

December 19, 2006

FILED

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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**

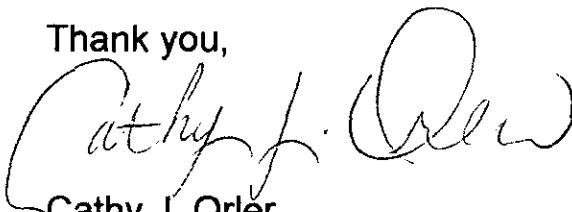
Re: Case Nos. WA-2006-0480

The Honorable Judge Dale:

Please find enclosed, for filing, "Rebuttal Testimony of Cathy Jo Orlor." 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 these filings.

Thank you,

A handwritten signature in cursive script, appearing to read "Cathy J. Orlor".

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

REBUTTAL TESTIMONY

OF

Cathy Orler

CASE NO. WA-2006-0480

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Missouri Public
Service Commission

1 Q. PLEASE STATE YOUR NAME AND ADDRESS.

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

3 Q. WHAT IS YOUR EMPLOYMENT EXPERIENCE?

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

8 Q. WHY ARE YOU PROVIDING TESTIMONY?

9 A. Mr. Golden and Mr. Rusaw have not performed their legal duties. Mr. Golden and Mr. Rusaw have
10 not complied with lawful regulation. Mr. Golden and Mr. Rusaw have created a potential harm to
11 public welfare. My personal interests in the issues before the Missouri Public Service Commission
12 (MPSC) are to ensure that my property value appreciates, relative to the market trends within the
13 economy, and not adversely affected and/or dictated by the water and sewer utility's incorrect
14 installation and/or improper operation, mismanagement and misadministration. I want to protect the
15 assets of my personal property, which are the tangible, physical, water and sewer taps located on my
16 private property, that remain with my property title, and ensure my reserved future connection to the
17 utility with no additional, conditional requirement of membership in any organization, as per the
18 contractual agreement with Mr. Golden and Mr. Rusaw of Folsom Ridge, LLC (F.R.). Additionally,
19 I want to protect my financial investment in the utility, which is identified by the purchase of my
20 water and sewer tap, against the continued negligence of Mr. Golden's and Mr. Rusaw's violations

1 of the laws of the state of Missouri governing the construction and operation and management and
2 administration of the utility, as well as a transfer of these assets without my approval.

3 **Q. ARE THERE OTHER REASONS THAT YOU ARE PROVIDING TESTIMONY?**

4 A. Yes. I feel it is in the best interests of the public being served, to ensure that safe and adequate water
5 and sewer utility service, is administered effectively and efficiently, now and in the future, through
6 regulation by the Missouri Public Service Commission. It is serving the public's best interests to
7 protect the appreciation of property values from being adversely affected, inhibited and/or dictated
8 by Mr. Golden's and Mr. Rusaw's continued lack of success in the construction, operation,
9 management and administration of the water and sewer utility on Big Island.

10 **Q. WHEN DID YOU MOVE TO BIG ISLAND?**

11 A. I have been a Big Island property owner since 1999. I've been a permanent resident since 2000. I
12 did not purchase my property from Folsom Ridge, and therefore I am not subject to the restrictive
13 covenants of Folsom Ridge properties, but I am subject to the restrictive covenants that govern the
14 Big Island Lakesites 1st Addition that have been in place since the early 1960's.

15 **Q. ARE YOU A MEMBER OF THE BIHOA AT 3252 BIG ISLAND DRIVE?**

16 A. No, I have never signed the ratification document of the Amended and Restated Covenants and
17 Conditions of the Big Island Homeowners' Association. (CJO Schedule 1)

18 **Q. HAVE THERE BEEN OTHER BIG ISLAND RESIDENTS WHO WERE CONCERNED**
19 **ABOUT THE REQUIREMENT OF MEMBERSHIP IN THE BIHOA AS AN**

1 **ADDITIONAL CONDITION TO RECEIVE UTILITY SERVICE THAT WAS NOT**
2 **A PART OF THE ORIGINAL AGREEMENT?**

3 A. Yes, referencing the Escrow Agreement, which was the contractual agreement provided by Folsom
4 Ridge, LLC., to residents who purchased taps, letters written to Central Bank of Lake of the Ozarks,
5 state the residents' concerns with the release of the utility funds, and contractual obligations not
6 being met by Folsom Ridge, LLC.

7 Q. **DID RESIDENTS HIRE ATTORNEYS TO REPRESENT THEIR ISSUES OF**
8 **CONCERN TO MR. GOLDEN AND MR. RUSAW?**

9 A. Yes.

10 Q. **WHAT WERE THE LEGAL OPINIONS RENDERED AS DETERMINATION**
11 **REGARDING THESE ISSUES?**

12 A. 1. Property owners having paid money into escrow have a right to connect to the water and sewer
13 utility whether or not they have ratified any restrictive covenants which are now being made an
14 additional requirement.

15 2. Residents have several concerns regarding the "Declaration of Covenants and Conditions" sent to
16 them with the demand that they ratify such covenants or forfeit their right to connect to the utility.

17 3. The system is presently supposed to be able to service 80 homes without further modification.
18 When further modification is necessary this cost should be proportioned among the new users,
19 not the ones already entitled to use the system.

1 4. The developer or BIHOA is contractually obligated to provide utility services to those property
2 owners who paid in advance their tap(s) and utility service connection(s).

3 5. The fact that FR (BIHOA) made commitments to non-members to receive utility service is proof
4 that the BIHOA is violating DNR rules and provisions of its license and should be certificated
5 and regulated by the MPSC.

6 6. The BIHOA is operating as an unlicensed public utility by providing utility service to
7 non-members. (CJO Schedule 2)

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

11 A. Mr. McElyea, (attorney representing Mr. Golden and Mr. Rusaw of Folsom Ridge and the BIHOA),
12 advised Mr. Golden to "consider" individuals members, who were not members.

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

16 A. I have a copy of the letter sent from Mr. McElyea to Mr. Golden, stating such. (CJO Schedule 3)

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

1 A. Yes, I was threatened and intimidated by Mr. Golden, Mr. Rusaw, and Mr. McElyea at the BIHOA
2 members meeting I attended in May of 2005. Mr. Golden, Mr. Rusaw, and Mr. McElyea stated that
3 the corrected installation of my water line, as mandated by the Attorney General's Office and the
4 DNR in the Settlement Agreement, would not be completed, unless I paid back fees as a non-
5 member, not being connected to the utility system, and not receiving any service, to the BIHOA.. At
6 that time, and Mr. Stan Zeldon, Big Island resident who holds a board position on the BIHOA, said
7 he would negotiate with Mr. Golden and Mr. Rusaw regarding the amount I owed, if I would consent
8 to membership, and start paying fees at that time. Cindy Fortney and I were singled out of the group
9 of attendees, by Mr. Rusaw's statement before the group, that we were the only one's not paying
10 these fees; I later asked Mr. Rusaw to prove this statement with support documentation such as
11 billing records, and/or membership information. None was provided. I then referenced
12 conversations I had had with the DNR concerning my water line reinstallation being contingent on
13 the payment of fees, (as per Mr. Golden and Mr. Rusaw), and clarified to Mr. Golden, Mr. Rusaw,
14 and Mr. McElyea, that this corrected reinstallation was required by DNR to meet state regulations,
15 and they could not impose fees as a requirement and/or qualification for a correctly installed water
16 line. I then emphasized to Mr. Golden, the potential health risks that were involved by not correctly
17 installing the water line, and Mr. Golden stated to me that he had taken care of this issue by
18 disconnecting my existing water line. I was being threatened and intimidated to pay fees and join the
19 BIHOA. (CJO Schedule 4)

20 Q. HAS MR. GOLDEN OR MR. RUSAW SHOWN ANY WILLINGNESS TO
21 COOPERATE WITH YOU OR OTHER RESIDENTS AND/OR THE MPSC WITH
22 REGARD TO THE ISSUES OF BIHOA MEMBERSHIP, BY HONORING THE

1 REQUESTS OF INDIVIDUAL RESIDENTS AND/OR ORDERS BY THE
2 COMMISSION, COMPELLING THE PRODUCTION OF MEMBERSHIP DOCUMENTS
3 AND BILLING INFORMATION?

4 A. No. (CJO Schedule 5)

5 Q. WHAT DOCUMENTATION HAS BEEN REQUESTED?

6 A. The following documents have been requested:

- 7 1. A BIHOA membership listing of individual members; exclusive to the BIHOA and the members
8 of that organization specifically, and not combined with any other document and/or listing of
9 individuals for any purpose, other than the listing of members in the BIHOA.
- 10 2. Signed copies of the ratification documents of the "Amended and Restated Covenants and
11 Conditions," bearing the signatures of the individuals agreeing to the terms of such Covenants.
- 12 3. Copies of individual bills, billing statements, invoices, assessments and/or any communications
13 Requesting the payment of fees, dues, assessments, rates; or any service and/or product
14 associated with the water and sewer utility, for which a monetary sum is being charged, and
15 payment is expected. These documents also included any requests for payment of "hook-up"
16 fees, and/or connection fees. These documents requested, were for the years beginning

January 01, 2000; January 01, 2001; January 01, 2002; January 01, 2003; January 01, 2004;

January 01, 2005; and January 01, 2006 to the date of the request, and included notices sent to individuals in the years 2000 and 2001, for all periods prior to the year 2000.

