolve the Complaint at any time during the course of these proceedings. Our current plan is to see the Complaint through to a hearing and a decision from the Public Service Commission, but we are always willing to entertain proposed solutions that would provide wastewater service to the residents of the Belfry area in a timely fashion.

Please feel free to contact me anytime you have a proposal that your client would like to make and I will see that the same is conveyed to my clients.

Sincerely,



Christian R. Harris

CRH/ch
Enclosures

COMMONWEALTH OF KENTUCKY
BEFORE THE
PUBLIC SERVICE COMMISSION

RECEIVED

IN RE:

CASE #: 2013-00092

JUN 07 2013

**PUBLIC SERVICE
COMMISSION**

CLARK MCCOY ET AL

PETITIONERS

v

MOUNTAIN WATER DISTRICT

RESPONDENT

PETITIONERS RESPONSES TO RESPONDENT'S FIRST REQUEST FOR DATA

Comes now Petitioners, by and through their counsel, and submit the following responses to Mountain Water District's First Data Request to Petitioners.

Request #1. What is your current waste water treatment system.
a. How long has it been in operation.

Response #1. Petitioners collectively own various properties in the Belfry area which would be served by the construction of a wastewater treatment facility. Petitioners have septic tank systems, some homemade from cinderblock, which have been in operation for periods of time ranging from over 60 years to less than 1 year. Furthermore, one or more of the

Petitioners have acquired property and plan to construct new homes which will require the expenditure of substantial sums to install septic tank systems in the event wastewater service is not provided in a timely fashion. Several septic tank systems belonging to the Petitioners are failing and require pumping on a regular basis.

Request # 2. What issues are you having with your current waste water system that now would require you to obtain public wastewater treatment services, and if any, when did those issues arise?

Response # 2. Problems such as build up of sludge in the piping and leach lines require constant maintenance and repair. Older systems must be pumped on a frequent basis to renew capacity to handle waste. Petitioners are faced with inadequate lot size to replace existing septic tank systems when they fail due to regulations now in effect which were either not in effect, or not enforced, at the time the systems were initially installed.

Request # 3. Please provide the date and name under which you have asked for wastewater treatment services from the

Respondent?

- a. Provide the dates you attended meetings of the Mountain Water District Board to express a desire for expanded wastewater treatment facilities.
- b. Provide all correspondence to and from Mountain Water District related to your request for wastewater service.

Response # 3. Petitioners have collectively attended public meetings, signed petitions, contacted their county government representatives and called the Respondent's offices to request wastewater treatment service for the Belfry area. One or more of the Petitioners even attended a monthly board meeting of the Respondent to ask for wastewater service. Petitioners do not recall the exact dates of any of the above correspondences with Mountain Water District. Copies of the Petition are attached hereto.

Request # 4. How do you define "recognizable progress" in the provision of waste water treatment services to the Belfry Pond Creek area as set out in your complaint?

- a. Given Mountain Water District's actions to investigate

and pursue additional wastewater treatment options over the last several years, what options has it failed to consider?

Response # 4. Respondent currently has available or allocated over \$3,000,000.00 of taxpayer dollars, most of which has been available since 2008. The only spending of those funds has been for design of a system that Respondent has made no progress toward building or even acquiring property to build upon. As of the date of filing of this Complaint, Respondent had not spent even a single dollar of the available funds since July of 2010. Petitioners are unaware of any attempts within the past 5 years to apply for matching grants from any state or federal funding agency including, but not limited to, the U.S. Army Corps of Engineers, Environmental Protection Agency, the U.S. Department of Housing and Urban Development, the U.S. Department of Health and Human Services, the Appalachian Regional Commission, the Department of Rural Development, or the Kentucky Division of Water.

Request # 5. Please identify any existing health hazards that you believe are being created by the use of your current wastewater

systems?

- a. Was your current wastewater treatment system inspected by a local regulatory agency and approved for use? When was the last inspection?
- b. Have you been cited by any agency for illegal discharges from the existing wastewater treatment systems? If yes, provide the notices or citations.

Response # 5. The Belfry area has a substantial number of straight pipes and inadequately installed and/or maintained septic tank systems that do not properly treat wastewater prior to it ending up in Pond Creek. The discharge of inadequately treated wastewater into Pond Creek creates numerous hazards to not only the Petitioners, but also the fish and wildlife that use Pond Creek as a source of water. Pond Creek empties into the Tug River just above the collection site for the City of Williamson, West Virginia's water plant. Respondent purchases water from the City of Williamson and supplies it to its customers. Petitioners systems have not been inspected or approved for use and the local regulatory agency does not aggressively enforce the clean water regulations because options for wastewater treatment are not available and many homes do not have enough

property upon which to legally install or maintain a septic tank system which meets established health department guidelines.

