

Exhibit No.:	_____
Issue:	Overview of application; Big Island Development; Water and Sewer Systems
Witness:	Barbara Brunk
Sponsoring Party:	Big Island Water & Sewer Company, Inc.
Case No.:	Case No. WO-2007-0277 Joined for hearing with Case No. WC-2006-0082

BIG ISLAND WATER & SEWER COMPANY, INC.

Case No. WO-2007-0277
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DIRECT TESTIMONY

OF

BARBARA BRUNK

Longmont, Colorado
February, 2007

DIRECT TESTIMONY OF BARBARA BRUNK

Q. What is your name and business address?

A. My name is Barbara Brunk and my business address is, P.O. Box 1522, Longmont CO 80502.

Q. What is your position of employment?

A. I am the manager of Resource Conservation Partners, LLC. which provides consulting services to land development and conservation organizations.

Q. What is your education and work experience?

A. I have attached BB Schedule 1 which summarizes my education and professional experience.

Q. Do you hold a position with Folsom Ridge LLC or Big Island Homeowners Water and Sewer Association, Inc.?

A. No I do not hold positions with either. However, I have been a consultant to Folsom Ridge for some time. While with my previous employer, TetraTech RMC, I started providing land planning consulting services to Folsom Ridge during the spring and early summer of 2004. Those services have continued through Resource Conservation Partners, LLC since August of 2004.

Q. What is the purpose of your testimony?

1 A. I will provide an overview of several topics that pertain to the application. I will discuss
2 in general the history of the real estate development ongoing on Big Island at the Lake of
3 the Ozarks; the construction of the water and sewer systems on the Island, their
4 operations and improvements and current rates for service; and compliance with
5 regulatory agencies.

6
7 Q. **Ms. Brunk, while serving as a consultant to Folsom Ridge, have you become familiar**
8 **with the history and business of the company particularly in regard to the water**
9 **and sewer systems on Big Island in the Lake of the Ozarks.**

10 A. Yes, I have. Folsom Ridge LLC was formed in 1997 to engage in the business of owning
11 and developing real property in the State of Missouri. In pursuit of that purpose, Folsom
12 Ridge purchased all, or nearly all, of undeveloped Big Island at the Lake of the Ozarks,
13 which is located near Roach, Missouri. Folsom Ridge also purchased an adjacent 190
14 acres. Shortly after purchasing the property, Folsom Ridge proceeded to install the
15 necessary infrastructure to develop the land. Folsom Ridge platted and re-platted
16 portions of that land, sold homes and lots to local builders and it is currently building
17 villas in Phase 1 of the "Big Island Planned Unit Development." I will explain many of
18 these events in more detail later in my testimony.

19
20 Q. **Can you tell the Commission any other real estate developments that Folsom Ridge**
21 **is undertaking.?**

22 A. Folsom Ridge has concentrated entirely on its development of Big Island and the adjacent
23 190 acres I mentioned earlier. The 190 acres, now known as Island View Estates, has

1 been subdivided into 35, 3 acre to 12 acre building sites to be sold for custom homes. The
2 roads are paved and the lots are ready to sell. I will add that even though Folsom Ridge
3 has devoted itself to a single development, this is not the first nor the only real estate
4 development the members of the company have been involved in.

5
6 **Q. Who are the members of the company at this time?**

7 A. Reginald V. Golden and Frederick S. (Rick) Rusaw. I have attached to my testimony as
8 BB Schedule 2 the current biographies of the members.

9
10 **Development on Big Island**

11 **Q. How was Big Island selected for development by Folsom Ridge?**

12 A. Mr. David Lees, one of the initial members of the LLC, brought the project to the group.
13 The members evaluated the cost, the location and the level of activity at the Lake of the
14 Ozarks at that time and determined that there was potential for future development. After
15 that, the company commenced the acquisition of property. Its first property purchase was
16 on November 25, 1998.

17
18 **Q. How many acres has Folsom purchased in its name?**

19 A. Approximately 350 acres comprising undeveloped land and approximately 200 lots in
20 several platted subdivisions. Since that time Folsom has platted an additional 393 lots.

