

Exhibit
114

REBUTTAL TESTIMONY
OF
CATHY ORLER
CASE NO. WC-2006-0082 & WO-2007-0277

FILED³
APR 5 2007

Missouri Public
Service Commission

1 Q. PLEASE STATE YOUR NAME AND ADDRESS.

2 A. Cathy Orler. I reside at 3252 Big Island Drive, Roach, Missouri 65787

3 Q. WHAT IS YOUR EMPLOYMENT BACKGROUND?

4 A. My employment experience is in: sales/sales management; business management/operations; business
5 management consulting with areas of concentration in growth, performance, productivity,
6 profitability and efficiency. I have been a business owner involved with mergers/acquisitions and
7 sales.

8 Q. WHY ARE YOU PROVIDING TESTIMONY?

9 A. I am a Complainant in case no. WC-2006-0082 and an Intervener in case no. WO-2007-0277, and I
10 my testimony is being provided in response to the direct testimony of Mr. Jim Crowder.

11 Q. ON PAGE 2, LINE 5 OF MR. CROWDER'S DIRECT TESTIMONY, HE STATES THAT,
12 "ON A DAILY BASIS I MONITORED AND INSPECTED THE WORK DONE BY THE
13 CONTRACTOR, KENNY CARROLL EXCAVATING, INC." IS MR. CROWDER A
14 LICENSED AND/OR CREDENTIALLED INSPECTOR FOR THIS TYPE OF WORK?

15 A. Mr. Crowder's direct testimony does not indicate that he is.

16 Q. ON PAGE 2, LINES 8 AND 9 OF MR. CROWDER'S DIRECT TESTIMONY, HE STATES
17 THAT HE "WAS ALSO RESPONSIBLE FOR APPROVING AND SOMETIMES
18 PURCHASING THE MATERIALS THE CONTRACTOR USED ON THE WATER MAIN
19 REPLACEMENT PROJECT." DID MR. CROWDER

Orler Exhibit No. 114
Case No(s) WC-2006-0082 et al
Date 3-30-07 Rptr KF

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**PROVIDE AS A CROWDER DIRECT SCHEDULE, THE MATERIALS APPROVED BY
DNR, AND/OR THE NATIONAL PLUMBING CODES, AND/OR THE
MANUFACTURERS' APPROVED MATERIALS FOR THE INSTALLATION OF THE
WATER SYSTEM SERVICE LINES USED ON THE WATER MAIN REPLACEMENT
PROJECT?**

A. No such schedule was provided.

**Q. DID MR. CROWDER PROVIDE AS A CROWDER DIRECT SCHEDULE, THE
SUGGESTED INSTALLATION SPECIFICATIONS OF THE CENCORE HDPE PIPE?**

A. No such schedule was provided.

**Q. DID MR. CROWDER PROVIDE AS A PART OF HIS DIRECT TESTIMONY, THE
OPERATIONAL DEFINITION OF THE WATER AND SEWER SYSTEM ON BIG
ISLAND?**

A. No, he did not.

**Q. WOULD YOU PROVIDE YOUR UNDERSTANDING OF THE OPERATIONAL
DEFINITION OF THE WATER AND SEWER SYSTEM ON BIG ISLAND?**

A. Certainly. Referencing the "Random House College Dictionary – Revised Edition," the definition of system, as it would apply to the water and sewer system on Big Island, is as follows: "1. an assemblage or combination of things or parts forming a complex or unitary whole."

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Q. SINCE THE WATER AND SEWER SYSTEM ON BIG ISLAND, IS COMPRISED OF WATER MAINS AND WATER SERVICE LINES, WOULD YOU AGREE WITH THE ABOVE REFERNECED DEFINITION, THAT THE WATER MAINS AND THE WATER SERVICE LINES ARE: "AN ASSEMBLAGE OR COMBINATION OF THINGS OR PARTS FORMING A COMPLEX OR UNITARY WHOLE?"

A. Yes.

Q. BASED ON THIS UNDERSTANDING OF THE UTILITY SYSTEM THAT EXISTS ON BIG ISLAND, DO THE WATER MAINS HAVE THE CAPABILITIES OF OPERATING INDEPENDENTLY OF THE WATER SERVICE LINES?

A. No.

Q. BASED ON THIS UNDERSTANDING OF THE UTILITY SYSTEM THAT EXISTS ON BIG ISLAND, DO THE WATER SERVICE LINES HAVE THE CAPABILITIES OF OPERATING INDEPENDENTLY OF THE WATER MAIN LINES?

A. No.

Q. WERE THERE ANY WATER SERVICE LINES CONNECTING WATER TAPS TO WATER MAIN LINES, IN EXISTENCE PRIOR TO FOLSOM RIDGE'S CONSTRUCTION OF THE WATER AND SEWER SYSTEM; WHICH INCLUDED FOLSOM RIDGE'S CONSTRUCTION OF THE WATER TAPS, THE WATER SERVICE LINES, AND THE WATER MAIN LINES AS A PART OF THAT SYSTEM CONSTRUCTION?

1 A. No. Folsom Ridge was responsible for the construction and placement of the entire water and sewer
2 system on Big Island; including the water service lines and the water main lines.

