

December 26 2018 12:35 PM

KEVIN STOCK
COUNTY CLERK
NO: 17-2-12992-1

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**STATE OF WASHINGTON
PIERCE COUNTY SUPERIOR COURT**

WASHINGTON STATE DEPARTMENT
OF HEALTH,

Petitioner,

v.

KAPOWSIN WATER DISTRICT, Owner,
KAPOWSIN WATER SYSTEM,

Respondent.

NO. 17-2-12992-1

REPORT TO THE COURT AND
REQUEST FOR EXTENSION OF
TIME TO FILE PLAN FOR
DISPOSITION OF PUBLIC WATER
SYSTEM

Receiver Pierce County (County) by and through its attorney JOHN SALMON, Deputy Prosecuting Attorney, and Petitioner Washington State Department of Health (Health), by and through its attorneys, ROBERT W. FERGUSON, Attorney General, and SIERRA MCWILLIAMS, Assistant Attorney General, jointly present the following report to the Court on the progress in remediating the Kapowsin Water System and request an order authorizing additional time until June 28, 2019 to report status on development of a plan for disposition of the Water System. The parties request the Court waive oral argument on this motion.

I. BACKGROUND

On November 29, 2017, Health petitioned under RCW 43.70.195 for the appointment of a general receiver for Kapowsin Water System (Water System), and the Court entered an order appointing Pierce County as the receiver of the water system. Per RCW 43.70.195(6), Health, in conjunction with Pierce County, must submit a plan to the court for disposition of a water system

1 in receivership within 12 months. This matter is currently scheduled for a review hearing on
2 January 4, 2019.

3 II. REPORT

4 The County has repaired the broken surface water transmission line to the Water System,
5 which is now providing water to consumers without the need to transport drinking water by
6 truck. Truck transport of water for the system is concerning to Health due to the attendant health
7 concerns, costs to the consumers of transport, and danger of the water supply being interrupted.
8 *See* Petition for Appointment of Receiver of Public Water System (Petition) at 4.

9 The original plan for disposition of this system was transfer to Valley Water District,
10 which has been operating the Water System under contract and indicated interested in acquiring
11 ownership of the system if improvements could be made to its infrastructure. *See* Petition ¶ 4.7.

12 During the last 12 months, the County has attempted to further improve the water system
13 by securing a new well as a local and continuous source of water for consumers. This process
14 has involved meetings between County, Health, customers, and local tribes, as well as submitting
15 applications for grant funding through both the Department of Health and the federal
16 government. Health has approved the County to receive \$500,000 in Drinking Water State
17 Revolving Fund funding for this purpose, with an anticipated timeline to begin the well-drilling
18 project in the spring of 2019. In addition, the surface water transmission line went down again
19 on December 16, 2018 for one day, which resulted in hauling water to meet customer needs until
20 the repairs could be made.

21 At this time the parties agree that additional time is needed to effect improvements, i.e.
22 a new groundwater well source, to the Water System to ready it for transfer to a permanent
23 owner.

24 Please see Pierce County's Report to the Court for an accounting of costs incurred and
25 revenue received as well as a summary of projected costs and sources of funds needed to proceed
26

1 with improvements to the water system and a schedule showing anticipated milestones for
2 completing the project.

3 **III. REQUEST**

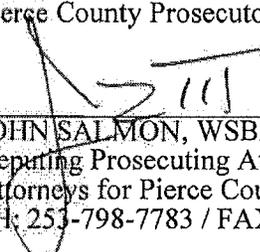
4 County and Health jointly move the Court to grant additional time to make improvements
5 to the Kapowsin Water System and to report status of development of a plan for disposition of
6 the Kapowsin Water System. The parties respectfully request the Court issue an order setting a
7 status review on June 28, 2019. No party will suffer prejudice from the grant of additional time
8 and the additional time will assist the parties in resolving the outstanding matters. The parties do
9 not request oral argument on this motion.

