

Exhibit
115

SURREBUTTAL TESTIMONY
OF
Cathy J. Orlor
CASE NO. WC-2006-0082 & WO-2007-0277

FILED³
APR 5 2007

Missouri Public
Service Commission

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Q.

A. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND ADDRESS.

A. My name is, Cathy J. Orlor. I reside at 3252 Big Island Drive, Roach, Missouri 65787.

PURPOSE SUMMARY

Q. WHAT IS THE PURPOSE OF THIS SURREBUTTAL TESTIMONY?

A. To respond to the Rebuttal Testimony of Mr. Benjamin D. Pugh, for the purposes of clarification; and to substantiate with support documentation as CO Schedules, those statements provided in his Rebuttal Testimony, that have been disputed in incorrect statements by Mr. James A. Merciel, Jr., in his Surrebuttal Testimony.

Q. ON PAGE 3, LINES 3-16, OF MR. PUGH'S REBUTTAL TESTIMONY, MR. PUGH STATES THAT THERE ARE REGULATIONS OR REQUIREMENTS OF A TEN, (10), FOOT SEPARATION BETWEEN SERVICE LINES AND SERVICE SEWERS. IN MR. MERCIEL'S TESTIMONY, (PAGE 3, LINES 11-17), HE DISAGREES THAT THERE ARE "ANY SUCH REQUIREMENTS THAT APPLY IN THE BIG ISLAND AREA. "...AND TO MY KNOWLEDGE THERE ARE NO OTHER APPLICABLE REGULATIONS." AND, "...WHETHER OR NOT SUCH CRITERIA WOULD BE ENFORCEABLE FROM A REGULATORY VIEWPOINT." DO YOU BELIEVE MR. PUGH'S TESTIMONY IS CORRECT?

A. Yes.

Orlor Exhibit No. 115
Case No(s) WC-2006-0082, et al
Date 3-30-07 Rptr ~~FF~~

Case # WC-2006-0082 and WO-2007-0277

1 Q. PLEASE EXPLAIN?

2 A. Regulations and requirements do apply in the Big Island area, and from a regulatory viewpoint, are
3 enforceable by the Department of Natural Resources.

4 Q. CAN YOU PROVIDE DOCUMENTATION TO SUPPORT YOUR ANSWER?

5 A. Yes, I can.

6 Q. WAS THERE A NOTICE OF VIOLATION, (NOV NUMBER 1315 JC), ISSUED
7 ON MAY 25, 1999, BY THE DNR, TO FOLSOM RIDGE, FOR FAILURE TO
8 CONSTRUCT WATER LINES AND SEWER LINES IN ACCORDANCE WITH
9 APPROVED PLANS?

10 A. Yes.

11 Q. DID THIS NOV INITIALLY ADDRESS THE FACT THAT WATER AND
12 WASTEWATER SERVICE LINES ON BIG ISLAND, WERE BEING PLACED IN
13 THE SAME TRENCH BY FOLSOM RIDGE, AND THAT A SEPERATION OF
14 WATER AND SEWER SERVICE LINES SHOULD MEET NATIONAL PLUMBING
15 CODE STANDARDS?

16 A. Yes. (CO Schedule 1).

17 Q. A DNR REPORT ON PLANS, SPECIFICATIONS AND AN ENGINEERING
18 REPORT FOR WATERLINE REPLACEMENT AND EXTENSION, DATED OCTOBER
19 21, 2004, STATES THAT: "...AS EXISTING HOMES CONNECT TO THE
20 PHASE I REPLACEMENT WATERLINE, IT IS ANTICIPATED THAT THE

Case # WC-2006-0082 and WO-2007-0277

1 SERVICE LINES OF MANY HOMES WILL SHARE A COMMON 1-INCH PVC
2 LINE UNDER THE ROADWAY. TECHNICALLY, THE 1-INCH WATERLINE IS
3 A PART OF THE WATER DISTRIBUTION SYSTEM AND SUBJECT TO THE
4 SEPARATION OF WATER AND SEWER LINE CONSTRUCTION POLICY."
5 DOES THIS DNR REPORT UNDER REVIEW NUMBER 53303-04, ON AN
6 ENGINEERING REPORT, PLANS AND SPECIFICATIONS FOR THE
7 REPLACEMENT OF THE WATERLINE INSTALLED IN PHASE I, AGAIN
8 SPECIFY A SEPERATION OF THE WATER AND SEWER SERVICE LINES BY
9 FOLSOM RIDGE, AS A PART OF THE WATERLINE REPLACEMENT PROJECT,
10 AS MANDATED BY DNR IN THE SETTLEMENT AGREEMENT?

