

NEWMAN, COMLEY & RUTH P.C.

ATTORNEYS AND COUNSELORS AT LAW

601 MONROE STREET, SUITE 301

P.O. BOX 537

JEFFERSON CITY, MISSOURI 65102-0537

TELEPHONE: (573) 634-2266

FACSIMILE: (573) 636-3306

www.ncrpc.com

ROBERT K. ANGSTEAD
ROBERT J. BRUNDAGE
MARK W. COMLEY
LANETTE R. GOOCH
CATHLEEN A. MARTIN

MARTIN A. MILLER
STEPHEN G. NEWMAN
THOMAS R. O'TOOLE
JOHN A. RUTH
ALICIA EMBLEY TURNER

June 16, 2006

FILED⁴

JUN 16 2006

Missouri Public
Service Commission

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

Re: Big Island Water & Sewer Company, Inc.

Dear Judge Dale:

Please find enclosed for filing on behalf of Big Island Water & Sewer Company, Inc. the original and five copies of an Application.

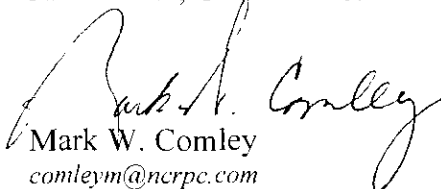
Would you please bring this filing to the attention of the appropriate Commission personnel.

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

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:


Mark W. Comley
comleym@ncrpc.com

MWC:ab

Enclosure

cc: Office of Public Counsel
General Counsel's Office
Charles E. McElyea
Reginald V. Golden

FILED⁴

JUN 16 2006

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of)
Big Island Water & Sewer Company, Inc.)
for a Certificate of Convenience and)
Necessity authorizing it to construct,)
install, own, operate, control, manage,)
and maintain a water and sewer system)
for the public located in an unincorporated)
area in Camden County, Missouri)

Missouri Public
Service Commission

Case No. _____

APPLICATION

COMES NOW, Big Island Water & Sewer Company, Inc. (hereinafter "Big Island" or "Applicant"), pursuant to Section 393.170, RSMo 2000 and 4 CSR 240-2.060(4)(A), and for its application states the following to the Missouri Public Service Commission ("Commission"):

1. Applicant is a Missouri corporation duly organized and existing under and by virtue of the laws of the State of Missouri with its principal office and place of business located at 840 Thunder Mountain Drive, Camdenton, Missouri 65020. Pursuant to 4 CSR 240-2.060 (1)(B), Applicant's certificate of good standing from the Missouri Secretary of State's office is attached as **Appendix 1**.

2. Applicant is a private investor owned commercial corporation and has been recently organized to acquire the necessary regulatory approvals to offer and provide water and sewer service to members of the public residing in a geographical area along the shores of the Big Niangua Arm of the Lake of the Ozarks popularly known as Big Island. Residents on Big Island currently receive service from Big Island Homeowners Water and Sewer Association, Inc., (the Association) an unregulated homeowner's association. Service provided by the Association is the subject matter of several complaints pending before this Commission.¹ This application is

¹ See *Orler. v. Folsom Ridge L.L.C. and Big Island Homeowners Water and Sewer Association, Inc.*, Case No. WC-2006-0082 (consolidated with eight other cases).

being filed as a response to those complaints.

3. Communications respecting this Application should be addressed to:

Michael McDuffy, General Manager
Big Island Water & Sewer Co., Inc.
840 Thunder Mountain Drive
Camdenton, Missouri 65020
Telephone: 573.346.2092

Mark W. Comley
Newman, Comley and Ruth P.C.
601 Monroe St., Suite 301
P.O. Box 537
Jefferson City, MO 65102
573-634-2266 (Telephone)
573-636-3306 (FAX)

Charles E. McElyea
Phillips, McElyea, Carpenter & Welch, PC
85 Court Circle
P.O. Box 559
Camdenton, MO 65020
(573) 346-7231
(573) 346-4411 FAX

Reggie Golden
2602 Clover Basin Drive, Suite B,
P.O. Box 54
Longmont, CO 80502

4. Applicant requests permission, approval and a Certificate of Convenience and Necessity to extend, install, own, acquire, construct, operate, control, manage and maintain a water and sewer system for the public in areas located in an unincorporated area in Camden County, Missouri, as set forth on the map attached to this Application as **Appendix 2-Map**. The proposed area is further described on **Appendix 2-Legal Description** also attached to this Application.