Request # 6. Please explain in detail how your existing treatment system is contaminating the local water supply?

a. If there is contamination from your existing system into the water supply, is that the result of lack of maintenance, age of the system or other correctable defect? Explain in detail the source and cause of the contamination.

Response # 6. Specific studies have not been conducted upon the Petitioners individual systems to determine what degree of contamination of Pond Creek is caused by their individual systems. However, common sense requires an understanding that a public system of wastewater removal would allow less untreated contaminants to enter into the local water ways, streams, creeks and rivers. Many of the Petitioners systems are in excess of 50 years old and are in need of immediate replacement.

Request # 7. Please explain in detail the basis of your allegation that the

money that has been set aside for the Belfry Pond Creek sewer system that has not yet been spent is an unwise and unproductive use of said funds.

- a. Explain in detail the most productive use of those funds that you believe should have been made.
- b. Please identify, describe in detail and provide all facts and documents regarding any cost analyses performed by you for any alternative site considered for the construction of the wastewater expansion. Each analysis should include all cost estimates, identify the sources of the cost information, describe all assumptions used to develop the analysis and include any supporting documentation.

Response # 7. Substantial funds allocated for the Belfry Pond Creek Wastewater project remain unused more than 5 years after receiving access to them by the Respondent. Only after Petitioners filed their Complaint did Respondent hold a public meeting to discuss the Belfry Pond Creek Project or even begin conducting surveys to determine the likely participation rate for the project. Petitioners have not conducted cost analysis studies on the various proposals being considered by the Respondent, all of which were

presented to the public only after Petitioners filed their Complaint. Petitioners do not have the financial capacity or expertise to design, plan, analyze, or conduct studies to determine the best selected use of the available funds. This should have been done by the Respondent prior to, or soon after, receiving funds for the Belfry Pond Creek Wastewater Treatment project.

Furthermore, the Respondent transferred ownership and control of the Mossy Bottom Wastewater Service area to the City of Pikeville several years ago stating, as a reason for relinquishing ownership of a profitable service area, that the newly constructed Mossy Bottom Wastewater Treatment Plant would be dismantled and reassembled at Belfry. This appears in the application filed with the Kentucky Public Service Commission seeking approval for the transfer from Respondent to the City of Pikeville. The Mossy Bottom plant was disassembled and sold for scrap by the Respondent after the City of Pikeville assumed control of the Mossy Bottom service area.

Request # 8. Please explain the basis of your position that the current system could be extended and where the treatment for wastewater would be done for such extension.

Response # 8. Respondent provides adjacent wastewater treatment service in the areas of Turkey Creek, South Williamson and Road Fork of Pond Creek (Forest Hills). Wastewater from those areas is treated by the City of Williamson, West Virginia which maintains sufficient surplus capacity to treat wastewater from the Pond Creek area. Respondent is well aware of this option as it presented this as an option in its first and only public meeting on the project which was held on March 7, 2013, after Petitioners filed their Complaint. Petitioners only desire to be offered wastewater service and do not have a particular choice of where or by whom the wastewater is treated.

Request # 9. Provide all studies, reports, or other information that you have prepared or have reviewed that support the need for additional wastewater treatment facilities in the Belfry Pond Creek area.

Response # 9. Petitioners are unaware of any such studies, reports or information.

Request # 10. Provide all studies, reports or other information that you have prepared or reviewed that support your allegation that

Mountain Water District could enlarge or extend its wastewater treatment facilities to serve you.

Response #10. Petitioners have not prepared or reviewed any such reports or information other than what was presented by the Respondent at its public meeting on March 7, 2013

Request # 11. Provide all studies, reports or other information that you have prepared or reviewed which identify property subject to condemnation by Mountain Water District that is feasible for locating a wastewater treatment facility.

Response #12. All privately owned property in the Belfry Pond Creek area is subject to condemnation by Respondent which holds the power of condemnation pursuant to Kentucky law.

Request # 13. Please identify any and all witnesses that you plan to call to testify on your behalf along with a summary of the substance of each witnesses expected testimony and identify all documents and exhibits that you plan to introduce in support of your position at the hearing of this matter.

Response #13. Petitioners will file its written testimony of witnesses in

verified form in compliance with the Commissions Order on
or before June 28, 2013.

CLARK MCCOY; DEBBIE
MCCOY; DAVID VARGO;
PATRICIA VARGO; MIKE
COCHRAN; IRENE COCHRAN;
AND DARREN OWENS.