3 **Q. IF THE WATER MAIN LINES AND THE WATER SERVICE LINES ARE AN INTEGRAL**
4 **“COMBINATION OF PARTS,” THAT MUST FUNCTION TOGETHER TO “FORM A**
5 **UNITARY WHOLE,” IS THE POTENTIAL HEALTH RISK THAT IS CREATED FROM**
6 **POSSIBLE CROSS CONTAMINATION WITH A LESS THAN 10 FOOT MINIMUM**
7 **SEPERATION OF THE WATER AND SEWER LINES, (WHETHER IT BE THE WATER**
8 **MAIN LINES OR THE WATER SERVICE LINES), AFFECTING AND SACRIFICING**
9 **THE INTEGRITY OF THE ENTIRE “SYSTEM AS A UNITARY WHOLE?”**

10 A. Yes – most definitely.

11 **Q. IS THERE A GREATER, OR AN INCREASED POTENTIAL HEALTH RISK FROM**
12 **POSSIBLE CROSS CONTAMINATION ON BIG ISLAND, DUE TO THE “BREAKAGE”**
13 **OF THE LINES FROM THE EXTENSIVE EXCAVATION BEING DONE AS**
14 **DEVELOPMENT CONTINUES?**

15 A. Yes – I believe so.

16 **Q. DID FOLSOM RIDGE READILY ASSUME RESPONSIBILITY FOR INSTALLING NEW**
17 **WATER SYSTEM SERVICE LINES FOR EACH RESIDENCE ALONG THE COURSE OF**
18 **THE REPLACEMENT LINE AS MANDATED IN THE SETTLEMENT AGREEMENT**
19 **BETWEEN FOLSOM RIDGE, DNR, AND THE ATTORNEY GENERAL’S OFFICE?**

20 A. No.

1 **Q. PLEASE EXPLAIN?**

2 A. In a letter dated January 24, 2005, I notified Mr. Rick Rusaw of Folsom Ridge, LLC., that I had not
3 received a "neon orange marking – W," in the street adjacent to my water tap, indicating that the
4 water main servicing my residence, as well as two, (2), other residences, was to be replaced and
5 correctly reinstalled, pursuant to the Settlement Agreement with the Department of Natural
6 Resources and the Attorney General's Office. (CO Schedule 1).

7 **Q. DID THE LETTER OF NOTIFICATION SENT TO MR. RUSAW OF FOLSOM RIDGE,**
8 **LLC., INITIATE THE REPLACEMENT AND CORRECT REINSTALLATION OF THE**
9 **WATER MAIN SERVICING MY RESIDENCE?**

10 A. No – it did not.

11 **Q. PLEASE EXPLAIN?**

12 A. My repeated requests for the replacement and correct reinstallation of the water main servicing my
13 residence were made to Mr. Rusaw in numerous communications, (including written, verbal, voice
14 mail telephone messages, and two, (2), separate, personal telephone conversations). My requests for
15 the replacement and correct reinstallation of the water main servicing my residence, continued into
16 May of 2005, when I made my requests public at the annual HOA meeting. Mr. Rusaw, Mr. Golden,
17 and Mr. McElyea, (all representing Folsom Ridge, LLC.), maintained the position that I must pay the
18 creatively imposed fees associated with the Big Island Homeowners' Water and Sewer Association,
19 Inc., (BIHOA), to have the water main servicing my residence, replaced and corrected. (CO
20 Schedule 2).

1 **Q. WERE YOU, OR ARE YOU A MEMBER OF THE BIHOA?**

2 A. No.

3 **Q. WERE YOU, OR ARE YOU CONNECTED TO THE WATER AND/OR SEWER SYSTEM ?**

4 A. No.

5 **Q. WERE YOU, OR ARE YOU RECEIVING ANY TYPE OF SERVICE FROM THE BIHOA**
6 **AND/OR THE WATER AND/OR SEWER SYSTEM, FOR WHICH FEES MIGHT BE**
7 **ASSESSED?**

8 A. No.

9 **Q. WERE YOU, AND ARE YOU CONTINUING TO BE BILLED BY THE BIHOA?**

10 A. Yes.

11 **Q. WHY ARE YOU BEING BILLED?**

12 A. I am being billed by the BIHOA, for NOT being connected to the water; NOT being connected to the
13 sewer; NOT receiving any service of any type; and I am NOT a member – I have NOT mutually
14 and/or bilaterally agreed to membership in the BIHOA, by my signature on the ratification document
15 of the Amended and Restated Covenants and Conditions of the BIHOA, relinquishing my property
16 by it's legal description, to the restrictions of that association. (CO Schedule 3).

17 **Q. DID YOU PURCHASE A WATER TAP FOR \$2,000.00 AND A SEWER TAP FOR**

18 **\$4,800.00 FROM FOLSOM RIDGE, LLC., WITH A RESERVED FUTURE RIGHT**

1 **TO CONNECT TO THE SYSTEM AT A TIME OF YOUR CHOOSING, WITH NO**
2 **FEEES BEING CHARGED TO YOU, UNTIL THE TIME OF YOUR CONNECTION TO**
3 **THE SYSTEM, TO RECEIVE SERVICE, AND THEN BE BILLED FOR THE**
4 **SERVICE(S) YOU RECEIVE?**

5 A. Yes.

6 **Q. WAS THE WATER MAIN SERVICING BOTH YOUR RESIDENCE, AND THE VACANT**
7 **LOT OWNED BY FOLSOM RIDGE WHICH IS ADJACENT TO YOUR RESIDENCE,**
8 **REPLACED AND CORRECTLY REINSTALLED AS A PART OF THE SETTLEMENT**
9 **AGREEMENT?**

10 A. The portion of the water main servicing Folsom Ridge's vacant lot adjacent to my property, was
11 replaced and correctly reinstalled; but the portion of that water main servicing my residence, was
12 NOT replaced, or correctly reinstalled. At the annual HOA meeting in May of 2005, when I
13 questioned Mr. Golden about the potential health risk he was responsible for creating, by NOT
14 replacing and correctly reinstalling my water service line, as mandated by DNR and the attorney
15 general's office, Mr. Golden stated that he had "disconnected" the water line to service my tap,
16 therefore eliminating any potential health risk, as well as my ability to receive future service. (CO
17 Schedule 2).

18 **Q. DID YOU CONTACT ELENA SEON, ENVIRONMENTAL SPECIALIST WITH THE DNR,**
19 **REGARDING FOLSOM RIDGE'S REFUSAL TO REPLACE AND CORRECTLY**
20 **REINSTALL THE WATER MAIN SERVICING YOUR RESIDENCE?**

1 A. Yes. (CO Schedule 4).

2 **Q. WHAT WAS THE RESULT OF THOSE COMMUNICATIONS WITH MS. SEON, OF DNR?**

3 A. Numerous telephone conversations and written correspondences with Ms. Seon, eventually resulted in
4 the DNR mandated replacement and reinstallation of the water service line to my residence by
5 Folsom Ridge. However, this reinstallation is still NOT separated by the minimum distance of 10 feet.
6 (CO Schedule 5).