Q. WERE ALL EFFORTS IN ATTEMPTED NEGOTIATIONS WITH MR. GOLDEN AND MR. RUSAW OF FOLSOM RIDGE, LLC TOWARDS A RESOLVE TO UTILITY ISSUES EXHAUSTED PRIOR TO YOU FILING A FORMAL COMPLAINT WITH THE MPSC?

A. Yes

Q. WHAT WAS THE FINAL DETERMINING FACTOR THAT PROMPTED THE FILING OF YOUR FORMAL COMPLAINT WITH THE MPSC?

A. I was threatened, intimidated and harassed with the threat of a lawsuit for erroneous back fees owed to the BIHOA.

Q. ARE YOU CONTINUING TO BE BILLED BY THE BIHOA AS A NON-MEMBER FOR NO SERVICE RECEIVED AND NOT BEING CONNECTED TO THE UTILITY?

A. Yes. (CJO Schedule 6)

Q. IN REFERENCE TO BARBARA BRUNK'S BB SCHEDULE 1, DOES HER PREVIOUS PROFESSIONAL EXPERIENCE INCLUDE ANY WATER AND SEWER UTILITY CONSTRUCTION, MANAGEMENT, OPERATION AND/OR

1 **ADMINISTRATION?**

2 A. No. Ms. Brunk has no experience in water and sewer utilities.

3 Q. **IN REFERENCE TO BARBARA BRUNK'S BB SCHEDULE 1, HAS SHE TAKEN**
4 **ANY EDUCATIONAL COURSES ASSOCIATED WITH MWWC, REGARDING WATER**
5 **AND SEWER UTILITIES IN PREPARATION FOR CERTIFICATION BY**
6 **APPLICATION?**

7 A. No. It appears that anyone seeking certification would/should make an effort to educate themselves
8 regarding the area for which they are seeking certification, particularly if they have no previous
9 experience in this field. <http://www.mwwc.info/>

10 Q. **DOES MS. BRUNK'S POSITION AS SECRETARY WITH BIG ISLAND WATER**
11 **AND SEWER COMPANY INVOLVE DIRECT RESPONSIBILITY FOR THE**
12 **MANAGEMENT, OPERATION AND/OR ADMINISTRATION OF THE WATER AND**
13 **SEWER UTILITY?**

14 A. No, according to her direct testimony page 1, line item 16, and Big Island Water and Sewer
15 Company Bylaws of the Big Island Water and Sewer Company (BB schedule 7) page 9, section 7;
16 Ms. Brunk in general, performs all duties incident to the office of Secretary.

17 Q. **HOW CAN MS. BRUNK BE PROVIDING COMPLETE AND DIRECT TESTIMONY**
18 **TO THE BIG ISLAND WATER AND SEWER UTILITY ISSUES BEFORE THE**
19 **COMMISSION THAT OCCURRED BEGINNING IN 1998, PRIOR TO HER**

1 BECOMING A CONSULTANT TO FOLSOM RIDGE, LLC IN EARLY SUMMER
2 2004?

3 A. According to her direct testimony, page 2, line items 2-4 she was employed by Mr. Golden and Mr.
4 Rusaw of Folsom Ridge LLC as a consultant in early summer 2004; therefore her knowledge and
5 ability to provide direct testimony regarding any issues prior to her employment in 2004 is limited to
6 unfounded information and word of mouth, and does not come from personal involvement.
7 Moreover, Ms. Brunk is not experienced in the area of water and sewer utility, and therefore cannot
8 render a professional opinion.

9 Q. WHY DIDN'T REGINALD V. GOLDEN AND FREDERICK S. (RICK) RUSAW
10 FILE TESTIMONY IN THIS CASE?

11 A. Both Reginald Golden and Rick Rusaw currently hold and have held key executive decision-making
12 and direct operational management positions in Folsom Ridge LLC, Big Island Water and Sewer
13 Association, and Big Island Homeowners' Association from 1997 to present; and control the HOA
14 by the voting of lots, and the majority appointment of board positions of the HOA. Mr. Golden and
15 Mr. Rusaw are the responsible parties for the issues before the commission. Furthermore, Mr.
16 Golden and Mr. Rusaw, are now seeking certification from the Missouri Public Service Commission
17 for a Certificate of Convenience and Necessity as Applicant, Big Island Water and Sewer Company,
18 Inc. in this case. Therefore, their testimony is paramount.

19 Q. AS REFERENCED IN HIS PROFESSIONAL BIOGRAPHY, WHAT TYPE OF
20 UTILITY INSTALLATION WAS MR. GOLDEN RESPONSIBLE FOR IN 1986
21 AND 1987 (REGINALD'S BIOGRAPHY)?

1 A. If his experience was water and sewer utility installation, then how does Mr. Golden explain the
2 incorrect installation of the water and sewer utility on Big Island? If Mr. Golden's utility experience
3 was other than water and sewer utility, does Mr. Golden have specific water and sewer utility
4 training and/or experience?

5 Q. DOES MR. RUSAW'S PROFESSIONAL BIOGRAPHY DEMONSTRATE PREVIOUS
6 WATER AND SEWER UTILITY EXPERIENCE?

7 A. No.

8 Q. WHAT QUALIFICATIONS AND/OR PREVIOUS PROFESSIONAL EXPERENICIES
9 DO EITHER MR. GOLDEN AND/OR MR. RUSAW HAVE IN OWNING,
10 OPERATING AND MANAGING A WATER AND SEWER UTILITY?

11 A. According to their biographies, none. All of the Big Island Water and Sewer utility issues presently
12 before the Commission, and those that must be addressed in the jurisdiction of civil court, are a result
13 of Mr. Golden's and Mr. Rusaw's inabilities and unsuccessful attempt at utility ownership, operation,
14 and management. The issues created in this unsuccessful attempt, are listed in chronological order:

15 1. In 1998, Mr. Golden solicited existing property owners to purchase a water tap for \$2,000.00
16 and/or a sewer tap for \$4,800.00. The funds generated from the tap sales/purchases, bankrolled and
17 cash flowed the construction of the utility. This agreement entitled tap purchasers a guaranteed
18 future right of connection to the utility, with no additional charges until their time of connection, at
19 which point they would be charged for their service(s) received. There were no other requirements

1 and/or conditions of membership in any organization, as a stipulation to receive service. (CJO
2 Schedule 7)

3 2. Incorrect utility construction/installation.

4 3. Some individuals who had purchased taps, as well as those individuals who purchased property
5 from Folsom Ridge were then connected to the utility, after the construction was complete.

6 4. An oversubscription to the utility was created, as a result of active connections to the utility with
7 the combined existing and reserved connections.

8 5. The Big Island Homeowners' Association was NOT established until 2 years later, in the year
9 2000. (CJO Schedule 8)

10 6. The BIHOA is controlled by Folsom Ridge through the voting of lots and by the majority of
11 board representation. (CJO Schedule 9)

12 7. Folsom Ridge subsidizes the utility's operation; the utility rate structure is artificially low, and
13 does not allow for the accrual of a capital reserve fund.

14 8. Because the BIHOA was not organized and functional at the time that the tap agreements were
15 made, and/or at the time individuals were connected to the utility, many individuals who are NOT
16 members, are being billed and/or serviced. (CJO Schedule 10)

17 9. Mr. Golden and Mr. Rusaw, have threatened, intimidated, and coerced individuals into joining
18 the BIHOA.

1 10. Real estate transactions were interrupted and impeded by Mr. McElyea, under the pretense
2 that erroneous membership fees were due before the properties could be closed on. Mr. McElyea
3 tried to halt these closings by demanding that fees be paid, and membership signatures be obtained.
4 These properties were not Folsom Ridge properties, and were not governed by the covenants and
5 conditions of F.R. properties.

6 11. Numerous DNR violations, some repeat violations have been committed throughout the
7 construction of the utility; and continuing into the present. (Refer to the Benjamin D. Pugh
8 Testimony).

9 12. Mr. Golden and Mr. Rusaw made commitments to residents under signature, but have not
10 obligated themselves to those commitments. (Ref: CJO Schedule 2 and Schedule 8)

11 **Q. IS THE LEGAL DESCRIPTION OF BB SCHEDULE 8, THE 350 ACRES**
12 **PURCHASED BY FOLSOM RIDGE LLC?**

13 **A.** MS. Brunk's testimony page 4, line 2 does not indicate Folsom Ridge LLC purchased this property
14 nor does it refer to the BB Schedule 8 as the legal description.

15 **Q. DID FOLSOM RIDGE PLAT THE CENTER OF THE ISLAND TO ESTABLISH A**
16 **BASELINE OF DENSITY FOR FUTURE DEVELOPMENT?**

17 **A.** No, it was done to protect their property rights as a result of the planning and zoning meeting where
18 Big Island residents opposed the proposed rezoning of Big Island from single family to multi family
19 by Mr. Golden and Mr. Rusaw. (CJO Schedule 11)

1 Q. WHEN WAS THE EXTENSION TO THE ORIGINAL PHASE 1 WATER AND
2 SEWER UTILITY CONSTRUCTED?

3 A. Wastewater construction permit # 26-3390 was issued by the DNR on June 23, 2000 and Waterline
4 extension construction permit # PWS MO 3031265 was issued by the DNR on March 07, 2000.

