

June 23, 2006

FILED³

JUN 27 2006

The Honorable Colleen M. Dale
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO. 65102-0360

Missouri Public
Service Commission

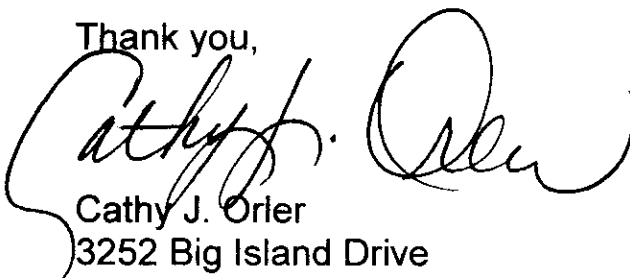
Re: Case Nos. WC-2006-0082, WC-2006-0090, WC-2006-0107,
WC-2006-0122, WC-2006-0121, WC-2006-0120, WC-2006-0129,
WC-2006-0139, WC-2006-0138

The Honorable Judge Dale:

Please find enclosed for filing, "Complainant's Statement To The Commission In Reference To The Respondents' Motion For An Order Suspending Proceedings And Complainant's Conditions/Questions Granting Such Suspension." Five additional copies are also enclosed for the appropriate Commission personnel; if you would be so kind as to bring this filing to their attention.

Please contact me, if you should have any questions regarding this filing.

Thank you,



Cathy J. Orlor
3252 Big Island Drive
Roach, MO. 65787
(573)317-1490

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Cathy J. Orlor, et al.

Complainant,

v.

Folsom Ridge, LLC (Owning and Controlling
the Big Island Homeowners Association)

Respondent

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) Case No. WC-2006-0082, et al.
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Missouri Public
Service Commission

COMPLAINANT'S STATEMENT TO THE COMMISSION
IN REFERENCE TO THE RESPONDENTS' MOTION FOR AN ORDER
SUSPENDING PROCEEDINGS AND COMPLAINANT'S CONDITIONS/QUESTIONS
GRANTING SUCH SUSPENSION

COMES NOW, Cathy J. Orlor, on her own behalf, respectfully stating to the Commission, the Complainant's willingness to allow a limited stay to these complaint proceedings and suspension of all motions and other actions (including all data requests and depositions) pending before the Commission so that these conditions/questions can be fairly and adequately answered to the satisfaction of the Complainant:

1. Length of this stay shall be granted until the July 17, 2006, scheduled date for the Formal Evidentiary Hearing in this case. This should provide adequate time for the Respondents to produce the necessary documents and answers requested herein by the Complainant. Complainant will not be waiving the process of the Formal Evidentiary Hearing, by agreeing to a stay.
2. On June 16, 2006, Big Island Water and Sewer Company, Inc. (BIWS) filed an application with the Commission for a certificate of public convenience and necessity to offer and provide **regulated** water and sewer service in and around Big Island at the Lake of the Ozarks. The application was assigned Case No. WA-2006-0480. As stated in that application, BIWS has entered agreements with the Respondents by which to acquire the assets used or useful in the provision of regulated water and sewer service on Big Island, all in response to the complaints filed in these consolidated cases. The Complainants in this case, have come to the Public Service Commission, with no legal counsel of their own. Therefore, this Complainant, respectfully request further documentation, information and clarification of the issues concerning this filing to include:
 - a. A copy of the application provided to the Complainants, which should include all the pertinent information about the company, BIWS, which will qualify it to satisfy the complainants' requests FOR A REGULATED PUBLIC UTILITY OPERATED AND MANAGED BY A CERTIFICATED COMPANY INDEPENDENT OF ANY ASSOCIATIONS WITH THE RESPONDENT OR ANY OF ITS AGENTS OR REPRESENTATIVES. For this reason, the Complainants are actively interviewing other companies for this position, and the information being requested herein of the Respondents by the Complainants, is the same, standard

information being requested of, and readily offered by other Companies as a part of the interviewing process. This information should detail:

- i. Management structure including names and titles of officers and owners, and managers; years of experience and certifications as applicable
- ii. References from former and current clients to show the company has successfully managed other water and sewer utilities in the past, and also the size (customers served) of their other managed utilities and where those systems are located to include contact name, address and phone number.
- iii. Financial statements of both, BIWS and the Respondents, (Folsom Ridge, LLC, and Big Island Homeowners Water and Sewer Association, Inc. f/k/a Big Island Homeowners Association, Inc.), showing the current assets and liabilities of all the companies, as well as other proof as is necessary to indicate the financial ability of BIWS to ensure safe and adequate water and sewer services will be provided to ALL residents of Big Island in the future.
- iv. The present and future plans of the Folsom Ridge, LLC, development, as it will affect the area the utility will service, and the number of customers the utility will serve, as well as any intended commercial usage of the utility.

