

**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 of Camden County, Missouri)
Case No. WA-2006-0480

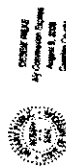
AFFIDAVIT OF [Cindy Fortney]
STATE OF MISSOURI) ss.
COUNTY OF [Camden]

Cindy Fortney, of lawful age, on her oath states: that she has participated in the preparation of the foregoing Technical Testimony in question and answer form, consisting of [redacted] pages to be presented in the above case; that the answers in the foregoing [redacted] answers were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of her knowledge and belief.

Cindy Fortney
(Cindy Fortney)

Subscribed and sworn to before me this 19th day of December, 2006.

Donna S. [Signature]
Notary Public



FILED²

APR 02 2007

**Missouri Public
Service Commission**

Fortney Exhibit No. 8
Case No(s) WA-2006-0480, et al
Date 2-28-07 Rptr 48

REBUTTAL TESTIMONY

OF

Cindy Fortney

CASE NO. WA 2006 0480

Q. PLEASE STATE YOUR NAME AND ADDRESS.

A. Cindy Fortney, I reside at 3298 Big Island Dr, Roach, Missouri 65787.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am self-employed. I am an independent information security consultant. I am a Certified Information Systems Security Professional (CISSP) and a Certified Information Security Manager (CISM). I have been in the Information Security business for 21yrs including 15yrs with EDS and Perot Systems in Dallas, TX.

Q. WHY ARE YOU PROVIDING TESTIMONY?

A. My father and I are both home and landowners on Big Island. I am also the beneficiary to my father's properties and assets. I've been involved first hand with the issues of all the properties in my testimony. We have had multiple issues with Folsom Ridge LLC and filed formal complaints (WC-2006-0138 and WC-2006-0139) in September of 2005.

Q. WHEN DID YOU MOVE TO BIG ISLAND?

A. I moved to 1554 Big Island Drive, (Big Island), Roach, MO as a permanent resident in June of 2004. I was a temporary resident for 5 years previous to June 2004 to 1554 Big Island Drive, my father's house. Since I have moved here, I have been involved with issues going on, on Big Island and also keep my father abreast as he resides mostly in Paola, KS. In June of 2005, my father sold his house at 1554 Big Island Drive. We together and equally bought the residence I now reside, 3298 Big Island Drive in July of 2005. I helped find the real estate agent to sell my father's house and was

Rebuttal Testimony of
Cindy Fortney
Case No. WA-2006-0480

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involved from beginning to end of the transaction. I was also the key person in purchasing the 3298

Big Island Drive, as this is my primary residence. My Dad's primary residence is in Paola, KS.

Q. WAS YOUR FATHER A MEMBER OF THE BIHOA AT 1554 BIG ISLAND DRIVE?

A. No, at the time he bought the house (1998) there was no active HOA to join.

Q. ARE YOU A MEMBER OF THE BIHOA AT 3298 BIG ISLAND DRIVE?

A. No, I have never received any paperwork regarding the BIHOA nor have I ever signed anything with regard to BIHOA.

Q. DOES YOUR FATHER OWN ANY OTHER PROPERTY ON BIG ISLAND THAT YOU ARE BENEFICIARY TO; THEREFORE YOU HAVE CONCERN OR INTEREST?

A. Yes, lot 8 of Portage Park, Unit 3.

Q. IS YOUR FATHER A MEMBER OF THE BIHOA AT PORTAGE PARK, UNIT 3?

A. No, at the time he bought the lot (1999) there was no active HOA to join.

Q. DID YOUR FATHER PURCHASE WATER AND/OR SEWER TAPS AT THE TIME THEY WERE SOLICITED?

A. Yes. He bought a sewer tap for \$4800 for the 1554 Big Island Drive property in 1998. Lot 8 of Portage Park, Unit 3 included water and sewer taps.

