

Larry R. Anderson, PE

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August 24, 2015

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
P. O. Box 615
Frankfort, KY 40602-0615

RECEIVED

SEP 4 2015

PUBLIC SERVICE
COMMISSION

Subject: Status Report # 3 on Transfer of Wastewater Facilities
Case No. 2014-00425

Dear Mr. Derouen:

On February 13, 2015, the Kentucky Public Service Commission (PSC) entered an Order approving the transfer of the wastewater facilities, services and customers of the Estill County Water District No. 1 (Estill No. 1) to the City of Irvine through its Irvine Utility Commission (IMU). Paragraph No. 8 of this Order requires Estill No. 1 to provide a Status Report of its efforts to complete this transfer within 60 days. This Status Report # 3 is as follows (the Items shown as complete in Status Report # 2 will not be repeated in Status Report # 3):

1. USDA Loan: Paragraph 3 of the Agreement requires IMU to assume liability for the USDA Loan of \$307,000.00 as of October 20, 2014. In February of 2015, Estill No. 1 made a payment on this loan in the amount of \$20,675. By April 13, 2015 letter, USDA notified Estill No. 1 that IMU had paid the loan balance of \$298,224.65. By an April 8, 2015 email, USDA notified Estill No. 1 that this payment of the loan balance would relieve Estill No. 1 of any further liability under this loan. A copy of the April 8, 2015 email and a copy of the April 13, 2015 letter are attached for filing in the general correspondence file of Estill No. 1. Estill No. 1 and IMU have completed all fund transfers as documented by the attached July 17, 2015 letter from Michael Eaves, the attorney for IMU. Please file a copy of this letter in the general correspondence file of Estill No. 1.
2. Decommission Plant: Paragraph 5 of the Agreement requires that Estill No. 1 decommission its plant. This plant has been decommissioned under a Closure Plan submitted to the DOW on October 27, 2014 and approved by the DOW. DOW has completed its inspection of the decommissioned plant and Estill No. 1 is waiting on an Agreed Order of Dismissal from the Energy and Environment Cabinet.

3. Agreed Order of Dismissal: Paragraph 13 of the Agreement requires that IMU and Estill No. 1 execute an Agreed Order of Dismissal of the litigation filed in Estill Circuit by IMU. This provision is now complete and a copy of the Agreed Order of Dismissal as Settled which was entered on July 31, 2015 is attached. Please file a copy of this Order in the general correspondence file of Estill No. 1.
4. Relief from Fines and Penalties: Paragraph 14.b. of the Agreement provided that the Agreement is contingent on the written assurances that Estill No. 1 would be relieved from responsibility for any fines, assessments or penalties for its prior activities. The Closure Plan has been completed including the fill material, reseeding and other various activities. DOW has completed its inspection of the decommissioned plant and Estill No. 1 is waiting on an Agreed Order of Dismissal from the Energy and Environment Cabinet.

In summary, only the above items require additional documentation.

If you have any questions or need additional information, please let me know.

Sincerely,



Larry R. Anderson
Attorney for Estill No. 1

cc. Ms. Audrea Miller, Office Manager, Estill County Water District #1, 76 Cedar Grove Road, Irvine, KY 40336/with attachments – Audie, please make a copy for the Board Members and Dwight.
Michael R. Eaves, Sword, Floyd & Moody, PLLC, 218 Main Street, P. O. Box 300, Richmond, Kentucky 40476-0300

attachments

SWORD FLOYD & MOODY PLLC

ATTORNEYS AT LAW

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1905-1992

July 17, 2015

SEP 4 2015
PUBLIC SERVICE
COMMISSION

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
PO Box 615
Frankfort KY 40602-0615

Re: Application of the City of Irvine Utility Commission to acquire the facilities of the Estill County Water District No. 1 (Case No. 2014-00425)

Dear Mr. Derouen:

Pursuant to the provisions of the Commission's Order entered into the above case on February 13, 2015, and on behalf of the City of Irvine Utility Commission, please accept this as notice that the provisions of the Settlement Agreement between Estill County Water District No. 1 and the City of Irvine Utility Commission for the takeover of the wastewater treatment facilities and operations is now complete. Specifically, all federal and state approvals that were required, have been obtained; such accounts receivable documentation as has been requested by the Irvine Municipal Utilities has been delivered to them; the easements granting Irvine Municipal Utilities the use of property over which the Water District's sewer lines and facilities are located have been conveyed by the District to the City; USDA loan to the District has been paid by the City of Irvine; the Water District's sewer plant has been decommissioned and as we understand it, closed and such closure approved by the Division of Water; the enclosed Agreed Order of Dismissal has been executed by counsel for both the Water District and IMU and has been sent to the Estill Circuit Court for entry; based upon the information provided us by the District, all fines and assessments against the District for previous transgressions have been waived; all the District's personal property and equipment utilized in the operation of its sanitary sewage disposal operation have been transferred to the City of Irvine; and the Water District and the City of Irvine have recently compromised the sums due the City from the Water District for sewage treatment services it previously offered and for which the District was paid.

With all of the foregoing, we believe this matter is now concluded and please let me express our appreciation for the many courtesies extended by your staff in helping

facilitate the quick and orderly transfer of this facility. We believe the residents of Estill County and of Irvine have all mutually benefited by it.

Sincerely,

SWORD, FLOYD & MOODY, PLLC



Michael R. Eaves
eaves@sfmky.com

MRE/ks

Enclosures

cc: Hon. Larry R. Anderson
Billy Williams

O:\EAVES\Irvine Municipal Utilities\PSC\Derouen, Jeff Ltr Settlement 07-17-15.docx

17-31-15

ENTERED:
STEPHANIE L. BRINEGAR/CLERK

COMMONWEALTH OF KENTUCKY
ESTILL CIRCUIT COURT BY: JUL 30 2015 D.C.
CIVIL ACTION NO. 14-CI-21

CITY OF IRVINE UTILITY COMMISSION
d/b/a IRVINE MUNICIPAL UTILITIES

PLAINTIFF

vs.

AGREED ORDER OF DISMISSAL AS SETTLED

ESTILL COUNTY WATER DISTRICT NO. 1


DEFENDANT

* * * * *

The parties hereto, by and through their respective counsel of record, having advised the Court that they have reached agreement to settlement this matter and the Court being so advised and being otherwise sufficiently advised, it is therefore

ORDERED that this action be and the same is hereby dismissed as settled with each of the parties to bear their respective costs.

Date: 7/21/15



Estill Circuit Court Judge

PREPARED BY:

SWORD, FLOYD & MOODY, PLLC

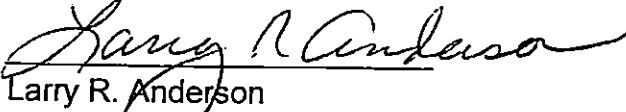
By: 

Michael R. Eaves
Counsel for Plaintiff

ADDRESS: 218 West Main Street
P.O. Box 300
Richmond, Kentucky 40476-0300
Telephone: 859-623-3728

HAVE SEEN AND AGREED TO:

BY:



4115 Larry R. Anderson
4415 Woodmont Park Lane
Louisville, KY 40245
Attorney for the Defendant

**NOTICE OF ENTRY
AND CLERK'S CERTIFICATE**

Hon. Michael R. Eaves
Sword, Floyd & Moody, PLLC
218 West Main Street
P. O. Box 300
Richmond, KY 40476-0300
Attorney for Plaintiff

4115 Hon. Larry R. Anderson
4415 Woodmont Park Lane
Louisville, KY 40245
Attorney for Defendant

PLEASE TAKE NOTICE that the foregoing **AGREED ORDER OF DISMISSAL AS SETTLED** was entered in the official records of the Clerk of the Estill Circuit Court, on this the 31st day of July, ~~2014~~ 2015

I, Clerk, Estill Circuit Court do hereby certify that I served the foregoing **AGREED ORDER OF DISMISSAL AS SETTLED** upon the parties as set forth in the above caption by mailing a true and correct copy of same to each at their address as set out in the caption NOTICE OF ENTRY, same having been placed in an envelope, postage pre-paid thereon, and deposited in the mails of the United States, Irvine, Kentucky, on this the 31st day of July, ~~2014~~ 2015

Estill Circuit Court Clerk

By:


D.C.