3. As stated in the application, BIWS has entered into agreements with the Respondents by which to acquire the assets used or useful in the provision of regulated water and sewer service on Big Island, all in response to the complaints filed in these consolidated cases. As part of the assets acquisition process, the complainant would like to receive copies of any and all agreements, board meeting minutes and voting records authorizing the selling of the water and sewer utility assets serving residents of Big Island currently owned by Folsom Ridge, LLC, and/or Big Island Homeowners Water and Sewer Association, Inc., f/k/a Big Island Homeowners Association, Inc. to the applicant, BIWS, named in this latest filing by the Respondents.

- a. Since these water and sewer asset liabilities, are (allegedly), the current liabilities of the homeowner members of the BIHOA and are scheduled to be turned over to them as THEIR assets of ownership in September 2006, the complainants can only assume that an official Big Island HOA meeting was held at which time and place the sale of the water and sewer assets was discussed, a motion was made to approve such action, and then votes taken and recorded, approving the sale to another company. Therefore, please provide the complainant with a copy of the 30-day meeting notice announcing the time and place of this meeting and business to be conducted. Also provide the minutes of the HOA meeting to include: when and where this meeting was held; those in attendance; what business was discussed; the motions made and voted upon and a record of such votes and/or proxies authorizing such votes.

Since there seems to be a great deal of confusion and misinformation as to who actually owns the assets of the water and sewer system serving Big Island, the Respondents need to provide the documentation to confirm the ownership of the utility:

- i. According to Paragraph #3; Page #1, of the Amended and Restated Declaration of Covenants and Conditions (12/29/2000), the water service and sewer service and related equipment, now owned by Declarant. (Declarant is defined on Page #2; Article 1. Definitions, Section 7. "Declarant" shall mean and refer to Folsom Ridge, LLC,). However, Reggie Golden, manager, in a letter dated November 29, 2001 to Kristine Ricketts, DNR, stated, ***"For future reference, the system and the ground have been turned over to the Big Island Homeowners Association. The address for Big Island Homeowners Association is P.O. Box 54, Longmont, CO 80502."*** (Exhibit #1)
 - ii. As referenced in letters to homeowners, from Reggie Golden, manager, item #3 on Page #1, indicates that Folsom Ridge, LLC, warranted the system until September 1, 2005. (Exhibits #2 and #3). Again, referencing the Amended and Restated Declaration of Covenants and Conditions, in Paragraph "B"; Article IV. Covenant for Maintenance Assessments, Page 7; "For a period of five (5) years from September 01, 2000, with regard to the water system and sewer system presently in existence and installed by Folsom, and such additional systems or additions thereto (expansion) that may be installed in the future by Folsom, Folsom warrants the water system and sewer system were installed in accordance with customary installation procedures and to the best of Folsom's knowledge were installed in accordance with applicable laws and regulations. In the event a defect is discovered within the warranty period, for (a) the water and sewer lines installed by Folsom and/or (b) the sand beds installed by Folsom serving the sewer system, Folsom commits to repair defects at its sole cost. Therefore, effective September 01, 2005, the members of the BIHOA assumed, and currently have the liabilities for the water and sewer system.
 - iii. Obviously, the Complainant as well as the Commission need to know who owns the assets and where and what those assets are. The Respondents need to provide the legal description and a complete listing of the assets and their values to the future owners of the system; in addition to any and all debts, liens, and/or encumbrances of said same. Please provide any and all documentation to help the parties in these proceedings better understand the sale and/or transfer of these assets, as well as the fair value of the assets.
4. The Complainant would also like to know if (other than the current complaints pending before the Public Service Commission) if there are any other legal claims or actions involving any of the above mentioned parties in these proceedings including Folsom Ridge, LLC, and/or its partners, Reginald Golden and Rick Rusaw as individuals, Big Island Homeowners Water and Sewer Association, Inc. f/k/a Big Island Homeowners Association, Inc. and/or BIWS which might need to come to the attention of the Commission or would hinder the sale of the water and sewer assets, thus affecting this application? If so, please provide any documentation or information that needs to come to the attention of the Complainant and the Commission.
 5. For the Complainants to make an unbiased and intelligent decision as to whether the BIWS would satisfy their request as stated above AND again below, the Respondents must meet these conditions by providing the information requested on or before the July

17, 2006, date. Otherwise, the Complainant respectfully request that the Commission deny the Respondents' request for a further delay, and motion and proceed immediately to the Formal Evidentiary Hearing scheduled for July 17-21, 2006 at which time the complainants will be allowed the opportunity to present their individual complaints, evidence and filings so that their complaints can be satisfied as stated below:

"The objective of the (9) Complainants in these cases is to ensure that safe and adequate Water and sewer services will be provided to ALL residents of Big Island in the future Through a regulated public utility that is operated and managed by a certificated Company, independent of any association with the Respondent, Folsom Ridge, LLC, Or any of its agents or representatives."