5. In accordance with 4 CSR 240-2.060(4)(A)(5), Applicant is causing to be prepared a feasibility study for these areas. Completion of the feasibility study is expected in the next fourteen days and will be late filed as **Appendix 3** to this application.

6. There are no municipalities located within the proposed area and no consent from the County of Camden is required.

7. Applicant will assume ownership and control of the systems currently offering and providing service to Big Island residents. The systems are presently owned by Folsom Ridge, L.L.C. (Folsom Ridge) a Colorado limited liability company which acquired the construction and operating permits from the Missouri Department of Natural Resources ("DNR") for these systems. The Association has handled the business of supplying water and sewer service through the systems under arrangement with Folsom Ridge. Applicant, the Association and Folsom Ridge have entered into an asset transfer agreement by which Applicant shall acquire the water and sewer business and all right, title and interest in the wells, pipes, pumps, treatment facilities, real property, interests in easements and related equipment used to provide service. A copy of that agreement is available upon request. The wells, pipes, pumps, treatment facilities and related equipment meet all requirements of the DNR.

8. Some of the residents receiving service from the Association have paid connection fees in order to connect, or to preserve or protect their right to connect, to the water and sewer system now in place. Those residents will be given credit for payment of the connection fees when each becomes a subscriber to Applicant's regulated service. Applicant will use its best efforts to make the transition of the Association's customers to Applicant's service virtually seamless and transparent to the customers.

9. There are no other public utilities or governmental bodies now rendering water or

sewer service within the area proposed to be certificated. Based upon counsel's information and belief, Camden County established a county wide sewer district pursuant to the Revised Statutes of Missouri but the district has not constructed sewer mains or other facilities in the area sought to be certificated. Although it is questionable whether the County Sewer District's consent is required, Applicant has acquired County Commission permission to file the present application. The Camden County Commission, which governs the county sewer district, has no objection to the filing of the application as per correspondence from the County Commission attached hereto as **Appendix 4** and incorporated by reference herein as if fully set forth.

10. The majority of the dwellings in the area requested to be certified are single family homes, duplexes and triplexes. Also, there are areas that are still unimproved or in the earliest of development stages. Water and sewer services provided currently to these areas are unregulated and Commission approval of the certificate of convenience and necessity herein would end disputes related to the lawfulness of that service. Moreover, approval of this application would put in place a central regulated resource from which future residents of the area could acquire adequate and reliable water and sewer service rather than reliance upon individually drilled wells and septic systems. Operation of multiple wells and septic systems may adversely affect the quality of the aquifer which provides drinking water to all residents of the area. Therefore, public need exists for adequate water and sewer services within the area proposed to be served. The public convenience and necessity will be promoted by the granting of the authority herein requested.

11. There are more than ten (10) residents or landowners in the area sought to be certificated. Accordingly, and pursuant to 4 CSR 240-3.305(1)(A)(2) Applicant lists the name and address of each of the following persons residing in the proposed service area:

Jeffrey & Stacy Shore
1170 Big Island Dr.
Roach, MO 65787

Fred & Sharon Beman
1353 Big Island Dr.
Roach, MO 65787

Travis & Stephanie Ezard
2458 Big Island Dr.
Roach, MO 65787

Dennis & Sheryl Boos
2974 Big Island Dr.
Roach, MO 65787

Jeff & Pam Holstead
3458 Big Island Drive
Roach, MO 65785

Phillip & Antoinette Hiley
3184 Big Island Dr. NW
Roach, MO 65787

William & Judith Burford
2682 Big Island Dr.
Roach, MO 65787

Stan & Joyce Zeldin
124 Portage Park
Roach, MO 65787

Lawrence & Rita Toombs
1220 Big Island Dr.
Roach, MO 65787

Cheryl Martin
c/o 1262 Big Island Dr.
Roach, MO 65787

12. Applicant has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates in which action, judgment or decision has occurred within three (3) years of the date of this application.