5 Q. IS PHASE 1, OF FOLSOM RIDGE'S DEVELOPMENT ON BIG AS REPRESENTED BY
6 MR. GOLDEN AND MR. RUSAW TO RESIDENTS, DNR, AND THE MISSOURI PUBLIC
7 SERVICE COMMISSION, THE SAME AS THE PHASE 1 OF THE PUD? ("BIG ISLAND
8 PLANNED UNIT DEVELOPMENT").

9 A. No. Information provided to Big Island residents, DNR, and the Missouri Public Service
10 Commission, by Mr. Reggie Golden and Mr. Rick Rusaw, representing Folsom Ridge, states that
11 Phase 1 of Folsom Ridge's Development on Big Island includes these subdivisions only: Portage
12 Park Unit #1, Portage Park Unit #3, Big Island Lakesites, and Big Island Lakesites First Addition.
13 (CJO Schedule 12, and Ref: Schedule 8).

14 Q. WAS THE ORIGINAL PHASE 1 WATER AND SEWER UTILITY DESIGNED TO
15 SERVICE THIS NEWLY FORMED PUD AND/OR THE ISLAND VIEW ESTATES
16 (PAGE 6, LINE 7-9)?

17 A. No, it was to service Big Island Lake Sites, Big Island Lake Sites First Edition, Portage Park Unit 1
18 and Portage Park Unit 3. The water and sewer utility was not designed to service areas outside these
19 boundaries.

1 Q. IN THE "BIG ISLAND PLANNED UNIT DEVELOPMENT" (PUD),
2 APPLICATION SUBMITTED BY MR. GOLDEN, MR. RUSAW, AND MS.
3 BRUNK, TO CAMDEN COUNTY PLANNING AND ZONING, IT STATES THAT,
4 "...ALL LOTS AND NEW HOMES WILL BE CONNECTED TO THE COMMUNITY
5 WATER AND SANITARY SEWER SYSTEM." HOW CAN THESE LOTS/HOMES
6 CONNECT TO THE COMMUNITY WATER AND SEWER SYSTEM, WHEN THE
7 AMENDED AND RESTATED COVENANTS AND RESRTICTIONS, DO NOT
8 INCLUDE THESE SUBDIVISIONS WITHIN THE BOUNDARIES OF THE WATER
9 AND SEWER SYSTEM?

10 A. Again, Mr. Golden and Mr. Rusaw are in violation of their own restrictions, and have provided
11 incorrect information to the Planning and Zoning Board. Big Island West and Big Island Central, are
12 not within the boundary of the water and sewer utility. (CJO Schedule 13 - PUD Application)

13 Q. DID MR. GOLDEN AND MR. RUSAW, (FOLSM RIDGE), CONNECT OTHER
14 PHASES OF THEIR DEVELOPMENT TO THE PHASE 1 WATER AND SEWER
15 SYSTEM WITHOUT FIRST ADDING THE EXPANSION TO THE ORIGINAL
16 SYSTEM AS REQUIRED BY DNR, OR AS COMMITTED TO RESIDENTS?

17 A. Yes.

18 Q. WHEN WERE THE RESTRICTIVE COVENANTS OF THE BIG ISLAND HOA
19 RECORDED AND IMPLEMENTED?

20 A. December 29, 2000.

1 Q. WAS THIS DATE BEFORE OR AFTER THE SOLICITATION, SALE AND
2 PURCHASE OF WATER AND SEWER TAPS TO EXISTING RESIDENTS BY MR.
3 LEES, MR. GOLDEN, AND MR. RUSAW FO FOLSOM RIDGE?

4 A. This date was approximately 2 years later.

5 Q. HOW DID FOLSOM RIDGE IMPOSE THE COVENANTS AND RESTRICTIONS OF
6 THE BIG ISLAND HOA AT THE TIME OF SALE, IF PROPERTIES WERE
7 PURCHASED PRIOR TO THE RECORDING OF THE RESTRICTIVE COVENANTS
8 FOR THE BIG ISLAND HOA, IN DECEMBER 2000?

9 A. After the purchase of the properties Folsom Ridge tried to obtain signatures by coercing, threats and
10 intimidation. Some amendments were made to the original covenants and restrictions to entice or
11 attract individuals to sign the ratification document, but many concerns about the language of the
12 documents, still existed.

13 Folsom Ridge corresponded to residents that they would not be allowed to connect to the system in
14 the future unless they ratified these documents. (Contrary to original agreement for the sale and
15 purchase of the taps).

16 Recent real estate transactions were interfered with when Mr. McElyea tried to impose membership
17 on individuals during the property closings.

18 Q. WAS THE LAND PURCHASED BY FOLSOM RIDGE, LLC ADJACENT TO BIG
19 ISLAND, 160 OR 190 ACRES?

1 A. On page 2, line 20; Ms. Brunk's direct testimony states Folsom Ridge LLC purchased an adjacent
2 190 acres. Under signatures of R.V. (Reggie) Golden, Rick Rusaw, and David Lees, correspondence
3 from Folsom Ridge LLC to Big Island residents states 160 acres; in "restricting the boundary of the
4 HOA to only include the causeway and the island thus eliminating approximately 160 acres that is
5 somewhat separate anyway." (CJO Schedule 1 -- Correspondence from Folsom Ridge to Big Island
6 residents)

7 **Q. OF THE TOTAL, APPROXIMATE 593 LOTS AVAILABLE FOR PURCHASE, HOW MANY**
8 **LOTS HAVE BEEN SOLD BY FOLSOM RIDGE, SINCE MR. GOLDEN AND MR.**
9 **RUSAW PURCHASED THE UNDEVELOPED LAND ON BIG ISLAND IN 1998?**

10 A. This information was not provided, however, I think the percentage is relatively small.

11 **Q. WHAT WAS THE OBJECTIVE OF MR. GOLDEN AND MR. RUSAW, (FOLSOM RIDGE),**
12 **IN "PLATTING" AND "REPLATTING" PORTIONS OF THE LAND REFERRED TO ON**
13 **PAGE 2, LINE 22; of MS. BRUNK'S TESTIMONY?**

14 A. According to Mr. Golden, in an e-mail he sent to Mr. Hiley on Friday, May 08, 2004, "...we had no
15 choice but to protect our property rights based on what happened at last week's meeting. While we
16 do not believe this necessarily serves us or you in the best interest. It is truly unfortunate that we
17 were forced to plat the island in this manner." (Ref: CJO Schedule 11 -- E-mail from Mr. Golden to
18 Mr. Hiley)

1 Q. HAS MR. GOLDEN AND/OR MR. RUSAW PURCHASED OTHER PROPERTIES
2 ASSOCIATED WITH BIG ISLAND THAT HAVE NOT BEEN PURCHASED IN THE
3 NAME OF FOLSOM RIDGE?

4 A. Yes -- I believe so.

5 Q. MS. BRUNK STATES IN HER TESTIMONY THAT "THE VISION FOR BIG ISLAND
6 DEVELOPMENT HAS CHANGED OVER TIME." WAS THIS CHANGE IN VISION, A
7 RESULT OF MR. GOLDEN AND MR. RUSAW PROTECTING THEIR PROPERTY
8 RIGHTS BY PLATTING AND REPLATTING?

9 A. Yes.

10 Q. AS A PART OF THE CHANGING VISION FOR BIG ISLAND BY MR. GOLDEN AND MR.
11 RUSAW, DID MR. GOLDEN AND MR. RUSAW REPRESENT TO POTENTIAL BIG
12 ISLAND PROPERTY BUYERS AS STATED IN THE AMENDED AND RESTATED
13 COVENANTS AND RESTRICTIONS, THAT THE DEVELOPMENT WAS A PLANNED
14 SINGLE FAMILY COMMUNITY DEVELOPMENT?

15 A. Yes.

16 Q. DID MR. GOLDEN AND RUSAW THEN CHANGE THE LANGUAGE OF THE AMENDED
17 AND RESTATED COVENANTS AND CONDITIONS, AS WELL AS THE PRIOR
18 REPRESENTATION MADE TO NOW EXISTING RESIDENTS THAT WERE THEN
19 PROSPECTIVE BUYERS, THAT THE SINGLE FAMILY DEVELOPMENT IN WHICH

1 **THEY PURCHASED PROPERTY WOULD NOW CONTAIN DUPLEXES, TRIPLEXES**
2 **AND QUADPLEXES, AND THESE MULTI FAMILY STRUCTURES WOULD NOW**
3 **SHARE THE PROPERTY LINE BOUNDARIES OF THE SINGLE FAMILY**
4 **RESIDENCES?**

5 A. Yes.

6 Q. **IS THE WATER AND SEWER UTILITY, CONSTRUCTED BY MR. GOLDEN AND**
7 **MR. RUSAW, (FOLSOM RIDGE), A PART OF THE NECESSARY**
8 **INFRASTRUCTURE THAT WAS INSTALLED TO DEVELOP THEIR LAND?**
9 **(PAGE2, LINE 22 OF MS, BRUNK'S TESTIMONY)**

10 A. Yes. As permitted by DNR in the construction permits issued in 1998, the utility was specifically
11 designed and intended to serve a maximum capacity of 80 lots within Phase 1 of the Big Island
12 development; and to include only these subdivisions: Portage Park #1, Portage Park #3, Big Island
13 Lakesites, and Big Island Lakesites First Addition. (CJO Schedule 14 – Escrow Agreement)

14 As defined by DNR in permit conditions: "The eighty houses within the Big Island Development
15 will be considered to be the original existing thirty-six houses along with the construction of forty-
16 four new houses or connections." (CJO Schedule 15)

17 Q. **DID MR. GOLDEN AND MR. RUSAW, REPRESENTING FOLSOM RIDGE, COMMIT TO**
18 **RESIDENTS, AND DNR, UNDER SIGNATURE, BOUNDARIES TO THE WATER AND**
19 **SEWER UTILITY SYSTEM OF THE PHASE 1 DEVELOPMENT?**

20 A. Yes.

1 Q. ARE BIG ISLAND CENTRAL, BIG ISLAND WEST, AND ISLAND VIEW ESTATES,
2 (THE NEW SUBDIVISIONS UNDER CONSTRUCTION BY MR. GOLDEN AND MR.
3 RUSAW OF F. R.), LOCATED IN THE PHASE 1 OF THE DEVELOPMENT OF BIG
4 ISLAND?