6. In addition, in paragraph #2 of the Respondents' Motion For An Order Suspending Proceedings, the Respondents refer to the local public hearing of June 2, 2006, and state that the Complainants were allowed to testify;and, in general their testimony did not dwell on why the Respondents should be regulated.....by the Commission,.....but rather offered their opinions, over objection, about the qualifications of the management of the companies, the manner of installation of the systems, their compliance with state and federal regulations and enforcement bodies, the adequacy of service, their relationship with customers and the financial ability of the companies to continue service. The Complainant makes the following assertions:

- a. The Respondents' constant interruptions of the Complainants' testimonies, to "object," did not allow the Complainants the opportunity to make the point that if the Respondents possessed the management qualifications necessary to properly manage the companies; and had complied with state and federal regulations and enforcement bodies, the need to file "Formal Complaints" with the PSC, for operating as an "unlicensed public utility," would not exist; nor the need to be regulated, as well as the claims to support both.
- b. I also disagree with the Respondents' statement that the remarks on June 02, 2006, are issues that are appropriate only in the context of an application for certificate of service authority to provide water or sewer service. The remarks are most definitely appropriate if the applicant company for certificate of service authority to provide water or sewer service is NOT independent of any association with Folsom Ridge, LLC, or any of its agents or representatives, and is the same as that, which created the very problems of issue before the Commission today. The applicant name of the new legal entity formed for certification, will change to BIWS, and the new enforcement body will become the PSC. However, the applicant individuals, Mr. Reginald Golden and Mr. Rick Rusaw, and their well documented, established pattern of corporate mismanagement behavior, and their noncompliance with state and federal regulations by committing numerous violations, and a blatant disregard for those bodies enforcing the regulations by committing repeat violations, will remain the same.

- c. Moreover, at the June 02, 2006 public hearing, the testimonies of the homeowners opposing regulation of the utility on Big Island by the PSC, further proved that in addition to the (9) nine Complainants, there are additional individuals being billed and/or serviced by the BIHOA who are non-members; substantiating the claims of the Complainants that the BIHOA is operating as an "unlicensed public utility," and therefore, should be regulated by the PSC.

WHEREFORE, Complainant respectfully request the Commission to stay these complaint proceedings and suspend all motions and other actions herein until July 17, 2006, so these conditions and the information requested, be provided by the Respondents, to the satisfaction of the Complainant.

Respectfully submitted,


Cathy J. Orler

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent this 23rd day of June, 2006, to the General Counsel's Office, and the Office of Public Counsel, and via U.S. mail, postage prepaid to Mark W. Comley, 601 Monroe Street, Suite 301, P.O. Box 53 Jefferson City, MO. 65102, and Charles E. McElyea, 85 Court Circle, P.O. Box 559, Camdenton Mo. 65020

Folsom Ridge, LLC
2020 Terry St., Suite A
Longmont, CO 80501

Exhibit 1

November 29, 2001

Kristine Ricketts
Department of Natural Resources
P. O. Box 176
Jefferson City, MO 65102-0176

Dear Ms. Ricketts,

I am in receipt of your letter dated November 16, 2001. Because I just received it today, I will not be able to respond specifically by December 7th. However, I will research the information you requested and have a formal response by December 20, 2001.

Items of note that I can respond to currently are:

1) The homeowners association voted to change their bylaws on December 29, 2000. This change eliminated the two classes of membership. There is currently one homeowner who is connected (the very first to connect) that has refused to join the HOA. Even though the homeowner connected does not consider himself to be a member of the association, we are treating him as a member and he has been so advised. Our attorney is in the process of dealing with this issue. Everyone else who is connected is a member. We will follow up later with the current by-laws.

Incorrect

2) I have a current handwritten as-built drawing of the system. Apparently you have an old copy that showed the pipe in the wrong crevice. I will get with Mr. Jackson and have him redraw the as-builts based on the handwritten drawing that I have.

