

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

Case No. 2011-CP-23-06482
Appellate Docket No. 2013-000329

Harrison Partners, LLC, ... Appellant,

v.

Renewable Water Resources, ... Respondent.

RECORD ON APPEAL
VOLUME II

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1 Q. There were different drafts of it before it was
2 enacted, right?

3 A. Yeah. Oh, yeah.

4 Q. Do you remember any -- and I don't want to get
5 into specific details. But do you remember how it
6 changed during its life span?

7 A. There was concerns about definitions of what was
8 in a district and what was out of a district and
9 how they would be provided services. A lot of it
10 had to do with the structure of the document, as
11 well as making provisions for both the private
12 sector, as well as the public sector.

13 Q. Is it fair to say there were changes made to it
14 along the way?

15 A. Yeah.

16 HEARING OFFICER: Let me stop here and say I recalled we
17 had another copy. Exhibit 27 is also the new
18 regs, and I looked at them quickly, and it appears
19 they're the same, those two. Do you all know if
20 that's true or not?

21 MR. DAVIS: Yes, sir. I inadvertently duplicated the
22 exhibit, but that --

23 MR. FULTON: They're the same.

24 HEARING OFFICER: I just wanted to make sure I didn't
25 have two different versions.

1 MR. STILWELL: See if they have a resolution on top, and
2 that's the only --

3 HEARING OFFICER: This both has a resolution and I think
4 they're identical.

5 MR. STILWELL: I've got drafts all over everywhere, but
6 they'd be painful to look at.

7 MR. DAVIS: I don't think we've ever received any
8 version of the reg that they contend is different,
9 so I don't know what they're talking about.

10 EXAMINATION RESUMED BY MR. STILWELL:

11 Q. Ray, generally, what were the concerns of the
12 Board with its regulation? What is it they want
13 to do? The general gist of this is unity of the
14 ownership. Can you talk a little bit about that?

15 A. Well, I think from my dealings with the Board is
16 that they wanted a regulation that provided for
17 stability, reliability, dependability long-term
18 for services that were provided to the community.
19 And that was the -- I think the thrust of the reg
20 more than anything.

21 Q. We talked about a difference of perspective --

22 A. Right.

23 Q. -- between something I mentioned in the opening
24 about the difference in perspective both between
25 the developer and individual neighborhood. And

1 when you say long-term perspective of ReWa, what
2 kind -- are you talking like years, decades? What
3 are you talking about?

4 A. Yeah. I'm talking about, you know, how do you
5 interrelate with all these folks, how do you get
6 folks to make sure their infrastructure is
7 maintained adequately, who can you coordinate with
8 to ensure things are done in a timely manner. And
9 there was a concern on the Board that we needed to
10 make sure that we weren't having to deal with one
11 group within the subdivision and another group
12 coming out of the subdivision as it related to a
13 problem that may be a joint issue down there, and
14 how do you resolve that. And their feeling was
15 that it really needed to be one owner, and that
16 was basically what the reg said.

17 Q. I want to take one little thing out of order, if
18 we can, just to touch on it. We'll get to Dr.
19 Graef later. But you talked about when a gravity
20 line comes through and takes out the pump station
21 and force main -- and Gene talked about it, too.
22 Do you recall Gene testifying about ReWa's
23 practice about taking a gravity line escrow
24 charge?

25 A. Yes.

- 1 Q. And that's ReWa's longstanding practice?
- 2 A. We've done that for a long time.
- 3 Q. And that's how that Peters Creek thing that we
- 4 were talking Gene was going to sue you. That's
- 5 how that worked?
- 6 A. That's how that worked.
- 7 Q. These pump stations and force main down there on
- 8 Lower Reedy, when they came in where Condor was
- 9 going to own the whole -- or own a part of the
- 10 system and Metro was going to own it, the gravity
- 11 line escrow was going to be a part of that deal if
- 12 it was ever going to get approved by ReWa, wasn't
- 13 it?
- 14 A. Oh, yeah.
- 15 Q. I'm going to skip back to where we were, the
- 16 regulation. I want to talk about the final form
- 17 of the regulation. And we went through it with
- 18 Gene yesterday, so I just want to do it generally.
- 19 Paragraph 2 of the regulation talks -- and the
- 20 part about unitary ownership is on the first page
- 21 of the reg, isn't it, not the whereas's?
- 22 A. Right.
- 23 Q. The whereas's are some of the Board's reasons for
- 24 passing the regulation on the first page?
- 25 A. Right.