5 A. No.

6 Q. DOES MR. KREHBIEL IN BOTH HIS DIRECT TESTIMONY AND IN THE FEASIBILITY
7 STUDY, CONFIRM THE PHASES OF THE BIG ISLAND DEVELOPMENT AND THE
8 BOUNDARIES TO THOSE PHASES?

9 A. Yes.

10 Q. DOES THE CURRENT CONSTRUCTION IN THE NEW SUBDIVISIONS BY MR.
11 GOLDEN AND MR. RUSAW, AND INVOLVING MR. KREHBIEL AS ENGINEER FOR
12 THE PROJECT, ADHERE TO THE BOUNDARIES OF THE VARIOUS PHASES OF
13 DEVELOPMENT?

14 A. No.

15 Q. HOW DO MS. BRUNK,(AS PER HER DIRECT TESTIMONY), AND MR. GOLDEN, AND
16 MR. RUSAW EXPLAIN THE VIOLATIONS OF THE PHASE 1 BOUNDARY?

17 A. No explanation was given.

1 Q. OF WHAT SIGNIFICANCE, ARE THE BOUNDARIES OF THE WATER AND
2 SEWER UTILITY SYSTEM OF THE PHASE 1 DEVELOPMENT?

3 A. Mr. Golden and Mr. Rusaw, of Folsom Ridge, under signature, committed to residents, that, "As set
4 out in the newly Amended and Restated Declaration of Covenants and Conditions, Folsom, or its
5 successor, will pay the entire cost and expense of all expansions to the water and sewer system as
6 needed or required by the Missouri Department of Natural Resources to fully serve the land area
7 described in the Amended and Restated Declaration of Covenants and Conditions beyond the
8 original planned 80 homes, which is the maximum number of homes that can be served by the
9 existing water system and sewer system."

10 Q. WHAT DOES THIS MEAN?

11 A. This means that the projected utility rates proposed in the Feasibility Study from the Global Analysis
12 in the Pro Forma statements, are incorrect. Any proposed utility rate(s) that include any costs
13 associated with any expansion outside the Phase 1 Development, cannot be charged to any resident
14 of the Phase 1 Development, (Portage Park #1, Portage Park #3, Big Island Lakesites, and Big Island
15 Lakesites First Addition). Costs associated with the expansion of the water and/or sewer system can
16 only be charged as a part of the cost of service, and/or through special assessments, to those residents
17 outside the boundaries of the Phase 1 Development, and/or to residents to whom this commitment
18 was not made. Those residential utility customer addresses outside the boundaries of the Phase 1
19 Development currently include: 3458 Big Island Drive; 3514 Big Island Drive; 3610 Big Island
20 Drive; the address formerly known as the "Day" residence and identified to the Commission as
21 being the lot adjacent to lot # W -19 and serviced by telephone communications box # F11, (there are

1 no house numbers or a mail box at this location to identify an address by number); all of the new,
2 single family attached homes for sale by Folsom Ridge, and the community pool servicing those
3 residences.

4 **Q. IS THERE ANYTHING ELSE REGARDING THE PROJECTED UTILITY RATES**
5 **PROPOSED IN THE FEASIBILITY STUDY THAT RAISE A QUESTION?**

6 A. Yes. Mr. Krehbiel estimates that 20 dwelling units will be added in 2007, twenty in 2008, and 20 in
7 2009. However, it is also stated that the present utility, currently has 50 customers. If the current
8 number of utility customers, (50), is divided by the number of years the utility has been operational,
9 (8), then the average number of increased utility connections per year equates to 6.25 new customer
10 connections annually.

11 **Q. HOW DOES MR. KREHBIEL EXPLAIN ADDING AN ESTIMATED 20 CONNECTIONS**
12 **ANNUALLY?**

13 A. If an additional 20 unit connections were to be added annually, according to Mr. Krehbiel's estimated
14 projection, Folsom Ridge must improve dramatically and increase their past and present sales
15 success ratio. Mr. Golden's and Mr. Rusaw's actual performance demonstrates that 6.25 customers
16 have been added to the utility annually. This total number of 6.25 connections per year, for the entire
17 8 years that the utility has been operational, is still less that what Mr. Krehbiel has projected over a 3
18 year period. (i.e. $- 6.25 \times \text{the 3 years of projections} = 18.75$ total number of connections over a 3 year
19 period; NOT 20 connections per year, totaling 60 connections for a 3 year period).

1 **Q. IF FOLSOM RIDGE HAS CONCENTRATED ENTIRELY ON ITS DEVELOPMENT OF**
2 **BIG ISLAND AND THE ADJACENT 190 ACRES, (PAGE 3, LINE 6 OF MS. BRUNK'S**
3 **TESTIMONY), HOW DOES FOLSOM RIDGE EXPLAIN AN 8 YEAR DOCUMENTED**
4 **HISTORY TO PRESENT, OF IMPROPERLY CONSTRUCTING THE WATER AND**
5 **SEWER UTILITY SYSTEM, COMBINED WITH ITS MISMANAGEMENT AND**
6 **IMPROPER OPERATION IN ITS MISADMINISTRATION, AND COMMITTING**
7 **NUMEROUS AND REPEAT DNR VIOLATIONS?**

8 **A.** Mr. Golden and Mr. Rusaw, lack the capabilities necessary to successfully construct, own, operate,
9 and manage effectively and efficiently a water and sewer utility, as proven throughout the past 8
10 years.

11 **Q. IF THIS IS NOT THE FIRST, NOR THE ONLY REAL ESTATE DEVELOPMENT**
12 **MEMBERS OF THE COMPANY HAVE BEEN INVOLVED IN, ACCORDING TO MS.**
13 **BRUNK'S TESTIMONY, WHAT ARE THE OTHER REALESTATE DEVELOPMENTS,**
14 **AND HAVE THERE BEEN ANY ISSUES RAISED BY RESIDENTS CONCERNING**
15 **THESE DEVELOPMENTS?**

16 **A.** Yes – Lifebridge. Lifebridge development in Colorado is a project involving Mr. Golden and Mr.
17 Rusaw, and the Lifebridge church where Mr. Golden is a member and Mr. Rusaw is senior minister.
18 There have been some similar concerns raised by residents there, regarding that project.

19 **Q. SPECIFICALLY, HOW DID MR. GOLDEN AND MR. RUSAW REVISE THEIR PUD**
20 **PLANS TO RESPOND TO THE CONCERNS OF THE BIG ISLAND RESIDENTS?**

1 A. Mr. Golden and Mr. Rusaw incorporated the sale of the interior of the island to Big Island residents,
2 with their PUD submission to Camden County Planning and Zoning. When residents were not able
3 to afford the purchase of the interior of the island at the inflated price of Mr. Golden and Mr. Rusaw,
4 the PUD was approved. In other words, the sale of the interior of the island by Mr. Golden and Mr.
5 Rusaw to residents, was to be in exchange for, and/or contingent on the proposed PUD that Big
6 Island residents were opposing in Planning and Zoning.

7 **Q. WAS THIS PROPOSED SALE/PURCHASE OF THE INTERIOR OF THE ISLAND TO**
8 **RESIDENTS, FRAUDGELENT IN NATURE?**

9 A. Yes. It was not disclosed to residents that the purchase of the interior of the island would be through
10 a newly created homeowners' association, in which membership would be imposed upon residents
11 with 100% participation. This association would then purchase the interior of the island; if there
12 happened to be members of this association who were not able to afford their proportionate share of
13 the interior purchase, a lien would be attached against their property. In other words, membership in
14 this newly created association would be imposed against the will of many residents, as well as the
15 purchase of the interior of the island, as well as the attachments of liens against the properties of
16 these individuals whom were not in favor of any and/or all of this proposal. The only disclosure
17 made to residents regarding this transaction, was the question: "Would you be interested in
18 purchasing the interior of the island, as a means of preserving green space?"