11 A. Yes. (CO Schedule 2.)

12 Q. THEREFORE, IS MR. MERCIEL, INCORRECT IN HIS STATEMENT OF
13 TESTIMONY, ON PAGE 3, LINES 11-17, THAT "...ANY SUCH
14 REQUIREMENTS APPLY IN THE BIG ISLAND AREA." AND, "...THERE ARE
15 NO OTHER APPLICAPABLE REGULATIONS." AND, "...WHETHER OR NOT
16 SUCH CRITERIA WOULD BE ENFORCEABLE FROM A REGULATORY
17 STANDPOINT?"

18 A. Yes, Mr. Merciel is incorrect. As per the attached CO Schedules 1 and 2, requirements and
19 regulations do apply, that are indeed enforceable by DNR from a regulatory standpoint of both the
20 Settlement Agreement for the waterline replacement, and the DNR NOV 1315 JC, wherein Folsom
21 Ridge was initially instructed by DNR, that the separation of the water and sewer service lines
22 should meet national plumbing codes.

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1 Q. REFERENCING MR. PUGH'S REBUTTAL TESTIMONY, AND THE TEN (10),
2 FOOT SEPERATION OF THE WATER AND SEWER SERVICE LINES, MR.
3 MERCIEL, ON PAGE 4, LINES 12-17, OF HIS SURREBUTTAL TESTIMONY,
4 MR. MERCIEL STATES THAT SERVICE LINES CAN "...OPERATE
5 INDEPENDENTLY", AND "...CAN BE CONNECTED OR ABANDONED, AND
6 TURNED ON OR OFF, WITH NO DIRECT EFFECT ON THE OPERATION OF
7 THE CENTRAL DISTRIBUTION SYSTEM AND OTHER CUSTOMERS."
8 HOWEVER, DOES THE POTENTIAL HEALTH RISK THAT IS CREATED FROM
9 POSSIBLE CROSS CONTAMINATION WITH A LESS THAN 10 FOOT MINIMUM
10 SEPERATION OF THE WATER AND SEWER SERVICE LINES, INDEED HAVE A
11 DIRECT EFFECT ON THE OPERATION OF THE CENTRAL DISTRIBUTION
12 SYSTEM AND OTHER CUSTOMERS?

13 A. Yes; and because individual shut off valves are not present at each residence connected to the central
14 distribution system, the potential health risk from possible cross contamination to other customers
15 connected to the central distribution system, becomes even greater.

16 Q. DID MR. MERCIEL MAKE RECOMMENDATIONS AND CONCLUSIONS TO THE
17 COMMISSION, (PAGES 5 AND 6), BASED ON HIS INCORRECT
18 STATEMENTS REGARDING THE ISSUE OF SERVICE LINES?

19 A. Yes.

20 Q. DID MR. MERCIEL RECOMMEND AND TO THE COMMISSION, NOT TO PLACE
21 ANY CONDITION, WITH RESPECT TO SERVICE LINE OR SEWER SERVICE

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1 **REPAIR OR REPLACEMENT, ON ITS APPROVAL OF THE TRANSFER OF THE**
2 **SUBJECT UTILITY ASSETS TO BIG ISLAND WATER COMPANY AND BIG**
3 **ISLAND SEWER COMPANY, ON PAGE 5, LINES 6-9, OF HIS**
4 **SURREBUTTAL TESTIMONY?**

5 A. Yes.

6 **Q. DO YOU AGREE WITH MR. MERCIEL'S RECOMMENDATION TO THE**
7 **COMMISSION?**

8 A. No - I do not.

9 **Q. PLEASE EXPLAIN?**

10 A. Ms. Holstead, 393 Company President, submitted as evidence to the Commission at the Formal
11 Evidentiary Hearing, copies of the Bylaws of the Big Island Sewer Company and Bylaws of the Big
12 Island Water Company. The bylaws of both utility companies list as exhibits, individuals who have
13 purchased a prepaid right to a future connection. "The Company shall reserve, and agrees to
14 reserve, capacity within the Sewer System and Water System to accommodate the reasonable
15 wastewater and water supply needs of each homeowner listed on Exhibit B." However, in an E-
16 mail sent to select Big Island Residents from Ms. Holstead, dated March 02, 2007, Ms. Holstead
17 addresses service lines, and now states: "The 393 Board of Directors for the 393 Companies have
18 decided to edit the 393 bylaws to reserve the right to REFUSE new service to any home where the
19 water and sewer service lines are not appropriately separated. This would probably mean a
20 separation of at least 10 feet." (CO Schedule 3).