1 Q. And if you flip over to the next page, or it may
2 even be the next, the unitary ownership is right
3 there on that second page of the Exhibit, what is
4 it, 3?

5 A. Well, item 3, "Customer services inside the
6 service district or service request inside the
7 service district and outside the service
8 district."

9 Q. Let me help you. I'll actually get my copy out.
10 I was --

11 A. Actually it's on page 1, item 1 -- paragraph 1.

12 Q. Paragraph 1 of my reg says, "Will not accept
13 ownership owned by more than one user"?

14 A. Right.

15 Q. That's the thrust of the regulation?

16 A. Right. Right.

17 Q. And is that to basically foster orderly operation
18 and development of the system?

19 A. Sure, because if you had issues down there, you
20 could deal with one group and get those resolved
21 quickly.

22 Q. Paragraph 2, and I'm going to kind of go over like
23 we did with Gene yesterday. Paragraph 2 is for
24 service outside of your district, right, or
25 outside of Metro?

1 A. Outside of a subdistrict.

2 Q. Subdistrict; okay. We're going to talk about
3 outside your district later, but I want to talk
4 about outside of the subdistrict. Paragraph 2
5 allows a private utility like Condor, right, to
6 own and operate the whole tamale?

7 A. Yep.

8 Q. And like we said to Gene, that wouldn't involve
9 any subdistrict backing up a system at all, right?

10 A. Huh-uh.

11 Q. Who would basically be the backup for that? Would
12 that be Western Carolina?

13 A. It would fall back to us.

14 Q. Is it fair -- I can use the word bag holder. Is
15 it fair to say ReWa would be the bag holder
16 outside the district in that situation?

17 A. That's correct.

18 Q. In these situations, if these had been built like
19 they originally said inside of Metro with Condor
20 owning it, did you worry that ReWa was going to
21 end up being the bag holder even then if they
22 failed?

23 A. Very possibly we would be.

24 Q. Let's go down to number 3, paragraph 3. We went
25 over this with Gene. Is it your understanding

1 under paragraph 3 that Condor could have owned the
2 whole tamale and it could have stayed inside of
3 Metro as long as Metro agreed basically to be the
4 bag holder if it failed?

5 A. Yeah. I mean it could have worked that way.

6 Q. Are you aware -- Gene was teasing about, "If Sam
7 and I just moved to the Bahamas or Bermuda?" I
8 can't remember what he said. Are you aware of
9 that happening on other developments, other than
10 Altamont, of things just running off the rails?

11 A. I'm drawing a little bit of a mental blank, but
12 there has been concerns that -- in discussions
13 with DHEC where they have wound up taking control
14 of some systems because they were private and they
15 did not work.

16 Q. You reminded me, when Gene was talking, he had
17 this scenario, "Well, even if I go to Bermuda,
18 there's a PSC bond." How did that PSC bond look
19 on the Altamont Subdivision?

20 A. If there was a bond on Altamont, I'd like to have
21 found it because they wound up suing the developer
22 and getting \$50,000 of him to upgrade that
23 facility. And the PSC was never in the
24 discussions.

25 Q. Do you know if Mr. Hiller actually went to jail

- 1 over the Altamont thing?
- 2 A. No.
- 3 Q. He didn't?
- 4 A. No.
- 5 Q. We'll reserve further comment on whether he should
- 6 have or not. Let's go to -- in the Altamont
- 7 subdivision, was PSC even involved in it at all as
- 8 far as you know?
- 9 A. Not at our level. It was strictly the EPA and
- 10 DHEC. They wound up with that in their territory
- 11 I guess you might say.
- 12 Q. I didn't want to leave out under paragraph 3 Metro
- 13 could have owned the whole thing themselves, too?
- 14 A. Oh, yeah.
- 15 Q. That would actually be everybody's preference,
- 16 wouldn't it?
- 17 A. Ideally if it's in the public sector, you've got
- 18 better long-term viability economically as well as
- 19 operationally, in my opinion.
- 20 Q. Was there often discussions with Metro and their
- 21 Board about, "Will you guys own this thing?"
- 22 A. Yes.
- 23 Q. Did it get close but just never connect; is that
- 24 fair to say?
- 25 A. That would be fair to say.

