

Edward S. Finley, Jr., PLLC
2024 White Oak Rd.
Raleigh, NC 27608
919-418-4516
edfinley98@aol.com
(N.C. Bar No. 6149)

August 15, 2023

Ms. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
Mail Service Center 4325
Raleigh NC 27699 -4300

RE: Docket Nos. W-1130, Sub 11 and W-1333, Sub 0

Dear Ms. Dunston:

In the Commission's Order of September 13, 2022 in Docket Nos. W-1330, Sub 11 and W-1333, Sub 0, decretal paragraph 9, Currituck Water and Sewer ("CWS") is required "to provide written notification within five days after closing of the transfer of the sewer system assets." On August 11, 2023 the Commission Staff by email requested an update on the closing. In compliance with this request CWS offered to communicate by phone. A call was scheduled. Later on that date CWS was informed that "Senior legal staff has advised that Currituck will need to make a filing in the dockets rather than a conference call on this matter." In response to these email communications from Commission Staff, CWS makes the following filing.

The closing with Sandler has not yet taken place. The submission of the notification of closing is not yet due. Nevertheless, in compliance with the Commission's September 13, 2023 Order, CWS has been engaged in undertaking the steps to close the acquisition with Sandler. These steps have included numerous online meetings with representatives of Sandler, its attorneys and consultants and representatives of the title insurance company, among others. In particular, CWS has attempted to make sure that all real property improvements and easements will be appropriately transferred and covered by title insurance insofar as possible. In the meantime, CWS, Envirolink and Sandler have continued to undertake improvements and repairs to rectify system deficiencies at Eagle Creek so as to maintain appropriate sewer service for the residents. In addition, the parties have continued to comply with the Second Amended Consent Judgment entered into between Sandler and DEQ and overseen by the Superior Court.

In addition to its negotiations with Sandler CWS has been engaged in extensive and complicated negotiations with Stone Bank, its attorneys and representatives to finalize the loan

document that will be needed to close the loan with Stone Bank. This loan will make funds available to meet part of the purchase price with Sandler for Eagle Creek and finance improvements and repairs for the wastewater system serving Eagle Creek and to finance improvements and repairs for the water and wastewater system serving an area designated as Carolina Village in and around Moyock in Currituck County. Residents and tenants of a mobile home park reside in Carolina Village. Eighty percent of the Stone Bank loan is to be guaranteed by the U.S. Department of Agriculture. Consequently, extensive, complicated and detailed requirements arising under the USDA loan guaranty rules and regulations must be complied with in order to obtain ultimate agreement over a finalized loan document. Because loan proceeds will be used for improvements and repairs for the facilities serving Carolina Village and Eagle Creek, important issues are being addressed and resolved

Among the issues that are being addressed and resolved with respect to the Stone Bank loan have been: obtaining up-to-date and verified surveys; appraisals; appropriate, recorded easements; executed contracts with appropriate licensed contractors for undertaking tasks; compliance with National Environmental Policy Act (NEPA); engineer designs and specifications; technical review by the lender of plans, specifications and contractors; the provision of a detailed timeline for the project and schedule of values, and budget; verification of equity contributions. CWS participates in weekly virtual meetings with representatives of Stone Bank and its attorneys as these issues are being systematically addressed and resolved. CWS is hopeful that it is reaching the end of this process and that a finalized loan document should be available soon. However, making a precise prediction is not possible due to the remaining issues that are being addressed and resolved.

CWS representatives have been in communication with the Commission Staff and the Public Staff with respect to the procedural issues for approval of the anticipated loan to Stone Bank. CWS understands that before the closing of the sale from Sandler can take place the loan constituting an encumbrance upon the utility assets serving Eagle Creek and potentially Carolina Village must be approved by the Commission. An issue complicating loan approval has become the issue concerning the portion of the loan from Stone Bank making funds available to repair and improve the facilities serving Carolina Village. Among the options that CWS has discussed with the Public Staff for addressing a portion of the loan from Stone Bank for Carolina Village have been obtaining a ruling from the Commission that CWS is exempt from regulation with respect to its service to Carolina Village on the theory that CWS will only provide service to the owner of the mobile home park and will not be serving end use customers. A second alternative discussed with the Public Staff would avoid Commission approval of the loan with respect to Carolina Village at this time on the theory that CWS has never charged rates with respect to service to Carolina Village and therefore unless and until compensation is sought, CWS is not a public utility with respect to services from the facilities serving Carolina Village. The third option being discussed with the Public Staff is for CWS to seek a CPCN for service to Carolina Village as quickly as possible and to thereafter seek approval of the portion of the loan for Carolina Village along with approval of the loan for Eagle Creek. These discussions with the Public Staff are ongoing. There have been meetings. CWS is responding to written questions from the Public Staff. CWS is hopeful that these discussions can result in timely submission of a

request for approval of the Stone Bank loan and thereafter a closing of the acquisition with Sandler.

Sincerely,

/s/ Edward S. Finley, Jr.

Edward S. Finley, Jr.
Counsel for Currituck Water
& Sewer LLC.

cc. Parties of Record

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Currituck Water and Sewer Response to Commission Inquiry was duly served upon parties of record either by depositing same in a depository of the United States Postal Service, first class postage prepaid, or by electronic delivery.

This the 15th day of August, 2023

Edward S. Finley, Jr.,
/s/ Edward S. Finley, Jr.
Edward S. Finley, Jr., PLLC
2024 White Oak Rd.
Raleigh, NC 27608
919-418-4516
edfinley98@aol.com

COUNSEL CURRITUCK WATER
AND SEWER, LLC