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1 Therefore, conditions already exist, regarding the water and sewer service lines on Big Island, and
2 individuals' right to receive future service where the 393 Companies are concerned. As a result, the
3 correct repair or replacement of the service line or sewer service, must be resolved by Folsom
4 Ridge, who is the responsible party. I am an individual who has paid for the future right to connect
5 to both the water and sewer system, as confirmed in the bylaws of the 393 Companies in Exhibit B.
6 Now however, Ms. Holstead has stated under signature, that the 393 Companies reserve the right to
7 REFUSE new service to any home where the water and sewer lines are not appropriately separated.
8 This would probably mean a separation of 10 feet. My water and sewer service lines installed by
9 Folsom Ridge, (as per my Rebuttal Testimony), are NOT separated by 10 feet, and now, Ms.
10 Holstead has stated that service will be refused to me, because the installation of those lines by
11 Folsom Ridge, was not separated by 10 feet. Therefore, the situation that exists on Big Island
12 regarding water and sewer service lines, must be addressed and resolved.

13 **Q. BASED ON HIS PREVIOUS, INCORRECT STATEMENTS REGARDING WATER AND**
14 **SEWER SERVICE LINES, DID MR. MERCIEL ALSO INCORRECTLY STATE ON**
15 **PAGE 5, LINES 19-20, THAT: "...IT IS NOT CLEAR AS TO WHO IS ULTIMATELY**
16 **RESPONSIBLE FOR THE INSTALLATIONS?"**

17 A. Yes, on page 2, lines 3-8, Mr. Crowder in his Direct Testimony, accepts responsibility as
18 construction manager for Folsom Ridge, for the installation of new water system service lines for
19 each residence along the course of the replacement line pursuant to the Settlement Agreement with
20 DNR.

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1 **Q. ON PAGE 6, LINES 1-2, OF HIS SURREBUTTAL TESTIMONY, MR. MERCIEL STATES**
2 **TO THE COMMISSION, THAT: "...I DON'T BELIEVE THAT A CONDITION PLACED**
3 **BY THE COMMISSION WILL ULTIMATELY GUARENTEE THAT FOLSOM RIDGE**
4 **LLC WILL PAY FOR RELOCATIONS." IF THE CORRECT INSTALLATION OF THE**
5 **WATER AND SEWER SERVICE LINES BY FOLSOM RIDGE, WAS A PART OF THE**
6 **WATERLINE REPLACEMENT AS PER THE SETTELEMT AGREEMENT BETWEEN**
7 **DNR AND THE ATTORNEY GENERAL'S OFFICE, IS IT NOT THE ATTORNEY**
8 **GENERAL'S OFFICE WHO SHOULD BE ENFORCING THE CORRECT**
9 **INSTALLATION OF THE WATER AND SEWER SERVICE LINES BY FOLSOM**
10 **RIDGE?**

11 **A. I would believe so. I am not an attorney, and therefore, am not rendering a legal conclusion.**

12 However, this appears to be common sense to me.

13 **Q. DO YOU DISAGREE WITH MR. MERCIEL, THAT THE LIABILITY ISSUE(S)**
14 **ASSOCIATED WITH THE WATER AND SEWER SERVICE LINES, SHOULD BE**
15 **TRANSFERRED TO THE 393 COMPANIES - BIG ISLAND WATER COMPANY AND**
16 **THE BIG ISLAND SEWER COMPANY?**

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1 A. Yes, I disagree with Mr. Merciel, that the liabilities associated with water and sewer service lines,
2 should be transferred to the homeowners of Big Island. The issues associated with the water and
3 sewer service lines, are very clearly the responsibility of Folsom Ridge, and should not be
4 transferred to the homeowners as liabilities.

5 **Q. DO YOU AGREE WITH MR. MERCIEL'S RECOMMENDATION TO THE**
6 **COMMISSION, "NOT TO ADDRESS THESE MATTERS?"**

7 A. No – most definitely, I do not. “These matters,” are the very issues of the nine, (9), Formal
8 Complaints were filed with the MPSC. Folsom Ridge, LLC., has been owning and controlling the
9 Big Island Homeowners’ Water and Sewer Association, (f.k.a. – BIHOA).

