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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
MOTION FOR CONTINUANCE

Receiver Pierce County (County) through its attorney JOHN SALMON, Deputy Prosecuting Attorney, and Petitioner Washington State Department of Health (DOH), 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 Motion for Continuance of the October 30, 2020 review hearing date in this matter.

I. BACKGROUND

On November 29, 2017, DOH 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), DOH, in conjunction with Pierce County, is required to submit a plan to the court for disposition of a

1 water system in receivership within twelve (12) months. This matter comes before the court for
2 a review hearing on October 30, 2020.

3 II. REPORT

4 The original plan for the disposition of this system was a transfer of ownership to
5 Valley Water District, which has been operating the Water System under contract. Valley Water
6 District indicated an interest in acquiring ownership of the Water System if improvements could
7 be made to its infrastructure. *See* Petition for Appointment of Receiver of Public Water System
8 (Petition) ¶ 4.7.

9 The County repaired the broken surface water transmission line to the Water System,
10 which is now providing water to consumers without the need to transport drinking water by
11 truck. Truck transport of water for the system is concerning to the DOH due to the attendant
12 health concerns, costs to the consumers of transport, and danger of the water supply being
13 interrupted. *See* Petition at 4.

14 Since the last report to the court, the County has continued to operate the Water System
15 in compliance with state law, while also taking steps to improve the Water System sufficiently
16 for a new owner to be willing to take it over. *See* attached Declaration of Katherine Brooks
17 (Brooks Decl.) and Exhibit A. The county has taken the following steps since receivership began
18 in December 2017 to remediate the Water System in order to transfer it to a new owner:

19 1. Made significant repairs and improvements, including repairing the broken water
20 transmission line, building a new water quality sampling station, fixing a broken hydrant,
21 upgrading electrical and other components of the infrastructure, and completing all corrective
22 action items listed in the DOH Sanitary Survey that occurred on September 30, 2019.

23 2. Completed work on design, bid and construction for the new groundwater well.
24 The well drill site did not produce sufficient water quantity and was decommissioned.

25 The County is currently still exploring other options with its engineer and hydrogeologist
26 for remediation of this water system with the end goal of permanent ownership by an experienced

1 water system operator. *See* Brooks Decl.

2 **III. REQUEST**

3 In light of the results from the new groundwater well, the County and DOH jointly
4 request the court grant additional time to report the status of development of a plan for the
5 disposition of the Water System that maintains public health and does not financially burden the
6 Water System customers.

7 The parties respectfully request the court issue an order continuing the hearing until the
8 end of July 2021. No party will suffer prejudice from granting additional time that will also assist
9 the parties in resolving the outstanding matters. The parties do not request oral argument on this
10 motion, but are available if the Court wishes to hold the October 30, 2020 hearing.

11 DATED this 27th day of October 2020.

12 ROBERT W. FERGUSON
13 Attorney General

14 /s/ Sierra McWilliams
15 SIERRA MCWILLIAMS, WSBA #48544
16 Assistant Attorney General
17 Attorneys for State of Washington
18 Washington State Department of Health
19 (360) 586-5107

20 MARK LINDQUIST
21 Pierce County Prosecutor

22 /s/ John Salmon
23 JOHN SALMON, WSBA #20812
24 Deputy Prosecuting Attorney
25 Attorneys for Pierce County
26 PH: 253-798-7783 / FAX: 253-798-6713

1 **CERTIFICATE OF SERVICE**

2 I, JESSICA MAY, certify that I caused a copy of *Report to the Court and Motion for*
3 *Continuance* to be served on all parties or their counsel of record by US Mail Postage Prepaid
4 via Consolidated Mail Service on the date below to:

5 Jeff Scott, Commissioner
6 Kapowsin Water District
7 29212 15 8th Avenue NE
8 Graham, WA 98338

Tricia Hodge, Commissioner
Kapowsin Water District
29720 156th Avenue E
Graham, WA 98338

8 William A. Linton
9 Rosemary A. Larson
10 Inslee, Best, Doezie & Ryder, P.S.
11 10900 NE 4th Street, Suite 1500
12 Bellevue, WA 98004

13 Courtesy copy to:

14 wlinton@insleebest.com
15 rlarson@insleebest.com

16 Working copy to:

17 The Honorable Elizabeth P. Martin
18 Pierce County Superior Court
19 930 Tacoma Avenue S, Room 334
20 Tacoma, WA 98402

21 Original filed electronically with:

22 Pierce County Superior Court

23 I declare under penalty of perjury under the laws of the State of Washington that the
24 foregoing is true and correct.

25 DATED this 27th day of October, 2020, at Olympia, Washington.

26 
JESSICA MAY
Legal Assistant