

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

FILED²

DEC 19 2006

Missouri Public
Service Commission

In the Matter of the Application of)
Big Island Water & Sewer Company, Inc.)
for a Certificate of Convenience and)
Necessity authorizing it to construct,) Case No. WA-2006-0480
install, own, operate, control, manage,)
and maintain a water and sewer system)
for the public located in an unincorporated)
area in Camden County, Missouri)

**INTERVENORS' STATEMENT TO THE COMMISSION
REGARDING BIG ISLAND WATER AND SEWER COMPANY'S
CONTINUED REQUEST FOR THE SUSPENSION OF THE
PROCEEDINGS IN THIS CASE**

On December 18, 2006, Big Island Water and Sewer Company filed with the Commission, "Applicant's Response to Intervenor's Objection to Suspension of the Procedural Schedule; Objection to the Transfer of Utility Assets; Request to Reopen Case No. WC-2006-0082 and a Submission of a Receiver for Commission Consideration." In this response, applicant renews its continued request that the procedural schedule be suspended in this case.

Intervenor's want to make the Commission very aware of the following facts:

1. Utility assets have not yet been determined by the Commission in this case. The proceedings in this case have not been allowed to advance to a point where the assets of the utility have been determined and/or agreed to by all parties in this case. Not only have the utility assets themselves not been clearly defined by the Commission, but the exact percentages

of those assets involved with and equating to, residential ownership in the utility's treatment facility and water production facility as represented by Contribution In Aid of Construction, (CIAC), have not yet been determined.

- a. As intervenors have stated in previous filings in this case: existing property owners purchased water and/or sewer taps that are tangible and physical pipes, valves, and connections that are their personal properties located on their private properties, as a part of the owners' property titles. These tap purchases signify their reserved future right to connect to the utility, and represent their collective sum total of personal, financial investment in the utility, of \$306,800.00 as per the applicant's feasibility study.
2. Intervenors want to make absolutely clear to the Commission, that they, as well as other residents of Big Island, are objecting to the transfer of their utility assets.
3. The applicant's continued requests to suspend the procedural schedule in this case, is not only obviously late, but now a moot point since the first intervenor rebuttal of Mr. Benjamin D. Pugh was posted to EFIS at 12:01:56 p.m., several hours before this continued request by the applicant, which was posted at 4:55:01 p.m. In addition, other intervenor rebuttals have already been mailed with a postmarked date and time to confirm the late hour of the applicant's continued request. It is the position of the intervenors, that the proceedings in this case are already underway, and therefore can not be suspended.
4. a. Intervenors make full disclosure to the Commission, that the applicant's negotiations with a few residents of Big Island, to transfer the utility assets to a 393 Not for Profit Water Corporation and a 393 Not for Profit Sewer Corporation, are quickly being done so, without any public notifications and/or meetings in this matter; without a full disclosure to residents who could possibly be in favor of the 393 corps, that litigation suits could be filed against the corps upon their inception, and the legal fees required to defend the corps in the matters of litigation, would be reflected in the

form of service rates and/or special assessments to the members of the corps; without a clear and objective assessment of residential acceptance or approval; and without the state regulations and statutes that govern the corps, as well as the by-laws of the corps that state the appointed board members, being made a matter of public information. The attached exhibits, are letters under signature from residents, who are very strongly objecting to the 393 Not for Profit Corporations. (Exhibits 1 – 10).

- b. Intervenors, Ben Pugh, Cindy Fortney, and Cathy Orlor, confirm a telephone conference call on December 14, 2006, with Mr. Comley, legal counsel representing the applicant in this case, wherein intervenors notified Mr. Comley of the fact that not all residents of Big Island are aware of the proposed 393, nor are they in agreement. Furthermore, intervenors made very clear to Mr. Comley, that several litigation suits against the 393 corps would be initiated upon the inception of the 393's as the provider of utility service on Big Island, as a result of their imposed membership requirement to current utility users, now being an additional requirement to be able to continue receiving utility service. Additionally, intervenors made very clear to Mr. Comley, that they would modify and amend their rebuttals to allow the certification case to move forward, but with conditions being applied to the certificate by PSC staff and intervenors, and being imposed by the granting of said certificate by the Commission. Mr. Comley's involvement with the organization of the 393 corps is not known; however, in the intervenors' telephone conversation with him, he asked that any resident objecting to the 393, be directed to speak with him personally. Therefore, is Mr. Comley also representing Ms. Holstead and the proposed 393 corps?
- c. This telephone conference call between intervenors and Mr. Comley, is set forth in question and answer form in the rebuttal testimony of intervenor, Cathy Jo Orlor, as being true and correct to the best of her knowledge and belief by affidavit under signature. The rebuttal testimony of Ms. Orlor, was submitted simultaneously to the Commission with

this intervenors' statement.

