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STATE OF MISSOURI

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PUBLIC SERVICE COMMISSION
TRANSCRIPT OF PROCEEDINGS

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PUBLIC HEARING
JUNE 6, 2006
CAMDENTON, MISSOURI
Volume 3

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Cathy J. Orlor)

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7

Complainant)

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vs.)WC20060082

)

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Folsom Ridge, LLC,)

Owning and Controlling the)

10

Big Island Homeowners)

Association)

11

)

Respondent)

12

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14

MORRIS L. WOODRUFF, Presiding

15

DEPUTY CHIEF REGULATORY LAW JUDGE

16

JEFF DAVIS, Chairman

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CONNIE MURRAY

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19

20 Reported by: Sarah J. Pokorski, CCR 17Appearances:

21

Shelly Syler, Staff Counsel

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Lewis Mills, Public Counsel

23

Mark Comley, Folsom Ridge

24

Michael Carter, Homeowners Association

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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Could I have your attention, please.
3 Could I have your attention, please. If everyone could
4 take their seats, please, we'll go ahead and get started
5 with the hearing. Thank you all very much. Well, thank
6 you all for coming this afternoon. We are here for a
7 local public hearing concerning a number of complaints.
8 They've all been consolidated and assigned Case Number
9 WC20060082. As I said, we're here for a local public
10 hearing, which means that it's an opportunity for the
11 members of the public not necessarily the parties to
12 this case to give their comments to the Commission.
13 With me my name is Morris Woodruff. I'm the law judge
14 for the Commission. I work for the Commission. And with
15 me on my right are Commissioner or Chairman Jeff Davis,
16 and Commissioner Connie Murray.

17 COMMISSIONER MURRAY: Hi.

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1 JUDGE WOODRUFF: There are three other Commissioners who
2 can't be here today, but as you can see, we have a court
3 reporter here who is taking down everything that is said.

4 And there will be a transcript made and the other
5 Commissioners will have an opportunity to to review that
6 transcript.

7 We're going to start out today simply by taking entries
8 of appearance so that the record is clear about which of
9 the parties are here, and then we'll go ahead and start
10 taking testimony from the people who have signed up on
11 the signup sheet here. And as I indicated, this is a
12 chance for you all to give your your comments, and we'll
13 listen to what you have to say.

14 So let's go ahead and begin with entries of appearance.
15 There are eight individual complainants, and rather than
16 go down the list, I'm just going to ask them to identify
17 themselves. Ms. Orlor, I know, is here. Just state your
18 name for the record.

19 MS. ORLER: Cathy Orlor.

20 JUDGE WOODRUFF: Okay. Who else is here?

21 MR. WEIR: Ben F. Weir.

22 JUDGE WOODRUFF: All right.

23 MR. PUGH: Ben Pugh.

24 MR. TEMARES: Stan Temares.

25 MS. FORTNEY: Cindy Fortney.

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1 JUDGE WOODRUFF: Okay. Any of the other named
2 complainants here?

3 MS. ORLER: Mr. Stoyer is deceased.

4 JUDGE WOODRUFF: Yes. One of the named complainants is
5 Dwayne Stoyer, and he unfortunately passed away a few
6 months ago. All right. Let me move on, then, to Folsom
7 Ridge.

8 MR. COMLEY: Your Honor, let the record reflect the entry
9 of appearance of Mark W. Comley, Newman, Comley & Ruth,
10 601 Monroe Street, Suite 301, Jefferson City, Missouri,
11 on behalf of Folsom Ridge.

12 JUDGE WOODRUFF: Thank you. And for the Big Island
13 Homeowners Association.

14 MR. CARTER: Your Honor, Michael Carter, Phillips,
15 McElyea, Carpenter & Welch, 559 Court Circle Northwest,
16 appearing for Charlie McElyea, attorney for Big Island
17 Homeowners Water and Sewer Association, Incorporated,
18 formerly known as Big Island Homeowners Association.

19 JUDGE WOODRUFF: All right. I think we'll just call you
20 the association.

21 MR. CARTER: That would be fine, Your Honor. Thank you.

22

23 JUDGE WOODRUFF: All right. For the staff.

24 MS. SYLER: Your Honor, my name is Shelly Syler,
25 representing general counsel's office and the staff for

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1 the Public Service Commission. The address is 200
2 Madison Street, Jefferson City, Missouri 65101.

3 JUDGE WOODRUFF: All right. Thank you. And for the
4 public counsel.

5 MR. MILLS: On behalf of the office of the public
6 counsel, my name is Lewis Mills. My address is Post
7 Office Box 2230, Jefferson City, Missouri 65102. Thank
8 you.

9 JUDGE WOODRUFF: Thank you. Is there anyone here for the
10 Department of Natural Resources? Okay.

11 MR. FINN: My name is Clinton Finn with the Missouri
12 Department of Natural Resources, Southwest Regional
13 Office in Springfield.

14 JUDGE WOODRUFF: Okay.

15 MR. SUMMERFORD: My name is Breck Summerford. I'm with
16 the Department of Natural Resources Public Drinking Water
17 Program in Jefferson City, Missouri.

18 JUDGE WOODRUFF: All right. Thank you for being here. I
19 don't believe either one of you are attorneys. Is that
20 correct?

21 MR. SUMMERFORD: Correct.

22 JUDGE WOODRUFF: All right. Thank you very much.

23 All right. Well, before we start taking the first

24 witness, I'll ask the Commission if they have any

25 comments. Chairman Davis, anything you want to start us

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1 out with?

2 CHAIRMAN DAVIS: I just want to welcome everyone here
3 today. It's always nice, when we have a local public
4 hearing, to have a lot of interest. And obviously by the
5 number of people here today, this is an issue that brings
6 out some intense feelings. I just want everyone to know
7 that we will listen to your testimony, and that, you
8 know, we want we don't have any preconceived notions
9 about what decision should be made. But whatever
10 decision we will make will be based on both the facts and
11 the law. And thank you again for coming. And look
12 forward to hearing from you.

13 JUDGE WOODRUFF: Commissioner Murray, anything you want
14 to start off with?

15 COMMISSIONER MURRAY: I will just ditto what the chairman
16 said. Thank you

17 JUDGE WOODRUFF: All right. Well, we'll start taking
18 testimony, then. And the first name on the list is Mr.
19 Bill Burford. If Mr. Burford will come forward. And
20 while he's coming forward I just want to say a little bit
21 about what the procedure is. We're going to give Mr.
22 Burford a chance to say state his piece, say anything he
23 wants to, then I'm going to give the parties a chance to
24 ask him questions, just to clarify his testimony if you
25 have any questions. I don't want any hard, difficult

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1 crossexamination or anything. That's not really the
2 purpose here. It's just to hear the comments. So Mr.
3 Burford, I'll turn it over to you

4 MR. BURFORD: My name's William Burford. My wife is
5 Judith Gay. And we are residents of we have four lots
6 on Big Island. Moved here in October of '04. And had we
7 known then what we know now, we probably wouldn't have
8 bought on Big Island. And that's one of the concerns and
9 reasons I'm here now is because I'm very concerned about
10 the value of my property and the publicity that's going
11 on on the island right now.

12 I have tried unsuccessfully for two years and several
13 meetings to try to get these parties together. And it's
14 unfortunate that we've had to come to this. And I think
15 what really this all boils down to is we have nine people
16 that are unhappy with Folsom Ridge. And the only thing
17 that's going to make them happy and I will give you some
18 emails from them is a public apology. And that's what
19 they want. And that's what they stated in emails that
20 they've sent out to people. They sent an email out in
21 September of '05 which I'll give you a copy of
22 basically, they were requesting all 50 or 60 of us to
23 sign on with them to join their complaint. They got no
24 responses. Then in May, just last month, we received
25 another email from them saying that that they were going

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1 to be having this hearing, and that here again, it was
2 all for us, to help us, and that there was too much
3 apathy on the island, and those of us that come down are
4 only weekend people, even though we've got maybe three,
5 four, five hundred thousand dollars invested in our
6 property. We're more than weekend people. And I
7 personally take offense at that, because this is my
8 retirement down here. So I'm very concerned as to
9 whether or not I'm going to have water and sewer, whether
10 or not it's going to be safe.
11 And but here again, they don't represent us 50. And I
12 want to make that clear. You've talked with Folsom,
13 you've talked with the complainants, and now it's time
14 for the 50 homeowners to get together.
15 Back in September, Bob Pohl was brought in the picture,
16 and we were ready to go with an association. In fact,
17 one of the complainants a gentleman by the name of Ben
18 Weir sent an email out where he states there was a
19 unanimous vote and it was unanimous to engage to help
20 form a new organization to form water/sewer. But that
21 wasn't enough for them. Okay? They want more. And they
22 want peace amongst the neighbors. This is from Ben Weir
23 also. They could not agree more. Ben also states that
24 he wants a public apology. Well, I maintain this is his
25 chance, this is a public forum, and maybe he'll get his

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1 public apology. One of the other complainants is
2 personally offended.

3 So I think what we're faced with is not so much that we
4 have a problem with water/sewer because I don't have any
5 problem, have not for two years. If I had any questions
6 or problems, Folsom Ridge reacted immediately, they fixed
7 my problem. But I did receive an email from a Cathy
8 Orler suggesting that my water may not be safe for my
9 grandchildren to drink. The scare tactic. I took my
10 water to Clinton Lab. I had that checked and my water
11 was fine. No contaminates in it whatsoever. Here again,
12 Folsom Ridge is doing their job.

13 A lot of what I've read about the complaints goes back
14 seven years. We can't change what happened in seven
15 years. Folsom has been caught, they've been punished,
16 and I think we have to go forward from this day forward,
17 and not live in the past. And I've stated that at all
18 the meetings that I've attended.

19 But in trying to get these people together, it's very
20 difficult to get them to agree, because we have nine
21 people who we can't satisfy. Of those nine and I have
22 here who is hooked on and I think your staff was
23 incorrect, probably maybe given false information but
24 there are only four people of the ten or nine that are
25 hooked, and sewer only. Only one person has water/sewer.

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1 So they don't represent the majority.

2 I also have a list of all the people who are hooked on,
3 water and sewer hooked up. Those are the ones that I'm
4 concerned about, because we're the ones that are paying.
5 So when they say they're for all, they don't represent me
6 me personally okay? I think I can probably represent
7 myself.

8 I am concerned about this that made the headlines. Big
9 stink on Big Island. That's what I'm worried about,
10 because I've got a large investment there. And I know in
11 talking with my real estate agent, Helen Riggins, they're
12 hesitant to bring people out. So what are we gaining by
13 publicizing this to the extent that we are, when Folsom
14 is in agreement that they'll do everything right from
15 this point on? But this group won't believe them. And
16 we have to put our trust in them, or they're either going
17 to have to sell out and we don't know what we'll get
18 coming in.

19 The other thing that concerns me is PSC. In my
20 experiences with government agencies and it may not be
21 yours but generally, two things happen. One, the prices
22 go up; and two, service goes down. With most government
23 entities, that's the way it is. It's better if it's held
24 privately.

25 I would like to see it where we could work something out

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1 with Folsom and these 60 homeowners. If we have to
2 disconnect those other people and they can buy back in
3 later, or if we have to give them their money back, give
4 them their money back. Anybody that paid for a tap, give
5 them their money back. Then they don't have a complaint
6 anymore. And then we'll start over. And we'll get
7 we'll sit down. I will personally, under oath, make the
8 pledge that I will hire Bob Pohl as an attorney to work
9 with our 50 people and with Folsom and the attorneys and
10 the PSC, and you can be the monitor to make sure that we
11 set it up correctly. But let us own it and operate it.
12 If there's only four of them operating right now over
13 this whole lake area, that tells me that that people are
14 doing a good job operating their own. Otherwise, you all
15 would be involved in more. So, you know
16 I also have a letter from my neighbor that he asked me to
17 give to you, Ed Foster. He just they're moving down
18 here permanently. And he his letter speaks for itself.
19 He's in total agreement with with my comments. And also
20 I think a letter that's going to be presented from a Ms.
21 Holstead or is that her name? Yeah. Ann Holstead.
22 So I'll be happy to give you all of this information,
23 but, you know, I think if you read the emails of the
24 complainants, in their own words, they say my personal
25 integrity is important to me. Well, it's important to

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1 all of us. This is a personal matter. And at one
2 meeting, I said we just need to put on our gloves, go out
3 behind the barn, duke it out and we'll solve this
4 problem. But you have stubborn people. And so in
5 closing, I will just say that I have also a letter from
6 another complainant here. And I believe her name is
7 let's see. I'll find it real quick. But, you know, one
8 thing about emails, they're good. Because it's stating
9 facts. I'll just present all this to you and let you
10 look over it. If you have any questions, I'll be happy
11 to answer them.

12 But here again, you only have two people that are hooked
13 on four people who are hooked on. One person doesn't
14 even come down here hardly at all. So, you know, we're
15 here permanently.

16 JUDGE WOODRUFF: All right. You've got a number of
17 documents there.

18 MR. BURFORD: Right.

19 JUDGE WOODRUFF: We'll just call them all Exhibit 1.

20 MR. BURFORD: You can have them all.

21 JUDGE WOODRUFF: Fine. Does any of the parties want a
22 chance to see these documents?

23 MR. TEMARES: No. But I had a question.

24 JUDGE WOODRUFF: All right. We'll give you a chance to
25 ask questions in a moment here. All right. Go ahead and

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1 hand me the documents.

2 MR. BURFORD: You can have them all. They've got my
3 chicken scratches on them, little notes. Probably got my
4 outline on there, too. You can have that.

5 JUDGE WOODRUFF: All right. It's all Exhibit 1.

6 MR. BURFORD: All right.

7 JUDGE WOODRUFF: And if you want to just wait here at the
8 at the witness table, I'm going to give the other
9 parties

10 MR. BURFORD: I want you to know, I've looked around this
11 lake I've been down to this lake since 1981, and owned
12 another home. And I'm going to tell you, they may have
13 made some mistakes, but we all have. And I think the
14 project that they're putting out there now is first
15 class. They're adding a brand new filter bed. I think
16 we can carve that out to where that filter bed will go
17 towards their other projects that they're building. And
18 I think that you all have it within your power to make
19 this thing go away, just like that. I really do.

20 JUDGE WOODRUFF: Thank you. For questions, then, we'll
21 begin with Ms. Orler. Do you have any questions?

22 MS. ORLER: I think most of my questions could be
23 answered when I speak.

24 JUDGE WOODRUFF: Okay.

25 MS. ORLER: Other than I would like to state that we have

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1 yet to receive any documentation to support the statement
2 of connections.

3 JUDGE WOODRUFF: Okay.

4 MS. ORLER: Or members.

5 JUDGE WOODRUFF: When you testify, you can go ahead and

6 MS. ORLER: Okay.

7 JUDGE WOODRUFF: Right now, we're just asking for
8 questions for Mr. Burford. I believe Mr. Pugh was next.

9 MR. PUGH: Well, Bill, were you insinuating that article
10 in the Lake Sun Leader are you insinuating the
11 complainants sent that letter in?

12 MR. BURFORD: No, sir.

13 MR. PUGH: Well, it sure sounded like it to me.

14 MR. BURFORD: I can clarify that, if I can

15 JUDGE WOODRUFF: Go right ahead.

16 MR. BURFORD: Okay. Had the complaints not been made,
17 the article wouldn't have shown up.

18 MR. PUGH: All right. I would like I'd like for Bill to
19 know that I've been involved in fighting this thing since
20 1998 and

21 UNIDENTIFIED SPEAKER: Is this a question?

22 JUDGE WOODRUFF: Exactly. If you have a question for him
23

24 MR. PUGH: I do have.

25 JUDGE WOODRUFF: You're going to have a chance to testify

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1 later. But if you have questions right now, go ahead and
2 ask a question.

3 MR. PUGH: I'll pass.

4 JUDGE WOODRUFF: All right. Thank you. Mr. Weir?

5 MR. WEIR: Yes. I would like to clarify. Bob Pohl, that
6 was a May 7th, 2005 meeting right after the homeowners
7 meeting, instead of September.

8 JUDGE WOODRUFF: Do you have a question?

9 MR. WEIR: Yes. Why didn't the committee that was
10 unanimously appointed by the people attending that May
11 7th meeting go ahead and engage Bob Pohl? Because the
12 unanimous vote was that it was a sense of urgency,
13 because we were going to assume the liabilities come
14 September 1, 2005. We said we did want to engage Bob
15 Pohl. It was a unanimous vote. And why was his services
16 never engaged?

17 MR. BURFORD: Because the complainants went ahead with
18 their action before we had a chance to go on with Bob.

19 MS. ORLER: Four months wasn't a long enough time?

20 JUDGE WOODRUFF: I'm sorry. Bob Pohl is an attorney that
21 the association is going to hire?

22 MR. BURFORD: Correct.

23 JUDGE WOODRUFF: Okay. And was that

24 MR. BURFORD: And it just took time to get to get
25 everything to him. He had there's another gentleman

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1 that will testify that it just took a while to gather all
2 the documents from the association, from Bob, go over the
3 history of everything because it does go back seven
4 years, and in order to get him engaged. So it wasn't
5 just a matter of getting him engaged and doing it
6 immediately.

7 JUDGE WOODRUFF: This was a different engagement than
8 what Mr. Methier (Phon.)

9 MR. BURFORD: No. Same engagement.

10 JUDGE WOODRUFF: Same engagement?

11 MR. BURFORD: The same.

12 JUDGE WOODRUFF: Is Mr. Pohl with Mr. Methier's firm?

13 MR. BURFORD: No. He's with Hanson. He's over in Osage
14 Beach. He's with Eric Hanson's firm.

15 JUDGE WOODRUFF: All right. Sir? I forgot your name.

16 MR. TEMARES: Stan Temares.

17 JUDGE WOODRUFF: Mr. Temares. Did you have a question?

18 MR. TEMARES: I just the question I had was he said that
19 Folsom Ridge were caught and they made their you know,
20 they satisfied the corrections. And I was going to ask
21 what were they caught at.

22 MR. BURFORD: As far as to the best of my knowledge and
23 this is information that I received from the complainants
24 was that they got caught by putting the water line and
25 the sewer line in the same ditch. And it's my

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1 understanding that they paid a fine or that they were
2 slapped or something happened, but they corrected it.
3 They spent over \$300,000 and did correct it.

4 MR. TEMARES: Was that the only thing they were caught
5 at?

6 MR. BURFORD: I believe also there's several things they
7 were caught at and I don't have that list in front of me
8 and I don't have all that. But they were caught at
9 several things over a period of seven years. That is
10 correct.

11 MR. TEMARES: Was there any reprimands or anything given?
12 Do you know?

13 MR. BURFORD: As far as I know, there has been some
14 reprimands. Yes.

15 MR. TEMARES: All right. Thanks.

16 JUDGE WOODRUFF: Ms. Fortney, did you have some questions
17 as well?

18 MS. FORTNEY: No. I'll make comments. They're comments
19 and not questions.

20 JUDGE WOODRUFF: Okay. Thank you. I think that's all of
21 the complainants that are here. Mr. Comley, anything for
22 Folsom Ridge?

23 MR. COMLEY: No questions.

24 JUDGE WOODRUFF: Mr. Carter, for Big Island Homeowners
25 Association?

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1 MR. CARTER: No questions. Thank you.

2 JUDGE WOODRUFF: For staff?

3 MS. SYLER: No questions.

4 JUDGE WOODRUFF: Public counsel?

5 MR. MILLS: Just one. You mentioned that in your
6 experience, when the government is involved, the cost
7 goes up and the service goes down. What specific
8 agencies were you referring to?

9 MR. BURFORD: Any federal and state agency. There's
10 probably I'll just say every single one of them that
11 I've ever dealt with. And I will tell you I'm in the
12 health care field, and so I'm so regulated it's just
13 ridiculous.

14 MR. MILLS: Now I've got to ask one more question. Have
15 you ever dealt with my agency?

16 MR. BURFORD: I think I may have clarified that in the
17 beginning. I don't know about this one. Okay?

18 MR. MILLS: I have no further questions.

19 JUDGE WOODRUFF: Ms. Fortney?

20 MS. FORTNEY: I do have one question. Bill, I was
21 wondering, could you also make a copy of the response
22 that you sent to me to go along with the email that I
23 sent out?

24 MR. BURFORD: Absolutely.

25 MS. FORTNEY: Okay.

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1 MR. BURFORD: If you'd like a copy.

2 MS. FORTNEY: I just want to make sure the judge sees it

3 also.

4 MR. BURFORD: Okay.

5 JUDGE WOODRUFF: Chairman Davis, do you have any

6 questions?

7 CHAIRMAN DAVIS: No questions, sir. Thank you.

8 JUDGE WOODRUFF: Commissioner Murray?

9 COMMISSIONER MURRAY: No questions. Thank you.

10 JUDGE WOODRUFF: You may step down.

11 MR. BURFORD: Step down?

12 JUDGE WOODRUFF: Well, we don't actually have any place

13 to step down from.