Q. DID YOUR FATHER EVER RECEIVE A LETTER FROM MR. LEES THAT STATED "...THEY WILL NOT BE CHARGED A MONTHLY FEE UNTIL THEY HOOK UP?"

1 A. Yes. (CF Schedule 1)

2 Q. WHEN WERE THE RESTRICTIVE COVENANTS OF THE BIG ISLAND HOA
3 RECORDED AND IMPLEMENTED?

4 A. December 29, 2000.

5 Q. WERE THERE INTERFERENCES WITH THE SELLING OF 1554 BIG ISLAND
6 DRIVE?

7 A. Yes. Folsom Ridge and the BIHOA tried to stop the \$221k real estate closing for 1554 Big Island
8 Drive in June 2005. At closing, we were blind sided by a letter that had just been faxed that day to
9 Westside Escrow, Inc., from Charles McEllyea representing the BIHOA. (CF Schedule 2) We were
10 told we could not continue the closing process until the issue was resolved which took an extra 24 hours
11 or more and frustration on our part, our realtor's part and on the buyer's part. Our real estate agent,
12 Helen Riggins was also blind sided and asked for Mr. Charles McEllyea to teleconference into the
13 closing. He reiterated the purpose of the letter that was faxed. The buyers were to join and start
14 paying a fee to the BIHOA or they would not be able to ever hook up to the system. If the new
15 buyers did not sign the letter, Mr. Fortney would be sued for back fees of \$990. Just a couple of
16 months before the closing I was told the back fees were around \$500 in a meeting with Folsom Ridge
17 and BIHOA at the Central Bank of Lake of the Ozarks. How could they almost double in a couple of
18 months?

19 With regard to the faxed letter to Westside Escrow, this document states that if the purchasers choose
20 not to sign the ratification of membership in the Big Island Homeowners Association document, then
21 the current sewer and water taps will be cancelled and they will have no further rights to tap into the

1 sewer or water system in the future. I checked with Elena Soon at the DNR the next day and she said
2 this is absolutely not true. In the letter, they also requested a \$21 fee per month from the new owners.
3 The house that was bought only had one sewer tap. Well, due to the incorrect installation, there is a
4 water tap, too, but this was at the fault of Folsom Ridge at the time of the installation by putting both
5 water and sewer pipes into the same trench. The new owners elected to NOT participate in the
6 BIHOA and were NOT connected or receiving service. In addition to the document that was faxed,
7 there was another document titled 'Homes Association Certification'. (CF Schedule 3) The
8 information herein is confusing, at best, because there has never been any mention of 'well fees,' and
9 my father's signature appearing as trustee, indicating his election to not pay any fees, seems to be
10 contradicted by the statement appearing prior to his signature, stating: "We herby certify that all
11 assessments, if any, are paid to this date, with none being past due." It also states that fees should be
12 paid to 'Folsom Ridge, LLC'. In fact, there is no mention of Big Island Home Owners Association or
13 BIHOA on this 'Homes Association Certification' document. The only entity mentioned is Folsom
14 Ridge, LLC. So, it appears that Folsom Ridge is owns and controls the homeowners association.
15 Since that time, the new homeowners have hooked up to water and sewer, receiving service and are
16 members of the BIHOA. They did not pay back fees, my father has not been sued and the new
17 owners did purchase a water tap for \$3000.00.

18 Q. WERE YOU EVER COERCED OR INTIMIDATED BY FOLSOM RIDGE, LLC
19 AND/OR BIHOA?

20 A. Yes. I was intimidated by Folsom Ridge and BIHOA members in a meeting at the Central Bank of
21 Lake of the Ozarks that I attended in May of 2005. They tried to coerce me into paying or having my