19 **Q. IF THIS DISCLOSURE WAS NOT MADE TO THE RESIDENTS, HOW IS IT THAT YOU**
20 **ARE AWARE OF IT?**

1 A. I have a copy of a private E-mail sent between Big Island residents Mr. Bill Burford, Mr. Phil Hiley,
2 and Mr. Rick saw representing Folsom Ridge. This E-mail specifies the arrangement. (CJO
3 Schedule 16).

4 **Q. HOW IS IT THAT YOU HAVE A COPY OF THIS PRIVATE E-MAIL IN YOUR**
5 **POSSESSION?**

6 A. At the time, I was co-chair of a group of residents opposing the request of Folsom Ridge to Camden
7 County Planning and Zoning, to rezone Big Island to multi family. Mr. Hiley sat as chair on that
8 same committee. Although I sat as co-chair on this same committee, I was excluded from the
9 meetings that took place regarding the purchase of the interior of the island, because I was not in
10 agreement with Mr. Hiley regarding this purchase for 2 reasons: a.. The purchase of the interior of
11 the island should not be associated with the PUD b. The sales price by Folsom Ridge of the interior
12 of the island was greatly inflated. Mr. Hiley had become very upset with Mr. Burford, when Mr.
13 Burford did not follow the instructions he was given by Mr. Hiley in his meeting with Mr. Rusaw.
14 When I questioned Mr. Hiley regarding his present mood, he threw a copy of the E-mail across the
15 table to me.

16 **Q. MS. BRUNK HAS DEVOTED A GREAT DEAL OF HER TESTIMONY TO THE FUTURE**
17 **DEVELOPMENT OF BIG ISLAND BY MR. GOLDEN, MR. RUSAW, AND HERSELF.**
18 **HOWEVER, WHAT RELEVANCY DOES THIS FUTURE DEVELOPMENT HAVE WITH**
19 **RESPECT TO THE ISSUES IN THE CASES BEFOR THE COMMISSION?**

1 A. None. Past behavior dictates future performance. The issues in the cases before the Commission are
2 a direct result of the present and past performance of Mr. Golden and Mr. Rusaw, and their lack of
3 capabilities in an unsuccessful attempt to construct, and effectively and efficiently operate, own,
4 manage and administer a water and sewer utility.

5 Q. IS THE PERSONAL RESIDENCE ON BIG ISLAND OWNED BY MR. GOLDEN AND MR.
6 RUSAW FOR SALE?

7 A. Yes.

8 Q. DID THE GENERAL SURVEY OF EXISTING HOMEOWNERS REGARDING INTEREST
9 IN A FUTURE CONNECTION TO THE CENTRAL WATER AND SEWER SYSTEM
10 DONE BY MR. GOLDEN AND MR. RUSAW, INCLUDE A LETTER TO LISA PETERSON
11 AT CHALFANT THOMPkins ABSTRACT TITLE INSURANCE, REQUESTING
12 OWNERSHIP ON LOTS TO SEE WHO MIGHT BE INTERESTED IN BUYING A TAP?

13 A. Yes. (CJO Schedule 17)

14 Q. IF MR. GOLDEN AND MR. RUSAW EXERCISED PRUDENT PLANNING,
15 (ACCORDING TO MS. BRUNK'S TESTIMONY), TO INCLUDE PROVISIONS FOR
16 EXISTING HOMES TO HOOK UP TO THE UTILITY SYSTEM, HOW DO THEY
17 EXPLAIN NOT HAVING AN ESTABLISHED HOA IN PLACE TO OWN, OPERATE,
18 MAINTAIN AND ADMINISTER THE UTILITY AND ITS SERVICES AT THE TIME OF
19 THE SOLICITATION, SALES, AND PURCHASES OF THE WATER AND SEWER

1 UTILITY TAPS TO EXISTING RESIDENTS, OR AT THE TIME OF CONNECTING
2 RESIDENTS TO THE UTILITY TO RECEIVE SERVICE?

3 A. It would appear that no planning was done.

4 Q. CAN MS. BRUNK PROVIDE PROOF THAT THE CONSTRUCTION AND
5 INSTALLATION OF BOTH SYSTEMS ARE IN COMPLETE COMPLIANCE WITH ALL
6 REGULATORY AGENCIES?

7 A. None was provided with her testimony.

8 Q. MS. BRUNK STATES IN HER TESTIMONY THAT "...UPON NOTICE OF VIOLATION
9 FOLSOM FOLLOWED UP TO INVESTIGATE THE PROBLEM, HIRED THE
10 APPROPRIATE LOCAL ENGINEER OR CONTRACTOR TO ASSIST WITH
11 DETERMINING THE APPROPRIATE SOLUTION AND IMPLEMENTED A PLAN TO
12 RESOLVE THE ISSUE." WHY THEN, IS LITIGATION PENDING AGAINST MR. LEES
13 SEEKING INDEMNIFICATION FROM HIM FOR THE COSTS OF CORRECTING THE
14 IMPROPERLY INSTALLED UTILITY LINES, INSTEAD OF THE ENGINEER OR
15 CONTRACTOR?

16 A. It appears that Ms. Brunk's testimony lacks credibility, and that Mr. Golden and Mr. Rusaw say one
17 thing and do another.

18 Q. MS. BRUNK STATES IN HER TESTIMONY THAT MR. GOLDEN AND MR. RUSAW DID
19 NOT HAVE DIRECT INVOLVEMENT IN THE INITIAL CONSTRUCTION OF THE

1 FACILITIES. THEY WERE INTENDED TO BE INVESTMENT PARTNERS ONLY. DID
2 MS. BRUNK SUPPLY A COPY OF THE PARTNERSHIP AGREEMENT INDICATING
3 THAT MR. GOLDEN AND MR. RUSAW WERE INVESTMENT PARTNERS ONLY, TO
4 SUPPORT HER STATEMENT.

5 A. No.

6 Q. DOES MR. RUSAW'S BIOGRAPHY STATE THAT HE IS A MANAGING PARTNER IN
7 FOLSOM RIDGE DEVELOPMENT?

8 A. Yes.

9 Q. CAN RESIDENTS OF BIG ISLAND, COMPLAINANTS, AND INTERVENORS PROVIDE
10 TESTIMONY AND SUPPORT DOCUMENTATION TO PROVE THAT MR. GOLDEN
11 AND MR. RUSAW WERE DIRECTLY INVOLVED WITH THE INITIAL
12 CONSTRUCTION OF THE UTILITY FACILITIES?

13 A. Yes.

14 Q. CAN INTERVENORS AND COMPLAINANTS PROVIDE TESTIMONY AND SUPPORT
15 DOCUMENTATION TO INDICATE THAT MR. LEES, MR. GOLDEN, AND MR. RUSAW
16 WERE ACTING AS THREE EQUAL, MANAGING PARTNERS IN THE BIG ISLAND
17 DEVELOPMENT PROJECT?

18 A. Yes.

|| Deleted:

1 Q. WERE COMPLAINTS SUBMITTED TO DNR BY BIG ISLAND RESIDENTS
2 REGARDING THE INSTALLATION OF THE WATER AND SEWER LINES ON BIG
3 ISLAND, BEFORE MR. LEES WAS TERMINATED AS A MEMBER OF FOLSOM
4 RIDGE?

5 A. Yes.

6 Q. WAS MR. GOLDEN PERSONALLY MADE AWARE OF THE INCORRECT
7 INSTALLATION OF THE WATER AND SEWER UTILITY LINES BY BIG ISLAND
8 RESIDENTS, BEFORE MR. LEES WAS TERMINATED AS A PARTNER?

9 A. Yes.

10 Q. DID MR. GOLDEN AND MR. RUSAW, UNDER SIGNATURE TO RESIDENTS, VERIFY
11 THE CORRECT INSTALLATION OF THE WATER AND SEWER UTILITY?

12 A. Yes. (Ref: Schedule 8 and Schedule 12)

13 Q. FOR WHAT PURPOSE AND WHEN, WAS THE BIG ISLAND HOMEOWNERS'
14 ASSOCIATION NAME CHANGED TO THE BIG ISLAND HOMEOWNERS' WATER
15 AND SEWER ASSOCIATION?

16 A. This information has not been provided to residents of Big Island, although numerous requests have
17 been made.

18 Q. WHY DID THE ASSOCIATION NOT BEGIN THE BILLING FOR THE UTILITY
19 SERVICES AS SOON AS INDIVIDUALS WERE CONNECTED?

1 A. Because the association did not exist.

2 **Q. WHO IS THE OWNER OF THE WATER AND SEWER UTILITY ON BIG ISALND?**

3 A. Documents signed by Mr. Golden and/or Mr. Rusaw state that Folsom Ridge owns the water and
4 sewer utility, and other documents signed by Mr. Golden and/or Mr. Rusaw indicate that the BIHOA
5 owns the water and sewer utility. (CJO Schedule 18)

6 **Q. DOES THIS MEAN THAT MR. GOLDEN AND/OR MR. RUSAW HAVE PROVIDED**
7 **FALSE AND INCONSISTENT INFORMATION REGARDING THE OWNERSHIP OF**
8 **THIS UTILITY?**

9 A. Yes.

10 **Q. IN NUMEROUS DOCUMENTS FILED WITH THE PSC IN BOTH THE COMPLAINT**
11 **CASE AND THE APPLICATION CASE, HAVE COMPLAINANTS AND INTERVENORS**
12 **RAISED THE QUESTION OF OWNERSHIP TO THE PSC?**

13 A. Yes.

14 **Q. HAVE COMPLAINANTS AND INTERVENORS REQUESTED COPIES OF PROPERTY**
15 **TITLES TO PROVE OWNERSHIP OF THE UTILITY?**

16 A. Yes.

17 **Q. HAVE THESE DOCUMENTS BEEN SUPPLIED?**

18 A. No.

1 Q. SINCE THE BIHOA WAS NOT ESTABLISHED WITH A DECLARATION OF
2 COVENANTS UNTIL THE YEAR 2000, HOW WERE MR. GOLDEN AND MR. RUSAW
3 ABLE TO IMPOSE THE DECLARATION OF COVENANTS AND RESTRICTIONS AT
4 THE TIME OF THE SALE OF FOLSOM RIDGE PROPERTIES TO NEW OWNERS?

