

**IN THE CIRCUIT COURT OF THE THIRTY-FIFTH JUDICIAL CIRCUIT
OF MISSOURI, DUNKLIN COUNTY, MISSOURI**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 DUNKLIN COUNTY REORGANIZED)
 COMMON SEWER DISTRICT #1,)
)
 Defendant.)

No. 21DU-CC00015

FILED
MAR 05 2021

PAULA S. GARGUS
CIRCUIT CLERK

RECEIVERSHIP ORDER

Upon joint motion of the parties, and for good cause shown, it is hereby ordered as follows:

(1) The Dunklin County Reorganized Common Sewer District #1 is hereby placed in receivership ("the Receivership") under the supervision and authority of this Court.

(2) The City of Malden, Missouri, is hereby appointed receiver for the District (the "Receiver"). This appointment and the authority of the Receiver as set forth in this Order are to be effective immediately upon the entry of this Order.

(3) Until further order of the Court to the contrary, the Receiver is to have exclusive possession and control over all assets of the District and the operations of the district.

(4) The Receiver will assume all responsibilities, functions, duties, powers and authority of the District, and his responsibilities, functions, duties, powers and authority shall include but not be limited to the following:

A. The Receiver may enter into, renew or terminate contracts on behalf of the District, including for operations, accounting, engineering, consulting, or legal services, or for supplies or equipment, or for any other goods or services deemed necessary for efficient and effective operation and maintenance of the District and its sewer system (the "sewer system").

FILED - 2021 MAR 05 10:58 AM - MISSOURI STATE COURTS

J. The Receiver shall establish and maintain a fund for responding to sewer overflows and other emergencies.

(5) It is not the intent of this order that the District be dissolved, nor that Trustees not be duly appointed to hold office. Rather, it is the intent of this Order that during the pendency of the Receivership, the powers, authority and functions of the District and the Trustees of the District are to be conferred exclusively on the Receiver.

(6) At the time, and upon intervals ordered by this Court, the Receiver shall file a report which shall include: (1) an inventory of all property and assets in the Receiver's possession or in the possession of others as his agents, (2) in a separate schedule, an inventory of the property and assets of the Receivership not reduced to possession by the Receiver but claimed and held by others, and (3) an accounting of actions taken during the reporting period, actions planned, and the financial status of the District. At regular intervals thereafter, the Receiver shall file an updated report covering the same items. The Receiver shall provide copies of all such reports to the parties and make copies of all such reports available for inspection by customers of the District. The Court may require reports at other times on matters specified by the Court.

(7) The Receiver shall provide such reports to this Court as are required by Missouri law.

(8) The Receiver and his employees, officers and agents shall be entitled to immunity from suit in their personal capacity when acting within the scope of the authority granted by this Order. Absent an order to the contrary, this immunity will apply to any subsequent modification of this Order governing the terms of the Receivership. This immunity shall extend to any good faith, reasonable effort by the Receiver and his employees, officers and agents to act in accordance with the authority granted by this Order, including any good faith, reasonable effort to assume

FILED
MAR 05 2021

PAULA S. GARGUS
CIRCUIT CLERK

possession of and operate the sewer system in compliance with this Order, or to recover debts owed to the District or establish liens therefor.

(9) The Receiver is authorized to provide information concerning the District and its sewer system, including any information concerning its finances and operating costs, to any potential purchaser of the sewer system, and to permit any such potential purchaser to inspect the facilities of the District. However, in the event that the Receiver or any party to this action determines that the sewer system should be sold or otherwise conveyed to any party other than the District, the proposal for such sale or conveyance and the terms of such sale and conveyance shall be presented to the Court for approval.

(10) It is the intent of the parties that the Receiver will be paid from the duly collected revenues of Defendant District at a rate agreed upon between the Receiver, Plaintiff, and Defendant District.

(11) The Trustees and Employees of the District shall provide full cooperation to the Receiver by making all District accounts and funds available to the Receiver, providing all books, records, contracts and other documents of the District to the Receiver, and responding to reasonable requests by the Receiver for information.

(12) The Parties recognize that the Receiver currently is a judgment creditor of Plaintiff, pursuant to an order entered in City of Malden, Missouri v. Dunklin County Reorganized Common Sewer District #1, Dunklin County Circuit Court Case No. 16DU-AC00784 (*Affirmed* Missouri Court of Appeals, Southern District, Case No. SD36182). The Receiver has stated that it will operate the system consistent with best practices and Missouri law. Defendant District has no objection to the appointment of receiver despite its status as a judgment creditor.

FILED
MAR 05 2021

PAULA S. GARGUS
CIRCUIT CLERK

(13) The Receiver may at any time apply to the Court for modification of the terms of this Order or for instructions on the implementation of this Order.

(14) The Receivership will continue, and the authority of the Receiver as set forth in this Order will continue, until further Order of the Court to the contrary.

DATE:

3/5/21

JUDGE:

Robert J. Wagner

FILED
MAR 05 2021

PAULA S. GARGUS
CIRCUIT CLERK