- 1 HEARING OFFICER: Say that again.
- 2 WITNESS: That would be fair.
- 3 HEARING OFFICER: I didn't hear the question.
- 4 MR. STILWELL: I said it got close but it just never
- 5 connected.
- 6 EXAMINATION RESUMED BY MR. STILWELL:
- 7 Q. After the regulation was enacted, and considering
- 8 under paragraph 2 or paragraph 3 Condor could have
- 9 owned the whole thing --
- 10 A. Uh-huh.
- 11 Q. -- why did they not do that; do you know?
- 12 A. I don't know. I don't know what their business
- 13 plans or their drivers were.
- 14 Q. Did there come a point in time where ReWa agreed
- 15 to just own it themselves?
- 16 A. Yes, it did -- we did. And we -- actually we
- 17 decided to be the backstop. We normally don't do
- 18 that, but to move these projects along, we do have
- 19 a provision in our enabling legislation where we
- 20 can take ownership and operational control until a
- 21 subdistrict decides they want it.
- 22 Q. Without pulling out our enabling act, because I
- 23 got it. It's that big.
- 24 A. Right.
- 25 Q. There's a piece in the enabling act -- is it your

1 understanding there's a piece in there that says,
2 "If there's property outside of the subdistrict,
3 ReWa can serve it"?

4 A. It has to be outside of the district. That's why
5 we -- when we made that offer -- and it was an
6 offer. You know we didn't have to do it, it would
7 require them to de-annex.

8 Q. Now, we talked about that with Gene in the
9 beginning. Was it your understanding that after
10 the regulation passed, Metro wouldn't allow de-
11 annexation?

12 A. No. We actually talked to Metro about these and
13 they agreed to allow them to de-annex.

14 Q. Did ReWa actually agree to help with the de-
15 annexation process?

16 A. Yes, we did.

17 Q. And did ReWa actually talk to the county about
18 making that happen?

19 A. We did.

20 Q. Were you aware of any practical barrier to the de-
21 annexation happening if both ReWa and Metro
22 requested it, and the developer?

23 A. Yeah. There was talking to the county. It was
24 just a matter of going through the formal process.

25 Q. Do you know when that happened? Was that right

1 after the regulation was enacted?

2 A. I'd have to go back and check. I'm sure it was
3 after the regulation went in place, but I --

4 Q. We'll take it up with Dr. Graef.

5 A. Okay.

6 Q. We said ReWa agreed to take the pump stations.
7 Was that a Board decision?

8 A. Yes.

9 Q. Under that enabling act where it says you can
10 operate it if it's out of the district, does it
11 have something in there about what you've got to
12 do about capturing the costs?

13 A. Our enabling act says that we have to recover our
14 costs.

15 Q. We can get into the money with Dr. Graef. All I
16 want to do now is talk -- there's been all these
17 discussions like ReWa cost twice as much, cost
18 three times as much. We're going to look at the
19 money with Dr. Graef. I want just for you to the
20 Hearing Officer talk about the elements of the
21 cost of this system. Can you just describe them
22 in like bullet point terms and --

23 A. Yes.

24 Q. You can leave out the ReWa water bill charges. I
25 just want to talk about the ones that Dr. Graef

1 will be giving.

2 A. Okay. Generally the infrastructure would be built
3 by the developer and deeded over.

4 Q. That's the same under scenario, right? The
5 developer always pays the bill?

6 A. That's correct. Then there would have to be an
7 agreement with the developer or the homeowners
8 association, with some entity out there, to
9 address the costs to operate that pump station.
10 And that would be our normal day-to-day
11 operational costs. There would also be an element
12 in there for what we call O&M replacement. Those
13 are like --

14 Q. Stop, because I -- the first one you said is just
15 the cost to operate the pumps and the electricity
16 to --

17 A. Right. Yeah, the electricity, the inspections,
18 the PM, what we call preventive maintenance.

19 HEARING OFFICER: Could the developer provide to the
20 engineering and construction of the pump station
21 and pay for it?

22 WITNESS: That's correct.

23 HEARING OFFICER: And deed it to you?

24 WITNESS: They would design it according to our specs,
25 and they would deed it to us, along with the force

1 main.