5 A. They were not.

6 Q. WERE THERE SOME BIG ISLAND RESIDENTS WHO DID NOT VOLUNTARILY
7 AGREE TO THE TERMS AND CONDITIONS OF THOSE CONENANTS?

8 A. Yes.

9 Q. WERE THERE SOME RESIDENTS WHO WERE THREATENED, INTIMIDATED, AND
10 COERESED INTO SIGNING THESE COVENANTS?

11 A. Yes.

12 Q. FOR THOSE RESIDENTS WHO REFUSED TO SIGN THESE COVENANTS, DID MR.
13 MCELYEA STATE TO MR. GOLDEN IN A LETTER THAT THESE INDIVIDUALS
14 SHOULD BE 'CONSIDERED MEMBERS?' (CJO Ref: Schedule 3)

15 A. Yes.

16 Q. WAS THIS A UNILATTERAL DECISION MADE BETWEEN MR. MCELYEA AND MR.
17 GOLDEN, AND NOT A BILATTERAL AGREEMENT INVOLVING THE MUTUAL
18 CONSCENT OF THE RESIDENTUAL HOMEOWNER?

1 A. Yes.

2 Q. DID MS. BRUNK PROVIDE EITHER MEMBERSHIP AND/OR BILLING INFORMATION
3 TO PROVE HER TESTIMONY THAT THE UTILITY HAS 60 CUSTOMERS?

4 A. No.

5 Q. HAVE RESIDENTS, COMPLAINANTS, AND INTERVENORS, (BOTH PERSONALLY
6 AND AS A PART OF THE PROCEDURAL PROCESS BEFORE THE PSC), REQUESTED
7 MEMBERSHIP INFORMATION AND BILLING INFORMATION FROM MR. GOLDEN,
8 MR. RUSAW, FOLSOM RIDGE, BIWSA, (A.K.A - BIHOA), MR. MCELYEA, AND MR.
9 COMLEY?

10 A. Yes.

11 Q. HAS THIS INFORMATION BEEN PROVIDED?

12 A. No.

13 Q. HAS THE COMMISSION ISSUED AN ORDER COMPELLING THIS INFORMATION
14 TO BE PROVIDED?

15 A. Yes - twice.

1 Q. HAS THIS INFORMATION BEEN PROVIDED AS A RESULT OF THE
2 COMMISSION'S TWO (2) ORDERS COMPELLING PRODUCTION OF THIS
3 INFORMATION?

4 A. No.

5 Q. MS. BRUNK STATES THAT THERE ARE RESIDENTS ON BIG ISLAND WHO PAID A
6 CONNECTION OR TAP ON FEE, IS THIS CORRECT?

7 A. No – residents purchased a physical water and/or sewer tap. This is a tangible item located on their
8 private property, and is a personal property asset they own.

9 Q. IN MS. BRUNK'S TESTMONY, SHE STATED THAT THE RATES FOR SEWER ARE
10 \$15.00 PER MONTH AND THE RATES FOR WATER SERVICE ARE \$ 10.00 PER
11 MONTH. HOW ARE THESE RATES BASED?

12 A. Ms. Brunk provided no basis for the rate structure.

13 Q. AT THE HOMEOWNERS' MEETING HELD IN MAY OF 2006, DID MR. GOLDEN
14 REDUCE THE WATER AND SEWER UTILITY RATES?

15 A. Yes – by approximately half.

16 Q. DID MR. GOLDEN PROVIDE A COST ANALYSIS TO SUPPORT HIS REDUCTION OF
17 THE UTILITY RATES?

18 A. No.

1 Q. IS THERE AN ACCRUED CAPITAL RESERVE WITHIN THE ASSOCIATION?

2 A. No.

3 Q. WAS THERE A LINE ITEM ASSOCIATED WITH THE REIMBURSEMENT OF THE
4 ASSOCIATION TO FOLSOM RIDGE FOR THE \$7,000.00 OWED TO FOLSOM BY THE
5 HOMEOWNERS' ASSOCIATION, IN THE PROFIT AND LOSS OF BUDGET VS.
6 ACTUAL PROVIDED TO HOMEOWNERS BY MR. GOLDEN AND MR. RUSAW?

7 A. No. (CJO Schedule 19)

8 Q. DID MR. GOLDEN STATE AT THIS MEETING THAT THIS AMOUNT HAD BEEN
9 PAID?

10 A. Yes.

11 Q. WHY IS THIS AMOUNT OWED TO FOLSOM RIDGE, NOT SHOWN AS A
12 REOCCURRING AND ACCRUING LINE ITEM EXPENSE OWED, AND/OR PAID?

13 A. Ineffective and inefficient bookkeeping within the association by Mr. Golden and Mr. Rusaw.

14 Q. HAVE RESIDENTS OF BIG ISLAND BEEN TOLD BY MR. GOLDEN AND MR. RUSAW,
15 THAT IF THIS UTILITY IS REGULATED BY THE PSC, THAT THEIR UTILTIY RATES
16 WILL DOUBLE, TRIPLE, AND SKY ROCKET AS A RESULT OF THE PSC
17 REGULATION?

18 A. Yes.

1 Q. WERE RESIDENTS PROVIDED A COST BASIS TO SUPPORT THIS INFORMATION
2 THEY WERE BEING GIVEN REGARDING THE INCREASED UTILITY COSTS
3 ASSOCIATED WITH PSC REGULATION?

4 A. No.

5 Q. ARE NON-MEMBERS OF THE ASSOCIATION, PRESENTLY BEING BILLED AND/OR
6 SERVICED?

7 A. Yes

8 Q. MS. BRUNK STATES IN HER TESTIMONY, THAT"FOLSOM RIDGE AND THE
9 ASSOCIATION BELIEVE THAT THE SERVICES PROVIDED ARE IN COMPLIANCE
10 WITH THE MISSOURI PUBLIC SERVICE COMMISSION LAW." IS MS. BRUNK
11 AWARE THAT THE ASSOCIATION PRESENTLY PROVIDING THE CURRENT
12 UTILITY SERVICES IS NOT WITHIN THE JURISDICTION OF THE PSC, BUT THE
13 DNR?

14 A. Apparently not.

15 Q. IS MS. BRUNK AWARE THAT IF THE UTILITY SERVICES PROVIDED ARE IN
16 COMPLIANCE WITH THE PSC, THE UTILITY WOULD ALREADY BE REGULATED,
17 AND THE PROVIDER WOULD ALREADY BE CERTIFICATED?

18 A. Apparently not.

1 Q. IS MS. BRUNK AWARE THAT BY THE ASSOCIATION BILLING AND/OR SERVICING
2 INDIVIDUALS THAT ARE NOT MEMBERS OF THE ASSOCIATION, IS WHAT
3 PROMPTED THE COMPLAINTS BEING FILED WITH THE MPSC? IS MS. BRUNK
4 ALSO AWARE THAT THE REGULATIONS OF THE JURISDICTION OF THE DNR,
5 GOVERNING THE OPERATIONS OF THE UTILITY BY A HOMEOWNERS
6 ASSOCIATION, REQUIRE THAT ALL INDIVIDUALS BE MEMBERS OF THE
7 ASSOCIATION, THAT ARE BEING BILLED AND/OR SERVICED?

8 A. Apparently not.

9 Q. IN MS. BRUNK'S TESTIMONY SHE STATES: "...AGREEMENT, (ASSET TRANSFER),
10 IS EXPRESSLY CONDITIONED UPON THE ASSOCIATION'S MEMBERSHIP
11 APPROVAL IF IT IS DETERMINED THAT SUCH APPROVAL WILL BE REQUIRED
12 UNDER THE GOVERNING BYLAWS AND THE COVENANTS AND RESTRICTIONS
13 APPLICABLE TO THE PROPERTIES THAT RATIFIED THEM." SINCE THERE ARE
14 INDIVIDUALS WHO ARE NOT MEMBERS OF THE ASSOCIATION BY
15 RATIFICATION OF THE COVENANTS AND CONDITIONS, YET THEY OWN UTILITY
16 ASSETS, SUCH AS THE TANGIBLE WATER AND SEWER TAPS THAT ARE
17 LOCATED ON THEIR PRIVATE PROPERTY, AND HAVE A FINANCIAL
18 INVESTMENT IN THE UTILTIY, HOW DOES MS. BRUNK PROPOSE TO TRANSFER
19 THE ASSETS OF THE UTILTIY?