14 UNIDENTIFIED SPEAKER: Is that microphone working here?

15 JUDGE WOODRUFF: Are people having trouble hearing?

16 MR. MILLS: It works, but you have to be very close for

17 it to pick up

18 JUDGE WOODRUFF: All right. The next name on the list is

19 Jean

20 MS. GRUDEL: Grudel.

21 JUDGE WOODRUFF: Grudel? Or Roger Simmer?

22 MS. GRUDEL: Yes.

23 JUDGE WOODRUFF: And I assume you're Jean?

24 MS. GRUDEL: Yes. I hope so. Roger

25 JUDGE WOODRUFF: Just a moment.

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1 MS. GRUDEL: Okay

2 JUDGE WOODRUFF: Mr. Burford, I just realized, I don't
3 believe I swore you in as a witness. I'm not going to
4 ask you to repeat it.

5 MR. BURFORD: That's fine.

6 JUDGE WOODRUFF: But I will swear you in now and ask you
7 on the record that to verify that what you said before
8 was the truth.

9 MR. BURFORD: Okay.

10 JUDGE WOODRUFF: All right. Would you please raise your
11 right hand. Do you solemnly swear or affirm the
12 testimony you're about to give in this matter is the
13 truth, the whole truth and nothing but the truth?

14 MR. BURFORD: I do.

15 JUDGE WOODRUFF: And as I previously indicated, I'm not
16 going to ask you to repeat everything you said, but was
17 everything you said true?

18 MR. BURFORD: Yes, sir.

19 JUDGE WOODRUFF: All right. Thank you. All right. Then
20 we'll move on over to Ms. Grudel.

21 MS. GRUDEL: Grudel.

22 JUDGE WOODRUFF: Grudel. And I'll swear you in.

23 MS. GRUDEL: Okay.

24 JUDGE WOODRUFF: Do you solemnly swear or affirm the
25 testimony you're about to give in this matter is the

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1 truth, the whole truth and nothing but the truth?

2 MS. GRUDEL: Yes, I do.

3 JUDGE WOODRUFF: All right. Thank you.

4 MS. GRUDEL: My name is Jean Grudel. Roger Simmer and I

5 own two and a half lots on Big Island. One is connected

6 on the tap both are connected, one is in use. We're

7 happy with what we have with Folsom Ridge. We don't want

8 things to change. And we are fulltime residents. We

9 bought the place last July. And we have no complaints

10 whatsoever.

11 JUDGE WOODRUFF: Okay

12 MS. GRUDEL: So that's all I wanted to say. Just so you

13 could hear me.

14 JUDGE WOODRUFF: Just wait and see if anyone has any

15 questions for you.

16 MS. GRUDEL: I'm not going anywhere.

17 JUDGE WOODRUFF: Do any of the complainants have any

18 questions for Ms. Grudel? All right. For Folsom Ridge?

19 MR. COMLEY: No questions.

20 JUDGE WOODRUFF: Homeowners Association?

21 MR. CARTER: No questions, Judge. Thank you.

22 JUDGE WOODRUFF: Staff?

23 MS. SYLER: No questions.

24 JUDGE WOODRUFF: Public counsel?

25 MR. MILLS: No questions.

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1 JUDGE WOODRUFF: Either of the Commissioners?

2 CHAIRMAN DAVIS: No questions

3 COMMISSIONER MURRAY: I have one. How long have you been
4 a resident full time?

5 MS. GRUDEL: July 27th, we moved in.

6 COMMISSIONER MURRAY: Of?

7 MS. GRUDEL: Last year.

8 COMMISSIONER MURRAY: '05? Thank you.

9 JUDGE WOODRUFF: All right. The next name is Cathy
10 Orler. Please raise your right hand. I'll swear you in.
11 Do you solemnly swear or affirm the testimony you're
12 about to give is the truth, the whole truth and nothing
13 but the truth?

14 MS. ORLER: Yes, sir.

15 JUDGE WOODRUFF: Okay. What would you like to tell us?
16 And since you are a complainant, I just want to tell you
17 I'm certainly going to let you speak today, but keep in
18 mind that you don't have to prove your case today.

19 MS. ORLER: Okay.

20 JUDGE WOODRUFF: But I'll let you say what you want to
21 say.

22 MS. ORLER: Okay.

23 MR. COMLEY: With respect to her testimony, Judge, since
24 Ms. Orler is a complainant, I would reserve the right to
25 object to her testimony to the extent it would tread into

1 areas that are irrelevant and immaterial to the case.

2 UNIDENTIFIED SPEAKER: We're not in court, I don't think.

3 MR. COMLEY: Sworn testimony.

4 JUDGE WOODRUFF: All right. This is sworn testimony, and

5 it is something that the Commission can consider as

6 evidence. Since she is a party in the case, Mr. Comley

7 is correct. So go ahead.

8 MS. ORLER: First of all, I would like to make the

9 statement that the formal complaints were filed after

10 seven years of ongoing controversy with Folsom Ridge in

11 trying to reach a resolution, and no result. The

12 deadline was fast approaching for the homeowners

13 association and the actual members of that association to

14 assume the liability for the water and sewer association,

15 which came about on September the 1st of 2005. I am not

16 a member of that association. I have purchased a water

17 and sewer tap from Folsom Ridge with a reserved right to

18 connect at some point in the future. But this utility

19 system affects not only just its members today, but it

20 will affect every resident on the island, in terms of

21 property values and future ability to service with

22 adequate and safe service.

23 MR. COMLEY: To the extent that Ms. Orler is testifying

24 on behalf of members of the association, I object. She

25 is not a member of the association and cannot claim to

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1 have any kind of representation for it.

2 JUDGE WOODRUFF: I'll overrule the objection. You can go
3 ahead and proceed

4 MR. COMLEY: Your Honor, may I have my objection noted
5 for the record as a continuing one?

6 JUDGE WOODRUFF: Certainly.

7 MS. ORLER: And I guess I would like to make the
8 statement to Mr. Comley's response that we the
9 complainants have made a request over seven years and
10 within the past year that our complaints have been before
11 the Public Service Commission for membership records from
12 Folsom Ridge slash Big Island Homeowners Association
13 slash Big Island Water and Sewer Association. We have
14 yet to receive the records requested indicating
15 membership, connections, service received

16 MR. COMLEY: Your Honor, that's an incorrect statement.
17 The complainants have received or Mrs. Orler has
18 received everything that she's requested.

19 JUDGE WOODRUFF: All right. That is a matter that's
20 currently pending before the Commission on a couple
21 motions. It's not necessarily a matter that needs to be
22 brought up today.

23 MR. COMLEY: For the record, just to make it clear, the
24 position of Folsom Ridge and Big Island is that every
25 single data request that's been submitted to us has been

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1 answered completely.

2 JUDGE WOODRUFF: All right. Go ahead and proceed, Ms.

3 Orler.

4 MS. ORLER: Thank you. First of all, I would like to

5 respond to Mr. Burford's statements with regards to

6 pursuing a new HOA and the employment of Bob Pohl.

7 MR. COMLEY: Your Honor, I think this is improper kind of

8 testimony. If she's making responses to other witnesses,

9 it's not her testimony. It's a position statement and

10 argument. That is not what the purpose of this hearing

11 is for.

12 JUDGE WOODRUFF: I'll I'll agree with that.

13 MS. ORLER: And I do have a statement to make.

14 JUDGE WOODRUFF: Go ahead and make your statement.

15 MS. ORLER: With regards to employing Bob Pohl's services

16 for the purposes of establishing a new HOA, the time

17 frame which took place between announcing that his

18 services would be employed and nothing ever taking place

19 regarding that employment again, the September 1

20 deadline of 2005 when members of the association would

21 incur the liability of the system was approaching. I

22 filed my formal complaint on August the 18th, barely a

23 week and a half away from that deadline.

24 Something that was not disclosed to the residents with

25 regards to the hiring of Bob Pohl and the forming of a

1 new association was an email sent between Mr. Bill Hiley
2 and Bill Burford and Rick Rusaw (Phon.) discussing the
3 new association, in which there would be 100 percent
4 participation from all residents on the island with a tap
5 into this new association. The association would then
6 purchase the interior of the island. And if you were a
7 member of the association and could not afford the
8 purchase of the interior of the island, a lien would be
9 attached to your property. This was not disclosed to
10 residents. This is my only copy, but I will be happy to
11 make a copy so it can be entered into evidence. I think
12 forcing one's participation into an association, that
13 association then in turn purchasing property, if you
14 disagree with that purchase or can't afford it, a lien
15 being attached to your property is improper. And in my
16 opinion, I would consider it illegal.

17 MR. COMLEY: Objection, Your Honor, there is no
18 foundation that Ms. Orler can render legal opinions or
19 whether or not she has a foundation or opinion evidence
20 that says that kind of approach is it's improper.

21 JUDGE WOODRUFF: I'll sustain that objection

22 MS. ORLER: Also with regards to the ongoing sevenyear
23 problem of Folsom Ridge violating the state laws

24 MR. COMLEY: I'll object to that question on the form of
25 of what she's doing. She is presuming that there have

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1 been violations to that extent. There's been no proof
2 rendered that there's been any violations of that
3 agreement.

4 JUDGE WOODRUFF: Your objection is noted on the record.
5 You can go ahead and

6 MS. ORLER: I have submitted, both as a part of my formal
7 complaint and with subsequent pleadings that have been
8 filed, a listing of the DNR violations that have been
9 violated with a violation number and handed to Folsom
10 Ridge for the water and sewer utility

11 MR. COMLEY: And Judge, if they have been in the
12 complaint, there's no need for her to repeat them here.
13 That'll overburden the record.

14 JUDGE WOODRUFF: Overruled. You can go ahead.

15 MS. ORLER: Mr. Burford referred to the fact that those
16 were in history, nothing recent. The most recent
17 violation that I am holding is dated June the 21st
18 excuse me June the 28th of 2005. This was a violation
19 to Folsom Ridge for improper water sampling. Mr. Burford
20 made a comment that referring to an email that I had
21 sent out to residents regarding the formal complaint that
22 I had filed in which Mr. Burford did, under oath,
23 testify that I said the water would hurt his
24 grandchildren. I have a copy of the email that I sent
25 out, what my exact statement was. And I would like to

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1 read from my document. My exact statement was the basis
2 of my complaint and my opinion was that the current Big
3 Island HOA being owned and controlled by Folsom Ridge has
4 not been operating as an HOA by providing services and/or
5 billing users and non users who are not members of the
6 Big Island HOA. In addition, many serious DNR violations
7 have been committed by Folsom Ridge throughout their
8 seven years of attempted development on Big Island,
9 including the two most recent violations of expanding the
10 original and present water system with a maximum capacity
11 of 80 to service 80 homes off the island, to include
12 approximately 160 acres of virgin Folsom Ridge
13 development, without obtaining a new construction permit
14 from DNR and submitting the engineered, stamped and
15 approved drawings for this purpose. And the violation of
16 DNR regulations for improper drinking water sampling,
17 which, in my opinion, has seriously compromised the safe
18 operations of our public drinking water supply, which
19 could affect not only our individual property values, but
20 also our personal health and safety. I make no reference
21 to Mr. Burford's grandchildren. I did not say that our
22 water was unsafe to drink. And I have the document to
23 support my statement.

24 JUDGE WOODRUFF: Okay.

25 MS. ORLER: And this is the violation containing both

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1 violations for improper water sampling, as well as an
2 expansion of the water line off of the island without the
3 appropriate submitted drawings and applications to DNR.

4 I would also like to state that in to my knowledge, in
5 none of the formal complaints have any of the
6 complainants made fees an issue in terms of asking for a
7 refund on fees or a refund of any sort.

8 I would also like to make the statement that that is not
9 within the PSC's jurisdiction to make restitution of
10 fees. We have not asked for that. We have asked for a
11 system to be regulated by the Public Service Commission,
12 and we have also asked that the certificated company
13 operating that be separate and not associated with Folsom
14 Ridge.

15 I would also like to make the statement that in the
16 correspondences that have recently gone out from those
17 that have been opposing us, they refer to themselves as
18 the silent majority. I would like to make the statement
19 that they have chosen to be silent, that these have been
20 ongoing problems for nearly seven years with no resolve.
21 The residents a concerned group of residents, nearly six
22 years ago when I moved to Big Island, formed a committee
23 then. We spent almost \$5000 in attorney's fees trying to
24 get a resolve to the many issues that have been stated in
25 the formal complaints. The legal opinions were rendered.

1 Folsom Ridge and the Big Island Homeowners Association
2 were notified of the legal opinions that were rendered.
3 Nothing changed. The fact that we complainants chose to
4 file formal complaints with the Public Service
5 Commission, those that oppose are opposing us now are
6 calling themselves the silent majority. Their choice has
7 been to be silent, and until now, to oppose us, only do
8 they have a voice.

9 Our efforts as both noted in our formal complaints as
10 well as all of our correspondences that have gone out to
11 the residents of Big Island, our objective was to do what
12 is in the best interest for all of the residents on Big
13 Island. These are not personal. We've never made any
14 statement or any claim in any of our formal complaints
15 that we have not used support documentation as evidence.
16 My formal complaint, as an example, was submitted in a
17 three-ring binder that was about six inches thick. None
18 of the complaints or statements that we have made have
19 been opinionated. Everything has been supported with
20 documents.

21 With regards to the information that has been circulated,
22 and the many questions that were asked today with regards
23 to rates and PSC involvement, again, I would like to make
24 a statement. We have seen no figures to either support
25 the increases in rates merely by PSC involvement, and we

1 have been given no figures from Folsom Ridge i.e. Big
2 Island Homeowners Association with which to form any
3 type of a basis regarding rates, regarding expenditures,
4 regarding accruing of capital gains expenditures,
5 regarding accounts for regularly scheduled maintenance.

6 MR. COMLEY: I object to the statement on grounds that
7 she presumes that kind of information is required in this
8 kind of proceeding. There is no requirement by law that
9 that be part of this proceeding. In fact, it's not even
10 part of the issues. So I would object to the statement
11 and have it stricken.

12 JUDGE WOODRUFF: I'll overrule the objection, but it's
13 noted for the record.

14 MS. ORLER: It is my understanding that the reason for
15 this public hearing today is to voice opinions and to
16 allow everyone in the community to speak, even those that
17 are opposing us, which I strongly encourage. And so for
18 that reason, I am making my statements, and for that
19 reason the word opposition is based on something. I
20 hope that out of this hearing today, we hear some strong
21 issues as to why these people that are in opposition of
22 PSC regulation, which is what we the complainants are
23 requesting I am hoping that out of this meeting today,
24 we are able to achieve a listing of exactly what is it
25 you are opposed to. The reason for my statement is this:

1 The opposition to the complainants and their formal
2 complaints filed with the PSC was organized in October of
3 2005. There were 20 persons opposing the complainants
4 and their request for PSC regulations. Out of that 20,
5 three individuals are employed by Folsom Ridge, and two
6 were undecided, awaiting more information. It wasn't
7 until May of this year, 2006, that Bill Hiley had
8 requested copies of the formal complaints. I would like
9 to know how you can organize an opposition to something
10 when you haven't even read the formal complaints. So how
11 do you know what it is you are opposing? In the email
12 that I sent out to all Big Island residents after the
13 filing of my formal complaint, this was the statement
14 that I made.

15 I do disagree with Mr. Burford's statement, in that I
16 tried to bring people on board? Was that correct, Mr.
17 can you read that back to me, please, what Mr. Burford
18 had said.

19 MR. COMLEY: Your Honor, I'm going to object to this kind
20 of activity as part of the hearing. I've sat patiently
21 and listened to this, but this hearing should not be an
22 opportunity for Mrs. Orlor to buttress her complaint and
23 to ask other witnesses questions to the extent they're no
24 longer testifying.

25 JUDGE WOODRUFF: I'll sustain that objection.

1 MS. ORLER: Okay. What I actually sent out to all
2 residents is the wording I will read right now. In
3 addition, for your convenience, as a part of this email,
4 I have included a blank PSC formal complaint form for
5 anyone who wishes to show support of the complaint issues
6 and/or express concern by filing a complaint. I was not
7 soliciting.

8 In addition, some of the information that has been
9 circulating with regards to PSC regulation and this
10 utility is the fact that PSC will come in and require
11 water meters. In my questioning of PSC staff persons, I
12 was told that there are many flatrate utilities out there
13 being regulated by the PSC. A flatrate utility is one in
14 which there is nonmetered service.

15 I would also like to make the statement that in the same
16 violation issued to Reggie Golden from Department of
17 Natural Resources on June the 28th, '05 with regards to
18 improper water sampling and expanding the water line
19 without a construction permit, at that time in June of
20 last year, it was recommended to Mr. Golden by Department
21 of Natural Resources that water meters should be
22 installed.

23 MR. COMLEY: Your Honor, I'm going to continue to object
24 to the use of these. These are not exhibits that are
25 admitted in this hearing. I have not seen the exhibits.

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1 I think it's improper to make use of them in connection
2 with this. She has already told you that the information
3 she's reading from is probably connected to her
4 complaint. Whether that is proper evidence in this
5 proceeding has not yet been ruled on, and I would object
6 to her use of those kinds of documents in the course of
7 her testimony today. And I would like the record to
8 reflect that my objection is continuing.

9 JUDGE WOODRUFF: Actually, I'll sustain that objection.
10 Let me just remind Ms. Orler.
11 You're going to have an opportunity in about six weeks
12 now to present all this kind of testimony to the
13 Commission. So if you'd just confine yourself to more
14 general matters at this point.

15 MS. ORLER: Okay. I would also like to bring up a letter
16 that was left in a mailbox. This is by a former resident
17 who has since moved. This letter was left in the mailbox
18 of Mr. Benjamin Pugh, a complainant, as a result of him
19 attending a meeting that obviously the complainants did
20 not receive invitations to. Dear Ben, I just thought
21 that I would drop you a few lines thanking you and your
22 posse for the great work you have done regarding the
23 sewer and water. I have just got done this was is his
24 English I just got done speaking with Stacy Shore,
25 Reggie Toombs and et cetera. I have found out that you

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1 and yours may cause all of our rates to possibly double.
2 Great job. The bad part about all of this is no one can
3 really tell me what the problem really is. It is really
4 bad also that about half the people complaining do not
5 reside here anymore. Merry Christmas and happy New Year.

6

7 MS. GOLDMAN: May I say something? That letter was from
8 my husband.

9 JUDGE WOODRUFF: Are you on the list to testify?

10 MS. GOLDMAN: I'm on the list at the last, but by the
11 time she gets finished, we'll be over. I mean, the night
12 will be over with.

13 JUDGE WOODRUFF: Well, you'll have an opportunity to
14 speak a little bit later.

15 Ms. Orler, we do need to kind of move things along here.

16 MS. ORLER: My reason for making this statement is that
17 there has been a lot of misinformation.

18 UNIDENTIFIED SPEAKER: From you.

19 MR. TEMARES: No. Not from her.

20 JUDGE WOODRUFF: Please remain in order.

21 MS. ORLER: That there has been a lot of misinformation.
22 And I think some of the opposition to PSC regulation,
23 which is the request of the formal complaint, is based on
24 misinformation. And I'm very hopeful that the public
25 meeting today will answer some of those questions and at

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1 least redirect and give some correct information.

2 JUDGE WOODRUFF: Thank you. Mr. Comley, do you have any
3 questions?

4 MR. COMLEY: Your Honor, I do have questions. But in the
5 interest of time and in the interest and spirit of our
6 rules of advocacy at the Commission, I would prefer to
7 reserve them for crossexamination of Ms. Orler at the
8 appropriate time.

9 JUDGE WOODRUFF: All right. Thank you. Mr. Carter, do
10 you have anything?

11 MR. CARTER: I would agree with Mr. Comley, Your Honor.

12 JUDGE WOODRUFF: For staff? Ms. Syler?

13 MS. SYLER: Not at this time.

14 JUDGE WOODRUFF: Public counsel?

15 MR. MILLS: I have no questions. Thank you

16 JUDGE WOODRUFF: Chairman Davis?

17 CHAIRMAN DAVIS: Okay. Briefly, Ms. Orler. Okay. You
18 believe that Folsom Ridge and Big Island Homeowners
19 Association are operating as an investorowned utility.
20 Is that correct?

21 MS. ORLER: They are offering service and billing
22 individuals who are not members. I am not a member. I
23 receive a bill.

24 CHAIRMAN DAVIS: Okay. And ultimately, what would you
25 like to see happen?

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1 MS. ORLER: Ultimately, I think our utility needs to be
2 regulated by the Public Service Commission as a public
3 utility, for the simple fact that there are members being
4 billed or excuse me people who are nonmembers being
5 billed and people who are receiving service who are
6 nonmembers. That makes it a public utility. Secondly,
7 it needs to be owned and operated by a certificated
8 company with no association and separate from Folsom
9 Ridge.

10 CHAIRMAN DAVIS: Okay. Your objection to Folsom Ridge is
11 that, allegedly, they have had environmental violations
12 in the past, DNR or something like that?

13 MS. ORLER: Numerous. Numerous violations. We have
14 tried to reach a resolve with them for years over issues
15 with with with no resolve. And a lot of these some of
16 these violations have been repeat violations. They are
17 currently operated under a mandated settlement agreement
18 with the Department of Natural Resources. That document
19 was violated as well. That is the violation that I
20 referenced earlier in my statement.