1 Dad pay back fees for taps at that time and Mr. Stan Zeldon who was a BIHOA Board Member said
2 he would talk to them (Folsom Ridge/BIHOA) into waiving the back fees if I became a member and
3 started paying fees at that time. They singled Cathy Orter and I out of the group and told us that we
4 were the only one's not paying. I refused to do anything. I did not believe in the pressure I was being
5 dealt nor did I believe in the BIHOA due to previous meetings I attended. By this I mean, the voting
6 process did not seem to be legal as they allowed non-members to vote (this can be verified in the
7 testimony that Phil Hiley gave at the public hearing at the fire station in May 2006. He stated he was
8 not a member, but was allowed to vote), voting was by property owner per lot and Folsom Ridge
9 owned most of the lots, so their vote would always win, they expressed the reason for forming an
10 HOA vs. another type of entity was that with an HOA they would not have to be regulated and they
11 would not have to go through 'red tape', etc. when implementing the system and maintaining it. I
12 didn't agree with this philosophy as I have always felt there should be some regulation by a 3rd party.
13 I believe in audits and periodic checks for compliance in any business. Plus, there had already been
14 violations with the system.

15 Q- WERE THERE INTERFERENCES WITH THE PURCHASING OF 3298 BIG
16 ISLAND DRIVE?

17 A. Yes, Folsom Ridge and the BIHOA had a line item on the closing for \$14 in 'Association Dues' to
18 Big Island HOA. (CF Schedule 4) I was not shown nor given any paperwork about this HOA. I was
19 told that if I didn't pay the \$14, the closing of this \$300k house would be stopped until it was
20 resolved. Since I found it ridiculous to stop a \$300k closing, I said I would pay the fees and take
21 action later. There was no paperwork shown to me nor given to me about the HOA, but they got their
22 \$14. I don't even know how the Title Company, Chalfant and Thompkins, could allow this. Again,

1 this closing was postponed a good hour or more and they threatened to stop the closing. To this date I
2 have not received any paperwork from BIHOA, however, my father does receive a combined bill for
3 his lot in Portage Park Unit 3 and this house for dues. Neither one of us has signed any letter of
4 ratification nor membership forms to be a member, yet my father is billed usually quarterly. How can
5 he be billed if we are not members and not receiving service? How can they interfere with real estate
6 transactions?

7 Q. WERE YOU EVER TOLD THAT THE PIPES IN THE SAME TRENCH ON YOUR
8 LOT WOULD NOT BE FIXED UNLESS BACK FEES WERE PAID ON LOT 8 OF
9 PORTAGE PARK UNIT 3?

10 A. Yes, in the meeting in May of 2005 where I was intimidated, I was also told that Folsom Ridge, LLC
11 would not fix the water/sewer taps on the lot itself unless my Dad or I paid the back fees. We thought
12 'The Settlement' mandated this fix. I don't know for sure because no one wants to take
13 responsibility for something that was installed on someone's property improperly because it is out of
14 the jurisdiction of DNR and will be out of jurisdiction of the PSC. It is the responsibility of the
15 property owner.

16 FR did implement a fix. However, instead of installing a new 1" water line to the lot, they did a "y"
17 off of the neighbor's water line. In essence, the two property owners that paid for a dedicated 1"
18 water line are now sharing one 1" water line. This was not the expected fix or what they paid for.
19 This neighboring property to our lot is also the property that still has water and sewer pipes in the
20 same trench. See Benjamin D. Pugh's Testimony. We hired them to install the taps with integrity
21 and safety in mind. Manholes are labeled 'Water' or 'Sewer' but if you take the lid off, there are 2

1 pipes, water and sewer inside, which is the one that should be used? Or the lid says 'Water' and the
2 pipe inside is a sewer pipe. See Benjamin D. Pugh's Testimony