20 Q. Ms. Brunk did not address this issue.

1 Q. HAVE INTERVENORS IN THIS CASE, RAISED THIS ISSUE TO THE COMMISSION?

2 A. Yes.

3 Q. WHAT OTHER AREA SHOULD BE INCLUDED IN THE SERVICE AREA?

4 A. Ms. Brunk did not state this new area to be served. She merely references a legal description in the
5 BB Schedule 8.

6 Q. WHAT TESTIMONY DO YOU HAVE REGARDING MR. HUGHES DIRECT
7 TESTIMONY?

8 A. Since the control of the association has been with Mr. Golden and Mr. Rusaw, and all requests for
9 billing and/or membership information have been ignored by Mr. Golden and Mr. Rusaw, no
10 statements in Mr. Hughes testimony can be confirmed and/or denied. In addition, since the operation
11 of the facility is being subsidized by Folsom Ridge (Mr. Golden and Mr. Rusaw) Mr. Hughes
12 testimony can only be questioned?

13 Q. HOW DID MR. MCDUFFEY BECOME AWARE OF THE NOV ISSUED IN JUNE OF 2005
14 BY THE DNR, REGARDING A LACK OF SITE SAMPLING PLAN FOR THE SYSTEM?

15 A. In the Public Hearing held in June of 2006, I personally asked Mr. McDuffey about this NOV. His
16 statement under oath was that he would probably get that before Folsom, but that he was not aware
17 of what I meant by improper water sampling, or the NOV. However, now in his direct testimony, he
18 is knowledgeable of this NOV.

1 Q. IN MR. MCDUFFEY'S DIRECT TESTIMONY, HE STATES, "...THE SEPTIC TANK IS
2 AN IMPORTANT PART OF THE WASTEWATER TREATMENT PROCESS, AND IS
3 OWNED BY THE PROPERTY OWNER." THEREFORE, HOW CAN THE
4 APPLICATION STATE THAT, "...OPERATION OF MULTIPLE WELLS AND SEPTIC
5 SYSTEMS MAY ADVERSELY AFFECT THE QUALITY OF THE AQUIFER WHICH
6 PROVIDES DRINKING WATER TO ALL RESIDENTS OF THE AREA?"

7 A. Again, this proves Mr. Golden's, Mr. Rusaw's, and Ms. Brunk's lack of necessary knowledge and/or
8 capabilities to operate, manage, and effectively and efficiently administrate a water and sewer utility.

9 Q. HAS YOUR REBUTTAL TESTIMONY BEEN REVISED AND/OR MODIFIED?

10 A. Yes.

11 Q. FOR WHAT PURPOSE?

12 A. To allow the Big Island Water and Sewer Company, Inc. certification case to move forward, as
13 recommended to intervenors by PSC staff in a meeting held on December 13, 2006.

14 Q. WHY DID THE PSC STAFF MAKE THIS RECOMMENDATION TO THE
15 INTERVENORS?

16 A. Complainants and intervenors have made the request for relief to the Commission, for a regulated
17 public utility, by a certificated company and/or individual, with no association and/or affiliation with
18 Mr. Golden or Mr. Rusaw, or Folsom Ridge, LLC. Complainants and intervenors provided the
19 Commission with a letter of acceptance to the appointment of receiver to the water and sewer utility

1 on Big Island, from Mr. Gary Cover. (CJO Schedule 20). Complainants and intervenors want to
2 make clear to the Commission, that they are not asking that ownership of utility assets be transferred
3 to the receiver - only the responsibilities of operation, management, and administration of the
4 utility and its service. However, staff personnel stated that the Commission could not appoint a
5 receiver to operate, manage and administer the utility and its service, without first being under the
6 jurisdiction of the PSC as a regulated utility. Therefore, intervenors should allow the certification
7 case to move forward, contingent on conditions to the certification as specified by the staff and
8 intervenors, and imposed by the Commission with the granting of the certification.

9 **Q. WHAT WAS THE PURPOSE OF THE MEETING SCHEDULED BY INTERVENORS**
10 **WITH THE PSC STAFF ON DECEMBER 13, 2006?**

11 A. To discuss the proposal of a 393 Private Water Corporation and Private Sewer Corporation made by
12 Ms. Pam Holstead, Big Island resident.

13 **Q. IS MS. HOLSTEAD A COMPLAINANT AND/OR AN INTERVENOR IN THESE CASES**
14 **BEFORE THE COMMISSION?**

15 A. No – although Ms. Holstead had the same opportunity as other residents to become actively involved
16 as a party in the water and sewer utility issues, by either filing a formal complaint with the PSC,
17 and/or becoming an intervenor in the application case.

18 **Q. WHAT IS MS. HOLSTEAD'S INVOLVEMENT IN THESE CASES BEFORE THE**
19 **COMMISSION?**

1 A. On September 19, 2006, Ms. Pam Holstead, circulated to Big Island residents, her proposed solution
2 to the utility issues. The information Ms. Holstead distributed to residents, was her personal
3 interpretation of a 393 Not for Profit Water Company, and a 393 Not for Profit Sewer Company.
4 Ms. Holstead did not provide the 393 Missouri Statutes or rules and by-laws as a part of her
5 information; however, she was requesting residents to vote "yes" or "no" for the central water and
6 sewer system to be deeded to a 393 Corporation.

7 Q. DID MS. HOLSTEAD ORGANIZE A PUBLIC MEETING FOR THE BIG ISLAND
8 RESIDENTS TO PRESENT HER PROPOSED SOLUTION OF A 393 TO THE UTILITY
9 ISSUES?

10 A. No.

11 Q. HOW DID MS. HOLSTEAD MAKE HER PROPOSAL AVAILABLE TO RESIDENTS?

12 A. Ms. Holstead delivered her proposal to area residents by placing it in their mailboxes. Her proposal
13 was not delivered in a stamped/metered envelop, and Ms. Holstead is not a U.S. postal carrier.

14 Q. SINCE MS. HOLSTEAD IS NOT A PARTY TO THESE CASES BEFORE THE
15 COMMISSION, AND SINCE MS. HOLSTEAD DID NOT PRESENT HER PROPOSAL AT
16 A PUBLIC MEETING, HOW WAS THE COMMISSION MADE AWARE OF MS.
17 HOLSTEAD'S ACTIONS?

18 A. Intervenor and Complainant, Ms. Cathy Orlor, filed a statement to the Commission on or about
19 September 22, 2006, entitled, "Intervenor's Disclosure to the Commission," to inform the

1 Commission of Ms. Holstead's actions, as well as a detailed listing of why Ms. Holstead's proposed
2 solution of a 393, would not resolve any of the utility issues, but instead, create other issues that
3 would involve litigation being brought against the 393 corps by several residents of Big Island. (CJO
4 Schedule 21).

5 **Q. DID MS. HOLSTEAD CONTINUE HER PURSUIT OF THE 393 PRIVATE NOT FOR**
6 **PROFIT WATER AND SEWER CORPORATIONS?**

7 A. Yes. On November 27, 2006, Ms. Holstead scheduled a meeting with PSC staff, to include Mr. Rick
8 Rusaw, representing Folsom Ridge, LLC., Big Island Water and Sewer Association, (f.k.a. Big
9 Island Homeowners' Association), and applicant, Big Island Water and Sewer Company, Inc., as
10 well as Mr. Mark Comley representing Mr. Rusaw as legal counsel on behalf of Folsom Ridge,
11 LLC., Big Island Water and Sewer Association, (f.k.a. Big Island Homeowners' Association), and
12 applicant, Big Island Water and Sewer Company, Inc. Intervenors in this case were not notified of
13 this meeting, and likewise were not invited to attend. There was no memorandum sent to intervenors
14 outlining the content of the meeting discussions, and there were no remarks posted to EFIS as public
15 comments, regarding this meeting. Intervenors learned of this meeting from other island residents.

16 **Q. AS A RESULT OF THIS NON-PUBLIC MEETING, WHAT INITIATIVE AND ACTION**
17 **DID INTERVENORS TAKE TO ENSURE THAT THE PUBLIC'S BEST INTERESTS**
18 **WERE BEING SERVED IN THIS CASE?**

1 A. Intervenors scheduled a meeting with the PSC staff on December 13, 2006, to discuss the 393 proposal
2 presented by Ms. Holstead. Intervenors also invited additional members of the PSC staff, as well as
3 General Counsel and Public Counsel to attend.

4 **Q. WHAT SIGNIFICANT INFORMATION DID INTERVENORS OBTAIN, AS A RESULT OF**
5 **THIS MEETING?**

6 A. Intervenors learned that Ms. Holstead had presented her 393 proposal, as having a majority support of
7 the island residents, although no public meeting had been organized by Ms. Holstead and
8 complainants and/or intervenors are unanimously opposed to the 393 Private Not for Profit Water
9 and Sewer Corporations, and the transfer of utility assets to an unregulated entity. Additionally,
10 intervenors asked if Ms. Holstead had provided the staff, as confirmation of her majority support, a
11 copy by resident signature, of what she was representing to be a "majority" of residents, as well as a
12 copy of the document she had presented to these residents, to indicate exactly what these residents
13 were in agreement with and understanding of, in their support of the 393 Corporations to own and
14 operate the water and sewer utilities on Big Island. The staff said no.