21 CHAIRMAN DAVIS: No further questions at this time,
22 Judge.

23 JUDGE WOODRUFF: Commissioner Murray?

24 COMMISSIONER MURRAY: I have no questions at this time.
25 Thank you.

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1 JUDGE WOODRUFF: Thank you, Ms. Orlor. Next name on the
2 list is Bill and Tonie Hiley.

3 MR. HILEY: Hiley.

4 MS. HILEY: Hiley.

5 JUDGE WOODRUFF: Hiley. okay.

6 MR. HILEY: Give you a book here. Would it be okay if I
7 stood here?

8 JUDGE WOODRUFF: If that would be more comfortable for
9 you.

10 MR. HILEY: The reason is the mic's not working anyway.

11 JUDGE WOODRUFF: All right. All right, Mr. Hiley.

12 Before you get started, I need to swear you in.

13 MR. HILEY: Uhhuh. Okay.

14 JUDGE WOODRUFF: Please raise your right hand. Do you
15 solemnly swear or affirm the testimony you're about to
16 give in this matter is the truth, the whole truth and
17 nothing but the truth?

18 MR. HILEY: Yes.

19 JUDGE WOODRUFF: All right. what would you like to tell
20 us?

21 MR. HILEY: Okay. First of all, the reason I'd like to
22 stand and talk like this is because there are a few
23 charts and there's a few diagrams on it that might help
24 everyone understand this.

25 First of all, this is my wife, Tonie. We've lived here

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1 just three years full time, but we've owned property here
2 for 40 years.

3 The book that I handed out has in it my copy of my
4 presentation, which are my formal comments. I am not
5 representing let's say the noncomplainants, if you will.

6 I am not representing them. I think Jim advised me that
7 I'm not an attorney, I shouldn't do so. And I don't
8 intend to.

9 What I have done is I have asked for comments from the
10 rest of the people on the island. I received in your
11 book, I've got about 20some comments. You'll hear from
12 other people today that probably aren't in the book. And
13 I think you'll see a consensus very quickly as you read
14 through there, but I'm not going to try to summarize that
15 for you.

16 What I want to do is this is my first chart here. What
17 I want to do is go over what I would suggest for
18 resolution of these issues, if you will. I kind of want
19 to cut to the quick. I'm really not interested in what
20 the headlines here are about the big stink on Big Island
21 and the satisfied majority or the the silent majority or
22 whatever Cathy wants to call us. The fact is that when
23 these complaints were filed last August, we were in the
24 process of working with Mr. Pohl. That's been brought
25 up. And I just wanted to clarify that it was from May to

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1 August that we worked we were trying to make that
2 arrangement. And we wanted to work with Folsom. I think
3 two or three different key people were on vacation. It
4 took a while to get that going. And and then we were
5 actually trying to get some of the fees for the attorney
6 through the HOA. Well, Folsom advised me that that
7 wasn't possible. So we we had to not do that. I
8 collected the money myself. I had collected about a
9 thousand dollars when the complaint came through. And at
10 the advice of the attorney that we had in our group Pam
11 Holstead said why don't you just stop this, Phil, until
12 PSC has made their rulings. But we would like to have a
13 public hearing, which we're at today.
14 So now, as far as the complaints go, I sent a summary to
15 all of the people of the complaints when this hearing was
16 announced, a factual a document of the complaints and a
17 copy of Jim Merciel and Mr. Hummel's staff report. I
18 sent that out to everyone so that they could write some
19 informed opinions. And you have many of those in there,
20 and you'll probably get some more today, and you'll hear
21 from them.
22 So what I want to do is give you a little bit of
23 background, that way everybody else won't have to give
24 you some background, and then get to what the suggestions
25 are for the resolution. As I said, I've owned property

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1 here for 40 years, and a lake home for 30 years, and
2 we're we've been here for about three years. I'm not
3 hooked on. I so I paid my \$4800 tap fee. So I'm kind
4 of in the same boat with Cathy. I'm not hooked on, and
5 but I have paid for tap fees. I did pay my quarterly
6 fees that were billed by Folsom. So I guess I'm a
7 nonmember I didn't sign the HOA. So I'm a nonmember and
8 I'm a noncustomer. I still pay my fees. They're not
9 very much. They're only seven bucks a month. And I
10 thought it was good to I thought it was a fair charge,
11 and so I paid them. But I didn't ratify the bylaws,
12 because I thought I wasn't interested in a big liability
13 personal liability of a new system. And so that was
14 just a precaution on my part. That was many years ago.
15 A little bit more on this is on the chart. I'll just
16 say what's on the chart here. I was probably Reggie and
17 Rick's worst nightmare, because they had applied for
18 multifamily zoning, and we opposed it, and we won. So I
19 was kind of on the opposite side of Folsom then. And
20 then we worked with with Folsom, including Mark sitting
21 right there to come up with what they would the new
22 homes that they would put on Big Island. And we had a
23 committee of folks that worked with them over a period of
24 months. And eventually, that new PUD, as it's called,
25 was approved and they're building it right now. And it's

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1 very attractive.

2 I think I've already explained the other thing on my
3 chart. The last item on my chart there is about this
4 postponement of our activity. I know that the that the
5 complainants were getting impatient. I heard from Mr.
6 Weir, and he says what's going on, Phil. And I explained
7 it to him. And it was a few maybe a week later when the
8 complaints come out. So, I mean, they have a right to
9 complain. I'm not going to argue that. What I might
10 argue is the process in which it was done. Because we
11 knew nothing of the complaints. There was never any
12 meetings held. We we had no idea what the complaints
13 were composed of.

14 Okay. Little picture chart here. I think this
15 development here is a little bit different. And I hope
16 everyone understands. Development on Big Island Big
17 Island's a picture here in the middle, everyone can see.
18 There were what we'll call the old homeowners people
19 that already had homes in the white there. There's
20 about 55 of those people on the island. Those are the
21 old homeowners in a couple of different areas on the
22 island. Folsom, as soon as they bought the property in
23 '98 it was in litigation for many years. That's why no
24 one ever bought it before. Lot of they bought
25 everything else basically that existed on the island that

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1 wasn't owned by the old people. And homes were built in
2 these yellow areas you see on the chart, three different
3 areas. And I believe they sold 44 lots and 34 homes on
4 those lots now. I know there's some of the homes that
5 Bill was talking about, those people had to hook up to
6 water and sewer. The little red region on the chart is
7 the new development that I spoke about that we worked
8 with hard with Folsom last year on. And that I think
9 there's three homes being built right now, and one of
10 them's even done. So that looks very good.

11 Now, let's let's go to the next chart. It just gives
12 you a little idea. I guess my main point there is that
13 they bought some property, there were homes already
14 there, and then they built some sold some lots, built
15 some new homes, and now they're building another
16 development where all the homes are of a similar a
17 similar kind.

18 Okay. The history perspective, I just want to bring you
19 up to speed as quick as I can here. When they first come
20 on board, which is in '98, they gave all of the
21 preexisting people the old folks the opportunity to
22 hook on. And even Ben thought that was a good good
23 deal, I think. Voluntary water and sewer hookon was
24 allowed. Of course, it was a benefit to Folsom, because
25 they got forty eight hundred bucks a tap and \$2000 for a

1 water tap. And if you add all those numbers up, it's
2 it's real money. It's probably a quarter of a million
3 dollars or close to it. So there's a fair amount of
4 money there that they could use for construction. So
5 there's a benefit to both sides. They didn't have to do
6 that, but they did.

7 The water/sewer association was set up the water and
8 sewer association was set up they had a lot of trouble
9 doing that. Couldn't agree. Mr. Schrader, one of the
10 complainants, was leading most of that effort. Couldn't
11 agree on this and couldn't agree on that. It went on a
12 long time. I personally wasn't involved in that.
13 Couldn't come to an agreement, so Folsom went ahead and
14 set it up with all the bylaws. Many people didn't ratify
15 the bylaws because of all the problems that they had
16 there. We were one of them, as I said. The way it wound
17 up, they had three board members and we had two from the
18 residents at least we were able to share in some of the
19 decisions made. Folsom has one vote. As far as I know,
20 they've never had to exercise that. I think you'll hear
21 other testimony on that later on.

22 And the monthly fees were charged, some to noncustomers.
23 Some paid, some didn't. Nobody was ever unhooked, as far
24 as I know.

25 There were a lot of construction problems. Again, some

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1 of this, you've heard. There were a lot of construction
2 problems. Matter of fact, when the when the water and
3 sewer line in the same trench was found, I was pretty
4 upset. A lot of people were. That that was something
5 that probably should have been found. But it wasn't.
6 Folsom's paid a fine for that. They've fixed it at
7 considerable expense. As far as I know, it's safe now.
8 The other thing that Cathy mentioned which is a little
9 off, I think. She mentioned the the bylaws for the
10 homeowners homeowners. current bylaws say that we're
11 supposed to take over the system in 2006, not 2005. So
12 we started working with Mr. Pohl, working a new HOA, over
13 a year before that. So again, I think there was some
14 impatience involved there. But that's beside the point,
15 really.

16 Let's look at the little pie chart here. You can read
17 this pie chart a couple of different ways. I'll call it
18 the stakeholders. There's 99 property owners on Big
19 Island, excluding the property that Folsom owns. On the
20 be I guess on your right side, are the new property
21 owners. There's about 34 of those new folks hooked and
22 about 10 of them nonhooked. And on the old side over
23 here, us preexisting folks, there's most of the people
24 bought taps, water/sewer, 26 of them. 12 of them didn't
25 do anything. And then 18 of them hooked up. So we've

1 been talking about oh, the complainants are this or the
2 complainants are that. There are no complainants over
3 here from the new owners. I think you'll find that
4 they're fairly fairly satisfied. There are four
5 complainants hooked, one not hooked, and three that have
6 taps and and one that doesn't resides on Big Island
7 anymore. These are unofficial numbers, but I got them
8 from Rick, so I don't think they're too bad.

9 JUDGE WOODRUFF: Rick is who?

10 MR. HILEY: Rick Rick

11 MS. HILEY: Rusaw.

12 MR. HILEY: Rusaw sitting right here in the red shirt

13 MR. RUSAW: Folsom.

14 MR. HILEY: Now, I also asked for who's a member and
15 who's not, but Rick didn't want to give me that. But he
16 I do know who's hooked and who's not hooked.

17 Okay. To my way of thinking, there's two issues. And
18 I've got two issue charts here. The first one, in my
19 view, is the past illegal fees. And and the charge that
20 Folsom has operated as a public utility. Here's what I
21 say about that. That is a fact. We didn't know it was
22 illegal when we paid our fees, but the fact is we weren't
23 hooked, so I guess we're noncustomers. And some of us
24 didn't sign up, so I guess we're nonmembers. We paid the
25 fees, some of us. We paid them. I think it's kind of

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1 like an availability fee. I pay one over at Four
2 Seasons. And it's it's more than the one that I pay
3 here. I didn't pay a fee to hook on over there. It's a
4 different situation, because we were preexisting
5 homeowners, so we we paid that fee. We thought it was
6 fair, too, that \$4800. As far as I'm concerned, people
7 that didn't pay them, that's their choice. I mean,
8 Folsom didn't unhook them. They were they called the
9 members, and they said no, we're not members and so
10 forth. And this bantering went on for years. But
11 nothing really ever happened. I think it should have
12 been resolved by Folsom a long time ago. PSC can make a
13 ruling on this.
14 That's about all I have to say on that issue. I think
15 it's ruled by the law. I don't want my money back. If
16 Reggie says I'll send your money back, Phil, I'll say I
17 don't want it, just keep it in the system. But might be
18 some other people who do. But more important is what
19 goes on in the future, probably, as far as that goes.
20 Okay. Then I have another chart here that says the
21 second issue. And that's how we're going to be regulated
22 in the future. The allegation is that Folsom is not fit
23 to run the system and it should be regulated by PSC with
24 no Folsom involvement. My comments on that one are yeah,
25 they had serious problems and even some recent startup

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1 problems. And I think they could have been avoided or
2 mitigated with a little better management oversight. But
3 it works now. And from from what I understand,
4 especially from the new from anyone I've talked to, it's
5 working fine now. The water's clean. And when they ask
6 for troubleshooting, they get it right away. That's just
7 my understanding from talking to a lot of people. I'm
8 not hooked on, like I said. So I haven't had to have
9 them come out. I think Folsom could continue to run that
10 system efficiently as a nonprofit organization the way it
11 is right now. I think it's called a nonprofit
12 corporation under DNR rules. And obviously, you folks
13 would have to give permission for that to happen. I
14 think it's one of the three things he stated a little
15 while a while back.
16 My suggested resolution, though, would be to have
17 water/sewer HOA under homeowner control. Okay? Let's
18 talk a little bit more about that. So what I'm
19 suggesting is what Mr. Merceil suggested in his staff
20 report, is that we be regulated, PSC or have a 393. And
21 we I think I understand what a 393 is. The homeowners
22 already have some idea how to run that, because we've had
23 people on the board and so forth. There's two people
24 sitting right here that have been on the board in the
25 past. And they can tell you how that board runs, if you

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1 ask them.

2 I'm worried about a PSC regulated facility. And it's all
3 about the cost. And I know it's all uncertain. I'm not
4 just worried about PSC's fees coming in. I'm worried
5 about that Folsom or whoever might run it can charge can
6 charge us all for the profit. And I know that that's
7 you can get into financial wording and so forth and so
8 on. But simply stated, it's two things: PSC's fees and
9 the then the profit that we in turn would have to pay.

10 And I would only have, in that 393, hooked on people. No
11 more no more members that are not hooked, like me. One
12 vote per customer. Because we would we would run it.

13 We would have to my last point. This association would
14 have to own or lease the system from Folsom. So we're
15 going to have to sit down and talk to Folsom about this
16 and the PSC about this and the homeowners about this.

17 It's it's got some problems.

18 In Jim's staff report, he listed two major problems.

19 That's on my next chart, 9, is one of them is the
20 homeowners could exert some control over additional
21 development. Well, yeah. We could, if at all if
22 everything stayed in the same situation it's in now, you
23 know, where all the preexisting homes and the new homes
24 are all together. My fix for that my fix for that would
25 be exclude the new development. Members run the 393.

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1 Now, how do you exclude the isn't there common
2 facilities? And I know there are common facilities. I
3 think that somehow we could work together and carve out a
4 separate facility for the people that are on the system
5 right now. There's an old filter bed out there that's
6 good for 80 people. There's only about 50 hooked on
7 right now. So it's got some more capacity. And the new
8 filter bed could be used for the new homes. If there's a
9 little bit of overflow we ought to be able to work
10 something out on that.

11 Okay. What about this level my last thing on there.

12 The disadvantage Jim Jim pointed out was the level of
13 cooperation doesn't seem to exist. Well, you're seeing
14 that today. No question about that. One time, I said
15 kiss and make up, and then I thought better of it, said
16 maybe just make up. But yeah. So there's some things
17 that's got to be done. There's no doubt about that

18 And I just had a couple of pictures here. I went out and
19 took a picture. Most of us know there's two sand filters
20 out there right now. One of them's brand new, one of
21 them's good for 80. So take care of us now and for a
22 ways into the future. And I think good for 160 if I'm
23 not mistaken, Reggie.

24 And it seems like there ought to be a way to segregate
25 those systems. I mean, I don't think that's rocket

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1 science. I'm not a sewer engineer, but it seems like
2 that we ought to be able to do that so that the PUD
3 could go live under the rules that they want to live
4 under, and we live under the rules we want to live under.

5

6 The main thing probably is well, how do we how does this
7 association buy their system. Well, we already bought a
8 quarter of a million dollars worth of it, so I can't
9 think that there'd be a whole lot left that we couldn't
10 either lease or buy.

11 And I don't know if you knew it or not, Reggie, but I
12 went over there and installed a new water tower over
13 there by your other one. Well, it's been talked about.
14 It's not totally a joke, because I know that Folsom's
15 been looking into buying other storage capabilities out
16 there. And so maybe that would be part of a homeowners
17 association storage, or we could have the old storage,
18 the villas would have the new. So there might be some
19 sharing required there. I'm not saying this is easy.

20 Okay. My last chart. Trying to make this quicker than
21 Cathy's. I think we've always intended to have homeowner
22 control. I know we have. Current system's built, it
23 works, and as far as I'm concerned, I think we can
24 cooperate. Not just the homeowners, but Folsom would
25 obviously have to help us and PSC would have to help us.

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1 And that's what I'm saying here. Yeah, the homeowners
2 would have to work together. Folsom would have to help
3 us set this up, because we have to work out some deal
4 with the facilities. And I know we need PSC's help. And
5 Jim's offered that in his staff report. He said we'll
6 help you. It would not be involved afterwards, but we'll
7 help you set it up. It sounds hard.

8 Another suggestion and you're going to hear this is
9 keep it the way it is. That's different from what I'm
10 proposing. I'm proposing Folsom Ridge not involved in
11 the actual running of this association. Another way is
12 to keep it the same. There's two schools of thought out
13 there, and you're probably going to hear that today.
14 This is my school of thought. Let's go ahead and try to
15 set up a 393.

16 JUDGE WOODRUFF: Thank you, Mr. Hiley. Your booklet,
17 I'll go ahead and mark as Exhibit 2. Anyone object to the
18 admission of Exhibit 2? Exhibit 2 will be admitted in
19 evidence.

20 MS. ORLER: I guess I don't know if it's an objection,
21 but how do we verify the information, since we have no
22 records to verify connections, et cetera, that are
23 published there?

24 JUDGE WOODRUFF: The document will simply be what for
25 what it's worth here.

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1 MS. ORLER: Okay.

2 JUDGE WOODRUFF: And for the formal hearing, we'll expect
3 more documentation. Questions? Any of the complainants
4 have any questions for Mr. Hiley? Yes, Ms. Orler?

5 MS. ORLER: I have two for Mr. Hiley. First of all, with
6 the with regards to a 393, are you aware that this is a
7 nonprofit membership corporation? So how would you
8 propose that we solve the current situation that we have
9 with individuals who are connected, who are receiving
10 service, but who are not members of the association
11 because at the time that their contractual agreements
12 were made with Folsom Ridge, there was no homeowners
13 association and no requirement to join?

14 MR. HILEY: Right. That situation has to be resolved by
15 PSC. I mean

16 MS. ORLER: Are you aware

17 MR. HILEY: We just can't keep living in the past, Cathy.

18 MS. ORLER: Are you aware that a 393 does not fall under
19 the jurisdiction of the Public Service Commission?

20 MR. HILEY: I understand that. So if you don't as far
21 as I'm concerned, if you don't want to be a member, then
22 you don't you don't receive services. We just can't
23 keep living with the old rule. We have to do something
24 about that.

25 MS. ORLER: And then my next question for you would be

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1 are you also aware that with PSC regulation you
2 mentioned increase in rates that there can't be rate
3 increases without the approval of PSC under PSC
4 regulation.

5 MR. HILEY: I understand that.

6 JUDGE WOODRUFF: Any questions from Folsom Ridge?

7 MR. COMLEY: Just a few. Thank you. Mr. Hiley, I can
8 you tell me about how many people have you visited with
9 in advance of your testimony today that would agree with
10 you in your approach?

11 MR. HILEY: Well, I've in my book there, I've got 21
12 sets of comments and they all agree with they agree with
13 me not to have PSC control. They don't necessarily agree
14 with me on how we set it up without PSC, to have Folsom
15 Ridge involved in a homeowners association or not have
16 them involved.

17 MR. COMLEY: Let me ask you a few questions. Just let's
18 assume that let's assume that the direction it's going
19 to take would not be a Section 393 company, but a private
20 company. Let's assume that the direction taken would be
21 to create a regulated company. Would the group that you
22 represent have an objection to a set of rules and
23 regulations that would make the developer neutral in
24 connection with decisions about the company? I don't
25 mean to I don't mean to confuse you with that word. Let

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1 me see if I can express that a little better. Neutral in
2 the sense that the developer will not have the dominant
3 control over what is extended and when. Take that back.
4 Take that back. The developer will be neutral with
5 respect to the management of the company. I'll say that.
6 Do you understand what I mean?

7 MR. HILEY: Yes. I think so. If it's under PSC control?
8

9 MR. COMLEY: It'll be under PSC control. And under those
10 rules, the developer will be allowed to extend the
11 system, but under rules that have been approved by the
12 Public Service Commission.

13 MR. HILEY: Yeah. I I understand that. Again, I I
14 think that people's objection to the PSC is that we're
15 not we we we have an efficiently running system right
16 now. I mean, if you're hooked on. I think I think you
17 pay what? Thirty bucks a month total? Something like
18 that. That's not very much. I pay five bucks a month
19 right now just just to have a tap. That's not very
20 much. I mean, I read in the paper that the Gravois Arms
21 system up there, there's going to be \$50 a month just for
22 a sewer bill. That's a lot more than we're paying now.
23 And so that's people's main objection, not just the PSC
24 regulation, but the fact that we're really not interested
25 in paying Folsom a profit. Because in the past, it's

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1 been nonprofit

2 MS. ORLER: I'd like to ask you a question, Mr.

3 JUDGE WOODRUFF: I'm sorry. It's not your turn.

4 MS. ORLER: Oh. Sorry.

5 MR. HILEY: So I don't know if I answered your question.

6 It's just my feeling.

7 MR. COMLEY: Your opposition, I take it, to the PSC
8 regulated company is your concern about the rates that
9 could be charged.