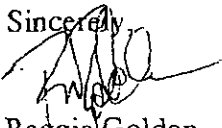
3) I can assure you that we have not exceeded the ⁷⁰eighty-house limit triggering construction of the next wastewater treatment plant expansion. I will however provide a current count of taps and a current number of lots sold.

should be 70 as per DNR
a other F.R. documents

For future reference, the system and the ground have been turned over to the Big Island Homeowners Association. The address for Big Island Homeowners Association is P.O. Box 54, Longmont, CO 80502. Folsom Ridge LLC has also moved. Their address is 2020 Terry St., Suite A, Longmont, CO 80501. Also, David Lees is no longer involved as a manager in either organization. Please make the necessary corrections in your database.

If I can be of further assistance, please don't hesitate to call me at (303) 702-0708.

Sincerely,


Reggie Golden
Manager

Both addresses
Same as Biz Card

Big Island Homeowners Association
P. O. Box 54
Longmont, CO 80502

Exhibit 2

November 29, 2000

Jeffery & Cathy LLC
HCR 67, Box 840
Roach, MO 65787

Dear Jeffery & Cathy,

Recently we sent a letter to the Homeowners Association Members of Big Island. We will be having a meeting for all members of the Homeowners Association (HOA) on December 29, 2000. We would like to extend another invitation to you to join the HOA thereby making you eligible to attend the meeting. In the interest of all the residents who choose not to join the HOA, we will hold an informational meeting on December 29, 2000 at 1:00 p.m. and would like for you to attend if you choose not to join the HOA.

Since the summer when the HOA was formed, a group of concerned island residents who did not choose to belong to the HOA presented their concerns. While we have worked diligently to accommodate these wishes, we have discovered that we will not have complete consensus on all the issues and feel it is time to bring this to closure. We have addressed all of the concerns raised in our summer meetings. Some of these items include:

- 1) One vote per lot (not allocated by square feet) – drafted in the new covenants.
- 2) No different classes of membership (all get the same vote) – drafted in the new covenants.
- ✱ 3) Folsom Ridge, LLC warranting the system until September 1, 2005
- 4) Restricting the boundary of the water and sewer system to include the Big Island Lake Chen, Big Island Lake Chen #2 Addition, Portage Park Unit 1, Portage Park Unit 2, and all other property on the island (contiguous lots).

We have also dug several holes and have verified proper installation of water and sewer lines. In addition, we have either made commitments to or provided the following:

- a) Cleanup of construction areas is nearly complete.
- b) We will replant the construction areas to be completed in the spring when the horticulturist recommends planting.
- c) We have cleared an area for boat trailer storage.
- d) We have built a boat ramp for Island residents' use – one key will be provided to each homeowner.
- e) We will subsidize the water and sewer systems for costs over the monthly assessment until June 30, 2001.

Folsom Ridge, LLC has completed the following items, which have improved the value of all residents' property.

- 1) Sewer System (approved by DNR) – available to the entire Island – gives residents an option to connect when their old out of date sewage treatment methods fail.
- 2) Water System (approved by DNR) – available to the entire Island.
- 3) Paved Road – will be paved all the way around the Island.
- 4) Provided an area for trailer storage to limit visual impacts.
- 5) Helped to clean up the water in the lake. Hooked up at least two systems that were dumping raw sewage into the lake.
- 6) Built a boat ramp for all island residents to use.
- 7) Provided a means to upgrade the phone service on the Island.

We believe it is in the best interest of all Island residents, as well as the HOA, to have everyone belong to the HOA that is hooked on to the system. The HOA will be much stronger if we all are united. We have worked diligently to address the concerns of this group in a reasonable fashion, however, we don't believe that we will reach consensus with all the members of this group as a few have indicated that they would never join the HOA. It is our desire to be good neighbors and friends. Big Island has changed and will continue to change. Folsom Ridge, LLC has and will do its part to help Big Island become one of the lake's most desired communities. In addition to being the developers, all of the members of Folsom Ridge, LLC have residences on the Island.

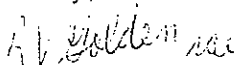
We want to extend an offer to have you join the HOA. If you're interested in joining or reviewing the documents we sent to the HOA members please give me a call at 303-702-0708. The following documents were sent to the HOA members:

- 1) Notice of Special Meeting of Big Island Homeowners Association.
- 2) Revised Bylaws of Homeowners Association (proposed).
- 3) Revised Covenants and Restrictions (proposed).
- 4) Letter of Commitment to Homeowners Association from Folsom Ridge, LLC.
- 5) Proxy for your vote.

If you would like a copy of the documents prior to the meeting please give me a call and I will mail them to you. The HOA's offer to join will extend for 90 days after the December 29th meeting.

We look forward to seeing you at our meeting on December 29th. If you have any questions in the meantime, please don't hesitate to call.