2 EXAMINATION RESUMED BY MR. STILWELL:

3 Q. And we said they do that, no matter if they're
4 giving it to Condor or to Metro or you?

5 A. Yeah.

6 Q. They always pay for it?

7 A. Yeah. That cost would be the same. Now, the
8 specifications may be a bit different, but the
9 effective -- building the station and force main
10 and deeding it over would go to -- it would go to
11 Condor, it would go to Metro, or any subdistrict
12 or it would go to us, the same -- it would be the
13 same process.

14 Q. The first cost of the pump station force main
15 system is the operation and maintenance of the
16 system, right?

17 A. That's correct.

18 Q. The second one you talked about was there under
19 both Condor and Rewa. Was there a reserve
20 account?

21 A. If I remember in discussions, and this come later
22 on because I think the Condor contract came in way
23 after all of this stuff. I think there was
24 provisions for reserve accounts to cover
25 replacement of a pump, a shaft, you know,

- 1 something that's out of the ordinary operation.
- 2 Q. That reserve account was generally -- it was like
- 3 a year of the O&M it maxed at?
- 4 A. Right. That's correct.
- 5 Q. Then the next element, was there a long-term
- 6 capital element in the Rewa plant?
- 7 A. Due to the fact that these things stay out there
- 8 for quite a while, we have -- the way we would do
- 9 business is that we would ask for a reserve to
- 10 rebuild that facility at some point in the future,
- 11 you know, bring that back to present value. But
- 12 there'd be a reserve there that effectively could
- 13 replace all the internal, or operational
- 14 structures inside the building.
- 15 Q. When you say in the future, it's like -- is it
- 16 generally going to look like at 20 years you're
- 17 going to have rebuild it?
- 18 A. Right.
- 19 Q. Do you have any knowledge who pays for the 20-year
- 20 point in time? Do you know whether that's in the
- 21 Condor deals at all?
- 22 A. It's my understanding -- Dr. Graef can be more
- 23 specific, but I think that's silent.
- 24 Q. So it's just an unaddressed cost in the Condor
- 25 deal?

1 A. Right.

2 Q. To clarify, you don't actually know what the
3 Condor deal with these developers is, do you?

4 A. No.

5 Q. Was there ever a charge to go out and do a deal
6 with these guys that was market competitive with
7 the Condor deal?

8 A. No. We -- we're not in competition with anybody.
9 We're going to look at what it costs to make sure
10 that there's long-term stability and viability of
11 that facility. That's our business model.

12 Q. There's a small element about decommissioning the
13 system?

14 A. That's correct.

15 Q. And that decommissioning, that's just when you
16 have to actually like unplug the lines and put the
17 gravity line in, right?

18 A. Well, generally when -- you're talking about tying
19 it to a trunk line that would go up there?

20 Q. Well, like Gene talked about, he took the system
21 down and then he sold the pumps for scrap or
22 something.

23 A. Right.

24 Q. Or reused them?

25 A. Uh-huh.

1 Q. Maybe he was going to put them in here. I don't
2 know. The last element is the gravity line
3 surcharge, and we talked about that would have
4 been whether Condor owned it or whether we owned
5 it, too, right?

6 A. Right.

7 Q. Was it your impression that the developers thought
8 that that gravity line surcharge for some reason
9 only was going to apply if we owned the system?

10 A. My recollection of that is that we were charging
11 them a gravity connection -- or a gravity line
12 charge, and that was not our normal policy. In
13 other words, it only applied to them. The reality
14 is we've done that over the years. So they would
15 have paid that charge on any subdivision that
16 would go in.

17 Q. Did you hear Gene say he knew that, and he never
18 told them they were going to have to pay the
19 gravity line charge?

20 A. I did hear him say that, yes. He knew that there
21 was a gravity line charge that would be due.

22 Q. We'll go back through the numbers in more painful
23 detail with Dr. Graef and try to make it not
24 painful. But I want to -- the last part I want to
25 talk about is the request to be grandfathered.

1 okay?

2 A. Right.

3 Q. Right before we get there, at the Board meeting
4 where they adopted the regulation after the April
5 -- the last public hearing --

6 A. Public hearing.

7 Q. No developers came to that, did they?

8 A. Not that I know of.

9 Q. Then in May at the Board meeting, they adopted the
10 regulation. No developers came to that either, did
11 they?

12 A. Not that I know of.

13 Q. We talked about yesterday that the request when
14 they came in here in the Board room, this very
15 room, and asked to be grandfathered was in
16 November. Is that about the right date?