10 MR. HILEY: Yes.

11 MR. COMLEY: And the lack of your own involvement in the
12 management of the company?

13 MR. HILEY: Yes.

14 MR. COMLEY: Something you you have a little bit now, I
15 suspect.

16 MR. HILEY: A little bit now.

17 MR. COMLEY: And you're not a member, though?

18 MR. HILEY: I'm not a member.

19 MR. COMLEY: That's all I have. Thank you, Mr.

20 MR. HILEY: I I I am treated as a member. I am invited
21 to the meetings and I'm allowed to vote. So like I said,
22 I say I'm not a member and Reggie and Rick say I am.

23 MR. COMLEY: Well, on the heels of that

24 MR. HILEY: Okay. That's all right.

25 MR. COMLEY: With respect to the private company you

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1 proposed, I'm taking it that you would have no objection,
2 then, of accepting full membership in the company?

3 MR. HILEY: Not if I hooked on. I have to be hooked on.
4 I wouldn't be hooked on.

5 MR. COMLEY: Is the other concern of your group that
6 members may be considered personally liable for the debts
7 of the company?

8 MR. HILEY: Well, that is something that's all I said
9 about that was that was my original reason that I didn't
10 hook on. That was seven years ago or six years ago,
11 whenever I was asked to sign up. I read the bylaws at
12 that time, and it said that you could be charged a
13 onetime lump of money for whatever the assessment might
14 be. And I wasn't interested in that. You know, because
15 I knew it was a new system. And I didn't want that
16 liability, so I didn't I didn't sign up. Now, I
17 understand that there can be rules written or the law
18 can state that you're not held personally liable for any
19 problem like that. I understand that now. Back then, I
20 didn't.

21 MR. COMLEY: If that would be part of the bylaws with the
22 articles of incorporation, whether new or restated, that
23 a member would not have liability personal liability for
24 the debts of the corporation, would that influence you to
25 become a member?

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1 MR. HILEY: The only thing that would influence me is if
2 my water system or sewer system pooped out.

3 MS. ORLER: Literally.

4 MR. HILEY: No pun intended.

5 MR. COMLEY: I'd say that was well expressed. I have no
6 other questions.

7 JUDGE WOODRUFF: Mr. Carter, do you have any questions?

8 MR. CARTER: I have no questions, Judge. Thank you.

9 JUDGE WOODRUFF: Public counsel?

10 MR. MILLS: I don't think I have any questions. Thank
11 you.

12 JUDGE WOODRUFF: Staff?

13 MS. SYLER: No questions. Thank you.

14 JUDGE WOODRUFF: Chairman Davis?

15 CHAIRMAN DAVIS: No.

16 JUDGE WOODRUFF: Commissioner Murray?

17 COMMISSIONER MURRAY: No questions. Thank you.

18 JUDGE WOODRUFF: All right. Thank you.

19 MR. TEMARES: I've got a question, please.

20 JUDGE WOODRUFF: Yes. Go ahead.

21 MR. TEMARES: Oh, I was I was kind of curious. Mr.
22 Hiley said that he is not a member, but yet they let him
23 vote. And I didn't understand that. If he could clarify
24 that.

25 MR. HILEY: Well, this has been an ongoing controversy.

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1 Folsom has has said that if you have a tap, you're a
2 member. And people like Ben and I say we didn't sign up,
3 we're not members. And this we have a little bantering
4 about this at most of the association meetings. And it's
5 something that, again, I think should have been taken
6 care of long ago some way. You know.

7 MR. TEMARES: Well, I think I think that probably that
8 answered my question.

9 MR. HILEY: But we are allowed since they say we're
10 members, we're allowed to vote.

11 MR. TEMARES: Well, I can understand that.

12 JUDGE WOODRUFF: Ms. Orler?

13 MS. ORLER: You had indicated that you think that your
14 fee structure of \$30 is a fair structure. Is that what
15 you just said?

16 MR. HILEY: I don't know if it's yeah. It's fair. I
17 know Folsom's paying some of their bills, Cathy. I asked
18 Reggie that at the last meeting. I said had we paid for
19 any capitalization of these facilities. He said no.

20 MS. ORLER: So you don't know if the \$30 is an accurate
21 fee being charged?

22 MR. HILEY: No, I don't.

23 MS. ORLER: You don't know if it's sufficient or
24 insufficient?

25 MR. HILEY: That's right. I don't.

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1 MS. ORLER: Thank you

2 JUDGE WOODRUFF: Ms. Fortney?

3 MS. FORTNEY: I have a question. Phil and we had talked
4 about this before, but on your Four Seasons property

5 MR. HILEY: On my what?

6 MS. FORTNEY: The Four Seasons property that you have
7 over there. Isn't the fee that you pay for more than
8 just water and sewer?

9 MR. HILEY: No.

10 MS. FORTNEY: And isn't it two questions.

11 MR. HILEY: I pay \$260 for membership in the association
12 and \$87 for water/sewer.

13 MS. FORTNEY: Okay. And wasn't that in the contract when
14 you signed it with your property?

15 MR. HILEY: I guess so.

16 MS. FORTNEY: Okay.

17 MR. HILEY: You know, probably the capitalization of the
18 facility was in my original cost of the lot, since it's a
19 new lot, but

20 MS. ORLER: And did you pay a tap fee?

21 MR. HILEY: No. There wasn't such a thing. Like I say,
22 I think that was probably built into the cost of the lot,
23 the socalled tap fees. But I did pay monthly fees.

24 MS. ORLER: And it was a part of your contract that you
25 would be a part of that association and pay those fees?

1 MR. HILEY: Probably. I didn't go back and read it.

2 Somebody sends me a bill, I usually just pay it.

3 JUDGE WOODRUFF: All right. Well, thank you very much,
4 then, sir. Let's go back for a moment to Ms. Orler. She
5 had during her testimony, she had talked about a couple
6 of exhibits which she handed to me after she left the
7 stand. I assume you want to offer those into evidence.

8 MS. ORLER: Yes. Isn't that an email that

9 JUDGE WOODRUFF: That is an email. It's got a Yahoo!
10 mail at the top of it.

11 MS. ORLER: Yes. That is correct.

12 JUDGE WOODRUFF: All right. I'll go ahead and mark it as
13 Exhibit 3. Are there any objections to its receipt?

14 MR. COMLEY: Your Honor, I haven't seen it. I I think I
15 know what it is, but

16 JUDGE WOODRUFF: Do you want to come up and see it?

17 MR. COMLEY: Can you tell me to who this is from?

18 Rather, can you tell me who sent this and who the
19 response is by?

20 MS. ORLER: It's from Tony Hiley to regal here.

21 MR. COMLEY: And who is regal220@aol.com?

22 MS. ORLER: That's Mr. Bill Burford.

23 MR. COMLEY: Your Honor, I want to I'll object on
24 grounds that it hasn't been properly authenticated. But
25 I have a feeling it can be. I don't have any reason for

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1 it to be admitted for the limited purposes of this
2 hearing.

3 JUDGE WOODRUFF: All right. It will be admitted for the
4 purposes of this hearing.

5 MR. MILLS: Your Honor, I'm sorry. I have to ask a
6 question. What does that mean? For the purposes of this
7 hearing? Is it in evidence or not?

8 MR. COMLEY: Well, I would say it would be in evidence
9 for purposes of explaining her testimony at this hearing,
10 but I would object to the use of it at the the hearing
11 we're going to have, unless it's properly authenticated.
12 And the authors of that email are not here.

13 MR. TEMARES: I'm sorry. They are.

14 MS. ORLER: They are here.

15 JUDGE WOODRUFF: Well, they haven't testified and I'm not
16 going to ask them to testify about it unless they come up
17 and testify about it.

18 MS. FORTNEY: What would be

19 MS. ORLER: Yes. May I ask how you authenticate
20 something.

21 JUDGE WOODRUFF: Not at this point.

22 MS. ORLER: Okay.

23 JUDGE WOODRUFF: You can get legal counsel from someone
24 else. I can't answer legal questions at this point. It
25 clearly is hearsay. I'm not going to admit it for

1 purposes of to prove the allegations that are contained
2 in the email. But I will admit it for the purposes of
3 this for this limited purpose, that it is an explanation
4 of Ms. Orler's testimony at this proceeding.

5 MR. COMLEY: Thank you.

6 JUDGE WOODRUFF: It's in it's in the record for that
7 purpose, but it's not admitted into evidence for the
8 truth of the information that's contained in it. And if
9 you want to make it into evidence for the proof of it
10 what's actually in it then you'll have to present it at
11 the hearing the evidentiary hearing.

12 MR. TEMARES: Can I ask a question of Mr. Hiley? Is he
13 completely done?

14 JUDGE WOODRUFF: Yeah. He's done

15 MR. TEMARES: He is completely done?

16 JUDGE WOODRUFF: Yes. Okay. The next name on the list
17 is Larry and Rita Toombs, is it?

18 MR. TOOMBS: Toombs. Sorry. I just have one copy of
19 this.

20 JUDGE WOODRUFF: That's all right. Okay. Would you
21 please raise your right hand. Do you solemnly swear or
22 affirm the testimony you're about to give in this matter
23 is the truth, the whole truth and nothing but the truth?

24

25 MR. TOOMBS: I do.

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1 JUDGE WOODRUFF: All right. And state your name, please.

2

3 MR. TOOMBS: Larry Toombs.

4 JUDGE WOODRUFF: TOOMBS?

5 MR. TOOMBS: That's correct.

6 JUDGE WOODRUFF: All right.

7 MR. TOOMBS: For purposes of testifying, I'll try to
8 stick to my notes, because as many people are going to
9 testify and go on forever if I don't. So I'll try to be
10 brief. We have lived and used both water and sewer
11 services on Big Island for well, since they've been
12 available. And we've used those in two different on two
13 different sites and two different homes. We don't we've
14 never had any complaints. We've never had any problem
15 with those services.

16 Excuse me. I'm familiar with and friends with several of
17 the people that have filed complaints. And I'm not
18 friends with others. So I'm about a tossup on that
19 question. I do think, however, that their complaints are
20 tainted by the fact that they have been adversarial
21 towards the developer since the developer arrived. And I
22 think they have been adversarial when there was nothing
23 to be adversarial about. Some of their complaints have
24 resulted in positive results, some have just been frankly
25 annoying.

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1 As has been mentioned, the control of the board of the
2 HOA is scheduled for this September. Control of that
3 board would have been turned over to the homeowners
4 several years ago, except for the complaints of
5 essentially the same group of complainers. The developer
6 at that time conceded to them and agreed to retain
7 control for another five years, because that group did
8 not want to be responsible for the water and sewer system
9 at that time.

10 In regard to the complaint that illegal fees are being
11 charged to people that have a tap that are that are not
12 hooked up, my best historical recollection of that is
13 again that the developer met with these people, there was
14 an agreement that that would be fair, that people had a
15 tap contribute to the general upkeep of the system, and
16 that they be charged a nominal fee for doing that. So
17 the developer proceeded to charge that fee through the
18 homeowners association, is now being penalized for that
19 agreement.

20 Now, we think it's still possible to form a 393. That
21 was, as people have mentioned, in progress to form a
22 notforprofit homeowners association. That effort was
23 suspended because we felt that might become moot because
24 of the actions of the complainant and the resulting
25 actions of the PSC, and that there it might just be

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1 money wasted to proceed with that effort if the PSC was,
2 in fact, going to make a ruling that would just nullify
3 any effort in that regard.

4 I don't really have much else to say, except I think
5 there is a procedural comment here. And I just offer
6 this with all respect for the benefit of the PSC. And I
7 think that there is there is something wrong with the
8 procedure here when most the complainants, the PSC and
9 essentially the developer has been involved in this
10 procedure for almost a year, and only today are the
11 majority of people that will be effected by this decision
12 are involved through the means of this public hearing.
13 And I hope that you can review that procedure, to see if
14 that can be corrected if some similar situation would
15 arise in the future. That's all I'll comment on for now.

16 JUDGE WOODRUFF: Thank you, Mr. Toombs. Do you want to
17 have this exhibit

18 MR. TOOMBS: Yes, please.

19 JUDGE WOODRUFF: All right. Marked as Exhibit 4. Anyone
20 object to its receipt into the record? Hearing none,
21 Exhibit 4 will be received into the record. Questions
22 from the complainants? From Folsom Ridge?

23 MR. COMLEY: No questions. Thank you.

24 JUDGE WOODRUFF: From the homeowners association?

25 MR. CARTER: No, Your Honor. Thanks.

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1 JUDGE WOODRUFF: Staff or public counsel?

2 MS. SYLER: No questions. Thank you.

3 JUDGE WOODRUFF: Commissioner Murray?

4 COMMISSIONER MURRAY: No questions. Thank you.

5 JUDGE WOODRUFF: Okay. You may step down.

6 MR. TOOMBS: I think my wife has some comments.

7 JUDGE WOODRUFF: All right. Go right ahead. You're on
8 the list also. It would be Rita Toombs. Is that right?

9 MS. TOOMBS: Yes.

10 JUDGE WOODRUFF: All right. Please raise your right
11 hand. Do you solemnly swear or affirm the testimony
12 you're about to give in this matter is the truth, the
13 whole truth and nothing but the truth?

14 MS. TOOMBS: Yes.

15 JUDGE WOODRUFF: What would you like to tell us?

16 MS. TOOMBS: Well, my husband's already given you our
17 history of having been homeowners on two different
18 locations on Big Island in the last 12 years. We've been
19 fulltime residents for a little over 10 years. During
20 that time, we have had no problem with Folsom Ridge. We
21 could not say or at least I could not be any more
22 positive in my position toward them.
23 I do think that mistakes have been made. There's no
24 denying that. The original representative of these
25 developers rubbed a lot of people the wrong way. But

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1 he's no longer a member of the Folsom Ridge organization.

2 I believe that a great deal of what goes on here now

3 relates back to that individual.

4 And that each time a complaint has been voiced, Folsom

5 Ridge has made every effort to have it corrected. Each

6 time that the complainants' dog won't hunt, they go out

7 and get themselves another dog. Folsom Ridge has never

8 failed to respond to any concerns that I have had. I

9 believe the majority of the mistakes made by both the

10 former representative and Folsom Ridge as it now operates

11 have been corrected. I also believe that in any

12 development like this, mistakes are made and have to be

13 corrected. Folsom Ridge is no worse or no better than

14 anybody else.

15 Couple other things that have been mentioned here today

16 are that in this thing that the complainants handed out

17 that there's a great deal of complacency and apathy by

18 the residents of Big Island. And I think that we're

19 anything but complacent or apathetic. You have no way of

20 knowing, but each time that an issue has come up, we've

21 had a very well organized meeting, and done our best to

22 reach some kind of consensus.

23 They also state that to their knowledge, there are no

24 residents who are willing or able to manage a homeowners

25 association. I think that if you were to take resumes

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1 from the people who currently live on Big Island, you
2 would find a great many people who are very well
3 qualified. People who have much greater budgets than
4 would be required, who have worked with a great many
5 employers and organizations and have the skills to manage
6 an HOA.

7 JUDGE WOODRUFF: Thank you.

8 MS. TOOMBS: I'd just like to say that I think that among
9 this group of complainants, there are people that just
10 don't want any change. They're resistant to any kind of
11 change. There are also some that want something for
12 nothing. And there are some that just cannot agree on
13 the basis of past problems.

14 JUDGE WOODRUFF: Thank you.

15 MS. TOOMBS: Thank you.

16 JUDGE WOODRUFF: Just a moment. Did any of the
17 complainants have any questions for Ms. Toombs? Yes?

18 MR. TEMARES: Yeah. I'd like to hear an example of who
19 wants something for nothing.

20 MS. TOOMBS: I think that there have been, in the history
21 of this, people who wanted Folsom Ridge to provide a
22 great deal more than than was necessary. People who
23 wanted to hook up for nothing. People who thought that
24 the fees were too high.

25 MR. TEMARES: Is any of them on the complainants?

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1 MS. TOOMBS: Yeah.

2 MR. TEMARES: Yeah?

3 JUDGE WOODRUFF: Well, we don't need to go into

4 MS. TOOMBS: But we don't need to discuss that here.

5 MR. TEMARES: That's all right. I was just I was just

6 curious, you know, who was looking for something for

7 nothing. Because I hear a lot of the complainants'

8 questions from people who are testifying saying that

9 there's just some of us looking for something who's got a

10 chip on their shoulder against Folsom Ridge. It's not

11 Folsom Ridge generally, it's the quality of workmanship

12 and the things they try to get by illegally.

13 MS. TOOMBS: Well may I respond?

14 MR. TEMARES: And I want that to be known.

15 JUDGE WOODRUFF: Right. Okay. Go ahead and respond.

16 MR. TEMARES: And I know that wasn't a question.

17 MS. TOOMBS: As I said, Stan, I think that mistakes are

18 made in any kind of business. Any kind of development.

19 And I think that's why we have the DNR and watchdog

20 groups among ourselves. But I think we can I think we

21 can govern ourselves. I think we can do that.

22 MR. TEMARES: And I think I think we have got people

23 with the qualities to manage an HOA.

24 JUDGE WOODRUFF: All right. Mr. Temares

25 MR. TEMARES: I'm sorry.

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1 JUDGE WOODRUFF: We don't want you testifying at this
2 point.

3 MR. TEMARES: Not yet.

4 JUDGE WOODRUFF: All right. Any other parties have any
5 questions? Commissioner Murray?

6 COMMISSIONER MURRAY: No questions. Thank you.

7 JUDGE WOODRUFF: All right. You may step down, ma'am.
8 Next name on the list is a Sheryl and the last name
9 starts with a B.

10 MS. BOOS: Boos.

11 JUDGE WOODRUFF: Boos. Okay. Would you please raise
12 your right hand. Do you solemnly swear or affirm the
13 testimony you're about to give in this matter is the
14 truth, the whole truth and nothing but the truth?

15 MS. BOOS: I do.

16 JUDGE WOODRUFF: All right.

17 MS. BOOS: I'm here speaking for myself and my husband
18 Dennis. We have both a home and a

19 UNIDENTIFIED SPEAKER: I'm sorry. Could she talk a
20 little bit louder.

21 JUDGE WOODRUFF: You have a very soft voice.

22 MS. BOOS: I have a very soft voice. Okay. I am
23 speaking for my husband and myself. He couldn't be here
24 today. We have both a hookedup house that is operating
25 under both water and sewer, and we also have lots

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1 adjacent to that that have a tap we paid for that are
2 nonhooked. So we know both sides of this situation
3 pretty well.

4 I guess our feeling is that we're very happy with the
5 homeowners association the way it's been run. We've
6 never had any problems with it. The thing that we like
7 about that is, contrary to what Cathy has called the rest
8 of us, being the silent majority, I don't consider myself
9 that. We're one voice. We have one vote. And we're one
10 customer. And when you go to the association, and you
11 are a member, and you you join in with that process.
12 And we have our meetings, and the board decides on an
13 agenda, and they discuss the issues that need to be
14 addressed, and then they come to us as a membership and
15 we get to vote on that. Your vote counts towards
16 whatever the outcome would be. But it's only one voice.
17 It's not nine members that are aggravated with their
18 outcome and wanting to sway the whole group, based on
19 their agenda. And I I guess we feel like that if we're
20 run by the PSC, or, you know, regulated, or this this is
21 taken away from us, that we lose that aspect of being
22 able to voice our opinions and be a part of the whole
23 process.

24 To back up Folsom Ridge and part of this fee basis to
25 my recollection I don't have any documentation or

1 paperwork. But we were present at the meetings where the
2 fees were voted on, were discussed ahead of time, where
3 the nonmember fees were established. Also subsequently,
4 we were at all the meetings where they also increased
5 fees. And just this last meeting, which was, you know, a
6 little over a week ago, where they reduced the fees
7 again.

8 And, you know, I I guess I technically, you can say
9 that yes, they're running everything, but they have yet
10 to ever use a vote, to our knowledge. And we've probably
11 attended all the association meetings except one that I
12 can remember. In fact, there was one time that I know
13 Reggie was at a meeting, and we had a really poor show.
14 I think there was maybe less than six of us there. And
15 we had an agenda I can't tell you what we were going to
16 vote on. But rather than him standing there and saying
17 well, I can make a quorum, let's vote on this, we just
18 stopped the meeting and didn't have an association
19 meeting that day. So technically, yes, they could. But
20 they've never executed it, to my knowledge. It has
21 always been us as a membership that have decided the
22 issues of pricing and bills and
23 I think what we would like to see happen is that this
24 would continue somehow. And that's the dilemma here, is
25 how you can do that that we don't lose that voice. And I

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1 think the reason that we're more prompted to want that is
2 prior to owning lots here, we were Chelsea Rose Estates
3 owners, and had no voice with anything there. And so you
4 can understand why we like the opportunity to at least
5 have something to say about our outcome.