Sincerely,



R. V. (Reggie) Golden
Manager

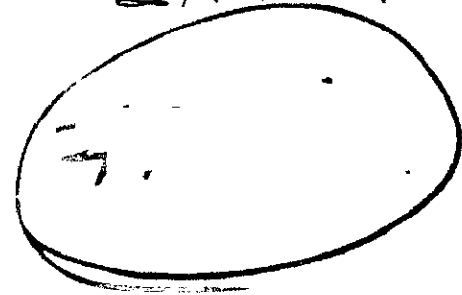
NOVEMBER 17, 2000

Exhibit 3

Big Island Homeowners Association

P. O. Box 54

Longmont, CO 80502



Dear Homeowners Association Members,

We fully believe in the importance of, and desire to have a strong Homeowners Association to run the water and sewer system. For this reason, Folsom Ridge, LLC will commit to the items outlined in this letter. All of you already are members of the Homeowners Association and we would invite every homeowner on Big Island to be a member of the Homeowners Association.

We have addressed all of the concerns raised in our summer meetings. Some of these items include:

- 1) One vote per lot (not allocated by square feet) - drafted in the new covenants.
- 2) No different class of members (all get the same vote) - drafted in the new covenants.
- 3) Folsom Ridge, LLC warranting the system until September 1, 2005.
- 4) From point of the installation of the system the system will serve to only include the Big Island (peninsula) - Big Island (peninsula) 1st Addition, Portage Park Unit 3, Portage Park Unit 4, and an other property on the Island (peninsula) itself.

We have also done several holes and have verified proper installation of water and sewer lines. In addition, we have further made commitments to or provided the following:

- a) Cleanup of construction areas is nearly complete.
- b) We will replant the construction areas to be completed in the spring when the horticulturist recommends planting.
- c) We have cleared an area for boat trailer storage.
- d) We have built a boat ramp for Island residents' use -- one key will be provided to each homeowner.
- e) We will subsidize the water and sewer systems for costs over the monthly assessment until June 30, 2001.

Folsom Ridge, LLC has completed the following items, which have improved the value of all residents' property:

- 1) Folsom Ridge, LLC has provided the island with an option to connect when their old on-island sewer treatment methods fail.
- 2) A new water line is available to the entire island.
- 3) Paved roads - will be paved all the way around the Island.
- 4) Provided an area for trailer storage to limit visual impacts.
- 5) Folsom Ridge, LLC has provided to the island at least two systems that were previously not available to the island.

- 6) Built a boat ramp for all island residents to use.
- 7) Provide a means to upgrade the phone service on the Island.

Per your authorization at the July 4th meeting we have attempted to reach agreement with the committee of dissenting neighbors on Big Island. While we continue to hope they will join our Homeowners Association, we have not been able to bring this matter to conclusion as new issues arise at each meeting. Folsom Ridge, LLC has made many concessions to the group over the last several months, however, there always seems to be one more new thing on the table. We have reached consensus on many items, therefore, for the sake of the majority of the Island property owners we are prepared to move forward.

We have worked hard to please this committee of neighbors, however, it does not appear that reaching complete consensus with them will happen. At least two of them have indicated that they would not join the association even if we agreed on all of the covenants.

For this reason we have decided to recommend to the Homeowners Association (HOA) the following:

- 1) That the HOA and Folsom Ridge, LLC sign the forthcoming documents, including the new covenants, the Folsom Ridge, LLC letter of commitments, and the change in bylaws.
- 2) That the HOA ratify these documents as amended.
- 3) That the members of the HOA ratify the new documents.
- 4) That the HOA continue to extend our offer to join to non-members that have already paid for a tap for a period of 90 days.

We will call a HOA meeting for December 29, 2000 to discuss these items. This meeting will be conducted based on the existing covenants for the purpose of converting to the new covenants. Only members of the HOA will be invited to this meeting. In an effort of respect, we will have a separate informational meeting for all Big Island residents later the same day.

We hope this letter properly portrays how hard and diligently we have worked toward uniting all residents of Big Island, both old and new. It is truly our desire to be good neighbors and friends. Big Island has changed and will continue to change. Folsom Ridge, LLC has and will do its part to help Big Island become one of the lake's most desired communities. In addition to being the developers, all of the partners of Folsom Ridge, LLC have residences on the Island.

You will receive shortly, under separate cover, copies of the new bylaws, new covenants and a new ratification form for your review. We will be asking you to approve these items at our December meeting. We look forward to seeing you there.

If you have any questions or concerns, please don't hesitate to call me at 303-702-0708.

Sincerely,

John Folsom
Chairman