

Witness List for Hearing

DNR

John MacEachen , Breck Summerford , Clinton Finn, Elena Seon ,
Mike Thorpe

Folsom Ridge Attorneys

Charles McElyea, Mark Comley

PSC

Jim Merceil , Martin Hummel , Kevin Thompson, Lewis Mills, Dale
Johansen,

Big Island Contractors

Matt Marschke, KennyCarroll

Big Island Sales

Cheryl Martin, Stacy Shore,

Interested Parties, Residents, Property Owners

Reggie Golden, Rick Rusaw, David Lees, Jim Jackson, Stan Zeldin,
Mike McDuffey, David Krehbeil, Pam Holstead, Jeff Holstead, Gail Snyder ,
Betsy Snyder, Don Bracken, Jim Grayum, Bill Burford, Phil Hiley, Toni
Hiley, Mary Mahr, Geary Mahr, Art Nelson, Bill Foley, Bruce Kasten, Valerie
Kasten, Cindy Fortney, Ben Pugh, Cathy Orlor, Stan Temares, Jerry
Steinhour, Bernedette Beavens, Don Weist, Sally Thorpe, Tom Thorpe,
Larry Toombs , Rita Toombs, , Cheryl Boos, Dennis Boos, Charles
Gannaway, Donna Gannaway, Lee Sowell, Sharon Sowell, Tom Sowers,
Chris Sowers, Eugene Prather, Jim Kwiatkowski, Howard Jacobson, ,Lynn
Cole, Judy Truedsen, Steve Truedsen, Jim Watson, Galen Haddock , Jeff
Shore, Stacey Shore, Ron Adamson, Sheryl Adamson, Fred Beaman,
Sharon Beamon, Gaye Burford, Pam Cottingham, Travis Ezard, Galen
Haddock, Cheryl Martin, John Pro, Marilyn Pro, Bob Shelton, Wanda
Shelton, Helen Riggins , Lisa Peters, Fred Goldman, Jim Crowder

Complainants' List of Issues:

**COMPLAINANTS' ISSUES TO BE CONSIDERED BY THE COMMISSION
DURING THE FORMAL EVIDENTUARY HEARING FOR A DETERMINATION
AND RULING IN A FORMAL FINDING OF FACT**

Ownership

Does Folsom Ridge own the water and sewer utility system on Big Island?

Does Big Island Homeowners' Association, (BIHOA), own the water and sewer utility on Big Island?

Do the assets of the water and sewer utility on Big Island have a clear title of ownership with no encumbrances?

Do the assets of the water and sewer utility have a claim against the assets filed in the circuit court of Camden County?

Control

A. Does Folsom Ridge control the BIHOA?

- (1). Does Folsom Ridge control the BIHOA through the voting of lots?**
- (2). Does Folsom Ridge control the BIHOA through the majority of representation to the HOA board?**
- (3). Does Folsom Ridge control the BIHOA through legal representation?**

Operations/Management

A. Is the BIHOA operating as an unlicensed public utility?

- (1). Is the BIHOA billing non-members of the BIHOA?**
- (2). Is the BIHOA servicing non-members of the BIHOA?**

B. Was the BIHOA, a functioning organization at the time Folsom Ridge actively and aggressively solicited existing residents to purchase water and sewer taps?

- (1). Did Folsom Ridge, LLC, and/or BIHOA, make water and sewer connections to the utility prior to the BIHOA, (established for the sole purpose of owning/operating/managing the utility), becoming a functioning organization?**
- (2). Did Folsom Ridge, LLC, and/or BIHOA, oversubscribe the original system?**
- (3). Did Folsom Ridge commit under signature to residents boundaries to the original system?**
- (4). Did Folsom Ridge violate its commitment to the residents, violating the system boundaries?**
- (5). Was the BIHOA established for the sole purpose of owning/operating/managing the utility?**

Membership

A. Does Folsom Ridge and/or BIHOA have a signed, ratification agreement bilaterally and mutually binding by consent to

membership in the BIHOA, all individuals being billed and/or serviced by the HOA?