3 **Q. ARE YOU AWARE OF AND AGREE WITH THE REBUTTAL TESTIMONY OF**
4 **CATHY ORLER?**

5 A. Yes. I have read it and totally agree.

6 **Q. ARE YOU AWARE OF AND AGREE WITH THE REBUTTAL TESTIMONY OF BEN**
7 **PUGH?**

8 A. Yes. I have read it and totally agree.

9 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

10 A. Yes.

11 **Summary:**

12 I believe that if the utility was regulated by the MPSC most if not all of the issues would not be
13 repeated in the future. Anything outside the jurisdiction of the MPSC still remains and may need
14 further attention. FR and the BIHOA have shown their lack of experience and business ethics with
15 operating a water and sewer utility by allowing the improper installation of the utility, the additional
16 violations, billing non-members who are not receiving service after they had in writing we would not
17 be billed until we started receiving service, intimidating and coercing non-members to join the HOA
18 and pay back fees, threatening law suits with regard to back fees when we are not hooked up nor
19 receiving service and trying to stop and ultimately delaying the sell and purchase of property with
20 regard to membership and membership fees/back fees. A 393 would certainly not address our issues,

1 however, being regulated should. We would rather be treated as a customer to a utility that is
2 regulated than be a member of a non-regulated utility company. We own other properties that receive
3 utility service from regulated utilities and feel it is like having additional insurance knowing that the
4 utilities conform to regulations and standards above and beyond DNR and state of MO. Statutes.

5 These actions and negative publicity do not increase our property value nor do they help our
6 community mind-set. They have only hurt our community that used to be close nit and neighborly
7 like, now divided. In order for our property values to increase, to re-create a neighborhood like we
8 had and that will attract others, we need a regulated public utility. We need assurance that these same
9 issues will not keep re-occurring. This also means that a 393 will not resolve our issues as a 393 is
10 not regulated and there would be no guarantee that minimum regulations, standard practices and
11 procedures would be followed or enforced. Let alone the intimidation and coercing to hook up to the
12 system and possible lawsuits.

13 What will it take for all water and sewer utilities to be regulated before the creation of the entity
14 owning and operating them? It seems to me that it is as important, if not more important as the
15 regulations on the lake for docks and vessels and power utilities. The lake's planning and zoning
16 committees are approving or have approved so much development in the recent years and years to
17 come, that there will be a backlash/domino affect at some point where there will be a 'costly catch up'
18 period. AmerenUE put regulations in with grandfathering several years ago. Now they will be able
19 to catch up and enforce new docks that were damaged due to the ice and snow that has destroyed or
20 damaged docks most of which didn't meet their regulations due to grandfathering. Why can't the
21 water and sewer utilities and the MPSC be proactive to prevent a major disaster before it happens and

- 1 | |
 - 2 | |
- costly catch up later? A major disaster is bound to happen when non-certificated water and sewer utilities are allowed to operate in the manner they have on Big Island.

CF Schädle 1

1. We will have a monthly fee for the waste water system, of \$10.00 per month. This fee will be deposited to the Homeowner's interest bearing account.
2. It is anticipated with the monthly fee to this system, that we will have no reason of funds in the interest bearing account.
3. The schedule to receive this revenue will be on a 1st of each month. We have been advised that to receive this particular system, to show filters, shock equipment and test equipment will require 2 to 3 weeks a week. However it is anticipated that the revenue will be received on a monthly basis.
4. The cost to maintain and operate the system will depend directly on the size and flow to the sewer treatment plant.
5. If it is homeowner banks up to the system, the fee is \$10.00 a month. If they stop to use their WATER CO. and a waste water bank is installed in their property, they will not be charged a monthly fee until they bank up.
6. We intend to accommodate such homeowners with the location of the acid test, acid containers for their waste.
7. The thinking for the new highway road has been directed and is the sole responsibility of the Foreman Ridge L.L.C. The reason for this project has to involve a Central bank. (Candidate, see)
8. There will be a board members which will consist of the 4 developers, the new property owner and one existing property owner.
9. It is your opinion to bank up to this system. You are under no obligation to do so. If one have any concerns about the development, please immediately contact me at 573-566-2100. I will be in the state of California, who telephone a 573-566-2100 and quickly answer myself, but I will be in the state of California.
10. This offer to bank up to this system is completely voluntary to any candidate homeowner, it is mandatory by the HOA for any new homeowners.
11. We have had this address house of your concern. If not and free to contact me at 573-566-6124. FAX: none