13. Applicant has no annual report or assessment fees which are currently overdue.

WHEREFORE, Applicant requests the Commission grant it permission, approval and a Certificate of Convenience and Necessity authorizing it to install, acquire, build, construct, own, operate, control, manage and maintain a water and sewer system for the public within the area described in Paragraph 4, authorizing Applicant to implement rates and charges for the provision of services consistent with those contained in the feasibility study, and for such other orders as the Commission deems proper under the circumstances.

Respectfully submitted



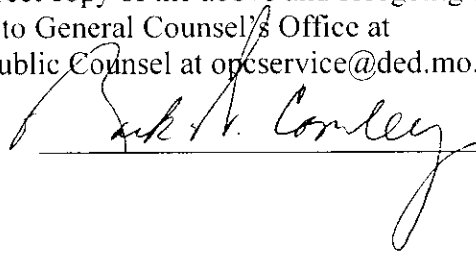
Mark W. Comley, Mo. Bar #28847
Newman, Comley & Ruth P.C.
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO 65102-0537
(573) 634-2266 (voice)
(573) 636-3306 (facsimile)
comleym@ncrpc.com

Charles E. McElyea #22118
Phillips, McElyea, Carpenter & Welch, PC
85 Court Circle
P.O. Box 559
Camdenton, MO 65020
(573) 346-7231
(573) 346-4411 FAX

ATTORNEYS FOR BIG ISLAND WATER AND
SEWER COMPANY, INC.

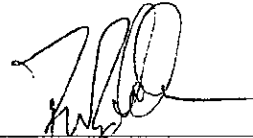
Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 16th day of June, 2006, to General Counsel's Office at gencounsel@psc.mo.gov; and Office of Public Counsel at opcservice@ded.mo.gov.



STATE OF COLORADO)
) ss.
COUNTY OF Boulder)

I, Reginald V. Golden, being duly sworn, do depose and state that I am the President of Big Island Water & Sewer Company, Inc., Applicant in the foregoing Application; that I am authorized to make this Verification on behalf of the Applicant; that the foregoing Application was prepared under my direction and supervision; and that the statements in the foregoing application with respect to the Applicant are true and correct to the best of my knowledge, information, and belief.

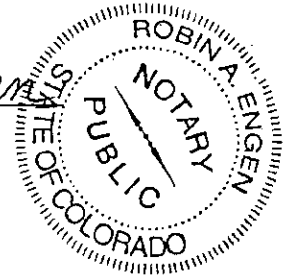


Reginald V. Golden

Sworn and subscribed before me this 15th day of June, 2006.