6 JUDGE WOODRUFF: All right. Thank you. And your name is
7 Bose, BOSE?

8 MS. BOOS: No. It's BOOS.

9 JUDGE WOODRUFF: BOOS. Okay. Just wanted to make sure
10 the court reporter got that.

11 MS. BOOS: Okay

12 JUDGE WOODRUFF: All right. Any questions for Ms. Boos
13 from the complainants? Ms. Orler?

14 MS. ORLER: Sheryl, are you aware that in Mr. Hiley's
15 handout that he prepared, that he himself has referred to
16 the group as the silent majority? That's where my
17 statement came from.

18 MS. BOOS: That's fine. I'm talking personally for
19 myself when I sat at this table. And I don't think
20 that's an issue here that is debatable. But as he also
21 said while he was standing there, he's not representing
22 us.

23 JUDGE WOODRUFF: Ms. Fortney?

24 MS. FORTNEY: Sheryl, last September, actually, I passed
25 an email out for everybody on the island. We didn't

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1 exclude anybody. We sent it out to everybody. We also
2 understand some people don't like them, so we've taken
3 them I've taken them off my personal list anyway. I'm
4 not sure. But anyway, there's a couple. Anyway, that
5 email, I was I wanted to make sure you got that email.
6 It said that it was in response to Cathy's, saying that
7 I agreed with this and that. And then there was a lot
8 of emails going around.

9 MS. BOOS: Yeah.

10 MS. FORTNEY: So I asked if people wanted to get together
11 and talk about it. And it didn't really pan out.

12 MS. BOOS: Yeah.

13 MS. FORTNEY: So at that time, we were trying to get
14 people together to talk about it, but there were already
15 sides being taken. So

16 MS. BOOS: I think one of the things that we feel bad
17 about both of us personally is that the problem that
18 that we're hearing repeatedly are these fees being
19 attached. And would have rather that they would have
20 come to the board as a group, just like the rest of us
21 that vote, bring it up to us and say now, what can we do
22 about this, we're not satisfied with this, we would like
23 this changed somehow, and we all discuss it and it's
24 like I'm saying voted on. And then if there's a
25 majority that decides one way or the other granted, not

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1 knowing whether it's legal or not. But in the process,
2 that would have been a much better way to address this
3 than coming

4 MS. FORTNEY: But did you understand my complaints or my
5 father's complaints that we had that it was, you know,
6 ongoing I'm not going to go over the complaint or
7 anything here. I just wanted to make sure that you
8 understood that some of the things you said you know,
9 you group us all together, but there are different
10 scenarios.

11 MS. BOOS: Oh, I understand that.

12 JUDGE WOODRUFF: Ms. Orler?

13 MS. ORLER: Sheryl, are you aware that, first of all,
14 we've not asked for restitution of any of the fees in our
15 complaint?

16 MS. BOOS: No. I'm aware of that. I'm curious why you
17 haven't. That's been one of my questions all along.

18 MS. ORLER: Are you aware that in my formal complaint, I
19 make the statement that what prompted the formal
20 complaint was that a board member did call me at my home
21 and indicate that for nonpayment of these prior fees,
22 that Rick and Reggie would take me to court?

23 MS. BOOS: That's no. I'm not aware of that.

24 MS. ORLER: Okay. And I made that statement in my formal
25 complaint.

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1 MS. FORTNEY: (Inaudible.)

2 THE REPORTER: Sorry. I can't hear.

3 COMMISSIONER MURRAY: One person at a time. It has to be
4 the person that's recognized only. The court reporter
5 cannot take down multiple people talking.

6 JUDGE WOODRUFF: Thank you, Commissioner. I'll second
7 that. Ms. Orler?

8 MS. ORLER: Now, are you also aware that in the mandated
9 settlement agreement between Folsom Ridge and DNR to go
10 back and and correct correctly install the water line,
11 that the water lines on either side of me were correctly
12 reinstalled and mine was not? And I did take that up
13 with Folsom Ridge

14 MS. BOOS: No. I'm not. As far as the things that have
15 been DNR, anything

16 MS. ORLER: No. This was Folsom Ridge. I took the issue
17 up with Folsom Ridge. And their reasoning for not
18 correctly reinstalling my water line was for nonpayment
19 of past fees.

20 MS. BOOS: I wouldn't probably be aware of that, if it
21 was a conversation you had directly with them. How would
22 I be privy to that knowledge?

23 MS. ORLER: Well, your husband is on the board.

24 JUDGE WOODRUFF: All right. I'm going to I'm going to
25 have to ask you to stop this, because it's degenerating

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1 into a conversation between the two of you.

2 MS. ORLER: Okay.

3 JUDGE WOODRUFF: That's really not relevant to anything
4 that's before us today.

5 MR. BURFORD: Sir?

6 JUDGE WOODRUFF: Go ahead, real quick.

7 MR. BURFORD: Real quick. Just to clarify that. Sheryl,
8 were you aware at one of those meetings when you were
9 there that I offered to pay all of Cathy Orler's back
10 fees to Folsom?

11 MS. BOOS: I've heard that.

12 MR. BURFORD: Okay. Thank you.

13 JUDGE WOODRUFF: All right. Thank you. Then Mr. Comley,
14 do you have anything for Folsom Ridge?

15 MR. COMLEY: No, I don't.

16 JUDGE WOODRUFF: For the association?

17 MR. CARTER: Nothing, Your Honor.

18 JUDGE WOODRUFF: Staff or public counsel?

19 MS. SYLER: No questions.

20 MR. MILLS: I have no questions.

21 JUDGE WOODRUFF: All right. Chairman Davis, any
22 questions?

23 CHAIRMAN DAVIS: No questions.

24 JUDGE WOODRUFF: Commissioner Murray?

25 COMMISSIONER MURRAY: I have one.

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1 MS. BOOS: Okay.

2 COMMISSIONER MURRAY: Ms. Boos, I believe you said you
3 were formerly a resident at Chelsea Rose. Is that
4 correct?

5 MS. BOOS: Uhhuh.

6 COMMISSIONER MURRAY: Now, was Chelsea Rose operated by a
7 the water and sewer system there operated by a
8 certificated company?

9 MS. BOOS: Well, when we first when we first joined
10 there, he was just establishing all of that, and we you
11 know, we were some of the first initial people that were
12 on that system.

13 COMMISSIONER MURRAY: Was it certificated by the Public
14 Service Commission?

15 MS. BOOS: At that point, I can't I can't I'd have to
16 go back through all our paperwork. I'm not positive. It
17 was originally.

18 COMMISSIONER MURRAY: And were there problems?

19 MS. BOOS: Oh, there were always problems

20 COMMISSIONER MURRAY: And were you, as a homeowner, able
21 to do anything about them?

22 MS. BOOS: Well, we didn't have a homeowners association.
23 The only outlet that I know of that any of us ever took
24 was publicly contacting senators, wrote our nextdoor
25 neighbor, Ted Guy, (Phon.) did most of the work on that.

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1 COMMISSIONER MURRAY: And do you know how quickly the
2 Public Service Commission was able to resolve those
3 problems?

4 MS. BOOS: That's what I'm getting at.

5 COMMISSIONER MURRAY: All right. Thank you.

6 MS. BOOS: Thank you.

7 JUDGE WOODRUFF: All right. Thank you. You may step
8 down. The next name on the list is Mr. Weir. All right.
9 Please raise your right hand. Do you solemnly swear the
10 testimony you're about to give in this matter is the
11 truth, the whole truth and nothing but the truth?

12 MR. WEIR: Yes, sir.

13 JUDGE WOODRUFF: And Mr. Weir, you are a complainant in
14 this case. Is that right?

15 MR. WEIR: Yes, sir.

16 JUDGE WOODRUFF: All right. Again, want to emphasize we
17 are running long today. so you'll have an opportunity to
18 give more formal testimony when we have our evidentiary
19 hearing. So I'll ask you to be brief.

20 MR. WEIR: I do have a quite a few attachments and
21 exhibits that I will submit, along with my written
22 comments, and I will try to be as efficient

23 JUDGE WOODRUFF: If you've got your comments written out,
24 if you just want to summarize them at this point

25 MR. WEIR: Right.

1 JUDGE WOODRUFF: we'll read them later.

2 MR. WEIR: My name is Ben Weir, and my family's
3 maintained a weekend residence since 1962 at 2162 Big
4 Island Drive. Permanent residence is in Blue Springs,
5 Missouri.

6 For the past 35 years, I've been in the newspaper
7 business, and currently the publisher of the Examiner
8 newspaper in Independence, Missouri. I only say that due
9 to the fact that I know a little something about the
10 difference between opinions and facts.

11 I got involved in this entire controversy on Big Island
12 after the fact, more or less. I started witnessing a
13 division that I didn't like between the neighbors and the
14 developer, Folsom Ridge.

15 But to better understand why all of us are here today, we
16 first need to remember and recall the events over the
17 past seven years. And these events obviously have
18 motivated all of us to have different opinions and
19 different viewpoints about where we are today and where
20 we need to go with the future of Big Island. And yeah,
21 there are quite a few probably the real majority of the
22 homeowners who are not here today because when we asked
23 them, they say please don't bother us or involve us in
24 any of your discussions. And in fact, I've had one
25 homeowner in particular who chastised me rather strongly

1 and by sending me a letter that said at this point and
2 at this time, what difference does it make. Well, I say
3 yes, indeed, what difference does it make. It makes a
4 lot of difference. I'm like a financial advisor that
5 will tell you that a stock's past performance is no
6 guarantee of future results. Unfortunately, a historical
7 look over the last seven years at the lengthy trail of
8 evidence that we have on Big Island probably does
9 indicate that when we consider the pros and cons of the
10 having a regulated versus a nonregulated sewer and water
11 system on Big Island, that I'm sorry, but past
12 performance really does indicate that it's a pretty good
13 indicator of our future results.

14 MR. COMLEY: Judge, as I did with Ms. Orler, I'm going to
15 comment that Mr. Weir is a party to this case a party
16 complainant and I reserve the right to object to any
17 conclusions he may make on the basis of evidence that's
18 not in the record and has been proposed to be in the
19 record. So with respect to his last conclusion and
20 argument, I would propose that it be stricken from the
21 record.

22 MR. WEIR: I guess maybe, Your Honor, I should have said
23 I appreciate this opportunity today to offer my opinions,
24 observations and thoughts.

25 MR. COMLEY: As a party, there is no foundation for his

1 opinions.

2 JUDGE WOODRUFF: Mr. Comley is correct in that, as
3 indicated, this is a little bit of an unusual situation,
4 in that we have this testimony coming in from parties in
5 the case. As I indicated before, Mr. Weir, you're going
6 to have a chance to testify in Jefferson City in about
7 six weeks. So I'm going to go ahead and sustain the
8 objection at this point. If you if you want to go ahead
9 and offer general opinions, I'll allow you to do that,
10 but I can't let you go into any evidentiary detail at
11 this point.

12 MR. WEIR: Okay. Probably one of the common denominators
13 contributing to all the problems that have happened in
14 the past seven years on Big Island center around the
15 disregard and disrespect of two basic principals. One is
16 called obey the law, and the other one is called tell the
17 truth.

18 MR. COMLEY: Same objection, Your Honor. I would ask
19 that it be continuing, and his statements like that be
20 stricken from the record. Again, it's commentary on the
21 evidence. There's no evidence in the record on which to
22 base that opinion.

23 MR. MILLS: May I respond? We're here for the public.
24 Simply because this member of the public is also a
25 complainant shouldn't shut him down. I think we've heard

1 from a lot of people who are saying their opinions. I
2 think we ought to hear opinions from both sides.

3 MR. COMLEY: Well, I don't I don't mind opinions from
4 people that are not parties, Your Honor. But when the
5 opinions come from the parties, I'm I'm obliged to make
6 sure the record reflects my objections so that they're
7 not waived when the time comes at hearing when we hear
8 them again.

9 JUDGE WOODRUFF: I understand your concern, Mr. Comley.
10 And what I'm going to do I'll certainly note your record
11 or your objections for the record. And I'm going to
12 treat this witness' testimony much as I treated Ms.
13 Orler's exhibit, in that it's I'll allow him to speak
14 his piece here today, but I won't accept it as proof of
15 of any element of his case.

16 MR. COMLEY: Your Honor, if it's clear to you, to the
17 Commission and the parties that Folsom Ridge will have
18 the benefit of its objections at hearing without waiver
19 today, that's fine. At the same time, I do want the
20 record to reflect continuing objection to any commentary
21 on the evidence, any opinions that these people may offer
22 without foundation, because I think that is a burden to
23 the record that is unnecessary.

24 JUDGE WOODRUFF: All right. Your objection is so noted.

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1 MS. GOLDMAN: Judge, may I say something. I think at the
2 beginning, we should have had a time limit. Because I've
3 been here almost two hours. I have an appointment. I'm
4 never going to get to say what I want to say. And they
5 just go on and on and on. There should be a time limit.
6 If you can't say it in that time, then don't say it.

7 JUDGE WOODRUFF: All right. What is your name, ma'am?

8 MS. GOLDMAN: Carol Goldman.

9 JUDGE WOODRUFF: All right. Thank you, Ms. Goldman. We
10 are clearly running out of time. And I have not set, up
11 until now, a time limit. I hate to do that, because I
12 want to be able to get to hear all the comments from
13 everyone, but we are running out of time. I'm going to,
14 from this point forward, set a time limit of five minutes
15 per speaker. And, I again ask you, Mr. Weir, I know you
16 have this written down. To save us some time, if you
17 want to just summarize your comments briefly and offer
18 your exhibits, we can do it that way much quicker.

19 MR. WEIR: Your Honor, I appreciate that. If they would
20 quit interrupting me, I could could try to do this
21 efficiently.

22 JUDGE WOODRUFF: Well, I understand that. But the
23 interruptions have

24 MR. WEIR: I mean, I'm losing some of my time to other
25 people.

1 JUDGE WOODRUFF: All right. Go ahead.

2 MR. WEIR: So anyway, to obey the law and tell the truth.

3 Well, Big Folsom Ridge came to Big Island in 1998 with
4 a promise to put in a stateoftheart sewer and water
5 system that we could all be proud of. That was that was
6 a good thing. That was going to be a good thing. And
7 many of the complainants at that time said yes, this will
8 be good. The problem was the system concept was state of
9 the art, but however, the installation, as has been
10 proven and is well documented, and has been for seven
11 years, was less than as promised. In fact, it was
12 incorrectly and illegally done, as the Department of
13 Natural Resources investigation and a settlement
14 agreement filed and agreed upon in 2004 proved. Since
15 since Folsom Ridge first began construction of this
16 stateoftheart system, more than a dozen violations and
17 unsatisfactory features of the Department of Natural
18 Regulation's principles and and rules have been
19 violated. It started off with 4600 feet of sewer and
20 water lines illegally installed in the same trench. That
21 was actually done without a permit even even being
22 being given them. They were told numerous times to stop
23 construction. Many violations. And they were just like
24 the Energizer bunny. They just kept on ticking and kept
25 on laying pipe all the way around the island with sewer

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1 and water in the same trench. Eventually, after five
2 long years, they it's not just a disgruntled few
3 homeowners, it was approximately 29 other homeowners
4 many of who are here today and maybe not speaking, but
5 many others who aren't who tried to negotiate with
6 Folsom Ridge to change the covenants and bylaws to put in
7 specific language to protect them as far as obeying the
8 federal, state and local laws and regulations, and also
9 to eliminate the effect that effects, contaminations or
10 violations were found to exist, that Folsom Ridge would
11 correct and repair them. Folsom declined to put any of
12 this in the revised covenants and bylaws. The many one
13 of the reasons that many of the homeowners refused to
14 join the HOA was they did not want to assume the
15 liabilities of what they knew was an incorrectly
16 installed system

17 JUDGE WOODRUFF: All right, Mr. Weir. I'm going to have
18 to stop you here. Does anyone have any questions for Mr.
19 Weir? Yes, Mr. Comley?

20 MR. COMLEY: Two questions, Mr. Weir. Are you a member
21 of the homeowners association?

22 MR. WEIR: No, I'm not.

23 MR. COMLEY: Are you taking service from the homeowners
24 association?

25 MR. WEIR: No, I'm not.

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1 MR. COMLEY: Are you connected in any way to

2 MR. WEIR: No, I'm not.

3 MR. COMLEY: to the water/sewer service?

4 MR. WEIR: No, I'm not.

5 MR. COMLEY: Do you have any intention to connect?

6 MR. WEIR: That is dependent upon what the outcome of the

7 PSC decision is.

8 MR. COMLEY: So

9 MR. WEIR: So I cannot make a comment on that unless I

10 know what the full facts are.

11 MR. COMLEY: You have not paid a tap on fee. Is that

12 correct?

13 MR. WEIR: No, sir.

14 MR. COMLEY: So even though you are concerned about the

15 quality of the installation of the system, you would

16 still connect, depending upon the PSC's decision?

17 MR. WEIR: I would consider that in the future, depending

18 on the PSC and the facts and the information that I have

19 available to me at that time.

20 MR. COMLEY: Thank you.

21 JUDGE WOODRUFF: Ms. Orler?

22 MS. ORLER: Mr. Weir?

23 MR. WEIR: Yes, ma'am?

24 MS. ORLER: The fact that you are not a member, not

25 connected and did not pay or purchase for taps, what is

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1 your concern?

2 MR. WEIR: My concern

3 MR. COMLEY: Your Honor

4 JUDGE WOODRUFF: Yeah.

5 MR. COMLEY: I think at this point, because of the

6 interest of time, the friendly crossexamination should

7 not be permitted.

8 JUDGE WOODRUFF: I'll sustain that objection. And the

9 problem is that you're just asking him to go forward with

10 his testimony as a friendly person. And in the interest

11 of time, we just can't allow that.

12 MR. WEIR: Your Honor, I did make some a couple comments

13 in the prehearing part of this that they said should be

14 made part of the actual record.

15 JUDGE WOODRUFF: Is it in your document there?

16 MR. WEIR: No, it's not. It's notes I just made while I

17 was sitting there. And it's not going to take very long.

18 I did want to caution the homeowners that before they

19 assume the ownership of the system in September 1, 2006,

20 to be sure that they knew what the reserves were, to be

21 sure that they were aware of the responsibilities and

22 liabilities that will also come with the ownership of

23 this system and be aware of what subsidies over the years

24 the amount of those subsidies which have been paid by

25 the developer, so they can plan and better prepare

00093

1 themselves if the rates go up in the future.

2 I also do want to address one thing that was brought up
3 about Bob Pohl. I was in communication with Bob Pohl two
4 or three times after that initial meeting, and he said he
5 was never contacted by them. And to me, that means that
6 there was no intention after that May 7th meeting to
7 engage Bob Pohl. And that that worried me at the time.

8

9 JUDGE WOODRUFF: All right. Thank you, sir. Chairman
10 Davis, any questions? Commissioner Murray?

11 COMMISSIONER MURRAY: No questions. Thank you.

12 JUDGE WOODRUFF: All right. You may step down. Oh, yes.

13 Your exhibit. We'll mark it as Exhibit 5

14 MR. COMLEY: Your Honor, let me note my objection for the
15 record. It's the same that I've said before. And I'll
16 have that I would like to have that objection noted,
17 that Exhibit 5 would be for the limited purpose today,
18 and not for any purpose at the other hearing.

19 JUDGE WOODRUFF: So noted. The ruling is the same as it
20 was for Ms. Orler's exhibit. Exhibit 5 will be
21 admitted for the purposes of the record today.

22 MR. MILLS: Your Honor?

23 JUDGE WOODRUFF: Yes?

24 MR. MILLS: If I could, we have at least one witness who
25 said she has a prior conflict. If we could take her out

00094

1 of order, I'm sure she

2 JUDGE WOODRUFF: That would be fine. And then we need to
3 take a short break for the benefit of the court reporter
4 as well. Which witness are you talking about?

5 MR. MILLS: Ms. Goldman.

6 JUDGE WOODRUFF: Come on forward. Please raise your
7 right hand. Do you solemnly swear or affirm the
8 testimony you're about to give in this matter is the
9 truth, the whole truth and nothing but the truth?