10 **Q. DOES MR. MERCIEL STATE THAT THERE ARE NO “SUBDIVISION RESTRICTIONS**
11 **APPLICABLE TO THESE INSTALLATIONS?”**

12 A. Yes.

13 **Q. DO YOU AGREE WITH MR. MERCIEL'S STATEMENT?**

14 A. No, I do not.

15 **Q. PLEASE EXPLAIN?**

16 A. As per the “Amended and Restated Covenants and Conditions” of the BIHOA, Article IV –
17 Conveyance for Maintenance Assessments; Section 4, B: “For a period of five, (5), years, from
18 September 01, 2000, with regard to the water system and sewer system presently in existence and
19 installed by Folsom, and such additional systems or additions thereto, (expansion) that may be

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1 installed in the future by Folsom, Folsom warrants the Water System and the Sewer System were
2 installed in accordance with customary installation procedures and to the best of Folsom's
3 knowledge were installed in accordance with applicable laws and regulations. In the event a defect
4 is discovered within the warranty period, for (a) the water and sewer lines installed by Folsom
5 and/or (b) the sand beds installed by Folsom serving the sewer system, Folsom commits to repair
6 defects at its sole cost."

7 **Q. WAS YOUR FORMAL COMPLAINT FILED WITH THE MPSC, MADE PRIOR TO**
8 **SEPTEMBER 01, 2005, TO PREVENT THE TRANSFER OF LIABILITY ASSOCIATED**
9 **WITH THE WATER AND SEWER SYSTEM TO THE RESIDENTS OF BIG ISLAND?**

10 A. Yes. As a matter of fact, the requested relief from the MPSC, was for a temporary injunction to halt
11 the transfer of liabilities. (I was unaware that this power did not exist within the jurisdiction of the
12 MPSC).

13 **Q. DOES MR. MERCIEL STATE ON PAGE 6, LINES 11-12, "...THE ENTIRE SCOPE OF**
14 **THIS CASE GOES FAR BEYOND THE SERVICE LINES...?"**

15 A. Yes.

16 **Q. DO YOU AGREE WITH THIS STATEMENT MADE BY MR. MERCIEL, EVEN THOUGH**
17 **YOU HAVE PROVIDED CLARIFICATION TO DISPUTE MANY OF MR. MERCIEL'S**
18 **OTHER STATEMENTS PROVIDED IN HIS TESTIMONY?**

19 A. Ironically, yes I do.

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1 **Q. PLEASE EXPLAIN?**

2 A. Yes, the “entire scope of this case goes far beyond the service lines,” which is why nine, (9), Formal
3 Complaints were filed with the MPSC against Folsom Owing and Controlling the BIHOA. This
4 utility needs to be regulated. The approval by the Commission, to transfer the utility assets to the
5 393 Companies, which are still, other unregulated entities, does NOT resolve the utility issues on
6 Big Island.

7 **Q. DO YOU ALSO AGREE WITH THE FINAL STATEMENT MADE BY MR. MERCIEL IN**
8 **HIS SURREBUTTAL TESTIMONY ON PAGE 6, LINES 16-18, THAT: “THE SERVICE**
9 **LINE ISSUE IS ONE OF MANY THAT ANY UTILITY WOULD NEED TO ADDRESS IN**
10 **ORDER TO PROVIDE SERVICE INTO THE FUTURE?”**

11 A. Yes, I do.

12 **Q. HAS MR. MERCIEL PROVIDED ANY TESTIMONY TO THE COMMISSION,**
13 **REGARDING THE EXISTENCE AND SUCCESS OF IMPLEMENTATING 393**
14 **COMPANIES IN AN ESTABLISHED COMMUNITY WITH PREEXISTING**
15 **HOMEOWNERS AND OTHER RESTRICTIVE COVENANTS ALREADY IN**
16 **EXISTENCE, AND MANY UTILITY ISSUES ASSOCIATED WITH THE PRESENT**
17 **UTILITY, TO SUPPORT HIS RECOMMENDATION TO THE COMMISSION, TO**
18 **APPROVE THE TRANSFER OF ASSETS TO THE 393 COMPANIES?”**

19 A. No, he has not.

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1 **Q. DOES MR. MERCIEL'S OBJECTIVE OF A "LEGITIMATELY CREATED UTILITY FOR**
2 **THE PURPOSE OF OWNING AND OPERATING THESE UTILITY SYSTEMS,"**
3 **ADDRESS AND/OR RESOLVE THE UTILITY ISSUES OF BIG ISLAND, AND/OR**
4 **JUSTIFY HIS RECOMMENDATION TO THE COMMISSION TO TRANSFER THE**
5 **UTILITY ASSETS TO THE "LEGITIMATELY CREATED" 393 COMPANIES?**

6 A. No, it does not. Folsom Ridge, LLC, and the BIHOA, are also, both "legitimately created" legal
7 entities.

8 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

9 A. Yes.

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DWP:Camden Co.