- B. Did Folsom Ridge and/or the BIHOA, interfere with/impede/ and try to halt non-member real estate transactions by attempting to cancel water and sewer tap connection rights, unless a BIHOA ratification document was signed?

Non- Member Utility Connections/Servicing

Is Folsom Ridge and/or BIHOA servicing non-members of the BIHOA?

Non-member Fees

Is Folsom Ridge and/or BIHOA imposing fees on non-members of the BIHOA?

- (1). Is Folsom Ridge, LLC, and/or BIHOA, charging non-members fees for not being connected to the utility?
- (2). Has Folsom Ridge, LLC, and/or BIHOA, stated to non-members, that delinquent fees will be assessed at the time of connection to the utility?
- (3). Has Folsom Ridge stated to individuals who purchased a tap, that there would not be any charges until the individuals connected to the system?
- (4). Did Folsom Ridge and/or BIHOA interfere with/impede/and try to halt the real estate transactions of non-members by charging BIHOA dues and water and sewer assessments at the property closings?

Utility Construction

Did Folsom Ridge incorrectly install/construct the water/sewer utility on Big Island?

- (1). Did Folsom Ridge knowingly misrepresent to residents that the system had been constructed correctly?

Did Folsom Ridge commit violations and repeat violations of the laws of the state of Missouri's Department of Natural Resources regulations and codes in the construction of the utility?

Is Folsom Ridge currently operating under a "Settlement Agreement," with the DNR and the Attorney

General's Office?

- (1). Has Folsom Ridge violated this agreement?

Other Issues of Credibility Relevant to Certification

- A. Has Folsom Ridge provided false information to DNR?
- B. Has Folsom Ridge violated commitments made under signature to homeowners?
- C. Has Folsom Ridge, misrepresented the management and

operational status of the BIHOA, to the DNR and the PSC?

Did Folsom Ridge commit under signature to the residents of Big Island that the water and sewer utility had been installed correctly?

Did Folsom Ridge make the requirement of ratifying restrictive covenants at the time of the original agreement to the individuals purchasing water and/or sewer taps?

Did Folsom Ridge require the ratification of restrictive covenants, as an additional condition, after the original tap purchase agreement, in order to be able to connect to the system?

Did Big Island residents hire attorneys to represent them and their reserved rights of connection to the utility, as per the original agreements with Folsom Ridge?

Did Folsom Ridge replat the center of Big Island into 223 lots, although they did not believe this served their best interests?

Can Folsom Ridge provide safe and adequate service in the future?

Has Folsom Ridge performed its legal duties?

Has Folsom Ridge complied with lawful regulation?

Has Folsom Ridge created potential harm to public welfare?

Should Folsom Ridge be awarded or granted a certificate of public convenience and necessity?

A. Are Mr. Reginald Golden and Mr. Rick Rusaw as individuals and as general partners in Folsom Ridge, LLC, and Folsom Ridge, LLC, as a limited liability company, independent of any legal suits for the purpose of certificating?

393 Not For Profit Water and Sewer Companies

Are the 393 Companies biased towards the Developer?

Was the Special Meeting called to transfer the assets of the BIHOA utility to the 393 Companies, properly noticed?

Was the vote to transfer the utility assets to the 393 Companies controlled by the Developer?

Was the vote to poll a majority of residents' support of the 393 Companies, tied to the vote to transfer the utility assets that was controlled by the developer?

Were the residents allowed to be informed regarding the 393 Companies by-laws and asset transfer agreement, prior to the vote?

Are the 393 Companies financially competent?

Has a bias towards the developer, been demonstrated by the 393 Companies?

Have the 393 Companies Board of Directors exercised their Fiduciary Responsibilities?

Are the 393 Companies imposing membership on individuals, against their will, as a requirement to receive service?

Are the 393 Companies imposing liabilities through a required membership, on individuals, against their will?