7 **Q. WHAT HAS BEEN FOLSOM RIDGE'S POSITION AFTER THE REPLACEMENT AND**
8 **REINSTALLATION OF THE WATER SERVICE LINE TO YOUR RESIDENCE?**

9 A. Folsom Ridge, has stated that the replacement and reinstallation of the water service line to my
10 residence, was the result of "...an agreement that was reached between you," (myself), "...and
11 Folsom Ridge LLC and the Big Island Homeowners Association, Inc. That agreement was you,
12 (myself), would pay the appropriate sewer and water fees beginning immediately in exchange for
13 the Big Island Homeowners Association waiving the past due fees and Folsom Ridge, LLC
14 installing a connection point directly in front of your residence." (CO Schedule 6).

15 **Q. IS THIS TRUE?**

16 A. No – it is not. There was NO such agreement made.

1 **Q. PLEASE EXPLAIN?**

2 A. After Folsom Ridge, being represented by Mr. Golden and Mr. Rusaw, replaced and reinstalled the
3 water service line to my residence, (which is still NOT separated by the minimum 10 foot distance),
4 Mr. Golden and Mr. Rusaw, representing the BIHOA, continued to insist that I had not completed
5 and sustained my part of their alleged agreement. Furthermore, residential HOA board member, Mr
6 Stan Zeldin, referencing Mr. Golden specifically by name, and Folsom Ridge collectively, telephoned
7 me on two, (2) separate occasions to notify me that: "...Folsom Ridge would take me to court for the
8 back fees owed."

9 **Q. WHAT ACTIONS DID YOU TAKE?**

10 A. It was at this point that I again, contacted Ms. Elena Seon, Environmental Specialist, DNR Water
11 Protection Program, (CO Schedule 7); Mr. Martin Hummel, Engineer Water and Sewer Department,
12 PSC, (CO Schedule 8); and Mr. Bruce Martin, Regional Director of Southwest Regional Office of
13 the DNR; (CO Schedule 9).

14 **Q. WHAT WERE THE RESULTS OF THE ACTIONS YOU TOOK?**

15 A. I filed a Formal Complaint with the PSC.

16 **Q. ON PAGE 2, LINE 14, OF MR. CROWDER'S DIRECT TESTIMONY, HE MAKES**
17 **REFERENCE TO THE TYPE OF FILL USED TO "COVER" THE SERVICE LINES. IS**

1 **THIS THE SAME TYPE OF FILL USED AS THE BEDDING MATERIAL, "UNDER" THE**
2 **SERVICE LINES?**

3 A. Mr. Crowder does not make this clear.

4 **Q. ON PAGE 4, LINE 6, OF MR. CROWDER'S DIRECT TESTIMONY, HE INDICATES THAT**
5 **THE PIPE BEING REFERENCED IN HIS TESTIMONY, HAS A 50 YEAR LIMITED**
6 **WARRENTY. IS THIS WARRANTY TRANSFERRABLE?**

7 A. No, it is not.

8 **Q. IF THERE IS ANY PROBLEM(S), ASSOCIATED WITH THIS PIPE, AND IF THE**
9 **COMMISSION APPROVES THE TRANSFER OF THE ASSETS OF THE UTILITY TO**
10 **THE 393 COMPANIES, WOULD THE 393 COMPANIES THEN BE RESPONSIBLE FOR**
11 **ANY PROBLEM(S) THAT MAY EXIST WITH THE USAGE OF THIS PIPE?**

12 A. Yes.

13 **Q. ON PAGE 4, LINES 22 AND 23, MR. CROWDER AGAIN MAKES REFERENCE TO THE**
14 **FILL THAT WAS USED TO "COVER" THE LINE UPON COMPLETION. IS THIS THE**
15 **SAME TYPE OF MATERIAL USED AS THE BEDDING MATERIAL "UNDER" THE**
16 **PIPE?**

17 A. Again, Mr. Crowder does not make this clear.

1 **Q. ON PAGE 5, LINE 6, OF MR. CROWDER'S DIRECT TESTIMONY, HE STATES THAT**
2 **THERE HAVE BEEN NO REPORTS OF BREAKAGE OR LEAKS FROM THESE LINES.**
3 **HAVE THERE BEEN BREAKAGES AND LEAKS FROM THESE LINES THAT HAVE**
4 **NOT BEEN MADE A PART OF A REPORT?**

5 A. Mr. Crowder's answer was confined to "reported" breaks and leaks only.

6 **Q. WAS MR. PUGH ALLOWED TO PHOTOGRAPH THE REPLACEMENT**
7 **REINSTALLATION OF THE WATER MAIN LINES AND THE WATER SERVICE**
8 **LINES?**

9 A. His access to observation and photographing, was limited by Folsom Ridge, in a letter sent to him by
10 Mr. Charles McElyea. (CO Schedule 10).