10 DATED this 26th day of December 2018.

11 ROBERT W. FERGUSON
12 Attorney General

13 /s/ Sierra McWilliams
14 SIERRA MCWILLIAMS, WSBA #48544
15 Assistant Attorney General
16 Attorneys for State of Washington
17 Washington State Department of Health
18 (360) 586-5107

19 MARK LINDQUIST
20 Pierce County Prosecutor

21 
22 JOHN SALMON, WSBA #20812
23 Deputing Prosecuting Attorney
24 Attorneys for Pierce County
25 PH: 253-798-7783 / FAX: 253-798-6713
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ATTACHMENT A - KAPOWSIN WATER DISTRICT RECEIVERSHIP FINANCIAL OVERVIEW

3-Dec-18

2017

Revenues	Water Service Rate	\$15,392.78
Expenditures	Salaries & Benefits	\$30,158.74
	Maint & Operation	\$1,380.25
	Supplies	\$252.68
	Power	\$470.04
	Water	\$6,369.01
	Taxes	<u>\$774.10</u>
		\$39,404.82
2017 Total Revenue		\$15,392.78
2017 Total Expenditures		<u>\$39,404.82</u>
Delta		<u>-\$24,012.04</u>

2018

Revenues (1st - 3rd Qrt)	(Jan - Sept)	
	Water Service Rate	\$54,000.00
	NSF	\$50.00
	Interest	\$427.93
	Penalties	<u>\$5,130.00</u>
		\$59,607.93
Expenditures (1st - 3rd Qrt)	(Jan - Sept)	
	Salaries & Benefits	\$44,795.99
	Maint & Operation	\$34,980.14
	Supplies	\$1,285.29
	Minor Equipment	\$2,012.27
	Other	\$2,624.33
	Power	\$1,820.96
	Water	<u>\$11,399.87</u>
		\$98,918.85
Revenue Projection (Qrt 4)	(Oct - Dec)	
	Water Service Rate	\$54,000.00
	Interest	\$100.00
	Penalties	<u>\$1,000.00</u>
		\$55,100.00
Expenditures Projection (Qrts 4)	(Oct - Dec)	
	Salaries & Benefits	\$3,000.00
	Maint & Operation	\$12,000.00
	Supplies	\$100.00
	Minor Equipment	\$100.00
	Taxes	\$3,735.00
	Power	\$165.00
	Water	<u>\$0.00</u>
		\$19,100.00
2018 Total Revenue (Actual + Projected)		\$114,707.93
2018 Total Expenditure (Actual + Projected)		<u>\$118,018.85</u>
Delta		<u>-\$3,310.92</u>
Creditor's Proof of Claim (Valley Water District)		<u>-\$87,627.03</u>
County Carried Operational Debt 2017/2018		<u>-\$27,322.96</u>
County Carried Project Debt (2018)		<u>-\$74,300.00</u>
Total County Carried Debt		<u>-\$101,622.96</u>
Total District Deficit		<u>-\$189,249.99</u>

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

WASHINGTON STATE DEPARTMENT
OF HEALTH,

Petitioner, NO. 17-2-12992-1

vs.

RECEIVER PIERCE COUNTY'S
REPORT ON FINANCES AND
OPERATIONS

KAPOWSIN WATER DISTRICT, Owner,
KAPOWSIN WATER SYSTEM,

Respondent.

Receivership Actions and Timelines

Since Pierce County took over Kapowsin Water District (KWD) in receivership on November 29, 2017 many actions have occurred such as, but not limited to:

- Transfer of the KWD from Valley Water District (VWD) to Pierce County and set up a new Pierce County process for accounts payable and receivable actions
- Payment of outstanding items such as state B&O taxes and insurance

1 policy

- 2 • Obtained Maintenance & Operations contract with VWD
- 3 • Completed a variety of repairs including fixing the broken surface
- 4 water transmission line and other non-operational infrastructure
- 5 • Installed a water sampling station per Department of Health (DOH)
- 6 Notice of Violation letter
- 7 • Working with federal and state agencies to obtain grant/loan funding
- 8 to pay for the new groundwater well
- 9 • Working on design and bid package for new groundwater well
- 10
- 11

12 The surface water transmission line once again failed on December 16, 2018, which
13 resulted in the need to haul water for one day until repairs could be made. This
14 failure continues to demonstrate that the surface water source is an unreliable long-
15 term source of water.