Robin A. Engen
Notary Public

**My Commission Expires
08/20/2008**



STATE OF MISSOURI



Robin Carnahan
Secretary of State

CERTIFICATE OF INCORPORATION

WHEREAS, Articles of Incorporation of

BIG ISLAND WATER AND SEWER COMPANY, INC.
00743755

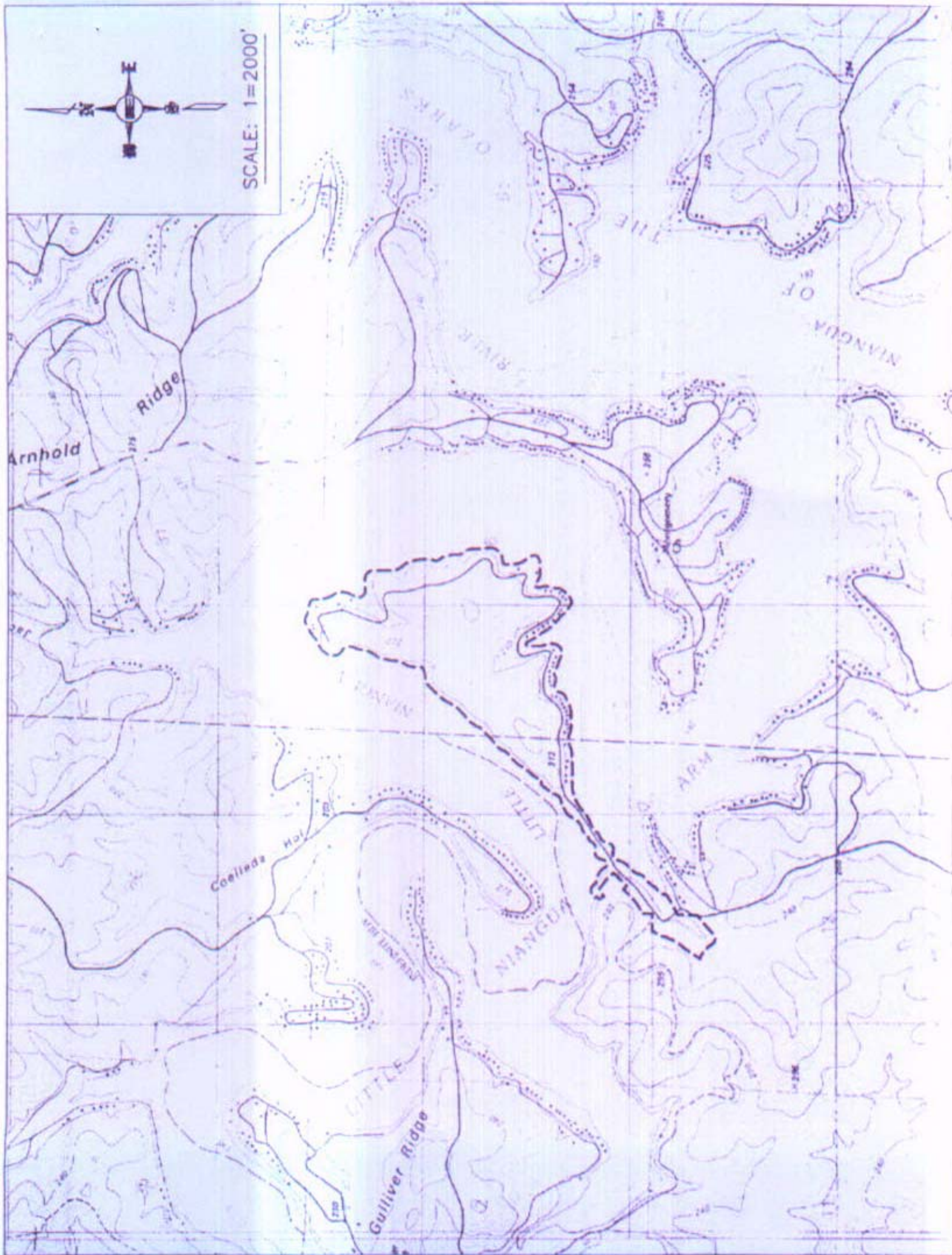
have been received and filed in the Office of the Secretary of State, which Articles, in all respects, comply with the requirements of General and Business Corporation Law.

NOW, THEREFORE, I, ROBIN CARNAHAN, Secretary of State of the State of Missouri, do by virtue of the authority vested in me by law, do hereby certify and declare this entity a body corporate, duly organized this date and that it is entitled to all rights and privileges granted corporations organized under the General and Business Corporation Law.

IN TESTIMONY WHEREOF, I hereunto
set my hand and cause to be affixed the
GREAT SEAL of the State of Missouri.
Done at the City of Jefferson, this
7th day of June, 2006.


