

Benjamin D. Pugh
CASE NO. WO 2007 0277

Exhibit No. 6
 No(s) W-2006-0082 (2006-02)
2-28-07 Rptr 45

FILED²

APR 02 2007

Missouri Public
Service Commission

A. To clarify several points which Mr. Hiley made related to those cordial conversations. Mr. Hiley was correct that I initiated the original call for the purpose of obtaining a hard copy of the Bylaws for this new 393 which was to be voted on the following day. The following two calls were initiated by Mr. Hiley. I was under the impression that I was engaged in a private conversation with Mr. Hiley ; and was surprised to see our conversation in print on EFIS as a PSC public document.. Since it is now a public document I will try and make some corrections and comments on that conversation as I remember it. I had not felt it necessary to make notes of our informal discussion.

1 I commented to Mr. Hiley that Mrs. Holstead had done a good job the day before in chairing the
2 meeting among Big Island neighbors to discuss the pros and cons of a 393 for Big Island. The
3 meeting went well. At least no one at that meeting was told to move off the island because our
4 opinions differ from those wanting a 393, as was the case at the June 2, 2007 Camdenton meeting.
5 My thoughts on a 393 have not changed since I first became aware of the 393. I think it could be
6 satisfactory for a company developing an area where there are no previous commitments and
7 agreements to existing residents. The previous agreements between the developers and the existing
8 homeowners, who were here at the time of the developers arrival, are in direct conflict with the By
9 Laws of the 393. These differences can only be solved by having the sewer and water system
10 operate as a regulated public utility. At the time we originally went to the PSC with our complaints,
11 all possible alternatives were considered and the 393 was one of them. Through these 18 months
12 before the PSC, I have tried to keep an open mind as I was that day talking to Mr. Hiley. I don't
13 recall ever saying I was for a 393 either on the record or "off the record". I made it real clear that
14 the "As Is" attached to the 393 which has been offered to the Big Island residents is a potential
15 liability I am unable to accept. Mr. Hiley agreed with me as he said he also had concerns with that.
16 The "AS IS" was the only problem we really discussed because at that point I hadn't even had a
17 chance to study the By Laws of the BI 393. Questions and answers sessions are good; but the truth
18 lies between the covers of those many pages of the By Laws. I regret that even at this late date not
19 many homeowners have had a chance to read the by laws; and yet were expected to vote on such a
20 vital instrument based on a 4 page brochure which was written by neighbors who definitely had a
21 bias against a regulated system..

22 **Page 3 line 13.** I did not think it was proper for Mr. Hiley to suggest we drop our objections to the
23 393 for a sum of money. I did not feel that was an aboveboard way to solve the "As Is" problem.

1 **Page 3 Line 20** On Mr. Hiley's second and third calls, he proposed another idea which involved
2 settlement of the "Orler complaint case". I did not think it was appropriate for me to involve myself
3 in what Mr. Hiley proposed; and interfere with Ms. Orler's complaint case.

4 I feel very disappointed that Mr. Hiley chose to make a cordial private conversation a public matter.

5 **Q MR. SNYDER IN HIS REBUTTAL TESTIMONY MADE COMMENTS TO WHICH I**
6 **WOULD LIKE TO RESPOND . MR. PUGH, WHAT ARE THOSE RESPONSES?**

7 **A. Page 3 Line 11** Mr. Snyder cites Mr. McDuffey as saying that it is unnecessary to label the water
8 and sewer taps because "all professionals could tell the difference". These professionals Mr.
9 McDuffey is talking about installed the complete system in violation of the DNR regulation .
10 These professionals put the drinking water at high risk. These professionals put the health of the
11 residents on Big Island at high risk. Not by my standards; but by the DNR and National standards,
12 regulations and codes. Unfortunately, drinking water and sewer water being reversed are not that
13 uncommon according to my conversations with the DNR.