16
17 **Overview of Revenues and Expenditures**

18 Pierce County continues to collect \$150/month/account from KWD's 40
19 customers. Throughout 2018, operational costs have remained higher than revenues
20 collected. The County projects that KWD's operational deficit will be approximately
21 \$115,000 by the end of 2018, including Valley Water District's \$87,627 creditor's
22 claim. To date, the issue of the claim amount has not been resolved with Valley
23 Water District. VWD has indicated to the County that they would assume this claim
24 amount if the KWD system is transferred back to VWD via the Disposition Plan
25

1 process. The County's operational revenue shortfall, excluding the VWD claim, is
2 approximately \$27,322 (excluding state B&O taxes.)
3

4 In addition to the operational revenues collected to run the water system, the County
5 is in the process of securing United States Department of Agriculture - Rural
6 Development (USDA-RD) and Washington State Department of Health (DOH)
7 grants/loans to help pay for expenditures related to developing a new safe and reliable
8 ground water source. The current project cost estimates for developing the ground
9 water source is approximately \$1.2 million if an adequate water source is found at the
10 first drill site. This amount does not include any other identified system
11 improvements that continue to be the subject of negotiation between the County,
12 DOH and VWD to determine what is necessary to transition the KWD out of
13 receivership. The new well project expenditures through the end of the 3rd Quarter
14 2018 are \$74,300. The County will not be able to determine total amount owing on
15 the capital project until after completion of construction and full payout of grant/loan
16 monies. A more detailed breakdown of revenues and expenditures is included on
17 Attachment A.
18
19

20 Pursuant to RCW 43.70.195 (5), The Court shall authorize the receiver (Pierce
21 County) to impose reasonable assessments on a water system's customers to recover
22 expenditures for improvements necessary for the public health and safety. Per this
23 authority, the County is reviewing options to recover outstanding receivership costs
24 including administering a special surcharge of approximately \$700/connection or
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1 allowing this amount to be paid over a one-year time period by increasing the
2 monthly rate by approximately \$60/connection to \$210/connection. The County may
3 also explore establishing a water usage rate, in keeping with normal water system
4 governance practices.

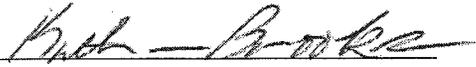
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6 **Well Drilling Project**

7 The completion of new well construction is anticipated by September 2020. To date,
8 the County has completed a hydrogeologic analysis, developed the engineering
9 design and bid specifications for the well drilling Phase 1 construction package,
10 completed cultural and environmental reviews for the grant applications, and applied
11 for the new groundwater water rights associated with the well. The next steps in this
12 construction project include:

- 14 • Advertise the bid package for Phase 1 well drilling documents by January 23,
15 2019.
- 16 • Notice to Proceed on Phase 1 bid award by beginning of March 2019.
- 17 • If first well drill is successful, then conduct pumping test and collect water
18 quality samples by June 2019.
- 19 • Phase 1 completion by July 2019.
- 20 • Complete Phase 2 bid design package by September 2019.
- 21 • Advertise Phase 2 bid in October 2019.
- 22 • Begin Phase 2 construction in January 2020.
- 23 • Final testing and closeout by September 2020.
- 24
- 25

1 This well project schedule is contingent on receiving the two \$500,000 grant
2 contracts from both DOH and USDA-RD and a \$200,000 loan contract award from
3 DOH to cover the costs associated with this project.
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7 SIGNED at Tacoma, Washington this 21st day of December, 2018.
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9 
10 Katherine Brooks
11 Pierce County Planning & Public Works
12 Planning Manager
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