10 MS. GOLDMAN: I do.

11 JUDGE WOODRUFF: All right. Have a seat, if you'd like.
12 Or you can stand if you'd like.

13 MS. GOLDMAN: I'll sit. I like comfort.

14 JUDGE WOODRUFF: Tell us your name.

15 MS. GOLDMAN: My name is Carol Goldman.

16 JUDGE WOODRUFF: Okay. What would you like to tell us?

17 MS. GOLDMAN: Well, I'm here to represent my husband and
18 myself, who is Fred Goldman. He has a prior commitment
19 today. I would like to tell you that we've owned our
20 house since 1988 on Big Island. We were permanent
21 residents as of 1991. We love the island. we love the
22 people. We were have blood associations with a lot of
23 them. When Folsom Ridge took over
24 Oh, first of all, I would like to say there's that
25 letter that was written by my husband was because of

00095

1 frustration because Mr. Pugh was always constantly
2 badgering us about Folsom Ridge. Getting them always
3 causing trouble. At the beginning of the thing, when we
4 were going to have a road on the island, everybody
5 pitched in to do the he did not want it because he liked
6 the road as it was, because it was country. He later
7 decided to pitch in and was happy about it. But he's
8 been complaining since the day we've been there.
9 And I and I think Larry all the ones, Bill, the people
10 that have we were in on this thing at the beginning of
11 the against Folsom Ridge, because we wanted things
12 right. They then they did all they could to make it
13 right. We got on the system. We are we aren't in the
14 water, but we're we've got the hook up. Because our
15 well is still good, but we can hook up to it. We pay our
16 fees. We've been very happy. Nothing's been wrong.
17 We've been very pleased.
18 But what has been wrong is constant agitation. And I
19 think it's just a vendetta by Mr. Pugh and a few others.
20 He got in a fist fight with one of the original owners of
21 Folsom Ridge and yes, it is terribly funny. Grown men.
22 And but it went on and on. And he's got a vendetta.
23 And he and they aren't going to be satisfied, like they
24 said. We worked we my money's in that \$5000, Cathy, if
25 you'll attest to, that we paid for lawyers. We went to

00096

1 the meetings. We paid the money. And then we were being
2 satisfied. And we thought what is the deal here. Why
3 are they not trying to get along? And that's what we
4 wanted to do. Have a relationship with the developers.
5 And that's what it wasn't. So my husband was so agitated
6 last December that he wrote Ben the note. Which he did
7 not reply to, but saved to bring for today. But we've
8 been totally happy with them. They've been very willing
9 to help whenever we've asked. And I think it's a few bad
10 eggs that just don't want they've just got this
11 vendetta, and they're not going to let it go. I want the
12 best for Big Island. And and we've had a very good time
13 living there. But it's just constant agitation. And I
14 think nothing Reggie does is going to satisfy them. I
15 think

16 JUDGE WOODRUFF: All right.

17 MS. GOLDMAN: They've tried. Whatever the developers
18 everybody has been helpful and very good with us. And if
19 we had a problem, believe me, my husband and I would be
20 the first to tell you. But when we were on the septic,
21 we were very thrilled to get the the new facilities.

22 JUDGE WOODRUFF: Thank you, Ms. Goldman.

23 MS. GOLDMAN: Thank you.

24 JUDGE WOODRUFF: Does anyone have any questions for Ms.
25 Goldman?

00097

1 MS. ORLER: Yes.

2 JUDGE WOODRUFF: Ms. Orler, go ahead.

3 MS. ORLER: I have two questions for you, Carol. Number
4 one, are you aware that your contribution to the \$5000
5 that was spent in the attorney's fees rendered the legal
6 opinion that the current homeowners association was
7 operating

8 MS. GOLDMAN: I'm not aware of anything, Cathy. All I'm
9 aware of is that you were collecting it, and I believed
10 in you, at the time, which I do not any longer. And so I
11 did not know what it went for

12 MS. ORLER: I did not collect money. Secondly

13 MS. GOLDMAN: Well, you were there.

14 JUDGE WOODRUFF: All right. All right. We don't need to
15 argue back and forth.

16 MS. GOLDMAN: Okay.

17 MS. ORLER: Secondly, you said when you were on the
18 septic. Are you aware that even though you're connected
19 to the current system, you still have a septic tank?

20 MS. GOLDMAN: I'm aware of that. Yes.

21 MS. ORLER: Okay. Thank you.

22 JUDGE WOODRUFF: Mr. Mills?

23 MR. MILLS: Just briefly, for clarification. At the
24 beginning of your testimony, you referred to Larry and
25 Bill. Many of us don't know who that is.

00098

1 MS. GOLDMAN: Okay. Larry Toombs, their testimony.

2 MR. MILLS: Okay. And Bill I can't think of your last
3 name. I'm sorry.

4 MR. BURFORD: Burford

5 MS. GOLDMAN: And Phil. We all were in this association,
6 because we wanted to be homeowners, and we wanted things
7 for the best for the island. We were all together in it.
8 And we made contributions, we went to the meetings, and
9 we did all these things. But as it drug on, I began to
10 see the light, that there wasn't going to be any coming
11 to the as they said we were there when they were going
12 to when Mr. Pohl was there we were there at that
13 meeting. And he seemed very reasonable. And I thought
14 I had high hopes when I heard that man talk. But that
15 was

16 JUDGE WOODRUFF: Well well, thank you. Commissioners
17 have any questions? Go ahead.

18 MR. PUGH: Could I defend myself? This bad egg?

19 MS. GOLDMAN: That letter, that's why I never would have
20 said anything other than that.

21 JUDGE WOODRUFF: All right.

22 MR. PUGH: Well, you said plenty.

23 MS. GOLDMAN: That's enough.

24 JUDGE WOODRUFF: All right. At this point, you can step
25 down.

00099

1 COMMISSIONER MURRAY: I have one question.

2 JUDGE WOODRUFF: Go ahead

3 MS. GOLDMAN: Yes.

4 COMMISSIONER MURRAY: You said you were you've been a
5 permanent resident was it '99 or '91?

6 MS. GOLDMAN: '91.

7 COMMISSIONER MURRAY: '91. Thank you.

8 JUDGE WOODRUFF: All right. You may step down.

9 MS. GOLDMAN: Thank you.

10 JUDGE WOODRUFF: And we do need to take a short break for
11 the benefit of the court reporter. She's been over there
12 typing for two hours now. We'll take a five minute break.
13 We'll come back at ten after 4:00.

14 (OFF THE RECORD.)

15 JUDGE WOODRUFF: Can we come to order, please. Can we
16 come to order, please. All right. The next name on my
17 list is a Sean Seamans. Am I guessing right?

18 MR. TEMARES: It might be Stan Temares.

19 JUDGE WOODRUFF: Well, it may be. Are you on after Mr.
20 Weir?

21 MR. TEMARES: I don't know.

22 JUDGE WOODRUFF: Yes?

23 MR. PUGH: I took a pretty good shill in that last thing.

24 Don't I get a chance to

25 CHAIRMAN DAVIS: At the end.

00100

1 MR. PUGH: At the end. Thank you, sir.

2 JUDGE WOODRUFF: We'll ask for more people. Is this you,
3 Stan?

4 CHAIRMAN DAVIS: Five minutes. Let's go.

5 JUDGE WOODRUFF: All right. Stan Temares. Would you
6 please raise your right hand. Do you solemnly swear the
7 testimony you're about to give in this matter is the
8 truth, the whole truth and nothing but the truth?

9 MR. TEMARES: I do.

10 JUDGE WOODRUFF: You may be seated. And for the benefit
11 of the court reporter, would you spell your name for us.

12 MR. TEMARES: Yes. It's TEMARES.

13 JUDGE WOODRUFF: All right. What would you like to tell
14 us?

15 MR. TEMARES: I've been a resident down at Big Island for
16 the past five years. All right. And during this past
17 five years I guess it's been two months prior to me
18 moving into my home Mr. Stoyer and I had a problem with
19 a sanitary waste line leaking onto his property. He
20 documented this, filed letters to have this repaired. I
21 found out about it probably two weeks after I had moved
22 into the home. My kids were swimming in the wastewater
23 drainage area where this was being where this was
24 leaking. Mr. Stoyer is not here to testify, but there is
25 documentation towards this.

00101

1 JUDGE WOODRUFF: Mr. Stoyer passed away. Is that right?

2 MR. TEMARES: Yes. All right. But there is

3 documentation for this. It took almost three months to

4 get this waste line repaired. And it ran across his

5 property. All right? I heard a lot of people say that

6 they're perfectly satisfied with the system the way it

7 is. All right. Once this waste water problem was

8 repaired and over that period of time, I I have both

9 the water and the sewer. I agree with a lot of the

10 noncomplainers, saying that I, right now, have no

11 problem with my water system that I know of. All right.

12 The installation of the water and sewer as it was

13 installed and it was installed illegally I have a

14 problem with. People who haven't had their kids swimming

15 in the waste water ought to think about it before they

16 let this die and not submit to having the PSC govern a

17 certified company.

18 I'm not saying it should be Folsom Ridge. All right. I

19 the workmanship and management and the supervision of

20 what was done thus far leaves a lot to be desired. And I

21 think it needs to be changed either in the management or

22 in the company itself. In my mind, my personal opinion

23 is another company. Someone who I feel is qualified to

24 be certified. The number of complaints, the citations

25 from the DNR, the problems that have happened, means I

00102

1 don't wish nothing on the noncomplainants. But if they
2 had seen what my children were swimming in that I was
3 unaware of, they would be singing a different tune. I
4 believe this would be true. There's been a number of
5 issues where nobody has had a problem. And I bless them
6 for not having a problem. But I did have a problem. And
7 I want it to be known that I don't want to see it happen
8 again. And I think it should be addressed with a company
9 that's more qualified to be certified and governed by the
10 PSC. And I I that's about all I have to say about
11 that.

12 JUDGE WOODRUFF: All right. Thank you, Mr. Temares.

13 Does anyone have any questions for Mr. Temares?

14 COMMISSIONER MURRAY: I have one.

15 JUDGE WOODRUFF: Go ahead, Commissioner.

16 COMMISSIONER MURRAY: Mr. Temares, you indicated that you
17 would like a qualified company to take it over. Are you
18 are you aware of any companies that are willing and able
19 or have expressed an interest?

20 MR. TEMARES: No, ma'am, I have not. I have I did ask
21 the PSC if they could make recommendations in prior
22 meetings, if they could make recommendations of companies
23 that may consider taking this over on Big Island, and
24 never received any information as yet.

25 COMMISSIONER MURRAY: All right. Thank you. That's all

00103

1 I have.

2 MS. SHORE: I have a question.

3 JUDGE WOODRUFF: I'm sorry. Who are you?

4 MS. SHORE: I'm sorry. My name's Stacy Shore. I'm a
5 resident of Big Island.

6 JUDGE WOODRUFF: Okay. I can't let members of the
7 audience ask questions. I'm sorry.

8 MS. SHORE: I'm sorry.

9 JUDGE WOODRUFF: Okay. You may step down, Mr. Temares.

10 MR. TEMARES: Thank you.

11 JUDGE WOODRUFF: All right. The next name on my list is
12 Don Bracken. And I believe he had to leave. But he did
13 leave a letter that he wanted to enter into evidence.

14 I'm going to go ahead and mark it as Exhibit 6. And it's
15 just a letter from himself Donald Bracken and Marilyn
16 Bracken concerning their services at at Big Island.

17 MR. HILEY: It's in your book, too, Your Honor, so you'll
18 have it twice.

19 JUDGE WOODRUFF: All right. It's already in the book.

20 I'll go ahead and mark it as Exhibit 6, and it'll be
21 received into evidence as Number 6. Next name, then, is
22 Betsy Snyder. Okay. And Ms. Snyder, if you'd please
23 raise your right hand. Do you solemnly swear or affirm
24 the testimony you're about to give in this matter is the
25 truth, the whole truth and nothing but the truth?

00104

1 MS. SNYDER: I do.

2 JUDGE WOODRUFF: You may be seated. What would you like
3 to tell us? First of all, make sure you Snyder, that's
4 SNYDER?

5 MS. SNYDER: That's correct.

6 JUDGE WOODRUFF: All right.

7 MS. SNYDER: I just don't want to be part of the silent
8 majority. And these are just my feelings. My husband
9 and myself purchased our two lots on Big Island in '99
10 and with the hopes of coming here full time, which we've
11 been fulltime residents, retired, for two years now.
12 But I feel like I must respond to the situation brought
13 on by, quote the newspaper article a few disgruntled
14 people that affects us personally. We receive both sewer
15 and water services that Folsom Ridge provides. When they
16 established the systems, they invited new lot owners and
17 established residents who used wells and septic systems
18 to hook on to their waterway system. The fact that they
19 opened the use of the system to existing residents is
20 rare for a developer.
21 There were initial problems, that's true, with the
22 installation of the systems. And that has since been
23 corrected. We receive quality water that's that's
24 monitored regularly. The sewer system is the state of
25 the art. And any sewer interruption in service is

00105

1 rectified immediately, or the water. The cost for sewer
2 and water services is reasonable. And we are satisfied
3 customers. We are active members of the Big Island
4 homeowners association and were under the impression we'd
5 be retaining ownership of the quality services in
6 September of '06. Our neighbors had agreed on this
7 course of action, voted to actively pursue at it as a
8 group connected to sewer, water or both. But some are
9 not connected to sewer, water or both.

10 In the complainants' I'm having trouble with my eyes
11 these complainants took it upon themselves to file
12 complaints with PSC against Folsom Ridge, asking to be
13 regulated, thus forcing Folsom Ridge to continue to own
14 the system. If PSC's sanction over the rates on a
15 forprofit service, thus increasing our rates. And I feel
16 like they are just doing this to seek or settle some
17 score with Folsom Ridge. That's just a personal opinion.

18

19 The complainants are probably 10 percent of the island
20 residents. They surely cannot be the voice that's heard
21 above the majority of us who find no fault with the
22 present system and do not want it to become PSC
23 regulated. I feel the nine complainants have done the
24 rest of us a huge disservice.

25 JUDGE WOODRUFF: All right. Thank you. Does anyone have

00106

1 any questions for Ms. Snyder? Ms. Orlor first.

2 MS. ORLER: Are you employed by Folsom Ridge, Ms. Snyder?

3 MS. SNYDER: No, I'm not. If you're under that

4 assumption, you're operating under a false assumption. I

5 am not on anybody's payroll. I'm an independent interior

6 designer. I contracted with Folsom to furnish their

7 model homes, just as you would if they decided to have a

8 wine tasting party and they would call upon you to host

9 that or pull it together.

10 MS. ORLER: So your services for them will be as a 1099?

11 MS. SNYDER: Yes. What business is how is that related?

12 UNIDENTIFIED SPEAKER: She owns a home on the island.

13 JUDGE WOODRUFF: Excuse me. We can't have other people

14 from the audience speaking up, because it confuses the

15 court reporter, makes it impossible for her to make a

16 transcript of the hearing. So we can't have comments

17 from anybody else.

18 MS. SNYDER: I'm wondering what that has to do with

19 anything. What did that question have to do with any of

20 these proceedings?

21 MS. ORLER: I just I wanted to know if you were employed

22 by Folsom Ridge.

23 JUDGE WOODRUFF: All right. The question has been asked

24 and answered and we can move on from there. Anybody else

25 have any questions? Mr. Weir?

1 MR. WEIR: Yes. Mrs. Snyder, you mentioned that there
2 were initial problems with the sewer and water.

3 MS. SNYDER: Yes.

4 MR. WEIR: Could you tell us what those initial problems
5 were.

6 MS. SNYDER: My husband my husband went I believe on
7 January the 4th what year was that? to to go with a
8 group of island homeowners to view the DNR digging up and
9 looking at the water lines. Which they completely gutted
10 that whole system and started all over and put the system
11 in correctly. As far as I'm concerned, what's in the
12 past is in the past. They made their corrections.

13 MR. WEIR: And the second question I had, Mrs. Snyder,
14 you said that we wanted or the complainants wanted to
15 settle a score with Folsom Ridge. Would you explain what
16 the score or elaborate on that a little bit.

17 MS. SNYDER: I can't assume to know what motivates people
18 to keep generating dissension on an island body. There's
19 one way in, one way out. We're all a group. What keeps
20 motivating people to keep things stirred up, only they
21 could answer. I certainly don't have any idea. It's
22 disheartening to be a part of a what you hope is a
23 cohesive group, and then find that there are some who
24 just absolutely will not leave well enough alone.

25 JUDGE WOODRUFF: Ms. Orlor?

00108

1 MS. ORLER: Have you read any of the formal complaints,
2 Ms. Snyder?

3 MS. SNYDER: Yes, I have.

4 MS. ORLER: And what issues in the formal complaints
5 would you verify when you said you don't understand why
6 they keep wanting to stir things up? What of those
7 issues in the formal complaints would you consider to be
8 stirring up?

9 MS. SNYDER: Well, I think that Folsom Ridge has, in most
10 part, corrected most of the things. And they you know,
11 how you resolve it with them is between you and them, if
12 there are any ongoing issues that haven't been rectified.

13 To my knowledge, they're trying to breach the gap. But
14 it's never enough.

15 JUDGE WOODRUFF: Go ahead.

16 MR. PUGH: Betsy, have you have you read my complaint?

17 MS. SNYDER: Yes. There were a lot of complaints to go
18 through.

19 MR. PUGH: Well, did you read mine?

20 MS. SNYDER: Yeah.

21 MR. PUGH: Yeah. Did you did you agree with my
22 complaint?

23 MS. SNYDER: I I feel that a lot of your issues go back
24 to the to the initial confrontation with the other
25 partner that's no longer part of the group.

00109

1 MR. PUGH: Well, that is partially true, because by
2 complaint actually started

3 JUDGE WOODRUFF: All right. We need to stop this.
4 Because there's a lot of people here who want to have a
5 chance to say something, and you guys can have your
6 private conversations later if you want to. And again,
7 all the complainants are going to have a chance to
8 present their formal testimony when we get to the
9 evidentiary hearing. Go ahead.

10 MR. TEMARES: I've got a short question. The the sewer
11 and water lines that Folsom Ridge took up and replaced,
12 how did how did you find out, or how do you know you
13 know, how did that come about that that got done?

14 MS. SNYDER: Well, we live there permanently every day,
15 24/7. We've seen the water the new sewer and water
16 lines go in.

17 MR. TEMARES: No. No. The ones that were bad. How was
18 it found that they were bad?

19 MS. SNYDER: My husband, I said when I first started that
20 part of the conversation, watched the DNR dig up three or
21 four sites and see that it was incorrectly put in.

22 MR. TEMARES: No. How did why did DNR do it?

23 JUDGE WOODRUFF: All right. I'm going to stop this
24 again. Mr. Temares, you're going to have a chance to
25 explain all this on the record

00110

1 MR. TEMARES: All right.

2 JUDGE WOODRUFF: when we get to the hearing. We just
3 need to move along today. Do the Commissioners have any
4 questions for this witness?

5 COMMISSIONER MURRAY: No questions. Thank you.

6 JUDGE WOODRUFF: All right. Then you may step down.
7 Thank you. The next name is Fred Beaman. Please raise
8 your right hand. Do you solemnly swear or affirm the
9 testimony you're about to give in this matter is the
10 truth, the whole truth and nothing but the truth?

11 MR. BEAMAN: Yes, sir.

12 JUDGE WOODRUFF: All right. And tell the court reporter
13 your name. Spell your last name.

14 MR. BEAMAN: It's Fred BEAMAN. I bought a house on Big
15 Island two years ago. And I've never seen anything like
16 this in my life. I can't understand grown people acting
17 like this. But I'm a minority here. I'm not mad at
18 anybody. I'm happy with with my water and sewer, I'm
19 happy with the homeowners association, with my bill, with
20 everything. But it seems to me like, just sitting here
21 today, that I didn't understand that somebody needs a job
22 or a hobby. Let me tell you something. If if these
23 people are worried about their value of their property
24 and stuff, they better this is what's going to ruin the
25 value of their property. It's not it's not the water

00111

1 and sewer. DNR regulates water and sewer. So in my
2 opinion, that's what's necessary.
3 I want to say this. Not anything about the PSC, so don't
4 take this wrong. If anybody wants to add more rules and
5 regulations to what they do, how they live and
6 everything, they've got to have a screw loose. Man, I
7 mean, the government has got us so regulated that we
8 can't do anything without going to the government and
9 asking if we can do it. So in my opinion, it's
10 completely ridiculous. We could have Greg Williams in
11 here. I've been in one of his I've been in a court case
12 against him one time, and you would have problems. So my
13 opinion is leave it like it is. I think everything's
14 fine. That's all I have to say.

15 JUDGE WOODRUFF: Okay. Anyone have any questions for Mr.
16 Beaman? Commissioners?

17 CHAIRMAN DAVIS: No. Thank you, Mr. Beaman.

18 JUDGE WOODRUFF: Thank you, Mr. Beaman. Next name is M.
19 McDuffey. Please raise your right hand. Do you solemnly
20 swear or affirm the testimony you're about to give in
21 this matter is the truth, the whole truth and nothing but
22 the truth?

23 MR. McDUFFEY: I do.

24 JUDGE WOODRUFF: Thank you. And could you tell the court
25 reporter your name.

00112

1 MR. McDUFFEY: Yes. My name is Michael McDuffey. I'm
2 currently employed by Lake of the Ozarks Water and Sewer.
3 We operate about 70 water and wastewater systems here.
4 I'm currently the operator in charge of the drinking
5 water system for Big Island. I am currently employed by
6 Folsom to do operations and maintenance on that. And I
7 would like to express to the committee that in the seven
8 or eight years that I've been involved with this crew,
9 that I have found them to be excellent managers. If I
10 need anything done, repairs, parts, service calls, they
11 have responded just absolutely amazing. This is one of
12 the better operated systems I'm sorry. I don't mean to
13 say that. It is one of the better managed systems in the
14 Lake area. There are many horror cases in the Lake area.
15 This is not one of them. I tested water from any number
16 of different homes in this system. They have all been
17 good. We have never had a bad sample in the system. I
18 don't know what the group means when they're saying that
19 there's been samples taken illegally or not properly.
20 Everybody that is employed by LOWS is state certified
21 through the Department of Natural Resources. All the
22 drinking water samples for our history, however long I've
23 been doing it, and the wastewater have been in compliance
24 with the Department of Natural Resources regulations.
25 JUDGE WOODRUFF: You referred to LOWS. What is LOWS?