Secretary of State





APPENDIX 2—LEGAL DESCRIPTION

ALL OF THAT PROPERTY LOCATED IN SECTIONS 1 AND 12, TOWNSHIP 38 NORTH, RANGE 18 WEST, AND SECTION 6, TOWNSHIP 38 NORTH, RANGE 17 WEST AND SECTION 31, TOWNSHIP 39 NORTH, RANGE 17 WEST, CAMDEN COUNTY, MISSOURI LYING ABOVE CONTOUR ELEVATION 662 FEET MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PORTAGE PARK SUBDIVISION UNIT ONE

PART OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER SECTION 1, TOWNSHIP 38 NORTH, RANGE 18 WEST AND PART OF THE NORTHWEST ONE QUARTER OF THE NORTHEAST ONE QUARTER AND PART OF THE NORTHEAST ONE QUARTER OF THE NORTHWEST ONE QUARTER OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 18 WEST, CAMDEN COUNTY, MISSOURI, LYING ABOVE CONTOUR ELEVATION 662 FEET. AS SHOWN ON THE PLAT OF PORTAGE PARK SUBDIVISION, UNIT ONE, RECORDED SEPTEMBER 9, 1947 IN BOOK 5, PAGE 48 OF THE CAMDEN COUNTY RECORDS.

PORTAGE PARK SUBDIVISION UNIT THREE

PART OF THE SOUTHEAST ONE-QUARTER AND THE NORTHEAST ONE QUARTER OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 18 WEST, CAMDEN COUNTY, MISSOURI, LYING ABOVE CONTOUR ELEVATION 662 FEET. AS SHOWN ON THE PLAT OF PORTAGE PARK UNIT THREE, RECORDED FEBRUARY 16, 1961 IN BOOK 7, PAGE 9 OF THE CAMDEN COUNTY RECORDS.

BIG ISLAND LAKE SITES

PART of LOTS 1 AND 2 OF THE SOUTHWEST ONE-QUARTER OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 17 WEST, CAMDEN COUNTY, MISSOURI, LYING ABOVE CONTOUR ELEVATION 662 FEET. AS SHOWN ON THE PLAT OF BIG ISLAND LAKE SITES, RECORDED MAY 24, 1960 IN BOOK 6, PAGE 32 OF THE CAMDEN COUNTY RECORDS.

AMENDED PLAT OF BIG ISLAND LAKE SITES FIRST ADDITION

PART OF THE NORTH $\frac{1}{2}$ OF LOT 1 OF THE SOUTHWEST $\frac{1}{4}$ AND PART OF THE EAST $\frac{1}{2}$ OF LOT 1 OF THE NORTHWEST AND PART OF LOT 2 OF THE NORTHWEST $\frac{1}{4}$ ALL IN SECTION 6, TOWNSHIP 38 NORTH, RANGE 17 WEST, ALSO PART OF THE SOUTH $\frac{1}{2}$ OF LOTS 1 AND 2 OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 31 RANGE 39 NORTH, RANGE 17 WEST ALL IN CAMDEN COUNTY, MISSOURI, LYING ABOVE CONTOUR ELEVATION 662 FEET. AS SHOWN ON THE AMENDED PLAT OF BIG

ISLAND LAKE SITES, FIRST ADDITION, RECORDED NOVEMBER 6, 1965 IN BOOK 10, PAGE 19 OF THE CAMDEN COUNTY RECORDS.

BIG ISLAND CENTRAL

PART OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 17 WEST, AND SECTION 1, TOWNSHIP 38 NORTH, RANGE 18 WEST, CAMDEN COUNTY , MISSOURI, LYING ABOVE CONTOUR ELEVATION 662 FEET. AS SHOWN ON THE PLAT OF BIG ISLAND CENTRAL, RECORDED MAY 24 2004, 2004 IN BOOK 84, PAGES A – U, OF THE CAMDEN COUNTY RECORDS.