17 A. Yes, I believe that was the date.

18 Q. Gene did the talking at that, is that your
19 recollection?

20 A. Pretty much. I'm not sure Scott made a comment or
21 not, but Gene -- I remember Gene making the
22 presentation.

23 Q. Did you have discussions with Gene before that
24 about what he was going to ask for or anything?

25 A. Well, yes, we did. We both are members of the

1 special Purpose Districts Association. And they
2 had their annual conference in Myrtle Beach and we
3 were both there. And actually I think we both
4 made presentations on the agenda. But we went out
5 to lunch one day and were just chatting and Gene
6 said, "We really need to be grandfathered." And I
7 said, "Gene, there is nothing that I can do for
8 you other than to suggest that you come make that
9 plea to the Board," and he did. I mean he -- you
10 know, and that was the way that went down.

11 Q. Is the first time you saw the list of who was
12 going to be asked to be grandfathered like the day
13 of the hearing?

14 A. Yeah. I mean there were people in there I'd never
15 heard of before, or let's say projects, not people
16 might be a better term.

17 Q. There's probably going to be discussions later and
18 there's already been discussion about all these
19 people said that they recommended grandfathering
20 to the Board. Did you ever hear anybody recommend
21 grandfathering to the Board?

22 A. No.

23 Q. You didn't have the authority to grandfather them,
24 did you?

25 A. No.

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1 Q. Did you have an understanding of what they were
2 asking to grandfather as far as plans and specs?

3 A. Only from this 40,000-foot level is that they
4 wanted to be grandfathered with Metro. In this
5 case, I think most of these were Metro, maybe not
6 all of them. Metro would own the collector system
7 inside the subdivision and the private sector
8 would own the force main pump station.

9 Q. We looked at the letter. It's one of the exhibits
10 from J. D. to Scott, the one that Scott said he
11 never got.

12 A. Uh-huh.

13 Q. Was the Board's decision to own the stuff
14 themselves instead of grandfathering?

15 A. Yes.

16 Q. Ray, that's all the questions I've got.

17 MR. STILWELL: Can we take a break?

18 HEARING OFFICER: Yes.

19 (BREAK; OFF THE RECORD)

20 EXAMINATION BY MR. FULTON:

21 Q. Mr. Orvin, I just want to ask a few follow-up
22 questions in no particular order here. I'm just
23 going to go by my notes. You mentioned at one
24 point in time in the consideration of these
25 amendments that you or somebody met with the

1 legislative delegation. Who was that? Who was on
2 that delegation at that time?

3 A. Gee, that was before the election. Dwight Loftis
4 possibly. I'm trying to figure out who the
5 chairman was, possibly the chairman of the
6 delegation. Now, can you give me -- give me the
7 context of your question.

8 Q. I believe that Mr. Stilwell was asking you about
9 when the idea first came up for the need of the
10 change and --

11 A. Are you talking about the cost issue?

12 Q. No. You testified that sometime in late '07,
13 Brian came to you with a stack of papers that you
14 then took to the Board.

15 A. Uh-huh.

16 Q. And then there was talk about the need to address
17 the issue and you said there were different steps
18 that happened. They asked you to look into it and
19 to draft things, and you also mentioned that there
20 was a meeting with the legislative delegation
21 around that time. And I'm just wondering who was
22 at -- you know, which -- who was on that
23 delegation that you met with?

24 A. Their -- I would have to go back and look at my
25 notes, but there is a committee of legislative

1 delegation that's basically assigned to us that we
2 meet with periodically. The makeup of that group
3 changes. I'm sure Dwight Loftis was on there, but
4 I'd have to go back and look at who might have
5 been on there at that time.

6 Q. So you don't remember who it was you met with
7 during that time to tell them about your new
8 considerations of making this change?

9 A. That meeting was actually set up for the Board to
10 meet. And there was -- there were committee
11 members of the Board that met with them. And we
12 normally do that three or four times a year anyway
13 as a matter of practice. And I'm sure that that
14 was one of the meetings where that was -- they
15 were briefed on our concerns about that by the
16 Board.