14 **Page 4 Line 2** Mr. Snyder in his rebuttal, claims that all the problems that now exist are on private
15 property. I believe he is referring to the sewer and water valves in the same upright at the address
16 1536 Big Island Drive. That is not the only problem that now exist. I hope that Mr. Snyder is not
17 condoning that installation because those illegally installed valves are not under the jurisdiction of
18 the DNR. I hope that Mr. Snyder is not suggesting that we should ignore the problem. The DNR
19 states that any installations without jurisdiction should come under the National Codes, The
20 National Codes are very similar to the DNR Codes, related to the 10 foot minimum separation of
21 the sewer and water systems. In my opinion the complete system should be considered as a health
22 risk, not just picking and choosing. As an example: The BIHOA has the right and responsibility to
23 dictate the size, the quality, the frequency of sumping of the septic tanks which are a integral part of

1 the system. The septic tanks are on private property, To say that these valves have no jurisdiction
2 because they are on private property is contradictory.

3 Page 7 Line 25 Mr. Snyder states that the developers have warranted the system for 5 years. I
4 agree that Folsom Ridge warranted a system which proved to be installed improperly from
5 beginning to end. Does that relieve them of the responsibilities to warrant the current system? I
6 think not. I was not allowed to take pictures during working hours of the re-installation process so I
7 have concerns . I felt that pictures taken by me could have been beneficial to all parties.

8 Page 6 Line 6 First I want it known that I have never joined an organization in which I was not
9 willing to participate. I consider that a responsibility any member takes when agreeing to
10 membership. I also would not willingly join any organization that would not allow a member to
11 hold a board position whose views might be different from the board. That would be
12 discriminatory. In fact, this board has eliminated a large portion of the island residents who could
13 be on the board by requiring that any board member be users of both systems.. What they have
14 done is make it almost impossible to get enough board members to operate and govern the sewer
15 and water systems. The end result will be what we have now with the BIHOA, a 393 controlled by
16 the Developers or their employees. I question the legality of some of the decisions by the board,. In
17 my opinion any member should be allowed to be an officer of the 393. .

18 **Page 6 Line 12** My point above can best be confirmed by the statement of Mr. Snyder ,"In the end
19 we couldn't locate enough full time residents who were willing to serve." In my opinion, Mr.
20 Snyder made our case for a regulated public utility. Big Island is a recreational area, of many part
21 time homeowners who come to the lake to relax, fish, swim and boat. They do not want to spend
22 their lake hours in board meetings. Despite all the misinformation of the cost for a regulated
23 system, the cost should be no more than 20% above that of the 393. 10 % profit for the certified

operator, 10% for the PSC for regulation of the systems. Many residents have not been informed that for this 20%;

- a. You have eliminated spending your free recreational time in a board meeting.
- b. You have eliminated the liabilities associated with operating a 393. You have shifted the liabilities back to the people who created them.
- c. You have lessened the litigation problem of the previous agreements between the existing homeowners and the Developers.
- d. You have the Public Service Commission as a regulatory agency to assure the homeowners of a fair price, and a safe operating system..
- e. You have a regulatory agency to contact in event of a problem .

It is quite understandable that Mrs. Holstead and other 393 board members did not spend much time explaining the advantages to a Regulated Certified public utility. I think the 20% addition expense is a bargain. I do understand that the operation of the sewer and water system is only as good as the intentions and capabilities of the operators. That applies to a 393 as well as a regulated public utility.

Q. WILL THERE BE OTHER SURREBUTTALS?

A. Yes

Q. DOES THIS CONCLUDE THIS SURREBUTTAL?

A. Yes,

*National
Codes*

~~DP Schedule 3~~

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

Mel Carnahan, Governor • Stephen M. Mahfood, Director

DIVISION OF ENVIRONMENTAL QUALITY

Jefferson City Regional Office

210 Hoover Road P.O. Box 176 Jefferson City, MO 65102-0176
(573)751-2729

FAX (573)751-0014

MEMORANDUM

DATE: June 23, 2000
TO: File
FROM: Timothy S. Neal, Environmental Specialist *T S Neal*
Jefferson City Regional Office
SUBJECT: Big Island Subd. Meeting with Dave Lees, Developer

On June 13, 2000, Keith Forck and Tim Neal of the Department of Natural Resources' Jefferson City Regional Office met with Dave Lees, Developer of Big Island Subdivision, concerning complaints of improper installation of water and sewer lines serving existing homes on Big Island. Several homeowners on Big Island have expressed concerns that water and sewer mains and individual service connections have not and are not currently being constructed to MDNR standards and do not meet national plumbing codes. Photos provided by the homeowners appeared to show some violations of both MDNR's standards and the national plumbing codes for service connections.