Security, Dev Loan

1987-1988 1989-1990 1991-1992 1993-1994 1995-1996 1997-1998 1999-2000 2001-2002 2003-2004 2005-2006 2007-2008 2009-2010 2011-2012 2013-2014 2015-2016 2017-2018 2019-2020 2021-2022 2023-2024 2025-2026 2027-2028 2029-2030 2031-2032 2033-2034 2035-2036 2037-2038 2039-2040 2041-2042 2043-2044 2045-2046 2047-2048 2049-2050 2051-2052 2053-2054 2055-2056 2057-2058 2059-2060 2061-2062 2063-2064 2065-2066 2067-2068 2069-2070 2071-2072 2073-2074 2075-2076 2077-2078 2079-2080 2081-2082 2083-2084 2085-2086 2087-2088 2089-2090 2091-2092 2093-2094 2095-2096 2097-2098 2099-2100 2101-2102 2103-2104 2105-2106 2107-2108 2109-2110 2111-2112 2113-2114 2115-2116 2117-2118 2119-2120 2121-2122 2123-2124 2125-2126 2127-2128 2129-2130 2131-2132 2133-2134 2135-2136 2137-2138 2139-2140 2141-2142 2143-2144 2145-2146 2147-2148 2149-2150 2151-2152 2153-2154 2155-2156 2157-2158 2159-2160 2161-2162 2163-2164 2165-2166 2167-2168 2169-2170 2171-2172 2173-2174 2175-2176 2177-2178 2179-2180 2181-2182 2183-2184 2185-2186 2187-2188 2189-2190 2191-2192 2193-2194 2195-2196 2197-2198 2199-2200 2201-2202 2203-2204 2205-2206 2207-2208 2209-2210 2211-2212 2213-2214 2215-2216 2217-2218 2219-2220 2221-2222 2223-2224 2225-2226 2227-2228 2229-2230 2231-2232 2233-2234 2235-2236 2237-2238 2239-2240 2241-2242 2243-2244 2245-2246 2247-2248 2249-2250 2251-2252 2253-2254 2255-2256 2257-2258 2259-2260 2261-2262 2263-2264 2265-2266 2267-2268 2269-2270 2271-2272 2273-2274 2275-2276 2277-2278 2279-2280 2281-2282 2283-2284 2285-2286 2287-2288 2289-2290 2291-2292 2293-2294 2295-2296 2297-2298 2299-2300 2301-2302 2303-2304 2305-2306 2307-2308 2309-2310 2311-2312 2313-2314 2315-2316 2317-2318 2319-2320 2321-2322 2323-2324 2325-2326 2327-2328 2329-2330 2331-2332 2333-2334 2335-2336 2337-2338 2339-2340 2341-2342 2343-2344 2345-2346 2347-2348 2349-2350 2351-2352 2353-2354 2355-2356 2357-2358 2359-2360 2361-2362 2363-2364 2365-2366 2367-2368 2369-2370 2371-2372 2373-2374 2375-2376 2377-2378 2379-2380 2381-2382 2383-2384 2385-2386 2387-2388 2389-2390 2391-2392 2393-2394 2395-2396 2397-2398 2399-2400 2401-2402 2403-2404 2405-2406 2407-2408 2409-2410 2411-2412 2413-2414 2415-2416 2417-2418 2419-2420 2421-2422 2423-2424 2425-2426 2427-2428 2429-2430 2431-2432 2433-2434 2435-2436 2437-2438 2439-2440 2441-2442 2443-2444 2445-2446 2447-2448 2449-2450 2451-2452 2453-2454 2455-2456 2457-2458 2459-2460 2461-2462 2463-2464 2465-2466 2467-2468 2469-2470 2471-2472 2473-2474 2475-2476 2477-2478 2479-2480 2481-2482 2483-2484 2485-2486 2487-2488 2489-2490 2491-2492 2493-2494 2495-2496 2497-2498 2499-2500 2501-2502 2503-2504 2505-2506 2507-2508 2509-2510 2511-2512 2513-2514 2515-2516 2517-2518 2519-2520 2521-2522 2523-2524 2525-2526 2527-2528 2529-2530 2531-2532 2533-2534 2535-2536 2537-2538 2539-2540 2541-2542 2543-2544 2545-2546 2547-2548 2549-2550 2551-2552 2553-2554 2555-2556 2557-2558 2559-2560 2561-2562 2563-2564 2565-2566 2567-2568 2569-2570 2571-2572 2573-2574 2575-2576 2577-2578 2579-2580 2581-2582 2583-2584 2585-2586 2587-2588 2589-2590 2591-2592 2593-2594 2595-2596 2597-2598 2599-2600 2601-2602 2603-2604 2605-2606 2607-2608 2609-2610 2611-2612 2613-2614 2615-2616 2617-2618 2619-2620 2621-2622 2623-2624 2625-2626 2627-2628 2629-2630 2631-2632 2633-2634 2635-2636 2637-2638 2639-2640 2641-2642 2643-2644 2645-2646 2647-2648 2649-2650 2651-2652 2653-2654 2655-2656 2657-2658 2659-2660 2661-2662 2663-2664 2665-2666 2667-2668 2669-2670 2671-2672 2673-2674 2675-2676 2677-2678 2679-2680 2681-2682 2683-2684 2685-2686 2687-2688 2689-2690 2691-2692 2693-2694 2695-2696 2697-2698 2699-2700 2701-2702 2703-2704 2705-2706 2707-2708 2709-2710 2711-2712 2713-2714 2715-2716 2717-2718 2719-2720 2721-2722 2723-2724 2725-2726 2727-2728 2729-2730 2731-2732 2733-2734 2735-2736 2737-2738 2739-2740 2741-2742 2743-2744 2745-2746 2747-2748 2749-2750 2751-2752 2753-2754 2755-2756 2757-2758 2759-2760 2761-2762 2763-2764 2765-2766 2767-2768 2769-2770 2771-2772 2773-2774 2775-2776 2777-2778 2779-2780 2781-2782 2783-2784 2785-2786 2787-2788 2789-2790 2791-2792 2793-2794 2795-2796 2797-2798 2799-2800 2801-2802 2803-2804 2805