21
22 **Q. What is the developer's vision for full development of Big Island?**

1 A. The vision for the Big Island development has changed over time. In its present form, the
2 Big Island development is envisioned as a community that not only makes full use of the
3 recreational opportunities supplied by one of the largest inland lakes of the nation, but
4 also preserves the natural environment. The design for the development includes the
5 preservation of native vegetation but also the planting of native species as anchors for
6 new homes. Homes will be built so that woodlands are minimally disturbed. The
7 architecture of those homes will resemble the historic lakefront and woodland homes of
8 the vicinity. Congestion on the shoreline will be minimized through use of common
9 docks, rather than a dock for each home. The vision is to create a master planned
10 residential community that fits into the character of the Little Niangua Arm of the Lake
11 of the Ozarks in a manner that accents the natural beauty of the area. I have attached as
12 BB Schedule 3, a slide presentation of the vision document prepared by Folsom Ridge
13 and submitted to Camden County in 2004 as part of the company's Preliminary Planned
14 Unit Development application.

15
16 Q. **I understand that the Preliminary Planned Unit Development application was part**
17 **of the zoning approval process for the development. Would you explain the steps**
18 **Folsom Ridge followed in securing the necessary zoning approval for the**
19 **development.**

20 A. The steps for local land use approval Folsom Ridge followed were tied in large measure
21 to the plan of development, something that evolved over time. Land use regulations
22 were not adopted in Camden County until June of 2004. Prior to that time land could be
23 subdivided without advance review and approval of Camden County. The plats of the

1 subdivisions on the Island were recorded prior to the adoption of the County land use
2 regulations with the exception of Big Island PUD first filing and Island View Estates.
3 Folsom Ridge's initial development plan was to improve the infrastructure for the Island
4 and sell the existing platted lots to builders. Several options for development were later
5 analyzed and the plan was updated over time to respond to market conditions.

6
7 At the time Camden County's land use regulations were proposed, Folsom Ridge
8 prepared a Master Plan for the Island to illustrate the intent for development over time.
9 Camden County zoned Big Island for single family residential in 2004. Folsom Ridge
10 platted the center of the Island prior to adoption of the county's land use regulations to
11 establish a base line of density for future development. The Planned Unit Development
12 (PUD) application for Big Island was prepared and processed using the baseline density
13 as a starting point. The application for approval of the PUD Plan was submitted to the
14 Camden County Planning Commission in November 2004 and was approved on January
15 19, 2005. Representatives of the company met with the residents on Big Island
16 throughout the fall of 2004 and revised the plans to respond to their concerns. The PUD
17 was amended in 2006 to add a location for a pool and play area and two existing homes.
18 Phase 1 of the final plat was recorded in September, 2006. In addition Folsom Ridge
19 prepared and processed a preliminary plat for Island View Estates (the 190 acres on the
20 adjacent mainland) through the Camden County Planning Department and recorded the
21 final plat for that parcel in 2006.

22
23 **Q. As of now, how much of the development has been done?**

1 A. The water and sewer systems to support all of the PUD "filing 1" development have been
2 installed. Five out of the one hundred and twenty (120) planned villas have been erected
3 and two others are under construction. The majority of the other improvements for PUD
4 filing 1 are completed or nearly completed. These improvements include the utilities,
5 access drives, docks, the marina site parking area, the pool and a picnic area. I would say
6 that approximately 10% of the development is completed at this time. Remaining phases
7 of the development will require extension of the water and sewer system and permit
8 applications for those extensions are pending before DNR.

9
10 Q. **Do you have photographs of the extent of the development for the Commission.?**

11 A. Yes, I do. I have attached to my direct testimony as BB Schedule 4 a series of sixteen
12 slides that were taken between September 14 and 18, 2006 at (or above) Big Island.

13
14 Q. **Are each of the slides a fair and accurate representation of the scene or condition**
15 **they depict.**

16 A. Yes, they are. A description of the photograph is found in the caption section of the each
17 slide attached as BB Schedule 4.

18
19 Q. **With respect to the new dwellings on the Island, tell the Commission the price at**
20 **which they are offered.**

21 A. When Folsom Ridge first purchased property on the Island it commenced a development
22 program utilizing the existing subdivided lots and imposing covenants and restrictions at

1 the time of sale. The homes constructed on those sold lots are basically single family
2 dwellings and sold in a range from \$220,000 to \$450,000.

3
4 Regarding the PUD, the villas that are erected and under construction have been offered
5 for sale between \$350,000 to \$375,000. The first villa was sold on November 17, 2006.