Wherefore, intervenors strongly object to the suspension of the procedural schedule in this case. Intervenors also prove the need for the proceedings of this case to continue, in light of the non-public disclosure that is taking place regarding the transfer of utility assets to the 393 Not for Profit Water Corporation and the 393 Not for Profit Sewer Corporation, and the objections of residents and current utility users to the non-regulated 393 entities.

Respectfully submitted,

Benjamin D. Hughes
Cathy J. Allen
Cindy Fortney

Cathy J. Orlor

From: "Ben and Karen Pugh" <karben@yhti.net>
To: <Undisclosed-Recipient:>
Sent: Saturday, December 16, 2006 12:29 AM
Subject: Fw: Regulated VS. 393

Exhibit 1

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

From:
To:
Sent: Friday, December 15, 2006 9:27 PM
Subject: Re: Regulated VS. 303

Hi

IN THE BIG ISLAND FILES I DID FIND A LETTER FROM PAM HOLSTEAD DATED SEPT 19 2006. IN THE LETTER SHE EXPLAINED PSC AND SHE SAID "NO NEED TO MOVE FORWARD IF THE MAJORITY ARE AGAINST THE PROPOSAL" THERE WERE 13 PROPOSED SOLUTION ON HOW IT WOULD BE.

ON PAGE 3 I HAD A CHOICE OF ; YES, I WOULD LIKE TO SEE THE CENTRAL WATER AND SEWER SYSTEMS DEEDED OVER TO 393 CORPORATIONS WHICH INCLUDE THE PROVISIONS OUTLINED BY MRS HOLSTEAD IN HER LETTER TO ME DATED SEPT. 19, 2006

OR

NO, I DO NOT WANT THE CENTRAL WATER AND SEWER SYSTEMS DEEDED OVER TO 393 CORPORATIONS AND WOULD PREFER PSC REGULATION.

LETTER WAS RECEIVED WHEN WE WERE OUT OF TOWN AND I DID NOT RESPOND.

HOWEVER GIVEN THE CHOICES WE WOULD HAVE SAID NO.

THAT'S AS MUCH AS I CAN REMEMBER OR SEE IN THE FILES THAT WE GOT.

LOVE MARY

Cathy J. Orlor

From: "Ben and Karen Pugh" <karben@yhti.net>
To: <Undisclosed-Recipient:>
Sent: Saturday, December 16, 2006 11:13 AM
Subject: Fw: Missouri Public Service Commission

Exhibit: 2

— Original Message —

From:
To:
Sent: Saturday, December 16, 2006 10:00 AM
Subject: Missouri Public Service Commission

Kindly forward to the above organization.

Gentlemen:

My wife and I are property owners on Big Island. It is important to us that you understand the following facts.

Reference : Pam Holstead

1. She has not contacted us about anything regarding Folsom Ridge utilities.
2. She has not, does not and never will represent us or our interests in any way.
3. We believe that a regulated, certified public utility is the best means of fairly serving all property owners interests in providing water and sewer services.
4. We are completely opposed to a 393 company running the Big Island utilities.

Very truly yours,

Elaine and Bill Foley
2240 Big Island Drive

Cathy J. Orlor

From: "sherrie fields" <sfields@tactician.com>
To: <SPROUT2@aol.com>
Sent: Saturday, December 16, 2006 6:18 PM
Subject: FW: 393 Big Island

Exhibit 3

From: sherrie fields [mailto:sfields@tactician.com]
Sent: Saturday, December 16, 2006 6:13 PM
To: 'dale.johansen@psc.mo.gov'
Subject: 393 Big Island

Mr. Johansen,

I am a resident of Big Island Drive in Roach MO and I am writing today to let you know that we are opposed to the 393 proposed by Pam Holstead. We are not members of the BIHOA and we are not currently connected. We do not even have a tap. However, we believe it is in our best interest, should it be necessary to purchase a tap in the future, that the water and sewer utility be a regulated utility. We own two other homes with regulated utility services and believe strongly in the protections afforded by regulation.

It is also important to note that we did receive a letter from Pam Holstead in fall 2006. However, we do not know this person, so we gave the letter very little time or attention and did not respond in any way, particularly because she did not allow enough time to respond - I believe she wanted a response in just one or two days. We certainly did not respond in favor of her proposal. We are only interested in regulated utilities, like we have at our other two homes.