11 **Q. DO YOU AGREE WITH THE REBUTTAL TESTIMONY OF MR. BENJAMIN D. PUGH?**

12 A. Yes.

13 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

14 A. Yes.

15

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CO Schedule
1

January 24, 2005

Rick Russo
Folsom Ridge Development
P. O. Box 54
Longmont, CO. 80502

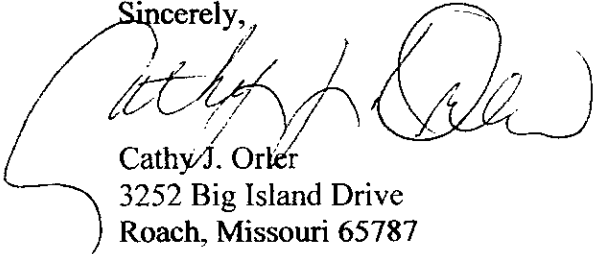
Good Morning, Rick:

I am writing to inquire as to the "neon orange markings" in the street, adjacent the water/waste water connection taps. I am assuming, that the large "W" is indicating that this is a connection tap that is to receive water; however, I would like your, (Folsom Ridge's), clarification/confirmation of this fact. If the afore mentioned is correct, then my property should be designated with a "W", as I have paid for both a water and waste water connection tap. I have enclosed, for your convenience, a copy of Folsom Ridge's own public documentation to substantiate this fact, which is also supported by my personal records. Also, to the best of my determination, there are others on this list who have also paid for the "right to receive water", yet there is no marking in the street to indicate such.

Knowing you are extremely interested in "re-establishing" the credibility and integrity of Folsom Ridge, and knowing also, what a negative situation has been created where the water/waste water issue is concerned, I trust you will look into this matter, and clarify any misunderstanding and/or correct any error that might have occurred.

I look forward to your response.

Sincerely,



Cathy J. Orler
3252 Big Island Drive
Roach, Missouri 65787

1 Q. WHY DID MR. GOLDEN AND MR. RUSAW CHOOSE NOT TO BECOME CERTIFIED
2 AS A LICENSED PUBLIC UTILITY AT THE TIME THESE LEGAL OPINIONS WERE
3 RENDERED?

4 A. Mr. McElyea advised Mr. Golden to "consider" individuals members, who were not members.

5 Q. HOW DO YOU KNOW THAT MR. GOLDEN WAS ADVISED BY MR. MCELYEA TO
6 "AVOID RUNNING AFOUL OF THE MPSC" TO "CONSIDER" INDIVIDUALS,
7 MEMBERS OF THE BIHOA?

8 A. I have a copy of the letter sent from Mr. McElyea to Mr. Golden, stating such.

9 Q. WERE YOU EVER COERCED OR INTIMIDATED BY FOLSOM RIDDGE, LLC
10 AND/OR BIHOA?

11 A. Yes, I was threatened and intimidated by Mr. Golden, Mr. Rusaw, and Mr. McElyea at the BIHOA
12 members meeting I attended in May of 2005. Mr. Golden, Mr. Rusaw, and Mr. McElyea stated that
13 the corrected installation of my water line, as mandated by the Attorney General's Office and the
14 DNR in the Settlement Agreement, would not be done, unless I paid back fees associated with my
15 tap purchases to the BIHOA. At that time, and Mr. Stan Zeldon, Big Island resident who holds a
16 board position on the BIHOA, said he would negotiate with Mr. Golden and Mr. Rusaw regarding
17 the amount I owed, if I would consent to membership, and started paying fees at that time. Cindy
18 Fortney and I were singled out of the group of attendees, by Mr. Rusaw's statement before the group,
19 that we were the only one's not paying these fees. I later asked Mr. Rusaw to prove this statement
20 with support documentation such as billing records, and/or membership information. None was
21 provided. I then referenced conversations I had had with the DNR concerning my water line

1 reinstallation being contingent on the payment of fees, and clarified to Mr. Golden, Mr. Rusaw, and
2 Mr. McElyea, that this corrected reinstallation was required by DNR to meet state regulations, and
3 fees could not be imposed as a requirement and/or qualification for a correctly installed water line. I
4 then emphasized to Mr. Golden, the potential health risks that were involved by not correctly
5 installing the water line, and Mr. Golden stated to me that he had taken care of this issue by
6 disconnecting my existing water line. I was being threatened and intimidated to pay fees and join the
7 BIHOA.

8 **Q. HAS MR. GOLDEN OR MR. RUSAW SHOWN ANY WILLINGNESS TO**
9 **COOPERATE WITH YOU OR OTHER RESIDENTS AND/OR THE MPSC WITH**
10 **REGARD TO THE ISSUES OF BIHOA MEMBERSHIP, BY HONORING THE**
11 **REQUESTS OF INDIVIDUAL RESIDENTS AND/OR ORDERS BY THE**
12 **COMMISSION, COMPELLING THE PRODUCTION OF MEMBERSHIP DOCUMENTS**
13 **AND BILLING INFORMATION?**

14 **A. No.**

15 **Q. WHAT DOCUMENTATION HAS BEEN REQUESTED?**

16 **A. The following documents have been requested:**

- 17 1. A BIHOA membership listing of individual members; exclusive to the BIHOA and the members
- 18 of that organization specifically, and not combined with any other document and/or listing of
- 19 individuals for any purpose, other than the listing of members in the BIHOA.
- 20 2. Signed copies of the ratification documents of the "Amended and Restated Covenants and

Exhibit
44

RATIFICATION OF AMENDED AND RESTATED DECLARATION OF COVENANTS AND CONDITIONS

1. Jeffery R. Litty and Cathy Litty (hereinafter referred to as "Litty") are the owners of the real property described as follows:

All that part of Lot Eighty-two (82) of the Amended Plat of Big Island Lake Sites, First Addition, a subdivision of record in Camden County, Missouri, described as follows: Beginning at an existing 3/8 inch iron pin at the Northeast corner of said Lot Eighty-two (82); thence run South Eleven Degrees, Four Minutes, Forty-eight Seconds (11°04'48") West (Plat=North Ten degrees, Fifty-six Minutes (10°56') East) along the East line of said Lot Eighty-two (82), One Hundred Thirty-nine and Thirty-Three Hundredths (139.33) feet to a point on the right of way line of the roadway shown on the recorded plat of said subdivision; thence run along said right of way line in a Northwesterly direction along a curve having a radius of Eighty-two and Ninety-six Hundredths (82.96) feet, an arc distance of Fourteen and Three Tenths (14.3) feet to a set one-half (1/2) inch iron pin; thence departing said right of way line North Sixteen Degrees, Forty Minutes, Forty-three Seconds (16°40'43") East One Hundred Thirty-four and Twenty-seven Hundredths (134.27) feet to the point of beginning.