PETITIONERS

BY: Christian Harris
Christian R. Harris
Counsel for Petitioners
719 Forest Hills Road
Forest Hills, Kentucky 41527
KY Bar ID No. 87176
Phone (888) 234-2131

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was served
upon Respondent's counsel by first class mail as follows on the 3rd day of
June, 2013:

Hon. John N. Hughes
124 West Todd Street
Frankfort, Kentucky 40601

Hon. Dan Stratton
Stratton, Hogg & Maddox, PSC
Post Office Box 1530
Pikeville, Kentucky 41502

Christian Harris
Christian R. Harris

PETITION IN SUPPORT OF THE
BELFRY/POND CREEK WASTE WATER
PROJECT

We the undersigned residents of the Belfry/Pond Creek area do hereby request that the Belfry/Pond Creek Waste Water Project receive top priority for funding and construction by the Pike County Government, State Government, Pike County legislators and Mountain Water District.

NAME

ADDRESS

Rebecca Warren

Hardy, Ky 41531

Cathy Higgins

Dolan, KY 41514

Steve Hatfield

Huddy Ky 41535

Jack Smith

Huddy Ky 41535

Parren Owens

Huddy Ky 41535

Lois Owens

Huddy Ky 41535

<u>Lou Williamson</u>	<u>330 Nosben Fork Turkey Creek Ky.</u>
<u>Ruby Chapman</u>	<u>325 Nosben Fork Turkey Creek Ky.</u>
<u>Dulcie McCoy</u>	<u>277 Hillcrest Ave Belfry</u>
<u>Clark McCoy</u>	<u>277 Hillcrest Ave Belfry</u>
<u>David Vargo</u>	<u>49 Hillcrest Ave Belfry</u>
<u>Patricia Vargo</u>	<u>49 Hillcrest Ave Belfry</u>
<u>Rudolph Layne</u>	<u>Rt 119 - Belfry</u>
<u>Bob Hale</u>	<u>182 Old Andy Rd. Belfry</u>
<u>Boe Pitts</u>	<u>67 Old Hardy Ln. Belfry</u>
<u>Pat May</u>	<u>61 Worley Rd Huddle Ky 41535</u>
<u>Kerstin Smith</u>	<u>38 Worley Rd Huddle Ky 41535</u>
<u>Amy Bentley</u>	<u>249 Hillcrest Dr 41514</u>
<u>Morgan Bentley</u>	<u>249 Hillcrest Ave. 41514</u>
<u>GARY Layne</u>	<u>25301 Hwy 119 N Belfry, Ky 41514</u>
<u>Mrs Jessie Love</u>	<u>229 Nosben Fork Turkey Creek Ky 41514</u>
<u>Danny + Martha Harvel</u>	<u>243 Nosben Fork, Turkey Creek 41514</u>
<u>Mrs Fisher</u>	<u>63 Knappa Holke Rd</u>

<u>Marsra Hall</u>	<u>187 Old Hardy Rd.</u>
<u>Da Jeff Vaughan</u>	<u>Toler, Ky</u>
<u>Michael G. Smith</u>	<u>135 Cold Fk. Rd.</u>
<u>Linda C. Stewart</u>	<u>Turkey Creek, Ky.</u>
<u>Mike Cochran</u>	<u>Belfry Methodist Church</u>
<u>Drene Cochran</u>	<u>Belfry, KY</u>
<u>James Lewis</u>	<u>233 Old Hardy Rd. Toler, Ky</u>
<u>David M. Varney</u>	<u>109 Murphy Btm Rd - Belfry</u>
<u>James Lewis</u>	<u>109 Murphy Btm Rd Belfry</u>
<u>David M. Varney</u>	<u>750 Broad Head - TOLER.</u>
<u>James Lewis</u>	<u>David M. Varney</u>
<u>Connie James</u>	<u>232 Hill Crest Av. Belfry</u>
<u>Donna Rutherford</u>	<u>232 Hill Crest Av. Belfry</u>
<u>Doug Rutherford</u>	<u>25780 Rt. 119 Belfry Ky 41574</u>
<u>James King</u>	<u>25780 Rt. 119 Belfry Ky 41574</u>
<u>Elmer Kerish</u>	<u>94 Hillside Drive Forest Hills 41500</u>
<u>Edna Drake</u>	<u>26337 U.S. Hwy 119 N. Toler, Ky</u>
<u>Robert Davis</u>	<u>41514</u>
<u>Myra Rutherford</u>	<u>Box 650 Belfry, Ky 41514</u>
	<u>PO Box 151 Belfry Ky 41574</u>