6
7 **Q. Are the members of Folsom Ridge LLC also residents or part time residents on Big**
8 **Island?**

9 **A.** Yes, Mr. Golden and Mr. Rusaw are owners of a new home on the Island.

10
11 **Q. Ms. Brunk, you have referred to phases or first filings of the PUD. Could you**
12 **explain the sequence of development for the PUD and what the total projected build**
13 **out for the PUD is expected to be.**

14 **A.** Big Island PUD is currently permitted for 120 units. We expect it to be developed in four
15 phases over the next 5 to 7 years. The phases will be completed sequentially from north
16 to south along the western shoreline of the Island. There are also existing, platted lots in
17 the center of the island. We anticipate additional phases of the development to include
18 portions of the center of the island. Reconfiguration of those lots will require an
19 amendment to the PUD. The exact location and configuration of the future phases has
20 not been determined at this time. For purposes of sizing the wastewater treatment facility
21 and its expansion, a projected build out of 320 homes was used.

22
23 **Construction of the water and sewer systems on the Island**

1 **Q. Who designed the water and sewer system for the development on Big Island?**

2 A. Folsom Ridge has relied primarily on two professional engineering firms. Lake
3 Professional Engineering Services, Inc. was involved in the initial design of the two
4 systems and Krehbiel Engineering Inc. has been involved in the relocation of a water line,
5 and the design of extensions and improvements to the systems.

6
7 **Q. Can you explain the pipeline plan for the water and sewer service on the Island?**

8 A. Generally the water and sanitary sewer lines have been installed adjacent to the existing
9 road on the Island. The water well and pressure tanks and the wastewater filtering
10 system are located at a high point in the center of the Island. Mr. David Krehbiel will
11 provide a description of the systems in detail in his separately filed direct testimony. Mr.
12 McDuffey, the general manager of the company, will also describe the systems.

13
14 **Q. Were existing homes and their water and sewer facilities taken into account in the**
15 **design of the central water distribution and wastewater system.**

16 A. Yes, they were. Folsom Ridge did a general survey of the existing homeowners on the
17 island and determined that there was an interest in future connection to a central water
18 and central sewer system. Many of the existing homes on the Island are built on 50 foot
19 wide lots and are served by individual wells and septic systems. Prudent planning
20 indicated that Folsom Ridge should include provision for those existing homes to hook
21 up to the systems as an alternative if their individual systems would fail or need to be
22 replaced. From a planning point of view, this would also be a means of protecting the
23 future environmental health and safety of the existing and future residents of the island.

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DNR permits

Q. Has the Missouri Department of Natural Resources (DNR) issued permits for these systems.

A. Yes, the systems are presently operating under a Federal Discharge Permit and State Operating Permit # MO-0123013, and a public water supply permit MO-3031265. The permits have been issued in the name of Big Island Homeowners Association, Inc. Mr. Mike McDuffey will provide testimony regarding operation of the system and compliance with these permits.

Q. Has DNR inspected the systems?

A. Yes, DNR has been very much involved in the installation of these systems, as I explain below. It is my understanding that DNR has approved the construction of both systems and that both systems comply with the specifications set out in DNR's approved construction permits, initial and modified.

Q. Has DNR issued notices of non compliance to Folsom Ridge regarding the operation or construction of the water or sewer systems?

A. Yes, during the course of construction of the first phase of water and sewer line installation, DNR issued notices of violation to the company. DNR made an on site inspection of construction on April 23, 1999 and issued Notice of Violation #1315JC on May 25, 1999 for failure to construct water lines and sewer lines in accordance with approved plans. The contractor had installed a one inch line instead of a two inch line on

1 a small portion of the system. This problem was corrected by replacing the line with the
2 appropriate size.

3
4 A notice of violation was issued on August 8, 2003 in which DNR cited Folsom for a
5 violation of the terms of Permit MO-0123013. The notice cited Folsom for construction
6 of water distribution and sewer collection lines in the same trench without proper
7 separation between the lines or proper fill material around the lines, failure to place the
8 water distribution lines on a packed earth shelf and failure to construct water and sewer
9 lines in accordance with the approved plans. This notice of violation was further
10 investigated by Folsom Ridge and DNR in January of 2004.