00113

1 MR. McDUFFEY: Lake of the Ozarks Water and Sewer

2 JUDGE WOODRUFF: Okay.

3 MR. McDUFFEY: It's a corporation that we formed here.

4 JUDGE WOODRUFF: Anything else you'd like to add?

5 MR. McDUFFEY: There's many things I'd like to add in
6 response to the sewer leaks, illegal activities on this.

7 My probably my biggest comment is that Big Island has
8 been held to candle to the foot on everything that
9 they've done. They've been under extreme exposure. And
10 yeah, things have been done wrong, which is typical on a
11 lot of systems, but they've responded in a positive every
12 time. They've taken care of any problems that come up.

13 JUDGE WOODRUFF: And how long have you been involved in
14 the system?

15 MR. McDUFFEY: Specific year? I couldn't tell you.
16 Probably since '99. Maybe '98.

17 JUDGE WOODRUFF: All right. Well, thank you, Mr.
18 McDuffey.

19 COMMISSIONER MURRAY: I have a question.

20 JUDGE WOODRUFF: Go ahead.

21 COMMISSIONER MURRAY: Mr. McDuffey, you said there are
22 many horror stories in the lake area. And I assume that
23 you've been in this business long enough that you've
24 witnessed some of those?

25 MR. McDUFFEY: Yes, ma'am.

00114

1 COMMISSIONER MURRAY: Now, are some of those with with
2 companies that are regulated by the Public Service
3 Commission?

4 MR. McDUFFEY: Yes, ma'am.

5 COMMISSIONER MURRAY: And in your experience, have those
6 been resolved more quickly or less quickly than those not
7 regulated by the Public Service Commission? Or can you
8 make that judgment?

9 MR. McDUFFEY: I can give you my opinion. Unfortunately,
10 I am involved in Osage Water Company. And I'm part of
11 the involvement in the receivership. And the Public
12 Service Commission regulated certificated areas. Never
13 been taken care of. We have people that have had no
14 water pressure. These guys would have a fit if they
15 couldn't turn the shower on in their secondfloor home.
16 We do have systems that are certificated by the Public
17 Service Commission, people can't even take a shower
18 upstairs. The water smells bad. It tastes bad. It's
19 full of iron, and has been for five or six years.

20 COMMISSIONER MURRAY: Thank you.

21 MR. McDUFFEY: Thank you.

22 JUDGE WOODRUFF: Anyone else have any questions for Mr.
23 McDuffey? Go ahead, Ms. Orler.

24 MS. ORLER: Mr. McDuffey, when a notice of violation is
25 cited to Folsom Ridge with regards to something that

00115

1 falls under your jurisdiction of operation, are you not
2 made aware of those violations?

3 MR. McDUFFEY: Yeah. We would probably get that before
4 Folsom.

5 MS. ORLER: You would? But you're not aware of this
6 violation that I mentioned earlier about the improper
7 water sampling?

8 MR. McDUFFEY: I am not aware of what you mean by
9 improper water sampling, ma'am. I really don't. I'm
10 sure that I have a copy of that letter.

11 MS. ORLER: That's just the term that was used in this,
12 so I was just

13 MR. McDUFFEY: And that and that may be the wrong term
14 to be used. But I don't know what it's

15 MS. ORLER: Okay. But you think you might have a copy of
16 this?

17 MR. McDUFFEY: I'm reasonably certain I would have a copy
18 of it.

19 MS. ORLER: Okay.

20 JUDGE WOODRUFF: Go ahead.

21 MR. PUGH: Mike, don't you think that five months is kind
22 of an excessive time to fix a leak? A sewer leak?

23 MR. McDUFFEY: Are you referring to the one at Stoyer
24 Springs?

25 MR. PUGH: Yes. Stoyer Spring. Yes.

00116

1 MR. McDUFFEY: I don't recall that it was five months.

2 MR. PUGH: It was. I have pictures taken through the
3 period.

4 MR. McDUFFEY: I know that I was involved in that, and
5 and I have many years of experience in this. If if you
6 remember, when we finally found what it was and I I
7 must make comment that there was water leaking, and it
8 was running down the hill, as water will do. But it was
9 treated water. It wasn't sewage water. It was also
10 chlorinated. It had a BOD content of about a 0.2, which
11 is a thousand times better than any septic tank in this
12 area. What we found was that when the contractor
13 installed the electrical panel at the wastewater
14 treatment plant, he had driven a stake through the
15 discharge pipe, creating a hole in the top and the
16 bottom, and discovered that he had done this, and just
17 covered it up and moved the control panel. And this
18 water was leaking out of the bottom pipe. The pipe was
19 still discharging part of the water. Part of the water
20 was leaking out of the bottom into the bed the trench
21 bed that was filled with gravel. And as that water
22 filled up, it followed the gravel down the trench. We're
23 talking about 90 or 100foot fall down the hill. And when
24 you're chasing water that's running downhill or through
25 trenches, it's very difficult and timeconsuming to find.

00117

1 MR. PUGH: At on Stoyer's property, when this was found
2 on April 23rd of

3 MR. TEMARES: 2002

4 MR. PUGH: 2000, I believe? I forget the date. Anyway,
5 it was in April. It had a Coliform of you'll know more
6 about this than I do 10,900. Is that is that drinking
7 water?

8 MR. McDUFFEY: 10,900 would not be drinking water, but it
9 may also not be wastewater. Wastewater results are
10 usually too numerous to count, even when you do
11 absolutely minor dilutions for the testing. As I
12 remember, that when Stoyer dug his trench to hook onto
13 the sewer system

14 MR. PUGH: Yes.

15 MR. McDUFFEY: the water just suddenly appeared out of
16 the ground and ran over.

17 MR. PUGH: That's true. I saw it.

18 MR. McDUFFEY: I never saw that.

19 MR. PUGH: I did.

20 MR. McDUFFEY: And when I got there, as you remember, the
21 trench was dry. And we never saw any more water come out
22 of it at that point in time.

23 MR. PUGH: I don't remember

24 MR. McDUFFEY: I never saw water come out.

25 MR. PUGH: I don't remember you being there, but I do

00118

1 remember the county, when we when he first saw that, he
2 called the county, and they came out and took samples.

3 MR. COMLEY: Your Honor, I think Mr. Pugh is testifying,
4 and he's not asking a question, and I would object to his
5 questions on that basis.

6 JUDGE WOODRUFF: All right. I'm going to sustain the
7 objection. And I understand, Mr. Pugh, you want to be
8 able to bring this information out. But it's something
9 you're going to have to bring up at the at the hearing.

10

11 MR. PUGH: All right.

12 JUDGE WOODRUFF: All right. well then, Mr. McDuffey, you
13 can step down.

14 MR. McDUFFEY: Thank you, sir.

15 JUDGE WOODRUFF: Next name on the list is Cindy Fortney.
16 Do you solemnly swear or affirm the testimony you're
17 about to give in this matter is the truth, the whole
18 truth and nothing but the truth?

19 MS. FORTNEY: So help me God. Yes.

20 JUDGE WOODRUFF: Be seated. What would you like to tell
21 us?

22 MS. FORTNEY: Okay. I've lived on the island going on
23 two years now. However, I permanently, as a full
24 resident, whatever. Previous to that, my dad had a house
25 on the island, and so I was a parttimer in a sense,

00119

1 because he's had the house since 1998. He purchased the
2 water and sewer taps for his property, and then he also
3 bought the property next to him, a vacant lot, from
4 Folsom Ridge. And it already came with the water and
5 sewer taps, or with the that's right. Let me back up a
6 second. My dad, on his property, he only got the sewer.
7 But the one that he bought next to it had water and
8 sewer. Okay. He was told at the time that that he
9 wouldn't have to pay any fees until he actually hooked up
10 to the system.

11 So my issues are all around the member, nonmember
12 situation, since we're not we're not members of the
13 homeowners association, we're not hooked up, it's still
14 being built, and it's an ongoing thing.

15 When my dad sold that house last summer, we were told
16 that if we didn't pay the back fees, then we would be
17 sued. The new people that were buying the house, if they
18 did not sign the paper saying that they would be a member
19 of the association, they would not be able to hook up in
20 the future. This prolonged the closing about three hours
21 between two and three hours until it finally came down
22 to where the new owners did not sign to be a member, and
23 it was then we're going to pursue suing for the back
24 fees. Okay. So that went on.

25 Within two or three weeks, we purchased a house my dad

00120

1 and I we're both on the deed. It's 50/50 where I live
2 now, today, 3298 Big Island Drive. At the closing, there
3 was a \$14 fee for homeowners association. There were no
4 documents given to us about the covenants, bylaws, what
5 the homeowners association was. But the lady at closing
6 said that we had to pay that \$14 or she was going to stop
7 the closing. Between the two properties, it's over half
8 a million dollars within a month they're trying to
9 postpone or delay.

10 So during the time that I was parttime there, I knew
11 about these problems and when the system was going in,
12 and things from the systems going in. So my bottom line
13 is past experience breeds future behavior. And just
14 recently when I went to the meeting and they've changed
15 the dues again back down to \$5 for people that are not
16 hooked up or nonmembers I see the past being the present
17 and the future. So I don't see any way out of it, unless
18 there's a way to be regulated, and let things be under
19 some kind of guidelines, rules and, you know, legislation
20 that somebody's going to be able to monitor and manage.
21 So short and blunt.

22 JUDGE WOODRUFF: All right. Thank you, Ms. Fortney.

23 Anyone have any questions for Ms. Fortney? Ms. Orler?

24 MS. ORLER: Cindy, is your property governed by a set of
25 restrictive covenants?

00121

1 MS. FORTNEY: Yes. And we did receive those at the time
2 of closing. Yeah.

3 MS. ORLER: And are those restrictive covenants Folsom
4 ridge's restrictive covenants?

5 MS. FORTNEY: No. No. We didn't receive anything from
6 Folsom Ridge.

7 MS. ORLER: Okay.

8 MS. FORTNEY: My dad gets a bill every month in Kansas
9 City for the two properties. And he just throws
10 everything out. I've never received anything.

11 JUDGE WOODRUFF: Any questions from the commissioners?

12 CHAIRMAN DAVIS: No, ma'am. Thank you.

13 JUDGE WOODRUFF: Ms. Fortney, thank you.

14 MS. FORTNEY: I do have one I think Bill said this was
15 in his copy, but this was in response to the email that I
16 sent out. And it has to do with the past, focusing on
17 the past versus the future. And that's what I'm just
18 saying. I look at past behavior for future behavior.

19 JUDGE WOODRUFF: I'll mark this as Exhibit 7. Anyone
20 object?

21 MR. COMLEY: Who was the author of the email?

22 JUDGE WOODRUFF: Says from regal220 to sprout2.

23 MR. COMLEY: Do we have identities about the addresses?

24 Ms. Fortney, are you sprout?

25 MS. FORTNEY: Yeah. Sprout2, actually.

00122

1 MR. WEIR: Isn't that regal Mr. Burford?

2 MS. FORTNEY: Yeah.

3 JUDGE WOODRUFF: Okay. So Mr. so it's from Mr. Burford
4 to you?

5 MS. FORTNEY: Yes.

6 JUDGE WOODRUFF: All right.

7 MR. COMLEY: Can I ask a question? If hers can be
8 authenticated, why can't mine?

9 JUDGE WOODRUFF: Because no one has objected to it at
10 this point. Exhibit 7 will be admitted into evidence.
11 Next name on the list is Sheryl Adamson. Please raise
12 your right hand. Do you solemnly swear or affirm the
13 testimony you're about to give in this matter is the
14 truth, the whole truth and nothing but the truth?

15 MS. ADAMSON: Yes, I do. My name is Sheryl Adamson. My
16 husband's name is Ron. We have five lots on Big Island.
17 We built a house last May. And I agree completely with
18 that guy that stood up, said this is the biggest bunch of
19 nonsense I've ever seen in my life.

20 I just wanted to get up and I know you've heard it all,
21 so I just want to make it short. A couple of weeks ago,
22 very recently, we were working out in our yard and trying
23 to get some things done, and we noticed some water out
24 there. And so we called Folsom Ridge and told them that
25 we thought it was our water line, but it it was right at

00123

1 where it hooks into their system. So we were a little
2 concerned about it. That very day, somebody came over.
3 It was our side, but they fixed the problem, did not
4 charge us for it. While we were chatting with the guys,
5 the guys you know, we asked them if they knew anything
6 about septic tanks. Which they had nothing to do with
7 our septic tank, the installation or the maintenance of
8 it. The next week, we learned that the very next day,
9 someone came out and fixed our septic tank. We didn't
10 get a bill for that.

11 It's one of the things I love about living on Big Island,
12 is because everybody kind of works together as a family
13 at least most everybody. Phil and Tonie keep us very
14 well informed about everything that's going on, and don't
15 ever ask for our you know, don't ever sway our opinions.

16 And Folsom Ridge is is listens to us the same way.
17 The one concern that I have is if it was PSC regulated,
18 and we would have called them and and told them about
19 our water problem, our leak that we found, how long would
20 it have been? I know it certainly wouldn't have been
21 that same day. How long would it have been before
22 somebody came out and looked? And what would the charge
23 have been? Now, no offense, guys, but I've worked for
24 the government for almost 30 years. I know how the
25 government works. There's a lot of red tape. They

00124

1 provide well for me. But they aren't good at racing to
2 anything. So I am very concerned about that. I think
3 Mr. Temares mentioned that he had asked the PSC months
4 ago for any advice on who might want to buy these
5 companies, and he hasn't heard anything back. Well, it's
6 been months. So that is my concern.

7 JUDGE WOODRUFF: Does anyone have any questions for Ms.
8 Adamson? Go ahead.

9 MS. ORLER: You said you did not receive a bill. And I
10 somebody has to pay for the services that were rendered.
11 Do you have any idea who received the bill?

12 MS. ADAMSON: I don't think anybody received a bill. I
13 think that it was just the guys were working on the
14 island anyway and it was not that big of a deal.

15 MR. WEIR: I do have a question.

16 JUDGE WOODRUFF: Go ahead.

17 MR. WEIR: If you had a problem like you your scenario
18 there, would you Mr. is there a staff would we call
19 we wouldn't call the PSC to fix that problem; would we?
20 Wouldn't it be the

21 JUDGE WOODRUFF: You can only ask a question of the
22 witness. You can't ask other staff members.

23 MR. WEIR: Well, I mean

24 MS. ADAMSON: I don't know the answer to that.

25 MR. WEIR: Okay. I just know it's nice having someone

00125

1 right next door that I can call and they can get down
2 there immediately. That's nice.

3 JUDGE WOODRUFF: All right. Questions from the
4 commissioners?

5 COMMISSIONER MURRAY: No. Thank you.

6 JUDGE WOODRUFF: Thank you, Ms. Adamson. Next name, Jim
7 and Jennifer Waters?

8 MR. WATSON: Watson.

9 JUDGE WOODRUFF: Watson.

10 MR. WATSON: Jennifer had to go with the busload of kids.

11 JUDGE WOODRUFF: Okay. I take it you're Jim then?

12 MR. WATSON: Yes.

13 JUDGE WOODRUFF: Please raise your right hand. Do you
14 solemnly swear or affirm the testimony you're about to
15 give in this matter is the truth, the whole truth and
16 nothing but the truth?

17 MR. WATSON: Absolutely.

18 JUDGE WOODRUFF: Thank you. And if you'd you're Jim.
19 And spell your last name for us.

20 MR. WATSON: Watson. WATSON.

21 JUDGE WOODRUFF: Okay.

22 MR. WATSON: My wife's Jennifer.

23 JUDGE WOODRUFF: Thank you.

24 MR. WATSON: We bought a house approximately three years
25 ago, and and like a lot of the other neighbors, we've

00126

1 had absolutely no complaints, no issues. Our sewer and
2 water has been fantastic. We came from Chicago. We had
3 hundredplusamonth water bills, where you paid for the
4 sewer whether it went to the grass or went into the
5 sewer, because it was metered. We wanted to stay away
6 from that.

7 I've been told that I've got a lot of mileage out of my
8 story, saying Folsom Ridge has taken everything that I've
9 had issues with and taken care of it. I think they've
10 got a lot of mileage out of this sevenyear battle. Our
11 community is divided. My wife and I wanted to leave the
12 island and just get away from all this. But we've had
13 some neighbors have a little garage sale that sparked a
14 little bit of hope that we could work together and have a
15 good community, instead of all this fighting among the
16 neighbors. So that's what I want to see.

17 I want to know if the PSC is going to give me their
18 personal phone numbers. I have all their personal phone
19 numbers. I can call any one of them at any time. They
20 call me back. They ask what's the matter. They ask
21 what's going on. What needs to be done. The water goes
22 out, I called the contractor directly. He comes out. We
23 have the highest house. When the water goes out, our
24 showers stop first. They're out the same day. I don't
25 think I'm going to get personal phone numbers from PSC or

00127

1 anyone else in the government business. So we're very
2 satisfied. And that's all I'd like to say is I'd like to
3 see the community get back together and get this way
4 behind us.

5 JUDGE WOODRUFF: Thank you, Mr. Watson. Does anyone have
6 any questions for Mr. Watson? Commissioners?

7 COMMISSIONER MURRAY: No questions. Thank you.

8 JUDGE WOODRUFF: Thank you, Mr. Watson. The next name is
9 Steve Kleppe. Do you solemnly swear or affirm the
10 testimony you're about to give in this matter is the
11 truth, the whole truth and nothing but the truth?

12 MR. KLEPPE: Yes, I do.

13 JUDGE WOODRUFF: And I'm very tired of saying that.

14 MR. KLEPPE: Can I face the audience?

15 JUDGE WOODRUFF: You can.

16 MR. KLEPPE: Good.

17 JUDGE WOODRUFF: First of all, would you spell your last
18 name for the

19 MR. KLEPPE: KLEPPE.

20 JUDGE WOODRUFF: Thank you.

21 MR. KLEPPE: First of all, I wish I wasn't up here. I
22 didn't want to get up here. But I need to. I've got
23 good friends on both sides of this issue. So I might
24 walk out of here with no friends. But anyhow, my dad
25 bought a house here in '72 on Big Island. And he died in

00128

1 1980. And I was partners with him. And my wife and I
2 and kids have been here ever since. We're not a member
3 of the association, I don't think. But Phil doesn't know
4 either, so but we are on the sewer system. We're not on
5 the water, because we have a very good well. And I've
6 got three and a half lots. Two and a half are virgin.
7 And I did pay the tap fees or whatever they were, \$6800.

8

9 But everybody keeps talking about how great the sewer and
10 water system is. You're absolutely right. It's working
11 wonderful. That's not the issue here. It was an issue
12 back years ago, but it's not the issue today. It's who's
13 going to run it in the future. And whether the present
14 status quo is okay, or whether it needs to go to what
15 we're talking about, or whether we need to do what Phil
16 wants to do.

17 But, you know, some of you that aren't complainants
18 formal ones by the way, I might want to suggest that Mr.

19 Dick said something that was very important. There are
20 more than nine complainants. There's only nine that
21 filed complaints. There's a lot more that have concerns.

22 And we all know that. Most of us in this room, except
23 possibly some of the new landowners and householders.

24 And I understand how you're wonderfully thrilled with the
25 systems. They're working right, you've had no problems

00129

1 with them. One of the reasons maybe with the water is
2 because of the complainants and what they did and what
3 they went through. So it really isn't nonsense. I think
4 they're being treated with a little disrespect that's not
5 called for. I'm just giving my opinion.

6 As far as the homeowners association running this, that's
7 a very difficult situation. Because if you run it
8 yourself, then you've got to have a board that runs that,
9 and they've got to be very responsible and reactive. And
10 I was the president of a homeowners association for three
11 years. And it's not easy. And we weren't running a
12 sewer and water system. One reason the system might be
13 working as well as it is now today with the association
14 is because the developer has a company that can run it.
15 Association isn't running it. Company's running it.
16 That's what I gather from what I've been told. And I
17 assume that that's fairly true. But you have to remember
18 this does go back a number of years, when the sewer and
19 water lines were put in wrong. And that's why a lot of
20 people even on the side that hasn't made complaints, I
21 guess, is the best way to put it have said that they
22 didn't want to hook up to the water system. And through
23 the efforts of some of the complainants, the system was
24 redone by whatever government agency got involved. And I
25 don't know a lot of the detail on how that all works.

00130

1 But it was because of them having to come out here and
2 dig up the lines, and they said they were saw their the
3 lines dug up. I also did, too. So the the thing is
4 and I wish it wasn't true. I mean, I wish I didn't have
5 to say this. But when you've got a record of of a lot
6 of problems and yes, there was a third partner in their
7 company that was responsible for putting in the water and
8 sewer, and yes, he is gone. But the trouble is after he
9 left, it took in my opinion, again way too long to get
10 the new water system put in.

