

Exhibit No.: _____
Issue: Clarification of Conver-
Sations between Phil
Hiley, Cathy Orler &
Ben Pugh
Witness: Phillip Hiley
Sponsoring Parties:
Big Island Water Company
Big Island Sewer Company
Case No. WO-2007-0277
Joined for hearing with
WC-2006-0082

Big Island Water Company
And
Big Island Sewer Company

REBUTTAL TESTIMONY

OF

PHIL HILEY

Roach, Missouri
February 2007

393 Exhibit No. 103
Case No(s) WC-2006-0082 / WO-2007-0277
Date 3-2-07 Rptr PE

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

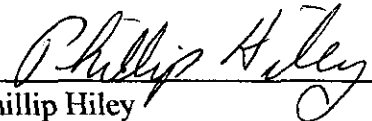
In the Matter of the Joint Application)
of Big Island Homeowners Water and)
Sewer Association, Inc. f/k/a Big Island)
Homeowner's Association, Inc. And)
Folsom Ridge, LLC seeking approval)
of Transfer of Assets to Companies)
Incorporated under Chapter 393)

Case No. WO-2007-0277
and WC-2006-0082

AFFIDAVIT OF PHILLIP HILEY

STATE OF MISSOURI)
) ss
COUNTY OF CAMDEN)

Phillip Hiley, of lawful age, on his oath states: that he has participated in the preparation of the following Rebuttal Testimony in question and answer form, consisting of 5 Pages of Rebuttal Testimony to be presented in the above case, that the answers in the following Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true to the best of his knowledge and belief.

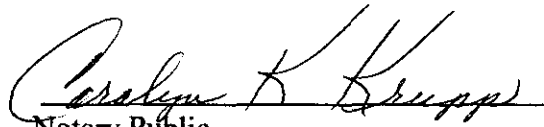


Phillip Hiley

Subscribed and sworn to before me this 15 Day of February, 2007.



CAROLYN K. KRUPP
My Commission Expires
August 24, 2009
Camden County
Commission #05524702



Notary Public

My commission expires: 8/24/09

REBUTTAL TESTIMONY OF
PHIL HILEY
WO-2007-0277

1. **Q. Please state your name and address.**

2. A. Phillip Hiley , 3184 Big Island Drive, Roach, Mo 65787.

3. **Q. When did you move to Big Island.**

4. A. We've owned property on Big Island since 1967, we have lived here as
5. full time residents since December 2002.

6. **Q. What is your employment experience?**

7. A. I worked for McDonald Douglas/ Boeing for 37 years and when I retired
8. in April 2002 my job title was project manager in research and
9. development.

10. **Q. Why are you providing rebuttal testimony today?**

11. A. In Ms. Orlor's amended direct testimony beginning at the bottom of
12. page 49, Ms. Orlor asks herself a question which mischaracterizes
13. communication which I had with both her and Mr. Pugh on January
14. 28th and 29th, 2007.

15. **Q. Do you recall the content of your conversations with Mr. Pugh and
16. Ms. Orlor on those dates?**

17. A. Yes, I made a written memorandum at that time of what was discussed
18. just in case it became an issue down the road. Here is what I wrote.

19. Phone Call With Ben Pugh

20. Ben called me on Sunday, 28 Jan. 2007 (afternoon) to ask about getting a
21. copy of the 393 bylaws from me. I only downloaded one copy from the

1. website and had no extras to give him. We then got into the Big Island
2. (BI) water/sewer issues. Altogether, we talked three times that afternoon
3. for probably an hour and a half total. The tone was agreeable and what
4. you might expect from two guys who really like each other down deep but
5. don't see eye to eye on hardly any Island issues or the processes involved
6. to solve them. I have not had a phone conversation with Ben for probably
7. a year or more.

8. 1. In the first call, we discussed the good job Pam had done on
9. 27 Jan at the BI resident's meeting in the Camdenton Library. He also
10. offered that he was for the 393 corporation – "off the record".

11. 2. Ben then noted that his main objection to the 393 transfer of
12. assets from Folsom to the 393 was the "as is" clause among others which
13. he did not discuss. I suggested that they (Cathy Orlor's group) offer to
14. drop their 393 objections if Folsom Ridge (FR) could perhaps offer a fixed
15. sum of money for the 393 reserve. It would not be a warranty per se but
16. could serve in a similar manner , just a small amount to cover a minor
17. problem or two. I don't think he liked this idea because it is tough to exert
18. any pressure on FR now relative to 393 with so many residents (and PSC)
19. in favor of it. In other words, FR would probably not go for it.

20. 3. On the 2nd and 3rd calls, we discussed another idea which
21. involved settlement of the Orlor complaint case. The idea was to tell
22. FR that Orlor et al would drop the complaint case if FR would pay back
23. the monthly fees of the non-members with taps, but put this payback

1. amount in a 393 reserve fund (of course, it would have to be agreeable
2. to the non-members in question). This would not be a huge amount
3. (maybe \$5K) , but at least a legitimate request since the FR fees may
4. have been charged illegally.

5. 4. As we signed off the last call, he (Ben) said that I would have to
6. "trust them" as far as their next legal action. And he said that he hoped
7. that he could trust me. I noted that I do not stab my friends in the back.
8. But I had no idea what they (the Orlor group) were up to.

9. Phone Call with Cathy Orlor

10. 1. Cathy called the evening of Jan 28th (Sunday) but we were not
11. home. She left voice mail but when I called back about 9:30 pm that night
12. she did not want to talk because she was in bed. I called about 7:30 am
13. on the 29 Jan but she did not answer (later in the morning at the BI
14. homeowner association meeting at Central Bank she said she was in
15. the shower when I called). At this association meeting on the morning of
16. the 29th, I then found out that she had filed some kind of a law suit. She
17. told me at the meeting that we would have to "trust her" (relative to their
18. strategy in filing the suit). As I talked to her and Ben Pugh after the
19. meeting, she cautioned Ben to be quiet and not tell me any more. It
20. obviously irritated Ben to be "called down" by her but he shut up.

21. 2. Cathy called me that night (29th) and first asked if I knew that
22. Folsom was in total control of the asset transfer vote because they had
23. 1 vote per lot. I said something like "do you think I'm stupid – what's

1. your point? She never told me what her point was. I then asked her to
2. consider the vote from an overall viewpoint. I said the BI resident vote
3. critical (forget about the lot count) because without an overwhelming
4. vote for the 393 from the users and potential users of the system, there
5. would be no PSC approval of the 393. Furthermore, the 393 board
6. would never sign the asset transfer papers anyway without a solid
7. majority of Islander's support. I did not get a feeling she heard me on
8. this, even though I repeated myself a couple of times.

9. 3. In the same call (the only one I have had with Cathy for about
10. a year and a half), I asked her what the suit was all about, nothing that I
11. had read her filing and did not understand it. I said that "I must be stupid".
12. She did not enlighten me; she just said again that we would have to
13. "trust her". I said that very few 393 advocates on the Island would ever
14. trust her – sorry. Further, I said that I was withdrawing from any nego-
15. tiation with them to come up with some kind of a settlement. She said
16. OK and this rather short conversation was over.

17. **Q. Does this conclude your testimony?**

18. **A. Yes. I just wanted to clarify the true nature of my conversations**
19. **with Ben Pugh and Cathy Oler.**

20.