2. Folsom Ridge, LLC, a Colorado corporation, certified to do business in Missouri, recorded an Amended and Restated Declaration of Covenants and Conditions (the "Covenants) dated January 10, 2001, and recorded in Camden County, Missouri on January 17, 2001 at Book 507, Page 587.

3. Litty, hereby ratifies such Covenants and agrees that the terms of such Covenants shall bind the real property owned by them described above, and shall inure to the benefit of, and be binding on the undersigned, their heirs, successors and assigns.

"Litty"

Jeffery R. Litty

Cathy Litty

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 2001 by Jeffery R. Litty and Cathy Litty.

My commission expires: _____

Witness my hand and official seal.

Notary Public

RATIFICATION OF AMENDED AND RESTATED DECLARATION OF COVENANTS AND CONDITIONS

1. Jeffery R. Litty and Cathy Litty (hereinafter referred to as "Litty") are the owners of the real property described as follows:

All the following described land lying above contour elevation Six Hundred Sixty-two (662) feet: All of Lots Eighty (80) and Eighty-one (81) in Amended Plat of Big Island Lake Sites, First Addition, a subdivision in Camden County, Missouri, according to the Amended Plat thereof on file and of record in the Office of the Recorder of Deeds, Camden County, Missouri.

2. Folsom Ridge, LLC, a Colorado corporation, certified to do business in Missouri, recorded an Amended and Restated Declaration of Covenants and Conditions (the "Covenants") dated January 10, 2001, and recorded in Camden County, Missouri on January 17, 2001 at Book 507, Page 587.

3. Litty, hereby ratifies such Covenants and agrees that the terms of such Covenants shall bind the real property owned by them described above, and shall inure to the benefit of, and be binding on the undersigned, their heirs, successors and assigns.

"Litty"

Jeffery R. Litty

Cathy Litty

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 2001 by Jeffery R. Litty and Cathy Litty.

My commission expires: _____

Witness my hand and official seal.

Notary Public

March 17, 2005

CO Schedule
4 page
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**Elena Seon
Environmental Specialist
Department of Natural Resources
Water Protection Program
P.O. Box 176
Jefferson City, MO. 65102-0176**

Good Morning, Elena:

I would like to take this opportunity, to personally thank you, for your prompt attention to my water/sewer problem, and also thank everyone at DNR who had an active role in the resolve to my water/sewer problem and the water/sewer problem in general on Big Island; it was very much appreciated.

As per our recent telephone conversation last week, this letter is to provide you with written documentation, concerning the proper re-installation of my water line by the developer of Big Island, as mandated by the settlement agreement, between the developer, Folsom Ridge, DNR, and the Attorney General's Office. I would also like to request a copy of the report from Clinton Finn, once it is generated.

I first contacted you on 02-17-05, after previous communications, and efforts with Folsom Ridge, (see attached letters dated 01-24-05 and 02-24-05), in an attempt to receive a correctly installed water tap had failed. Folsom Ridge's position remained, that I must pay "fees" to have my water/sewer problem corrected. I disagreed!

In 1998, existing property owners on Big Island, were solicited by Folsom Ridge LLC, (the developer), to purchase water and sewer taps, as a means to fund and cash flow their installation of a central water and wastewater system, and the residents were then required to pay up front, \$4,800.00 for sewer, and \$2,000.00 for water taps. This money was held in escrow at Central Bank, in Camdenton, Missouri until completion of the system(s). Residents were told there would be no additional charges, until which time they connected to the new system,

and they would have a guaranteed right to connect at the time of their choosing. (See attached letter from David Lees – Folsom Ridge partner and project manager.)

There was no association, (i.e. HOA), in place, as a functional organization to oversee, maintain and operate the water/wastewater system, at the time monies were exchanged and taps were purchased. No mention and/or disclosure of any membership affiliation requirements at any time was made, and therefore, no signatures were required and/or obtained. The current HOA, (which is the organization that was created to manage the water/wastewater system), did not become operative until approximately two years later. The Missouri Department of Natural Resources governing water and wastewater require that a permanent organization be in existence, before commencing with the construction of the system. (10 CSR 20-6-010). The HOA did not elect their first board members until December 29, 2000; again, two years after the permit was issued. The HOA has been and is currently charging mandatory monthly fee assessments, to non-members, as follows:

- Property owners who have paid for a water and/or sewer tap, and by virtue of this, have the right to connect to the system, but are not presently connected to the system.
- Property owners who are not receiving any services
- Property owners who are not members of the HOA

Again, referencing the enclosed letter from Folsom Ridge partner, David Lees, Quote: "...they will not be charged a monthly fee until they hook up." Property owners were not presented with an HOA contract, until April of 2000. At this time, there was extensive proof that the HOA's product was flawed and improperly installed. (ref. Mo. Clean Water Law, Section 644.076.1, RSMo, and 10 CSR 20-8.120(11)(C0 1 and Missouri Safe Drinking Water Law, Section 640.115.2, RSMo, and 10 CSR 3.010 (1). (The reference source for these laws, is the Settlement Agreement between the Department of Natural Resources, Attorney General of Missouri, and Folsom Ridge Development LLC.)

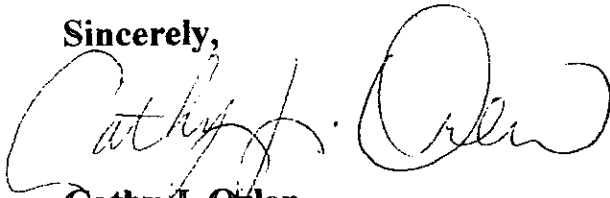
CO Schedule
4 page
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It is my contention, as well as other property owners, that we are not members of this organization; and are therefore, not subject to any mandatory charges, until such time as the owner connects to the system and by signature becomes a member of the HOA. New requirements cannot be made retroactive.