BIG ISLAND WEST

PART OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 17 WEST, AND PART OF SECTION 1, TOWNSHIP 38 NORTH, RANGE 18 WEST, AND PART OF SECTION 31 RANGE 39 NORTH, RANGE 17 WEST CAMDEN COUNTY , MISSOURI, LYING ABOVE CONTOUR ELEVATION 662 FEET. AS SHOWN ON THE PLAT OF BIG ISLAND WEST, RECORDED OCTOBER 1, 2001, IN BOOK 72 , PAGE 9 , OF THE CAMDEN COUNTY RECORDS.

ISLAND VIEW ESTATES

THE MARINA TRACT AS SHOWN ON THE RECORDED PLAT OF ISLAND VIEW ESTATES, A SUBDIVISION OF RECORD IN CAMDEN COUNTY MISSOURI RECORDED ON APRIL 24, 2006 AT BOOK 98, PAGE 13 OF THE CAMDEN COUNTY RECORDS.

REMAINDER OF THE PROPERTY

ALL THAT PROPERTY LOCATED IN THE SOUTH EAST ONE QUARTER SECTION ONE TOWNSHIP 38 NORTH, RANGE 18 WEST, CAMDEN COUNTY , MISSOURI, LYING ABOVE CONTOUR ELEVATION 662 FEET AS SHOWN AS PROPOSED UNIT PORTAGE PARK ON THE PLAT OF PORTAGE PARK SUBDIVISION UNIT THREE, RECORDED FEBRUARY 16, 1961 IN BOOK 7, PAGE 9 OF THE CAMDEN COUNTY RECORDS AND LYING BETWEEN THE SUBDIVISION BOUNDARY OF PORTAGE PARK SUBDIVISION UNIT ONE, A SUBDIVISION OF RECORD IN CAMDEN COUNTY MISSOURI, RECORDED SEPTEMBER 9, 1947 IN BOOK 5, PAGE 48 OF THE CAMDEN COUNTY RECORDS AND THE BOUNDARY OF PORTAGE PARK SUBDIVISION UNIT THREE, RECORDED FEBRUARY 16, 1961 IN BOOK 7, PAGE 9 OF THE CAMDEN COUNTY RECORDS.

County of **CAMDEN** State of Missouri

1 Court Circle, Suite 1
Camdenton, Missouri 65020

Presiding Commissioner
Carolyn Loraine

1st District Commissioner
Beverly Thomas

Office of the
CAMDEN COUNTY COMMISSION

Commission Clerk
Rowland Todd

2nd District Commissioner
Thom Gumm

June 14, 2006

Reginald V. Golden
Big Island Water & Sewer Company, Inc.
840 Thunder Mountain Drive
Camdenton, MO 65020

Re: Application before the Missouri Public Service Commission for certificated territory
and authority to offer water and sewer service on Big Island

Dear Mr. Golden:

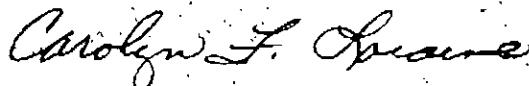
The County Commission has been advised that Big Island Water & Sewer Company, Inc., has filed, or is in the process of filing, an application before the Missouri Public Service Commission to offer and provide water distribution services and wastewater collection and treatment services to residents, present and future, living on or in close proximity to Big Island, Lake of the Ozarks.

Camden County has formed a sewer district under the provisions of Chapter 249, RSMo., the boundaries of which are the borders of the County itself. Therefore, your proposed provision of sewer service in and around Big Island will be within the established Camden County sewer district. Nonetheless, please be advised that Camden County hereby permits your company to file, and further states that it has no objection to the filing by Big Island Water & Sewer Company, Inc. of, an application before the Missouri Public Service Commission to offer and provide service, whether it is potable water service or sewer service or both, in and around Big Island, Lake of the Ozarks.

The permission granted above does not affect the County's right and authority to enforce its ordinances or the rules and regulations of the county sewer district.

Please contact me if you need additional information. Thank you very much

Sincerely,



Carolyn F. Loraine
Presiding Commisisoner