17 Q. But you specifically said that you folks ran this
18 by the legislative delegation. And I'm trying to
19 find out who was on it.

20 A. Well, I wouldn't say we ran it by the legislative
21 delegation.

22 Q. Well, that is what you said.

23 A. We briefed the legislative delegation.

24 Q. Did you tell them that it was going to be applied
25 retroactively?

1 A. I don't think there was any discussion about how
2 it would be applied. It was what the policy's
3 intent was and the objectives of the policy.

4 Q. So you don't think you told them that it was going
5 to be applied retroactively to those that already
6 had an application in?

7 A. Right.

8 Q. Don't you think they might have liked to have
9 known that, as legislators?

10 A. Well, you know, Monday morning quarterback is
11 always a good thing, but it just didn't come up in
12 conversation.

13 Q. You said that when Brian first brought you the
14 spec papers -- and this is where some dates are
15 important. Okay?

16 A. Uh-huh.

17 Q. As I understand it, we're talking about after
18 August of '07 and sometime after -- or during the
19 consideration of the river route, Brian brought
20 you a stack of papers, and that's when you took it
21 to the Board and I wrote down the words that you
22 were, "Told to hold up on everything while we
23 figure out what our policy is going to be on
24 this." Is that right?

25 A. Brian brought those to me I believe in late

1 October or early November. We went to the Board
2 and the Board said, "Hold up on the pump station
3 portion, but to continue working with the
4 developers because they needed to do planning,
5 they needed to get right-of-way, they needed to
6 get all of their paperwork in," but to work with
7 them to try to move these projects along while we
8 deliberated on the pump station issue.

9 Q. But you were definitely told to hold up at that
10 point in time on approving any pump station?

11 A. On the pump station.

12 Q. That's right. And that was in November of '07, or
13 around November of '07?

14 A. Right. Yeah.

15 Q. Six or seven months before the effective date of
16 the actual regulation; is that right?

17 A. That's correct.

18 Q. So even before it was enacted, you were told, and
19 you did, hold up on any approvals?

20 A. On the pump station.

21 Q. On the pump station. And the pump station was
22 clearly a part of the River Trace application
23 approval, wasn't it?

24 A. There were several of them that had pump stations,
25 that's correct.

- 1 Q. And you were told to hold up on all of them?
- 2 A. On the pump station section of it.
- 3 Q. That stack that Brian brought to you were the
- 4 people that were what we've been calling in the
- 5 pipeline at the time?
- 6 A. Yeah.
- 7 Q. Just our little code that we've been using?
- 8 A. Correct.
- 9 Q. People that had started the application process.
- 10 And he brought them to you, and you don't remember
- 11 exactly how many there were, but you think five-
- 12 six?
- 13 A. Five or six, something like that, yeah.
- 14 Q. You said there was a public meeting, number one, I
- 15 guess in January that none of these developers
- 16 came to?
- 17 A. There was a public meeting to take input on a
- 18 draft reg that they put out.
- 19 Q. And you said none of the developers came?
- 20 A. I don't -- I'd have to go back and look, but I
- 21 don't think any of the developers came. I think
- 22 some of the subdistricts were there and I think
- 23 Gene was there.
- 24 Q. And if there were five or six people in the
- 25 pipeline, do you know if you -- did you, or do you

1 know if Mr. Bishop gave those five or six people a
2 call and say, "Hey, we're having a public meeting
3 on this"?

4 A. You would have to ask Mr. Bishop that. I would
5 not know that.

6 Q. Did you?

7 A. No.

8 Q. Did you think of asking him to do that to make
9 sure they knew about it?

10 A. I would have assumed he would have done that out
11 of matter of course because generally you do give
12 that some kind of feedback.