As of the date of this letter, my water tap and main service line have been re-installed. I have no way of determining and/or verifying the correct or incorrect re-installation, since nothing is visible. My response to Folsom Ridge, after the re-installation, has been,... that I might possibly consider, as a voluntary gesture of good will, a contribution to the HOA in the future – NOTHING MORE!

In closing, on behalf of myself, and the other residents of Big Island, I would like to thank DNR for mandating the correct installation of the water/wastewater system.

Sincerely,



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

CO Schedule
4 page
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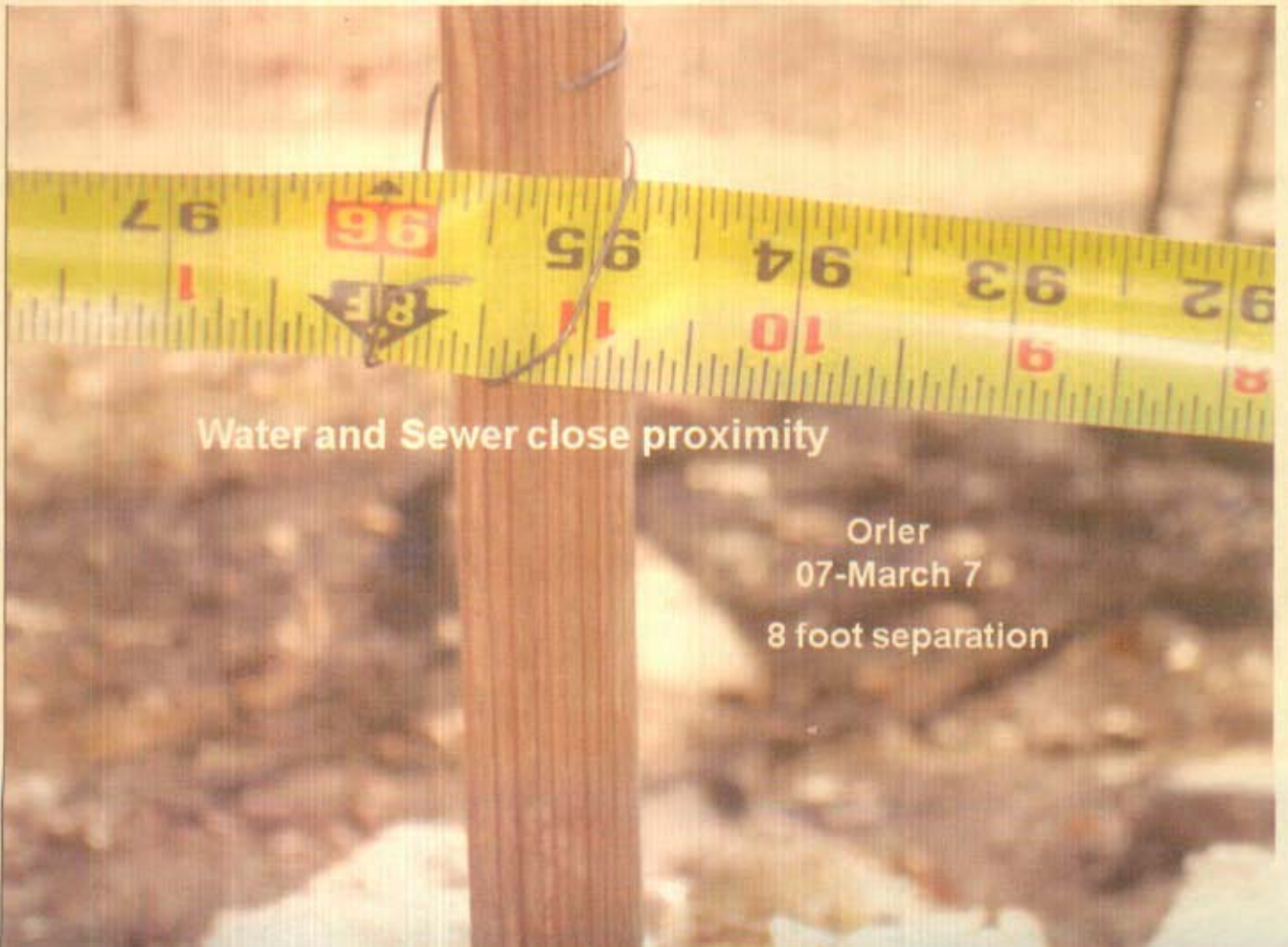
cc: Clinton J. Finn
Unit Chief – Drinking Water
Engineering and Technical Assistance
2040 West Woodland
Springfield, Mo. 65807-5912

John MacEachen
Enforcement Unit Chief
Department of Natural Resources
P.O. Box 176
Jefferson City, Mo. 65102-0176



CO Schedule
5

Orler
07-March 7
Inactive



Water and Sewer close proximity

Orler
07-March 7
8 foot separation

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

CO Schedule
6

May 2, 2005

Cathy Orlor
3252 Big Island Drive
Roach, MO 65787

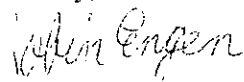
Dear Ms. Orlor,

At the last Homeowners meeting an agreement was reached between you and Folsom Ridge, LLC and the Big Island Homeowners Association, Inc. That agreement was you would pay the appropriate sewer and water fees beginning immediately in exchange for the Big Island Homeowners Association waiving the past due fees and Folsom Ridge, LLC installing a connection point directly in front of your residence. Folsom Ridge, LLC has kept their part of the agreement as the water line connection was installed to your property. At this point no fees have been received by the HOA.

The HOA will not waive any of the past due fees until such time as you begin to pay the appropriate fees going forward. Should you choose not to complete and sustain your part of the agreement, all past due fees will become immediately due and payable. At which point the HOA will take appropriate action. This letter is written with the agreement of the entire HOA Board. Thank you for your immediate attention to this matter.

Enclosed please find a copy of the billing for current fees. We look forward to receiving your payment.