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U.S. ACADEMY OF NUTRITION

July 11, 2008

Mr. Ron Duggan
Weside Racrow, Inc.
Shoreline Center, Suite 203
2307 West Highway 54
Casper, Wyoming 82401

REG: Lora I had 9 Partners Park. Unit 3

Don't Run Away Now!

[illegible]

THE UNIVERSITY OF CHICAGO PRESS

Very truly yours,
Charles E. McElroy
Charles E. McElroy.

COWLEY
 and
 the Big Island Homeowners Association

C.F. Schedule 3

Homeowners Association Certification

Re: Forney to Carlwell & Liberton
All of Unit B of Portage Park Subdivision, Unit 3, Camden County,
Missouri

To our knowledge, the Homeowners Association is inactive, or does not exist,
and we have never received an assessment on the above referenced property.

☒ The Homeowners Association is active. Dues in the sum of \$ 0 were
paid on _____ to fully pay the assessment due from _____ to _____.

Re: Water/Sewer Tap \$750 month Billed Quarterly

Payment of the Homeowners Association fee should be paid to: Salmon Ridge LLC Electrical Repair 3/27

Well maintenance fee(s) in the sum of \$ _____ were paid on _____
to fully pay the assessment due from _____ to _____.

Payment of the Well Fee(s) should be paid to:

Salmon Ridge LLC

We hereby certify that all assessments, if any, are paid to the date, with none
being past due.

Signed this 21 day of July, 2005.

Dean L. Forney
Dean L. Forney, Trustee