One of the claims by the homeowners was that a section of water and sewer mains were laid less than ten (10) linear feet apart in the same trench. The issue was not the separation distance since a variance had been granted, but that the water line was not laid on a separate, undisturbed shelf above the sewer line. Dave Lees stated that in fact the water line was laid on a separate shelf and that the shelf was comprised of compacted material. *

Another claim by the homeowners, that was verified by a photograph, concerned a one (1) inch line connected to the water main that was connected to a two (2) inch line that crossed the road and then split into three (3) one (1) inch service connections. Dave Lees stated that he was not aware of this problem and that he believed that it was a mistake on the part of the contractor who did the installation. Dave Lees then stated that he would have the contractor dig up the area in question and have the problem corrected. The work was supposed to be done starting on Thursday June 15, 2000.

Discussion also took place concerning the separation distance of the service connections for the pre-existing homes on Big Island. It was determined that, in many cases, national plumbing codes could not be met for separation distance between water and sewer due to the existing limitations of the pre-existing homes. In those cases it was not possible to install water and sewer lines without violating the standards and that the homeowners would have to accept this or not receive a service connection. Dave Lees also stated that all new home construction on Big Island would have a ten (10) foot separation between water and sewer service lines.

TSN/cr

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL QUALITY
Jefferson City Regional Office
210 Hoover Road - P.O. Box 176 - Jefferson City, MO 65102-0176
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June 28, 2000

Mr. Ben Pugh
HCR 67, Box 726
Roach, MO 65787

Mr. Pugh:

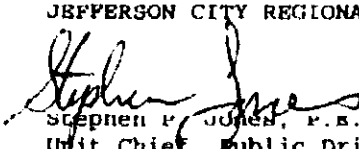
This letter is in response to your letter dated June 19, 2000. Your letter contained copies of pictures showing construction of the water and wastewater lines for the existing home on Big Island. From my understanding of the pictures, all but one picture shows construction of water and wastewater service lines. As we discussed during our meeting on June 13, 2000, The Department does not have jurisdiction or requirements for construction of service lines. Local plumbing codes usually governs requirements of service lines. In absence of local codes, national plumbing standards should be followed.

The one picture that shows a water line coming off the water main and serves multiple homes is considered a water main and not a service line. As a water main, it is governed by community construction requirements. The picture shows a one inch line coming off of the four inch water main then connecting to a two-inch line that serves the three service connections. The use of a one-inch pipe connecting four-inch and two-inch pipes is not acceptable. The one-inch pipe must be replaced with at least a two inch pipe. However, in recent discussions between Tim Neal of this office and developer, David Lee, Mr. Lee stated that shortly after the picture was taken, Mr. Lee had the contractor replace the one inch pipe with a two inch pipe. So he told Tim that this problem has already been fixed. But he said that he would have the area excavated to determine if it had been fixed. This course of action seems reasonable and appropriate to resolve this matter.

Finally in response to your request, enclosed are copies of the correspondence applicable to construction of the water main approval. Please share this information with Mr. Reggie Golden and Mr. Gene Emprather. I hope that this matter will be resolved in a way that is mutually acceptable to the homeowners and the developer. If you have any questions regarding this matter, please contact me at (573) 751-2729.

Sincerely,

JEFFERSON CITY REGIONAL OFFICE


Stephen P. Jones, P.E.
Unit Chief, Public Drinking Water Program

SPJ:cr

Enclosure

c: Public Drinking Water Program