There are several reasons we support a regulated company. Regulation by the PSC gives us a sense of insurance. PSC regulations must be obeyed and are above and beyond those of just the DNR and state of MO statutes especially when it comes to the total implementation/installation plan and execution, billing rates and management of the utility. We are also concerned with the fact that 5 islanders would be on the board. We do not know these five individuals nor do we have any information about their experience is, if any, with utilities operations and management. Without regulation, anything could happen like it has been happening with the BIHOA for the last several years.

Thank you and please feel free to contact me if any further discussion is needed.

Sherrie Fields
Homeowner
3286 Big Island Drive
(816) 478-9223 Hm
(186) 694-6610 Cell

Cathy J. Orlor

From: "Ben and Karen Pugh" <karben@yhti.net>
To: <Undisclosed-Recipient:>
Sent: Saturday, December 16, 2006 7:07 PM
Subject: Fw: Regulated public Utility or 393 not for profit corp.

Exhibit 4

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

From:
To:
Sent: Saturday, December 16, 2006 5:00 PM
Subject: Regulated public Utility or 393 Not for Profit corp.

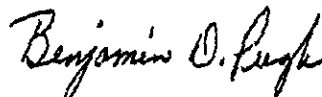
Please forward to the PSC.

Gentlemen:

I am a longtime property owner on Big Island. I understand after attending a meeting with the PSC on December 13, 2006 that Ms. Pam Holstead has told the PSC that the majority of the homeowners want a 393 corporation to operate and control the sewer and water system on Big Island.

1. Ms. Holstead has not contacted me or my wife on this matter.
2. Ms. Holstead certainly does not represent me or my best interest.
3. Ms. Holstead is leading this island into a situation which could end up in litigation.
4. I believe a regulated, certified public utility is the only solutions for Big Island.
5. I am opposed to a 393 not for profit corporation.

Respectfully,



Benjamin D. Pugh
1780 Big Island Drive

Exhibit 5

PSC:

I was not contacted regarding a 393 water and sewer corporation on Big Island, nor have I been provided with information explaining it. However, after talking with other neighbors, this is not something I am in favor of.

Therefore, Pam Holstead does not represent me, and does not represent me as being in support of this.

Thank you,



Thom Thorpe

December 17, 2006

Exhibit-6

Gentlemen,

After our meeting wednesday, December 13, 2006 I am writing to reinforce my position against a proposed 393 for the alternative of a regulated utility for Big Island.

This weekend I had the opportunity to spend time on Big Island. I was able to talk to various residents and in several conversations it was asked of me how our complaints were going with the PSC. I explained the proposed 393 that Ms. Pam Holstead has initiated as her solution to the Big Island resident problems and complaints with Folsom Ridge. The residents were not aware that Ms. Holstead submitted this plan nor did they know the total understanding of the 393 and it's consequences. I gave a brief explanation of the forced membership and their possible loss of utilities if they refused membership. I also informed them that there were residents and intervenors that were going to pursue litigation if and when a 393 goes in effect. These residents asked that they be notified as to the outcome of the decision of the PSC as soon as it becomes available. They were very concerned about Ms. Holstead's statement that she represented the majority of residents of Big Island because they had not been informed by Ms. Holstead of her proposed 393 not for profit corporation. You will be receiving calls and letters from the concerned residents that are now aware of her action.

The suggested members of the board of the 393 have little to no experience managing a 393 corporation and should not lead residents astray. The residents should be given a total explanation of a 393 corporation so that everyone has a complete understanding of what is being proposed as to her solution to the problems and issues on Big Island referencing the water and sewer utilities.

I am closing this letter with my complete objection and refusal of the 393 not for profit corporation as proposed.

I am in favor of a certificated, regulated utility company .

Stan Temare

1836 Big Island Drive

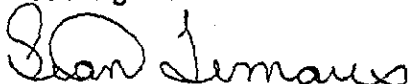


Exhibit 7

December 17, 2006

Re: 393 vs. PSC Regulated Utility

I have never been contacted personally (either verbally or in writing) by Pam Holstead or any one else regarding my preference for a 393 vs PSC regulated utility to serve residents on Big Island.

Therefore, until I receive a written copy listing the signed majority of Big Island homeowners in favor of a 393 non profit corporation AND a copy of the actual written 393 proposed document as represented to the PSC by Pam Holstead, I am NOT in favor of relinquishing my property rights to such a group or organization.

I would suggest proper legal documentation as described above must be presented by her to all residents of Big Island for signature and approval. Until such documentation is forthcoming, I am in favor of a PSC Regulated Utility.