Big Island

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

McE. Caution, Governor • Stephen M. Mahood, Director

DIVISION OF ENVIRONMENTAL QUALITY

Jefferson City Regional Office

210 Hoover Road P.O. Box 176 Jefferson City, MO 65102-0176

(573)751-2729

FAX (573)751-0911

May 25, 1999

CO Schedule

CERTIFIED MAIL # Z 290 136 189
RETURN RECEIPT REQUESTED

Fulsum Ridgelle dba Big Island
c/o David Lee, Management
HCR 67, Box 680
Roach, MO 65787

Dear Mr. Lee:

Enclosed is a Notice of Violation number 1315 JC being issued to Fulsum Ridgelle dba Big Island for failure to construct water lines and sewer lines in accordance with approved plans. On April 23, 1999, inspection of work being conducted on the water and wastewater lines for the Big Island in Camden County found illegal water and sewer mains being constructed. Instead of constructing individual one-inch PVC service lines for water and wastewater to each home, one inch lines were being placed to serve up to three homes. This would make the lines by definition water and wastewater mains, which have to be at least two-inch PVC and receive prior approval by the Department.

You stated at the time of my inspection that the change from single service lines to lines serving up to three homes was a misunderstanding of the requirements and what was approved. You have since stated to me that all work has been corrected. To resolve this matter, written certification needs to be submitted by your engineer verifying that all water and wastewater construction was corrected /completed in conformance with approved plans. Also, I noted that the water and wastewater service lines were being placed in the same trench. Separation of water and sewer service lines should meet national plumbing code standards.

**DEPARTMENT OF NATURAL RESOURCES OF MISSOURI
REPORT ON PLANS, SPECIFICATIONS AND AN ENGINEERING REPORT
FOR WATERLINE REPLACEMENT AND EXTENSION**

Big Island Subdivision
Camden County, MO

October 21, 2004

Review Number 53303-04

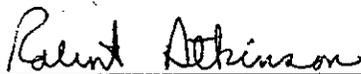
INTRODUCTION

Plans and specifications for a water main replacement and extension for Big Island Subdivision in Camden County, Missouri, were submitted for review and approval by Krehbiel Engineering, consulting engineers, Camdenton, Missouri.

BRIEF DESCRIPTION

In general, these plans and specifications provide for a water main replacement of the water main installed in Phase I so as to maintain the proper separation of water and sewer lines, an extension to serve Phase III of the development and the encasement of the waterline on the causeway. The proposed water main replacement of Phase I will consist of approximately 11,268 lineal feet (L.F.) of 4-inch PVC pipe and create a loop around the island. The proposed water main extension of Phase III is mostly interior waterlines will also be 4-inch PVC pipe. The causeway encasement consist of approximately 200 feet of 4-inch waterline incased inside an 8-inch PVC pipe. The necessary valves, fittings and appurtenances will be provided as per detailed plans and specifications. Before being placed in service, the new water main will be pressure tested, flushed, and disinfected; and bacteriological samples will be collected for laboratory analysis.

As existing homes connect to the Phase I replacement waterline, it is anticipated that the service lines of many homes will share a common 1-inch PVC line under the roadway. Technically, the 1-inch waterline is a part of the water distribution system and subject to the separation of water and sewer line construction policy. The separation policy does not cover the private service lines on private property.



Robert Atkinson, P.E., Environmental Engineer
Public Drinking Water Infrastructure
Permits and Engineering Section

APPROVAL TO CONSTRUCT

The engineering plans and specifications described above were examined as to sanitary features of design which may affect the operation of the sanitary works, including size, capacities of the units, and factors which may affect the efficiency and ease of operation. Approval as regards these points is hereby given.

Approval is given with the understanding that final inspection and approval of the completed work shall be made by the Department of Natural Resources before same is accepted and placed in operation. If construction is not commenced two (2) years after the date of issue or there is a halt in construction of more than two years, the approval to construct will be void unless an extension of time has been granted by the department.