15 **Q. SINCE MS. HOLSTEAD DID NOT PROVIDE THE STAFF WITH SUPPORT**
16 **DOCUMENTATION TO PROVE HER STATEMENT OF A "MAJORITY SUPPORT,"**
17 **CAN INTERVENORS SUPPLY DOCUMENTATION TO PROVE TO THE COMMISSION,**
18 **THAT MS. HOLSTEAD HAS OPPOSITION TO HER PROPOSAL?**

19 A. Yes -- signed letters from residents. (CJO Schedule 22).

1 Q. WHAT OTHER SIGNIFICANT INFORMATION WAS DISCOVERED BY THE
2 INTERVENORS AT THIS MEETING?

3 A. Intervenor also learned that Ms. Holstead had submitted copies of the 393 corporations' by-laws to
4 the staff..

5 Q. HAD MS. HOLSTEAD PROVIDED COPIES OF THE CORPORATIONS' BY-LAWS TO
6 THE INTERVENORS?

7 A. No.

8 Q. DID INTERVENORS REQUEST COPIES OF THESE DOCUMENTS FROM MR. DALE
9 JOHANSEN?

10 A. YES.

11 Q. DID MR. JOHANSEN PROVIDE COPIES TO THE INTERVENORS?

12 A. No - their requests were denied.

13 Q. DID INTERVENORS MAKE THIS SAME REQUEST FOR COPIES OF THE 393
14 CORPORATIONS' BY-LAWS TO MR. COMLEY IN A TELEPHONE CONFERENCE
15 CALL ON DECEMBER 14, 2006?

16 A. Yes.

17 Q. DID MR. COMLEY PROVIDE COPIES OF THESE DOCUMENTS TO THE
18 INTERVENORS?

1 A. No – their requests were denied.

2 Q. DURING THIS TELEPHONE CONFERENCE WITH MR. COMLEY, DID INTERVENORS
3 INFORM MR. COMLEY OF THEIR WILLINGNESS TO ALLOW THE CERTIFICATION
4 CASE TO MOVE FORWARD, BUT WITH CONDITIONS AS DETERMINED BY THE
5 PSC STAFF AND INTERVENORS, AND INPOSED BY THE COMMISSION WITH THE
6 GRANTING OF A CERTIFICATE?

7 A. Yes.

8 Q. DID INTERVENORS ALSO INFORM MR. COMLEY THAT 393 PRIVATE WATER AND
9 SEWER CORPS DID NOT ADDRESS AND/OR RESOLVE ANY OF THE UTILITY
10 ISSUES IN THESE CASES BEFORE THE COMMISSION?

11 A. Yes.

12 Q. DID INTERVENORS ALSO MAKE VERY CLEAR TO MR. COMLEY, THAT IF THE
13 ASSETS OF THE WATER AND SEWER UTILITY ON BIG ISLAND WERE
14 TRANSFERRED TO THE 393 PRIVATE WATER AND SEWER CORPS, OVER THEIR
15 OBJECTIONS, AND IF AS A RESULT OF THIS TRANSFER OF ASSETS, MEMBERSHIP
16 WAS NOW BEING IMPOSED ON INDIVIDUALS AS A CONDITIONAL REQUIREMENT
17 TO BE ABLE TO CONTINUE TO RECEIVE THEIR UTILITY SERVICE, THAT
18 LITIGATION WOULD IMMEDIATELY BE BROUGHT AGAINST THE 393 CORPS?

19 A. Yes.

1 Q. DID INTERVENORS ALSO IN GOOD FAITH WITH MR. COMLEY, COMMIT TO THE
2 REVISION AND MODIFICATION OF THEIR REBUTTALS TO ALLOW THE
3 CERTIFICATION CASE TO MOVE FORWARD?

4 A. Yes.

5 Q. HAVE YOU OBLIGATED YOURSELF TO THIS COMMITMENT IN YOUR REBUTTAL
6 TESTIMONY?

7 A. Yes.

8 Q. HAVE YOU READ, UNDERSTAND, AND AGREE WITH THE REBUTTAL TESTIMONIES
9 OF MR. BENJAMIN D. PUGH AND CINDY FORTNEY?

10 A. Yes.

11 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

12 A. Yes.

13 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

14 A. Yes

15 .

16 SUMMARY:

17 Mr. Golden and Mr. Rusaw, representing Folsom Ridge, LLC., BIWS Association, (a.k.a. -- BIHOA), and

1 BIWS Company, have a proven 8 year demonstrated and document history into the present, of their lack of
2 necessary capabilities in their resulting, unsuccessful attempt at constructing, and effectively and efficiently
3 owning, operating, managing and administrating a water and sewer utility. Mr. Golden and Mr. Rusaw have
4 not performed their legal duties. Mr. Golden and Mr. Rusaw have not complied with lawful regulation. Mr.
5 Golden and Mr. Rusaw have created potential harm to public welfare. Not only do Mr. Golden and Mr.
6 Rusaw not possess the necessary abilities to provide merely safe and adequate utility service, their 8 year
7 performance has proven no desire to do so. It is the actions of Mr. Golden and Mr. Rusaw that are
8 responsible for the initial complaint cases, (case no. WC-2006-0082, et al.), before the Commission; and it is
9 the complaint case that is responsible for the generation of the application case. Currently, during the 18
10 month period of the procedural proceedings of these cases before the Commission, neither Mr. Golden or Mr.
11 Rusaw have demonstrated a desire or willingness to cooperate with either the Commission and/or
12 complainants and/or intervenors by honoring the numerous requests for information, obligating themselves
13 to prior commitments made to residents, DNR, and the Commission under signature, or refrain from
14 providing false, conflicting, and inconsistent information and documentation to the Commission, DNR,
15 and residents. They have attempted to circumvent the proceedings before the Commission in their most

1 recent action of negotiating a transfer of utility assets to non-regulated entities - 393 Private Water and Sewer
2 Corporations. Their action was done over the objections of complainants and intervenors, without a public
3 meeting, and/or the knowledge and/or consent of BIHOA members and/or island residents, and without
4 bringing this before the Commission, or making a disclosure to the Commission of their intent. This is the
5 exact behavior that prompted the filing of 9, (nine), formal complaints with the Missouri Public Service
6 Commission. For 8 years, Mr. Golden and Mr. Rusaw have proven their total disregard for the governing
7 jurisdiction of the DNR, in their numerous violations of noncompliance; including the repeat violation, for
8 the final, incorrect installation of the utility, after an initial violation of notification had been issued. For 8
9 years, Mr. Golden and Mr. Rusaw, have ignored the residents as well as the notice of legal counsel
10 representing the residents, to become a licensed public utility, and have continued billing and servicing on
11 non-members in their operation of the utility. For 8 years Mr. Golden and Mr. Rusaw have made
12 commitments under signature to the homeowners on Big Island, and continue not to obligate themselves to
13 those commitments. Mr. Golden and Mr. Rusaw have escalated and intensified this arrogant behavior of 8
14 years, to interfere with, and halt real estate transactions under the pretense of erroneous membership fees, and
15 have refused to correctly re-install the incorrectly installed water line as mandated by DNR, using the

1 erroneous membership fees as their excuse. Even under the present scrutiny of the Commission in the cases
2 before it, neither Mr. Golden or Mr. Rusaw have demonstrated a change in behavior. **PAST AND**
3 **PRESENT BEHAVIOR, DICTATES FUTURE PERFORMANCE.** It is in the public's best interests to
4 ensure that the property owners on Big Island have the right to the appreciation of their property values,
5 relative to the market trends within the economy, and not adversely affected and/or dictated by the water and
6 sewer utility's incorrect installation and/or improper operation, mismanagement and misadministration.
7 Therefore, the water and sewer utility on Big Island must be regulated. The certification of Mr. Golden, Mr.
8 Rusaw, and Ms. Brunk, must be contingent on strict conditions determined by the PSC staff and intervenors,
9 and very severely and stringently imposed by the Commission. Complainants and intervenors also suggest to
10 the Commission, that in addition to the imposed conditions of certification, that a legal document signed by
11 the principles of the Big Island Water and Sewer Company, obligating themselves to the conditions set forth
12 in the certification, and the requirement that these conditions be met and approved by signature of the PSC
13 and intervenors and complainants, prior to the sale and/or transfer of any utility assets, be a part of the
14 certification process. Other civil issues involving this utility, and Mr. Golden and Mr. Rusaw, of Folsom
15 Ridge, LLC., BIWSA, (f.k.a. BIHOA), and BIWS Co. Inc., that are not within the jurisdiction of the Missouri

1 Public Service Commission, will still need to be addressed in civil court. Complainants and intervenors
2 welcome the opportunity to present and prove their cases before the Commission at the formal evidentiary
3 hearings in these proceedings.
4
5
6

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via U.S. Mail, on this 19th day of December, postage prepaid to: the General Counsel's Office and the Office of Public Counsel at the Missouri Public Service Commission, P.O. Box 360, Jefferson City, MO. 65102; and to Mark W. Comley, 601 Monroe Street, Suite 301, P.O. Box 537, Jefferson City, MO. 65102; and Charles E. McElyea, 85 Court Circle, P.O. Box 559, Camdenton, MO. 65020; and the Attorney General's Office, P.O. Box 899, Jefferson City, MO. 65102.

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