11
12 **Q. What did Folsom Ridge do in response to these notices of violation?**

13 **A.** Generally, upon notice of violation Folsom followed up to investigate the problem, hired
14 the appropriate local engineer or contractor to assist with determining the appropriate
15 solution and implemented a plan to resolve the issue.

16
17 With respect to the first notice the line was replaced as requested.

18
19 With respect to the second violation, Folsom Ridge entered a Settlement Agreement with
20 the DNR. A copy is attached as BB Schedule 5. By its terms Folsom Ridge was
21 required to pay a fine, provide plans and specifications for a solution to the problem and
22 construct the necessary improvements to bring the system into compliance. These terms
23 have been fully complied with.

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Q. **Has DNR issued other notices of violation?**

A. On May 13, 2005, DNR inspected construction of an extension to the water system and on June 28, 2006, issued Notice of Violation # 11210SW citing Folsom Ridge for causing or permitting construction, installation or modification of a community public water supply without written authorization.

This construction project was the subject of an application for construction permit already on file with DNR but which had not been approved. Construction was started by mistake. Folsom Ridge thought in error that the permit had been issued and authorized the contractor to proceed. Construction of the extension was stopped until DNR approved the pending permit application and was finalized after receipt of the permit.

Unrelated to the water and sewer system, DNR issued Notice of Violation # 10430SW on June 3, 2004 to Folsom for disturbing land without a land disturbance permit issued by the DNR. This notice involved work done by a Folsom contractor in connection with the erection of the dock. The water and sewer systems were not involved with this notice. The appropriate permit was obtained thereafter and work on the dock proceeded.

Q. **Regarding the water and sewer systems, are there any DNR notices of violation that have not been resolved.**

A. To the best of my knowledge, all notices have been resolved to DNR's satisfaction.

1 Q. **Earlier you referred to an initial member of Folsom Ridge, Mr. David Lees. Is he**
2 **still a member of the company.**

3 A. No, he is not. His interest in the company terminated in April of 2001.
4

5 Q. **What were his duties as a member or agent of the company.**

6 A. Mr. Lees was responsible for oversight of the day to day operations of the development in
7 Missouri. He was the “man in the field” and was the Folsom Ridge point of contact for
8 many of the residents on the Island. He was also in charge of directing and supervising
9 the installation of the water and sewer lines. Mr. Golden and Mr. Rusaw did not have
10 direct involvement in the initial construction of these facilities. They were intended to be
11 investment partners only.
12

13 Q. **Were any of the DNR notices of violation attributable to Mr. Lees?**

14 A. Yes. Some time after Mr. Lees terminated as a member in the limited liability company,
15 property owners on the Island, including I think some of the interveners in this case,
16 submitted complaints to the DNR concerning the installation of the water and sewer lines
17 at the Big Island project. Based upon those complaints, DNR issued a notice of violation
18 to Folsom Ridge on August 8, 2003. DNR also continued an investigation which
19 included drilling test holes to see whether or not the water and sewer lines were
20 constructed in accordance with the approved plans and specifications and applicable
21 regulations. When these test holes were dug on or about January 12, 2004, it was
22 discovered that the water and sewer lines were in the same trench and had not been
23 constructed in accordance with the approved plans and specifications or applicable

1 regulations. As a result, Folsom Ridge entered the Settlement Agreement, paid all fines
2 and corrected the problem by installing a new water line in a separate trench. The initially
3 constructed line was abandoned in place. It is the company's position that Mr. Lees
4 directed the construction company to install the water and sewer lines in the same trench,
5 in violation of applicable regulations of the Missouri Department of Natural Resources
6 and also in violation of the engineering plans and specifications for the project.
7

8 **Q. Is there litigation pending against Mr. Lees at this time?**

9 A. Yes, Folsom Ridge has filed suit against Mr. Lees in the Central Division of the United
10 States District Court for the Western District seeking indemnification from him for the
11 costs of correcting the improperly installed lines including the costs of replacing the line
12 and other related costs.
13

14 **System Operations.**

15 **Q. Which entity is operating and billing for the water and sewer systems at this time?**

16 A. The Big Island Homeowners Water and Sewer Association, Inc. is currently the
17 responsible entity for operating the system and billing for service. The name of the
18 Association was changed from Big Island Homeowners Association, Inc. The
19 Association has been in existence since July, 1998.
20

21 **Q. How long has the Association been operating the systems and billing for service?**

22 A. The Association has been operating the system since the first customers were connected
23 in early 2000, and has been billing for services since January 2001 to date.