In the examination of plans and specifications, the Department of Natural Resources, Public Drinking Water Program does not examine the structural features of design or efficiency of mechanical equipment. This approval does not include approval of these features.

The Department of Natural Resources, Public Drinking Water Program reserves the right to withdraw the approval of plans and specifications at any time it is found that additional treatment or alterations are necessary to assure reasonable operating efficiency and to afford adequate protection to public health.

Cathy J. Orlor

From: "Ben and Karen Pugh" <karben@yhti.net>
To: "Cathy Orlor" <corlerwine@yhti.net>; "Cindy Fortney" <Sprout2@aol.com>
Sent: Saturday, March 03, 2007 8:52 PM
Subject: Fw: Legal Update From Pam Holstead

----- Original Message -----

From: Ben Weir
To: Ben and Karen Pugh
Sent: Saturday, March 03, 2007 8:23 PM
Subject: FW: Legal Update From Pam Holstead

CO Schedule
3 page 1

Mr. And Mrs. Mayor,

Holy shit! What in the hell is going on here? Wonder how much money has been spent...and will be spent...on legal fees in all of this. AND we can still contaminate the whole Island water supply if Don Bracken's service lines erupt at the same time....go figure???????

Ridiculous. What's this law suit really about, and I was surprised to see the name Lewis Bridges back in the picture.

GM Ben

----- Forwarded Message

From: Phil and Tonie Hiley <tphiley@yahoo.com>
Date: Sat, 3 Mar 2007 17:32:42 -0800 (PST)
To: Phil and Tonie Hiley <tphiley@yahoo.com>
Subject: Legal Update From Pam Holstead

Sat. March 2, 2007

Dear Big Island Neighbor:

PSC CASE

The Big Island hearing before the Missouri Public Service Commission has ended. The hearing lasted for 3 days and would usually begin at 8:30 am and end somewhere between 7 pm and 9 pm. The proceedings were broadcast over the PSC website. There were two cases which were heard at the same time.

The first case was filed by Cathy Orlor, Ben Pugh, Cindy Fortney, Stan Temares, and four additional Big Island residents or former residents. It was designated as the "COMPLAINT" case.

The primary issue in the complaint case was whether or not Folsom Ridge, or the Homeowners Association, should be subject to PSC jurisdiction and therefore PSC regulation.

Although eight people filed complaints, only those named above actually participated in the hearing.

The second case was filed by Folsom Ridge and the Homeowner's Association and was designated as the "Transfer" Case. The primary issue in the transfer case was whether or not transferring the utility assets to the 393 companies would be detrimental to public interest. A secondary issue was whether or not any conditions should be imposed on the transfer. The following individuals intervened in the Transfer Case for the reason they were opposed to the proposed transfer: Mr. &

3/25/2007

Mrs. Weast, Mr. & Mrs. Mahr, Mr. & Mrs. Thorpe, Bernadette Sears, Sherrie Fields, Arthur Nelson, Cathy Orlor, Cindy Fortney, Ben Pugh, and William Foley II. The following 393 companies intervened in the Transfer Case for the reason they were supportive of the Transfer: Big Island Water Company and Big Island Sewer Company.

Although numerous people filed opposition in the Transfer case, the only ones who attended the hearing were Cathy Orlor, Ben Pugh, and Cindy Fortney.

Everyone who filed a complaint, or intervened, yet failed to attend the hearing, is subject to dismissal from the case. However, a ruling has not yet been made by the judge.

Testimony favoring PSC jurisdiction and opposing the transfer of Big Island utilities to the 393 companies was provided by Cathy Orlor, Cindy Fortney, and Ben Pugh.

Testimony opposed to PSC jurisdiction and in favor of the 393 transfer was provided by representatives of Folsom Ridge: Rick Rusaw, Barb Brunk, William Hughes.

Additional testimony was provided by Michael McDuffey of Lake Ozark Water and Sewer (the management company), and by Mr. Dave Krehbiel of Krehbiel Engineering.

Testimony in favor of the 393 transfer was sponsored by the 393 companies and presented by Gail Snyder and Phil Hiley.

A representative of the MO. Dept. of Natural Resources presented testimony. PSC Staff Member, Jim Merciel, presented testimony which favored the transfer to the 393 companies. As an interesting note, Mr Merciel said statutes which provided for the creation of 393 companies only came about in 1999 and he was aware of only 5 or 6 Missouri utility companies organized as 393 companies. He was not aware of any of them having problems.