Sincerely,


Robin Engen
Office Manager
Big Island Homeowners Association, Inc.

May 06, 2005

Elena Seon
Environmental Specialist
Department of Natural Resources
Water Protection Program
P. O. Box 176
Jefferson City, MO. 65102-0176

CO Schedule
7 page

Good Morning, Elena:

As per our telephone conversation last week, please find attached, (attachment "A"), the letter from the Big Island Homeowners' Association to me, wherein once again, creatively imposed "fees" associated with the DNR mandated water installation correction are the subject.

DNR was initially contacted by me, because the Big Island developer, Folsom Ridge, was refusing to correct the reinstallation of my water main servicing my tap, alleging that I must first agree to pay "fees" before this correction would be done.

The settlement agreement between the developer, Folsom Ridge, DNR, and the Attorney General's Office, very clearly outlines in paragraphs 3-9 to reinstall the water distribution lines and to comply with all the requirements of the construction permit when issued. No mention or reference of any fees in any amount(s) is made with regards to the reinstallation. The fact that my water main servicing my tap, did indeed come under the jurisdiction of the DNR mandate as per the settlement agreement, was confirmed by Clinton J. Finn, (Unit Chief - Drinking Water; Engineering and Technical Assistance), through a personal investigation, and documented in a report, (attachment "B"), dated March 08, 2005, Review NO. 53303-04, that was subsequently generated as a result of his personal inspection.

Furthermore, in a summary letter, (attachment "C"), dated March 17, 2005, written to you, I outlined a synopsis of the situation to date, and very specifically stated that:

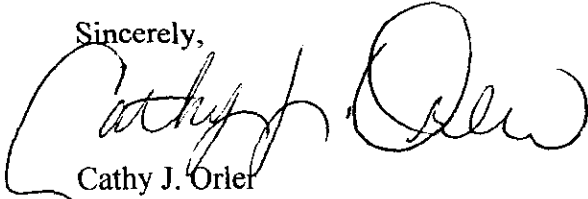
1. I am not a member of the Big Island Homeowner(s) Association. (I have never signed any document agreeing to membership and consequently being subject to the rules, regulations, and requirements thereof, and subsequently any fees charged and/or assessed by the association.)
2. I am not connected to the water/wastewater system to receive any services for which fees can be charged and/or assessed, and/or membership can be assumed and/or considered.
3. Additionally, at the time my water and wastewater taps were purchased, a letter, (attachment "D"), from Folsom Ridge's then partner and project manager, David

Lees, stated that no fees would ever be required, until such time as a property owner chose to connect to the system and receive service.

- 4. Not being a member of the association and/or connected to the system, I have never agreed to pay any fees. (My only comments have been, that I may consider making a voluntary contribution at some point in the future.)
- 5. Page 3, paragraph 2, of the above referenced letter from me to you, clearly indicates that I have never made any agreement to pay any fees, and therefore proves the attached letter from the Big Island Homeowner(s) Association, to be incorrect in its context.

I will not be responding in writing to the Big Island Homeowner(s) Association regarding this matter, as I will be allowing your department within DNR and the Public Service Commission, to resolve the situation through the rules and regulations of the state laws and statutes governing the operations of a water/wastewater facility.

Sincerely,



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

CO Schedule
7 page
2

May 09, 2005

Martin Hummel
Engineer Water Sewer Department
Public Service Commission
P. O. Box 360
Jefferson City, MO.

CO Schedule
8 page
1

Good Morning, Martin:

As per our telephone conversation last week, please find attached, (attachment "A"), the letter from the Big Island Homeowners' Association to me, wherein once again, creatively imposed "fees" associated with the DNR mandated water installation correction are the subject.

DNR was initially contacted by me, because the Big Island developer, Folsom Ridge, was refusing to correct the reinstallation of my water main servicing my tap, alleging that I must first agree to pay "fees" before this correction would be done.

The settlement agreement, (attachment "B"), between the developer, Folsom Ridge, DNR, and the Attorney General's Office, very clearly outlines in paragraphs 3-9 to reinstall the water distribution lines and to comply with all the requirements of the construction permit when issued. No mention or reference of any fees in any amount(s) is made with regards to the reinstallation. The fact that my water main servicing my tap, did indeed come under the jurisdiction of the DNR mandate as per the settlement agreement, was confirmed by Clinton J. Finn, (Unit Chief - Drinking Water; Engineering and Technical Assistance), through a personal investigation, and documented in a report, (attachment "C"), dated March 08, 2005, Review NO. 53303-04, that was subsequently generated as a result of his personal inspection.

Furthermore, in a summary letter, (attachment "D"), dated March 17, 2005, written to Elena Seon at the Department of Natural Resources, I outlined a synopsis of the situation to date, and very specifically stated that:

1. I am not a member of the Big Island Homeowner(s) Association. (I have never signed any document agreeing to membership and consequently being subject to the rules, regulations, and requirements thereof, and subsequently any fees charged and/or assessed by the association.)
2. I am not connected to the water/wastewater system to receive any services for which fees can be charged and/or assessed, and/or membership can be assumed and/or considered.
3. Additionally, at the time my water and wastewater taps were purchased, a letter, (attachment "E"), from Folsom Ridge's then partner and project manager, David

Lees, stated that no fees would ever be required, until such time as a property owner chose to connect to the system and receive service.

4. Not being a member of the association and/or connected to the system, I have never agreed to pay any fees. (My only comments have been, that I may consider making a voluntary contribution at some point in the future.)
5. Page 3, paragraph 2, of the above referenced letter from me to DNR, clearly indicates that I have never made any agreement to pay any fees, and therefore proves the attached letter from the Big Island Homeowner(s) Association, to be incorrect in its context.

I will not be responding in writing to the Big Island Homeowner(s) Association regarding this matter, as I will be allowing the Department of Natural Resources and the Public Service Commission, to resolve the situation through the rules and regulations of the state laws and statutes governing the operations of a water/wastewater facility.