1

2 **Q. Can you explain for the commission the significance of the declaration of covenants**
3 **and restrictions that affect property on the island and the Association itself?**

4 A. In order to provide for uniform governance of the water and sewer system available to
5 Big Island residents, Folsom Ridge developed a set of recorded covenants and restrictions
6 that apply to property sold by Folsom Ridge to new owners and to those who voluntarily
7 agreed to the terms of those covenants. I am not an attorney and do not intend to
8 interpret the covenants but will say that the covenants and restrictions generally govern
9 the connection to and use of the water and sewer system on the Island. The Association
10 and its role in that governance is spelled out in the document. The last and current
11 restatement of the Covenants and Restrictions is attached to my testimony as BB
12 Schedule 6.

13

14 **Customers of the systems at this time.**

15 **Q. How many sewer customers and water customers are connected to the systems at**
16 **this time?**

17 A. There are currently sixty-one (61) customers receiving sewer service and forty-eight (48)
18 customers receiving water service.

19

20 **Q. Are there residents on Big Island who have paid a connection or tap on fee but have**
21 **not yet connected to the system?**

22 A. Yes, there are thirty three (33) households who have paid a connection or tap fee but who
23 have not connected.

1

2 Q. **Is there a contract operator for the systems at this time?**

3 A. Mr. Michael McDuffey of Lake Ozark Water and Sewer L.L.C. (LOWS) is under
4 contract for the operation and maintenance of the system. His company provides all
5 periodic maintenance services, testing services and reporting required. LOWS has agreed
6 to continue those duties and responsibilities under contract with Big Island Water
7 Company, Inc. and Big Island Sewer Company, Inc. (the 393 Companies) upon transfer
8 of the water and sewer assets pursuant to the transfer agreement attached to the
9 Application in Case No. WO-2007-0277.

10

11 Q. **What are the current rates for service?**

12 A. The rates for sewer service are \$15.00 per month and the rates for water service are
13 \$10.00 per month. Members of the Association who are not connected to the systems are
14 billed a charge of \$5.00 per month for water and \$5.00 per month for sewer. These latter
15 charges are not for utility services but rather to cover costs of making facilities available
16 for connection and maintaining those facilities. The rates had been billed on a quarterly
17 basis until July, 2006 when monthly billing commenced.

18

19 **The application**

20 Q. **Why has Folsom Ridge and the Association filed the application to transfer the**
21 **water and sewer system assets?**

22 A. The object of this application is to settle controversy raised by the complaints in Case No.
23 WC-2006-0082 and to end the arguments over the manner by which water and sewer

1 services are supplied on the Island. Folsom Ridge earlier formed Big Island Water and
2 Sewer Company, Inc, and filed an application for certification in Case No. WA-2006-
3 0480 for these same purposes. The complainants intervened in that case and objected to
4 the formation of a regulated company as well. During that proceeding residents receiving
5 service on the Island, and others, expressed interest in locally owning and operating both
6 systems. Because of that interest, Folsom Ridge and the Association were willing to
7 pursue negotiations and ultimately they agreed on the transfer. It is my understanding
8 that the 393 Companies are not subject to PUC regulation and would not be subject to
9 complaints like those filed in Case No. WC-2006-0082.

10
11 **Q. Can you describe the highlights of the transfer agreement?**

12 **A.** Mr. Rick Rusaw will describe the main points of the agreement in his separate testimony.

13
14 **Q. How will the public be benefited by the approval of this application?**

15 **A.** I believe the public will be benefited by the conclusion of the complaints about Folsom
16 Ridge and the Association providing the services. The existence of these complaints
17 affects the land values on the Island and can lead to confusion about water and
18 wastewater services. None of the existing customers of the system will see a change in
19 the manner in which service is provided. Mr. McDuffey will continue as the operator of
20 the system as before. The rates for service will be less than what was proposed by the
21 Staff and the applicant in Case No. WA-2006-0480 but will be more than what the
22 Association is charging at this time; still those rates are very reasonable. The persons
23 connected to the system should also be benefited by local management and control of the

1 systems. There will be no detriment to the public by transfer of these facilities to the 393
2 Companies.

3

4 Q. **Does this conclude your direct testimony?**

5 A. Yes.