Respectfully submitted,

Ben and Lisa Weir

Ben & Lisa Weir
2162 Big Island Drive
Roach, Mo. 65787

12-17-06

Exhibit 8

Mr. Dale Johansen

December 17, 2006

RE: Big Island Sewer and Water HOA

Dear Mr. Johansen,

It has come to my husband's and my attention that a new plan presented by Pam Holstead and referred to as a 393 is being put before the PSC in an attempt to not have a regulated public utility. As a property owner on Big Island and former board member of the HOA, I would like to clarify where my husband and I stand.

- We have **NOT** been contacted by Pam Holstead regarding a 393.
- Pam Holstead does not represent us or our interest.
- We have not received an explanation, copy of statutes, proposed bylaws or any other information necessary to determine if a 393 is best for Big Island residents.
- We are **OPPOSED** to a 393.
- We are **OPPOSED** to anything but a regulated public utility at this point in time.

We have several concerns about being forced into an organization, especially one with such potential for being sued. I resigned from the HOA board because of the deceptive practices of Folsom Ridge. If we are forced into an organization, after paying thousands of dollars to hook up, what protection is there against litigation and especially the cost of litigation? We are very concerned about the potential for litigation against the 393 or any HOA run/backed by Folsom Ridge.

Folsom Ridge has repeatedly spent thousands of dollars to avoid their responsibilities and make things right on Big Island from their very first mistakes. They have shown a track record for only looking after their personal interests and seeing how much they can get away with. They flaunt the rules and regulations in place and then cry, "Oops, sorry, we made a mistake," when caught or turned in to the legal authorities. They have made it very difficult to trust them or any organization they back. They have repeatedly tried to "front" organizations where they would still maintain control and power. This is why we are against any organization backed by Folsom Ridge.

It is very important for there to be a neutral party such as the PSC to regulate the Big Island utilities. This protects the residents and makes Folsom Ridge responsible for their actions. Please understand that Pam Holstead and the proposed 393 are not supported in any way or representative of my husband or me. Thank you.

Bruce and Valerie Kasten
Lot 87 Big Island

Exhibit 9

Page 1 of 1

Cathy J. Orlor

From: "Ben and Karen Pugh" <karben@yhti.net>
To: "Cathy Orlor" <corlerwine@yhti.net>
Sent: Tuesday, December 19, 2006 6:20 AM
Subject: Fw: Regulated VS. 393

Ms. Orlor,

Please note the letter from Mr. Nelson in response to my request for comments related to the proposed 393.

— Original Message —

From:
To:
Sent: Monday, December 18, 2006 8:09 PM
Subject: Re: Regulated VS. 303

Ben!

I have not been contacted by Pam about the 393 and I am not in favor of this plan since it places control of the system right where I don't want it to be. The voting procedure for a 393 does not favor the public but favors the developer who will have more votes than the average home owner. In talking with my long time neighbors I find not one of them were contacted by Pam on this subject so where she gets that the majority wants this is beyond me. No! No! I do not favor a 393. Let Folsom Ridge operate the system under the control of the Public Service Commission. Thank you for calling this to my attention!

Art Nelson

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.

Copies of this document were sent via E-mail to:

Cindy Fortney, 3298 Big Island Drive, Roach, MO. 65787
Benjamin D. Pugh, 1780 Big Island Drive, Roach, MO. 65787
Joseph J. Schrader, 1105 Yorktown Pl., DeLand, FL. 32720
Stan Temares, 1836 Big Island Drive, Roach, MO. 65787
Ben F. Weir, 3515 SW Meyer Blvd., Blue Springs, MO. 64015
Elaine H. and William T. Foley, II, 15360 Kansas Ave., Bonner Springs, KS. 66012
Mark and Deborah Hesley, 2308 Big Island Dr., Roach, MO. 65787
Don Deckard, 2218 Big Island Dr., Roach, MO. 65787
Bernard J. Beaven, 13900 E. 217, Peculiar, MO. 64078
Jerry Steinhour, Lot 57, P.O. Box 737, Seneca, Ill. 61360
Joseph Geary Mahr, 1886 Big Island Dr., Roach, MO. 65787
Arthur W. Nelson, 6504 Melody Lane, Parkville, MO. 64152
Eugene Prather, 1604 Big Island Dr., Roach, MO. 65787
Donald J. and Frances K. Weast, 5291 Kerth Rd., Mehlville, MO. 63128
Stephen D. Kleppe, 8210 E. Tether Trail, Scottsdale, AZ. 85255