A transcript of the proceedings is now being prepared and upon completion will be posted to the PSC EFIS website. (Approx. 2 weeks from now). The parties will be receiving some late filed testimony from Utility Contractor Kenny Carroll, but the details of how that will happen have not yet been arranged.

The parties have been instructed to file legal briefs by mid April. Hopefully a written decision will be made available by May 1.

.....Service Lines: A great deal of testimony time at the PSC hearing was devoted to the issue of individual utility "service lines". In general, these are the lines that connect a HOME to a water or sewer MAIN. (It seems one of the Commissioners had a very personal interest in this issue)

Neither the PSC, nor the DNR, currently have jurisdiction over residential service lines. Therefore, depending on who built your home and/ or installed your service lines, the water and sewer line may be installed side by side in the same trench with little or no legal consequence. If ground movement or excavation should rupture both lines at once, the possibility exists for contaminating the entire water system on Big Island.

The Board of Directors for the 393 Companies have decided to edit the 393 bylaws to reserve the right to REFUSE new service to any home where the water & sewer service lines are not appropriately separated. This would probably mean a separation of at least 10 feet. If the new service is requested for a pre-existing home where it is impossible to locate the lines 10 feet apart and the lines must be buried in the same trench.....PSC personnel has recommended to us the sewer line be buried a minimum of 18 inches below the water line.

Circuit Court Case

On February 2, 2007 a law suit (Case #07CM-CCC00040) was filed in Camden County Circuit Court,

by Attorney Lewis Bridges, against Folsom Ridge, the Homeowners Association, and the 393 Companies.

The suit was filed by the following Big Island property owners: Mr. & Mrs. Pugh, Cindy Fortney, Mr. & Mrs. Steinhour, Mr. & Mrs. Nelson, Cathy Orlor, Stan Temares, Mr. & Mrs. Kasten, Mr. & Mrs. Foley, Mr. & Mrs. Thorpe, Mr. & Mrs. Mahr, and Gary Brown.

The suit was brought in two counts. The First Count purports to be for "Breach of Contract" and seeks damages equal to the utility tap fees associated with each of their properties, plus additional sums for loss of property value. The Second Count purports to be for "Imposition of Constructive Trust" and asks the Court to find that the Big Island utility assets should be held in trust for the benefit of the above named plaintiffs to the extent of the "contributions made by them".

I have filed a "Motion to Dismiss" the Plaintiff's case with the Camden County Circuit Court. I believe attorneys for Folsom and the HOA have done likewise. The earliest possible date these motions can be heard is March 14, however it is not certain at this time whether or not a hearing will take place on that date.

As always, feel free to contact me if you have questions.

Pam Holstead
573 / 317 - 1198
pamersbmo@yahoo.com

----- End of Forwarded Message

CO Schedule
3 page 3

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The second case was filed by Folsom Ridge and the Homeowner's Association and was designated as the "Transfer" Case. The primary issue in the transfer case was whether or not transferring the utility assets to the 393 companies would be detrimental to public interest. A secondary issue was whether or not any conditions should be imposed on the transfer. The following individuals intervened in the Transfer Case for the reason they were opposed to the proposed transfer: Mr. &

3/25/2007

Mrs. Weast, Mr. & Mrs. Mahr, Mr. & Mrs. Thorpe, Bernadette Sears, Sherrie Fields, Arthur Nelson, Cathy Orler, Cindy Fortney, Ben Pugh, and William Foley II. The following 393 companies intervened in the Transfer Case for the reason they were supportive of the Transfer: Big Island Water Company and Big Island Sewer Company.

Although numerous people filed opposition in the Transfer case, the only ones who attended the hearing were Cathy Orler, Ben Pugh, and Cindy Fortney.

Everyone who filed a complaint, or intervened, yet failed to attend the hearing, is subject to dismissal from the case. However, a ruling has not yet been made by the judge.

Testimony favoring PSC jurisdiction and opposing the transfer of Big Island utilities to the 393 companies was provided by Cathy Orler, Cindy Fortney, and Ben Pugh.

Testimony opposed to PSC jurisdiction and in favor of the 393 transfer was provided by representatives of Folsom Ridge: Rick Rusaw, Barb Brunk, William Hughes.

Additional testimony was provided by Michael McDuffey of Lake Ozark Water and Sewer (the management company), and by Mr. Dave Krehbiel of Krehbiel Engineering.