Sincerely,

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

CO Schedule
8 page
2

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

June 17, 2005

CO Schedule
9 page
1

Mr. Bruce Martin
Regional Director of Southwest Regional Office
2040 West Woodland
Springfield, Mo. 65807-5912

Good Morning, Mr. Martin:

In an ongoing attempt to clarify and resolve numerous issues and matters of concern regarding the Big Island Home Owners' Association, (BIHOA), as set up by Folsom Ridge, and it's operation as permitted by the Department of Natural Resources, (DNR), of the water and waste water system servicing the residents of Big Island, I am directing this letter to your attention, and outlining several topics for your review and determination.

1. Has there been a definitive determination by DNR, that the BIHOA as set up by Folsom Ridge, LLC, meets all of the requirements of the Missouri state statute 10CSR20-6.010(3) regarding "continuing authorities" for the operation of the water and waste water treatment system?
2. Accordingly, the following situations and concerns exist within the current operation of the water and waste water system by the BIHOA:
 - a. Residents who are not members of the BIHOA, are connected to the system, and are receiving service
 - b. Residents who are not members of the BIHOA, and are not connected to the system, and are not receiving any service, are being billed
 - c. Existing residents, (with other, long established Home Owners' Associations already in place), were solicited in 1998 by Folsom

Ridge, (the developer), to purchase water and sewer taps as a means to fund and cash flow their installation of a central water and waste water system, and required to pay up front, \$4,800.00 for sewer, and \$2,000.00 for water taps, (with no mention, reference, and/or disclosure of any membership affiliation requirements at any time), and guaranteed a right to connect to the system at a time of their choosing, with a reserved connection to the original, Phase 1, 80 lot system, as outlined in Article IV, section 4, paragraph A, #3 and paragraph B of the "Amended and Restated Declaration of Covenants and Conditions", thereby creating a present "oversubscription" to the current system: (i.e. - if residents with a reserved connection chose to connect tomorrow to the 80 lot system, the maximum 80 lot capacity would be greatly exceeded).

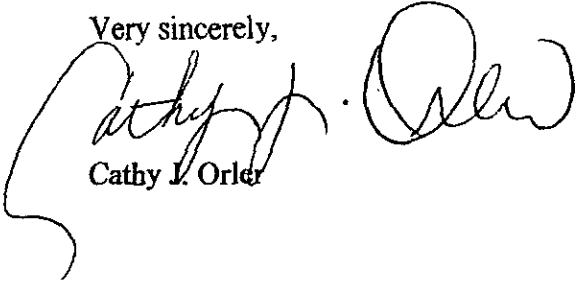
- d. The current BIHOA, that was created to manage the operation of the water and waste water system, did not become operative until approximately 2 years later, when the first board members were elected on December 29, 2000; therefore, resulting in the nonmember issues as outlined previously in "a" and "b."
 - e. The BIHOA is controlled by the developers, and not by it's members and/or customers of the utilities: (ref: Article III, "Administration and Management of the Water System and Sewer System," section 3. Maintenance and Service Responsibility, (B) Association, and Article IV, "Covenant for Maintenance Assessments," section 1. Creation of the Lien and Personal Obligation of Assessments; of the "Amended and Restated Declaration of Covenants and Conditions," and Article III, "Membership," section 1, and Article IV, "Board of Directors," section 1, of the "Amended and Restated By-Laws of the BIHOA).
3. Additionally, in the "Settlement Agreement," between Folsom Ridge, (the developer), the Department of Natural Resources, (DNR), and the Attorney General's Office, the Big Island Home Owners' Association, (BIHOA), is presumably, called out as the "Continuing Authority;" however, the BIHOA was not party to the agreement.

For your convenience, I have enclosed copies of the Amended and Restated Declaration of Covenants and Conditions; Amended and Restated By-Laws of the Big Island Home

Owners' Association; and the Settlement Agreement between Folsom Ridge, the Department of Natural Resources, and the Attorney General's Office.

I look forward to hearing from you, and a prompt response would be very greatly appreciated, since it appears that numerous violations have been and continue to be a part of the system as well as the operation(s) of the system for which the homeowners of Big Island will ultimately inherit the responsibility and liability.

Very sincerely,


Cathy J. Orler

CO Schedule

9

page

3

Cc: ~~Robert Cook~~ - Assistant Attorney General -
Martin Hummel - Public Service Commission
Elena Seon - Department of Natural Resources

PHILLIPS, McELYEA, CARPENTER & WELCH, P.C.

ATTORNEYS AT LAW

85 Court Circle

Mailing Address: P.O. BOX 559

Camdenton, MO 65020

(573) 346-7234

FAX (573) 346-4411

CHARLES E. McELYEA
RONALD K. CARPENTER
DAVID T. WELCH
DEIRDRE O'DONNELL
MICHAEL A. CARTER

LEGAL ASSISTANTS: Sharon Piskorski
Dana Stouler

HUGH PHILLIPS (1911-1997)

July 14, 2004

CO Schedule
10

Mr. Ben Pugh
1780 Big Island Drive
Roach, MO 65787

VIA CERTIFIED MAIL - 70033110000536476839

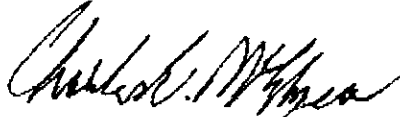
RE: Water line Replacement Project

Dear Mr. Pugh:

As we begin construction of the water line replacement on Big Island, we specifically request you to refrain from entering or nearing the construction site during the course of this project. We are not denying construction observation, however, all such activity should be made from a safe distance. As I am sure you are aware, construction sites can be dangerous and for liability reasons Folsom Ridge LLC asks that you not enter onto their property. I am sure you can understand our concern for the safety of the residents of Big Island.

If you have any questions, please do not hesitate to call.

Very truly yours,


Charles E. McElyea

CEM:sp
cc: Reggie Golden