L R Rutherford

Ellis McCoy

Mazie McCoy

Seleva Grimmitt

Gay McCoy

Doug Paulley

Glen Stanley

Travis Stanley

Anna Stump

Jerette Borders

Jim Borders

Dave Borders

Evelyn Borders

Bryan Ferrell

Sue Gay Keese

William Roger Wilson

John Wilson

P.O. Box 151 Belfry Ky 41514

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P.O. Box 441 Belfry Ky 41514

P.O. Box 452 Belfry Ky 41514

519 Mullen FR Stone Ky 41567

Post Office Box 355 Belfry Ky 41571

P.O. Box 191 Hardy Ky 41531

4775 Pond Creek Rd. McVeigh 41555

238 Watson Hill, Belfry Ky

P.O. Box 205 Belfry Ky 41514

25119 US 119 S Belfry Ky 41514

278 Hillcrest Ave Belfry Ky 41571

27 Okey Smith Rd. Pinhook, Ky 41555

Belfry Ky

Belfry Ky

Belfry Ky

Belfry Ky

Pamela Wilson

Belfry, Ky (31 Hillcrest Ave)

J P Hens

521 MUMFORS BRANCH RD PINSONFORK KY, 41555

Susan Bevins

3961 Pond Creek Rd Pinsonfork Ky 41555

George Bevins

3961 Pond Creek Rd Pinsonfork Ky 41555

Cecil Hatfield

409 Church Horse Hollow, Belfry Ky 41555

Sheb Hayes

2951 Elk Run Pocahontas Belfry Ky

Richard Vickers

22545 Coburn Mt. Rd Huddley Ky 41535

Peta Montgomery

Belfry, Ky 41555
46 Varnum St.

Terry Browning

Pinsonfork, Ky. 41555
44 Varnum St.

Rodney Justice

Pinsonfork, Ky. 41555

Muranda Hornum

McA Andrews, Ky. 41543

Normie McCown

36 Cleo Davis St. Huddley, Ky 41535

Ernest Smith

6044 McVeigh

Dakota Church

225 Hillcrest Ave Belfry Ky

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PO Box 342 Belfry Ky

Lain Hatfield

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Widley Ky 41564

Linda Brown

Widley Ky 41564

Mary Davis

606-353-6549

BR Ball

606-353 1917

Christine West

Hardy, Ky

Pat Hatfield

old Hardy Rd.

Pauline P. Workman

404 Pecan Dallas Billings KY

Hattie Rump

Damon Rump

Karen Eason

Dorlene Bastie

606-353-7755

Abraeme Stone

606-471-9858

Judie Stanley

606-519-4310

Leven Mayfield

Delphia Bragg

606-237-4427

Garbie Palmer

Flint Ake

~~306~~ 606-213-3115

Mattie Childers

606-625-2815

Alice Nelson

606-237-1025

Leticia Montgomery
Euyetta Helman
Hattie Hensley
Bruce Collins

Michael Owen

Shirley Plummer

Elsie Smith

Bronny Bruer

Sandy Bruer

Reagon Bruer

Neva Rudy

Carl Jane

Basil E. Hagan

Alvin

Belfry, Ky
Belfry, Ky
Huddy Ky
Jerry Bottom

39 Cleo Davis St. Huddy Ky

Mamma St. Huddy Ky

Cleo Davis St Huddy Ky

Belfry Ky

Belfry Ky

Belfry Ky

Murphy Bottom, Huddy Ky

Hardy, Ky

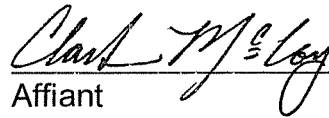
Toler, Ky

Hardy, Ky

VERIFICATION

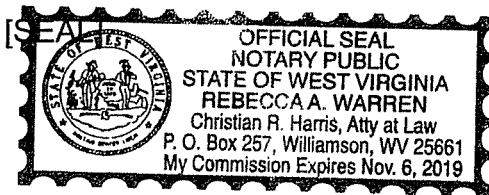
STATE OF WEST VIRGINIA,
COUNTY OF MINGO, to wit:

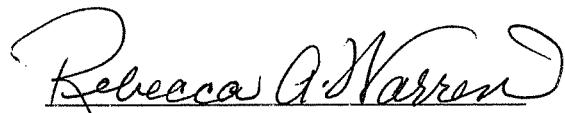
I, **CLARK McCOY**, being duly sworn, upon my oath do say that the facts and allegations contained in the foregoing **PETITIONERS RESPONSES TO RESPONDENT'S FIRST REQUEST FOR DATA** are true except where they are therein stated to be upon information and belief, and where they are therein stated to be upon information and belief, I believe them to be true.


Affiant

The foregoing verification was acknowledged before me this the 3rd day of June, 2013.

My commission expires: November 6, 2019.




Notary Public