Testimony in favor of the 393 transfer was sponsored by the 393 companies and presented by Gail Snyder and Phil Hiley.

A representative of the MO. Dept. of Natural Resources presented testimony. PSC Staff Member, Jim Merciel, presented testimony which favored the transfer to the 393 companies. As an interesting note, Mr Merciel said statutes which provided for the creation of 393 companies only came about in 1999 and he was aware of only 5 or 6 Missouri utility companies organized as 393 companies. He was not aware of any of them having problems.

A transcript of the proceedings is now being prepared and upon completion will be posted to the PSC EFIS website. (Approx. 2 weeks from now). The parties will be receiving some late filed testimony from Utility Contractor Kenny Carroll, but the details of how that will happen have not yet been arranged.

The parties have been instructed to file legal briefs by mid April. Hopefully a written decision will be made available by May 1.

.....Service Lines: A great deal of testimony time at the PSC hearing was devoted to the issue of individual utility "service lines". In general, these are the lines that connect a HOME to a water or sewer MAIN. (It seems one of the Commissioners had a very personal interest in this issue) Neither the PSC, nor the DNR, currently have jurisdiction over residential service lines. Therefore, depending on who built your home and/ or installed your service lines, the water and sewer line may be installed side by side in the same trench with little or no legal consequence. If ground movement or excavation should rupture both lines at once, the possibility exists for contaminating the entire water system on Big Island.

The Board of Directors for the 393 Companies have decided to edit the 393 bylaws to reserve the right to REFUSE new service to any home where the water & sewer service lines are not appropriately separated. This would probably mean a separation of at least 10 feet. If the new service is requested for a pre-existing home where it is impossible to locate the lines 10 feet apart and the lines must be buried in the same trench.....PSC personnel has recommended to us the sewer line be buried a minimum of 18 inches below the water line.

Circuit Court Case

On February 2, 2007 a law suit (Case #07CM-CCC00040) was filed in Camden County Circuit Court,

by Attorney Lewis Bridges, against Folsom Ridge, the Homeowners Association, and the 393 Companies.

The suit was filed by the following Big Island property owners: Mr. & Mrs. Pugh, Cindy Fortney, Mr. & Mrs. Steinhour, Mr. & Mrs. Nelson, Cathy Orlor, Stan Temares, Mr. & Mrs. Kasten, Mr. & Mrs. Foley, Mr. & Mrs. Thorpe, Mr. & Mrs. Mahr, and Gary Brown.

The suit was brought in two counts. The First Count purports to be for "Breach of Contract" and seeks damages equal to the utility tap fees associated with each of their properties, plus additional sums for loss of property value. The Second Count purports to be for "Imposition of Constructive Trust" and asks the Court to find that the Big Island utility assets should be held in trust for the benefit of the above named plaintiffs to the extent of the "contributions made by them".

I have filed a "Motion to Dismiss" the Plaintiff's case with the Camden County Circuit Court. I believe attorneys for Folsom and the HOA have done likewise. The earliest possible date these motions can be heard is March 14, however it is not certain at this time whether or not a hearing will take place on that date.

As always, feel free to contact me if you have questions.

Pam Holstead
573 / 317 - 1198
pamersbmo@yahoo.com

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* * * Communication Result Report (Mar. 27. 2007 1:29AM) * * *

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Date/Time: Mar. 27. 2007 1:28AM

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E. 3) No answer	E. 4) No facsimile connection
E. 5) Exceeded max. E-mail size	

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Folsom Ridge, LLC Owning and Controlling the Big Island Homeowner Association and the Application of Folsom Ridge and Big Island Homeowners Water and Sewer Association Inc. for an Order Authorizing the Transfer and Assignment of Certain Water and Sewer Assets to Big Island Water Company and Big Island Sewer Company, and in Connection Therewith Certain Other Related Transactions in an Unincorporated Area of Camden County, Missouri

Case Nos. WC-2006-0082
& WO-2007-0277

AFFIDAVIT OF CATHY J. ORLER

STATE OF MISSOURI)
) ss.
COUNTY OF CAMDEN)

Cathy J. Orler, of lawful age, on her oath states: that she has participated in the preparation of the foregoing documents, to be presented in the above case. The foregoing documents were prepared by her; that she has knowledge of the matters set forth in such documents; and that such documented matter is true and correct to the best of her knowledge and belief.


Cathy J. Orler