11 What's really unfortunate here is to have neighbors
12 against neighbors. I've got people here that we used to
13 have outings together. We used to do a lot of things,
14 and when we were down here. Because we're part time.
15 But and now, people are at odds. Some of them aren't
16 even talking. So yes, we do need to resolve this. I my
17 personal opinion is, in all due respect to Folsom Ridge
18 is that it would probably be best for all if somebody
19 else was in charge. Now, homeowners association or
20 governmental just remember, you go homeowners
21 association, it's a tough way to go, because the people
22 say they're served, and they say they're being charged.
23 Somebody's got to be in charge, and some company's got to
24 do it run out and do that water line somebody's talking
25 about, or sewer line. Yeah. These homeowners would have

00131

1 to have a company that responded to those problems. So
2 that's about it.

3 JUDGE WOODRUFF: Thank you, Mr. Kleppe. Does anyone have
4 any questions? I don't see anybody. So you can step
5 down.

6 MR. KLEPPE: Thank you.

7 JUDGE WOODRUFF: Thank you. Next name on the list is Pam
8 Cottingham.

9 MS. COTTINGHAM: That's me.

10 JUDGE WOODRUFF: Will you please raise your right hand.
11 Do you solemnly swear or affirm the testimony you're
12 about to give in this matter is the truth, the whole
13 truth, nothing but the truth?

14 MS. COTTINGHAM: I do.

15 JUDGE WOODRUFF: All right. Spell your last name for us,
16 please.

17 MS. COTTINGHAM: COTTINGHAM.

18 JUDGE WOODRUFF: Thank you. What would you like to tell
19 us?

20 MS. COTTINGHAM: Just very briefly. We purchased our
21 home on Big Island in 1995. It was new construction at
22 that time. Although we would be considered as one of the
23 old owners, because we were there before Folsom Ridge.
24 Our home at that time had it had a well on the lot, and
25 it also had a septic system on the lot, which was working

00132

1 properly, we felt, at that time. However, it was a very
2 small lot. And we had concerns about a well and a septic
3 system on a very small lot at the same time. So and we
4 also were concerned about the resale value of a house on
5 a small lot with a septic system and a well. So when
6 Folsom Ridge came in and offered the central system, we
7 were quite happy. We were glad we would be able to hook
8 on. We chose to hook on. We were told at that time that
9 we had to sign the the agreement with the property
10 owners association to hook on, and we did that. Later,
11 afterwards, we bought the two lots on either side of us
12 that are undeveloped. They are we are leaving them that
13 way. At some time, hope to sell them in the future.
14 They came with the tap. We are paying the tap service
15 fees tap without service fee on those two lots and
16 paying for our connections on our home. The original
17 agreement that we signed for the property owners
18 association stated that in the future, that this system
19 would be turned over to the homeowners and it would be
20 run as a notforprofit corporation. When we chose to go
21 onto the system we didn't have to, but we chose to we
22 did this because we felt it would be better for ourselves
23 and for the environment of the lake, to be on a central
24 system, rather than everyone on all these little lots
25 having their own septic system and well. So our feeling

00133

1 is we would like to see it go to the property owners
2 association and remain as a not for profit. And we were
3 very disappointed that more of the existing homeowners
4 did not choose to go onto the system, again, because of
5 the environmental concerns. And that's all I'd like to
6 add.

7 JUDGE WOODRUFF: Thank you. Anyone have any questions
8 for Ms. Cottingham? Ms. Orler?

9 MS. ORLER: Ms. Cottingham, at the time that you ratified
10 the homeowners association documents, is that at the very
11 same time that you purchased your taps?

12 MS. COTTINGHAM: That was yes. When we purchased the
13 taps for the house, and we asked to be connected for
14 water and sewer, we also signed the agreement, as was
15 agreed upon.

16 MS. ORLER: And do you know what year that was?

17 MS. COTTINGHAM: The taps the taps on the two lots came
18 with the lots.

19 MS. ORLER: Okay. And do you know what year that was
20 that you ratified those documents?

21 MS. COTTINGHAM: I don't, offhand. What year was it that
22 the system became available?

23 MS. ORLER: Well, the

24 MS. COTTINGHAM: We were one of the first ones to tap in.

25

00134

1 MS. ORLER: So you were offered ratification documents at
2 the same time that you purchased made your tap purchase?

3 MS. COTTINGHAM: Yes, we were. And it was offered to
4 other persons at the same time as well.

5 MS. ORLER: But you don't recall what that year was?

6 MS. COTTINGHAM: Not without checking it, no.

7 MS. ORLER: Okay.

8 JUDGE WOODRUFF: Any questions from the commissioners?

9 Thank you, Ms. Cottingham. You can step down.

10 MS. COTTINGHAM: Thank you.

11 JUDGE WOODRUFF: The next name on the list is Jeff Shore.

12 Hello, Mr. Shore.

13 MR. SHORE: Hello.

14 JUDGE WOODRUFF: Please raise your right hand. Do you
15 solemnly swear or affirm the testimony you're about to
16 give in this matter is the truth, the whole truth and
17 nothing but the truth?

18 MR. SHORE: Yes, I do.

19 JUDGE WOODRUFF: All right. Spell your last name for us.

20 MR. SHORE: SHORE.

21 JUDGE WOODRUFF: Thank you. What would you like to tell
22 us?

23 MR. SHORE: Well, thanks for letting me be here on a
24 beautiful Friday afternoon at Lake of the Ozarks. First
25 of all, I am a paying customer. I do I am on both sewer

00135

1 and water. Have three kids and 150 people through my
2 house during the summer, so we get our money's worth on
3 it. We use it all the time. Never had a problem with
4 it. Extremely happy with it. Being a little money
5 conscious with the three kids, the rates on it are
6 outstanding, in my book. And a lot of you guys know
7 three kids can generate a lot of laundry, so if you guys
8 get bored, you can come help me do some laundry some
9 time.

10 Anyway, like I said, we were there seven years. Had no
11 problems. Absolutely have we've lived in a lake home
12 that did not have sewer and water or central sewer and
13 water before. And that was you know, that was a bit of
14 a struggle. So very thankful to have it. One of the
15 reasons we bought out there and love Big Island.

16 About done. The last thing I'd say is a couple issues.
17 First of all, my wife does sell real estate, and she's
18 very experienced in the area, and she does sell homes out
19 on the island for Folsom Ridge as well. And I do own a
20 home out there, so I don't think that should have any
21 relevance. I know that question's probably coming. And
22 so just to cover that one right now.

23 And the last thing is that a lot of environmental issues
24 seem to have been raised here, you know, with Mr. Temares
25 or Mrs. Orlor Ms. Orlor with the septic and that kind

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1 of thing. And I guess my comment on that is, as Mr.
2 Stoyer said, had children swimming in the lake. I mean
3 Mr. Temares. It is my more my concern is the people
4 that are not attached to the water and sewer or to the
5 sewer, and specifically with their lateral fields
6 leeching into the lake. And so that's kind of my you
7 know, I don't know if that's part of this issue or not,
8 but it seems to have been raised quite a few times here
9 today. So and I guess a question, if I can ask Mr.
10 Temares, is was Mr. Stoyer's was his was he hooked
11 into the central system during that time, or was he did
12 he have a lateral field?

13 MR. TEMARES: No, he did not at that time, it was
14 running across the road.

15 MR. SHORE: His I mean, his own septic. Correct? Mr.
16 Stoyer's?

17 MR. TEMARES: No.

18 MS. ORLER: No.

19 MR. TEMARES: His septic and well was fine. All right.

20 MR. SHORE: But was he was he I guess my question is
21 was he did he have lateral fields? Was he hooked into
22 the central sewer system at the time?

23 MR. TEMARES: No.

24 MR. SHORE: And that would be more my concern. Really, I
25 understand what you're saying, too. But that would be

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1 more my concern is that leeching into the lake, which was
2 a problem for quite some time here at Lake of the Ozarks.

3 And that's why the central water and sewer system has
4 been such an advantage, I feel like, there. That's all I
5 have to say on that.

6 JUDGE WOODRUFF: Thank you, Mr. Shore. Does anyone have
7 any questions for Mr. Shore? Go ahead.

8 MS. ORLER: You said you're pleased with the rates?

9 MR. SHORE: Very pleased.

10 MS. ORLER: Do you know if the rates that you are paying
11 are sufficient or nonsufficient? Have you seen budgetary
12 expenses to show that they are?

13 MR. SHORE: With my wife being in real estate, I've seen
14 some of the other ones. I have friends who are part of
15 different systems, I guess you'd say, Osage Water
16 Company, I believe, is one of them. Also the city water
17 and sewer. A fellow I teach with and very close friends
18 with, we broke down his rates, and they were extremely
19 incrementally higher than what ours were. So I'm very,
20 very, very pleased.

21 MS. ORLER: Do you know what his operational costs were
22 to justify his rates, and your operational costs?

23 MR. SHORE: Well, I mean well all that, no. You know,
24 I'm more worried about swimming with my kids in the lake
25 than I am figuring out, you know, whatever cost. But my

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1 thing on that is I know he pays you know, he has \$2200
2 \$150, \$200 a month water bill, in town, per month at
3 times in the summer. So looking at the my rates, yeah,
4 I feel like they're great.

5 MS. ORLER: But you don't have anything to base that on
6 in terms of operational cost?

7 JUDGE WOODRUFF: What I have to base it on is what his
8 bills are.

9 MS. ORLER: Okay. Thank you.

10 MR. SHORE: That's what I base it.

11 JUDGE WOODRUFF: All right. Go ahead, Mr. Pugh?

12 MR. PUGH: Jeff, do you remember giving me a phone call
13 one day?

14 MR. SHORE: Yes, I do. Because I felt like the the
15 problems or the issues you were raising were going to
16 cost me a lot of money in the long run, and I didn't have
17 any issues with them.

18 MR. PUGH: Who asked you to call me?

19 MR. SHORE: I don't know.

20 MR. PUGH: Well, the reason I'm asking is I got three
21 phone calls that same day. So somebody somebody was
22 orchestrating this.

23 MR. SHORE: Well, I think it speaks for itself that I I
24 did not agree with your position.

25 JUDGE WOODRUFF: I'm going to stop the interchange here

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1 again. This is something you can discuss between
2 yourselves if you want to off the record. All right.
3 Any questions from the commissioners?

4 CHAIRMAN DAVIS: Mr. Shore, what are your what are your
5 water and sewer bills?

6 MR. SHORE: I just paid I think it just went down,
7 actually. Seventy five bucks for every three months, I
8 believe. Is that about right?

9 CHAIRMAN DAVIS: And it's water and sewer?

10 MR. SHORE: That's water and sewer. Break that down into
11 monthly increments, I mean, that's guys, you can't beat
12 that. And that's been you know, we're not talking about
13 Johnny come lately. This is over a sevenyear period. I
14 mean, I've lived there for going on seven years, I mean,
15 and they've gone down. What is that what is that what
16 do you pay, is my question.

17 CHAIRMAN DAVIS: Actually, I just paid my water/sewer
18 bill. It was \$42 last month.

19 MR. SHORE: For one month. Correct?

20 CHAIRMAN DAVIS: For one month. And I certainly, I and
21 Mr. Shore, I'm trying to find a way to phrase this in the
22 form of a question. But would you be surprised, I mean,
23 if you were to find out that the developer was, to a
24 certain degree, subsidizing your water and sewer bill?

25 MR. SHORE: In other words, were they paying a portion of

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1 it? Were they

2 CHAIRMAN DAVIS: Yes. Would you be would you be
3 surprised to know that?

4 MR. SHORE: I don't think so. No. I think I think
5 they've actually footed the bill for a lot of it.

6 CHAIRMAN DAVIS: Okay. And I guess what I'm I guess
7 what I'm trying to get at is, okay, if regardless of
8 what happens here, whether there is a homeowners
9 association, an investorowned utility or whatever

10 MR. SHORE: Correct.

11 CHAIRMAN DAVIS: at some point, you've got the cost of
12 the physical plant

13 MR. SHORE: Uhhuh.

14 CHAIRMAN DAVIS: and the cost of the water, electricity,
15 everything

16 MR. SHORE: Yes.

17 CHAIRMAN DAVIS: your operations and management
18 expenses. And at some point, you you may find out that
19 your your bill may need to go to \$30 or \$35 a month.

20 How does how do you how do you feel about that?

21 MR. SHORE: Well, I mean, I that's not what I'd like to
22 do. I mean, I would rather I would rather not do that,
23 obviously. If if we could keep from it, which is kind
24 of what this hearing I feel like, in my mind is what
25 this kind of is about. I guess what I'm saying is past

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1 performance, to me, is proven that our our utility bills
2 are extremely low, our water bill and sewer bill are
3 extremely low. And that's the proof I have. And the
4 proof I have is I've never had a problem with it. So
5 therefore, if it's working, my thing is why change it.
6 And I understand that what you're what you're saying as
7 well.

8 CHAIRMAN DAVIS: Well, and I guess, Mr. Shore, can you
9 understand my concerns as someone who's just sitting
10 here, that we see a lot of water and sewer companies that
11 are built with subdivisions, and that when those
12 subdivisions are built, the fact that they have water and
13 sewer is a selling point, as well as these developers
14 come in and offer people hypothetically speaking you
15 know, \$15, \$20 a month for their water and sewer bill.
16 And then all of a sudden two or three years down the
17 road, all of a sudden, you know, something happens, they
18 need now, these are all investorowned utility companies
19 that we regulate but all of a sudden, something happens,
20 you know, the company comes in, they have a significant
21 capital expenditure of say fifty or sixty thousand
22 dollars, and then there may only be 50 rate payers. And
23 then all of a sudden, people are are screaming at local
24 public hearings much similar to this one here today,
25 saying, you know, don't don't raise my rates. And the

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1 one of the issues when that we have when all these
2 companies are formed is, you know, are the rates adequate
3 to to really are they really covering all of the
4 expenses, and are they going to be sufficient going
5 forward, or are we going to get to a point two or three
6 years down the road that, you know, all of a sudden,
7 people are going to be hemorrhaging, because people are
8 looking at a 33 or 50 percent increase in their water
9 bill. I just

10 MR. SHORE: I understand what you're saying.

11 CHAIRMAN DAVIS: want to make sure that everyone here is
12 aware of that. How does that make you feel?

13 MR. SHORE: I guess my question is can you guarantee me a
14 \$30 or \$35 a month water and sewer bill?

15 CHAIRMAN DAVIS: No, I can't.

16 MR. SHORE: If you can do that, say hey, that's you
17 know, that's the way it goes, yeah, that's fair. I mean,
18 that's you know, you could do that. What I see now is
19 what I have. And what I have, I like. And that's you
20 know, you see what I'm saying?

21 CHAIRMAN DAVIS: Right. I

22 MR. SHORE: And, you know, if somebody else gets their
23 hand in it, you know, then hey, who knows what's coming
24 down the pipe. But if you can say yeah, \$30, \$35 a
25 month, you bet. Yeah. That would be great. But I don't

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1 think you can do that.

2 CHAIRMAN DAVIS: Right. But can you can you see what
3 I'm saying, is that, you know, every once in a while,
4 we'll get people who buy houses in subdivisions and, you
5 know, man, I got a great deal on my water. Fifteen bucks
6 a month.

7 MR. SHORE: Sure.

8 CHAIRMAN DAVIS: And then all of a sudden, couple years
9 down the road, they somebody files a rate increase
10 request, and it may be \$40 or \$50, and all of a sudden,
11 there's sticker shock, and they're not happy. Can you
12 understand my concern?

13 MR. SHORE: Sure. Yes. Yes, I can understand that.

14 CHAIRMAN DAVIS: Thank you.

15 MR. SHORE: And I see your point.

16 MS. ORLER: I have one question.

17 JUDGE WOODRUFF: Ms. Orler, go ahead.

18 MS. ORLER: Could I ask you, Mr. Shore, without PSC
19 regulation, and if this were under a homeowners
20 association, do you have a guarantee then, or do you
21 still operate under your assumption that your rates would
22 still be the same low rates that you're happy with?

23 MR. SHORE: Well, I have faith in the people that live
24 out there that that, you know, we're not going to want
25 to cut ourselves, we're not going to want to bleed

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1 ourselves. So I feel like with the homeowners
2 association, at least we have, you know, control of our
3 own destiny. And that way, we can do the best we can to
4 take care of ourselves. That's what I feel like.

5 MS. ORLER: And if there are not qualified persons within
6 this homeowners association to operate and maintain a
7 water and sewer, and another company has to be employed,
8 those rates have to come from somewhere to

9 MR. SHORE: Well, that's a that's a chance I'd be
10 willing to take. Because I think we do have qualified
11 people out here. I think there are people that are very
12 intelligent out here. And I think they can handle it.
13 And I would be willing to put my faith and my my gamble
14 with them more than I would another situation.

15 JUDGE WOODRUFF: Thank you. Mr. Temares?

16 MR. TEMARES: Real quick. The the scenario was asked if
17 an expenditure came up on the water system that might be
18 \$60,000 or \$80,000 that would have to be both parts and
19 labor to repair, right, where would that how where do
20 you think that money would come from?

21 MR. SHORE: It would come from the homeowners
22 association. Correct?

23 MR. TEMARES: I don't think so.

24 MR. SHORE: If we had a homeowners association?

25 MR. TEMARES: Well, I just don't see where they're

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1 budgeting for something like that.

2 MR. SHORE: Well, I'm saying we have our own homeowners
3 association. We would have to make provision for that,
4 obviously.

5 MR. TEMARES: All right.

6 MR. SHORE: And I'd say I'd be more I'd rather take a
7 chance on that than I would the other way around. That's
8 a personal opinion.

9 JUDGE WOODRUFF: I can't take questions from the
10 audience. But if you do want to testify later, we'll
11 give you a chance. All right. I don't see any other
12 questions for this witness, so you can step down. That
13 is the last name on the list. And I believe there are
14 some other people who would like to testify. Mr. Pugh,
15 did you want to I'll get to you in a minute.

16 MR. PUGH: I did not sign the thing.

17 JUDGE WOODRUFF: That's all right. Want to come up, and
18 I'll swear you in.

19 MR. PUGH: Because I had no intention to be here.

20 JUDGE WOODRUFF: Do you solemnly swear or affirm the
21 testimony you're about to give in this matter is the
22 truth, the whole truth and nothing but the truth?

23 MR. PUGH: I do.

24 JUDGE WOODRUFF: Thank you.

25 MR. PUGH: While ago, you heard a pretty good speech

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1 about what a rotten egg I am. The only person I the
2 only people I've seen get it quite that bad has been the
3 PSC. Actually, I've always been communityminded. In
4 1992, Earl Davis and I started the lake shore pickup. We
5 got the island cleaned up, at least surrounding it. We
6 were responsible for getting that started. We worked
7 Monday, Tuesday, Wednesday, Thursday, then the people
8 came down the neighbors came down on Friday, Saturday
9 and Sunday, and then we all finished it up. We would
10 have as many as three of those big things big bins
11 filled.

12 When, in 1995, they decided to pave the road from AA or
13 we decided to pave the road from AA down to the Y where
14 you go up the hills on the on the island side of of the
15 peninsula causeway three ladies three ladies in the
16 neighborhood, they collected money one of them was here
17 but anyway, three ladies collected money actually, it
18 was \$367 each, which isn't easy. They went to M&M
19 Trails, they went to Little Island anyway, I I was in a
20 small part of that.

21 I think about 1995 or '96, we decided the road coming
22 down a lot of you probably don't even know this. But
23 the steep hill coming down on Big Island is fairly
24 straight now. It's still treacherous. But it's nothing
25 like it was at that time. But you came down the island,

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1 you took coming down that steep hill coming down the
2 island, you took a hard 90degree turn, and then you took
3 another 90degree turn to go on to the bend to come on the
4 island. It was it was an accident waiting to happen.
5 We all got together, got our chain saws out, and worked
6 day after day after day with shovels and and chain saws,
7 cleaning up an area where they could straighten that road
8 out like it is today. Now, it still it still has a lot
9 to be desired.

10 But Ms. Goldman, I think, might have left the impression
11 to you that I'm not communityminded. I've been
12 communityminded since the kids were in school. I worked
13 with Boy Scouts. I was a Boy Scout. I was an Eagle
14 Scout. And I assume that a little of that Eagle Scout
15 might have rubbed off, because regardless of what you
16 heard here today, there's nothing there's nothing that I
17 wouldn't do to improve Big Island. Now, I know there's a
18 lot of you that don't agree that I might be doing the
19 right thing. But Big Island has been I've owned
20 property there since 1962. And I've raised my kids there
21 on weekends. I retired in 1986. And there's no 200
22 acres in the world that means as much to me as that
23 island does. I guess that's about it.

24 JUDGE WOODRUFF: All right. Thank you. Does anyone have
25 any questions for Mr. Pugh? All right. Thank you.

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1 Anyone else that hasn't testified yet want to have their
2 say? All right. I don't see anyone coming forward. So
3 at this point, we are adjourned. Thank you all very much
4 for your patience today.

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