13 Q. But you didn't do it and you don't know if he did
14 it?

15 A. No.

16 Q. And it couldn't have been that hard to make five
17 or six phone calls, could it?

18 A. No.

19 Q. Let's see what else. Oh, yeah. When Mr. Stilwell
20 was going through the new amended regs with you
21 and talking about what would be and what wouldn't
22 be allowed under the new regs, one of the things
23 -- and we've already talked about this at length
24 for the last couple days. One of the things that
25 you folks proposed, you folks being Rewa, being

1 proposed that would be available under these new
2 regs is for ReWa to own the whole system, right?
3 A. As a fallback. We don't really want to do this,
4 but --
5 Q. But it's allowed?
6 A. -- we understood that they were having problems
7 getting a vendor and we just decided, well, that's
8 one obstacle we can take out of the way for them.
9 Q. But to be clear, that is one of the options that
10 you believe is allowed under this reg. And, in
11 fact, you went ahead and made some proposals to
12 them about doing it, right, owning the whole
13 thing?
14 A. We made -- we made an offer to do that if that's
15 what they wanted. And --
16 Q. And it's your position that that would be allowed
17 under these regs, right?
18 A. Uh-huh.
19 Q. Let me ask you this. Is ReWa authorized by the
20 PSA to --
21 A. No.
22 Q. -- handle the collector system?
23 A. We're not under the PSA.
24 Q. So you're not authorized by the PSA to handle the
25 local collector system in the neighborhood, are

1 you?

2 A. We are authorized under our charter in our
3 legislation to do that.

4 MR. STILWELL: Are you talking about the PSC?

5 MR. FULTON: PSC. I said PSA; sorry.

6 WITNESS CONTINUES:

7 A. Our enabling legislation --

8 MR. FULTON: Maybe I was thinking about my PSA. I don't
9 know.

10 EXAMINATION RESUMED BY MR. FULTON:

11 Q. I'm sorry; let me ask it again.

12 A. Uh-huh.

13 Q. ReWa is not authorized by the PSC to run a
14 collector system, is it?

15 A. We do --

16 Q. Yes or no?

17 A. I will answer your question. Then I will qualify
18 that.

19 Q. Answer the question and then qualify it.

20 A. The answer to the question is no, we do not have
21 to be.

22 Q. Well, that's your opinion, right?

23 A. No. That is the law.

24 MR. FULTON: Well, just like these guys yesterday
25 objected, I'm going to object to the witness

1 making any legal conclusions.

2 HEARING OFFICER: We can conclude that he thinks that's
3 the law, but you can show me different. But I
4 will decide that in the case.

5 MR. STILWELL: I'd be happy to provide that for you at
6 the conclusion of the Hearing.

7 EXAMINATION RESUMED BY MR. FULTON:

8 Q. Let me ask you this, Mr. Orvin. You don't dispute
9 at all, do you that the plans and plats, when they
10 get stamped approved, and we had one yesterday,
11 even though the writing is small -- you've been
12 doing this a long time. You don't deny, do you,
13 that every time they're stamped approved for those
14 subdivisions, that one of the requirements that's
15 on there, that has to be served by a PSC-approved
16 entity, do you? You don't dispute that? I mean
17 you've seen a lot of them over the years, haven't
18 you?

19 A. We have never had any PSC approval or input in
20 anything we do.

21 Q. That's not my question.

22 A. Including plans and specs. They can stamp on them
23 all day long whatever they want to stamp on them.
24 We're not controlled by the PSC. We are under a
25 charter from the state of South Carolina that

1 gives us the right to do certain things, and that
2 includes approving plans and specs and deciding
3 how we serve people. That's -- that is simply in
4 the legislation. That's the way we've done
5 business since 1925.

6 Q. That was not my question. Please listen carefully
7 to my question. You do not dispute, do you, that
8 the plans that were approved by Greenville County
9 for River Trace, just like the way Greenville
10 County does it for all their approvals, includes a
11 stamped and writing on there that requires, as a
12 condition of its approval, that this subdivision
13 that we're approving must be serviced by a PSC-
14 approved entity? I'm asking you -- and you've
15 seen a lot of plats over the years and I
16 understand your position about Rewa's ability to
17 do it. But all I'm asking you is, you do not deny
18 that that's on all those plats, do you?

19 A. Well, to be truthful with you, I don't look in
20 that much detail at those plats. It could very
21 well be on there.

22 Q. That was my only question about that. You talked
23 about -- we talked about a bunch of routes
24 yesterday, and you talked about them this morning.
25 But one of the last things you said in answer to

1 Mr. Stilwell was as far as you could see, the
2 river route was okay. And then you went on to
3 talk about you thought that the River Trace folks
4 had a window of opportunity?

5 A. Yes.

6 Q. And you thought that window of opportunity was
7 sometime in the late summer of '07 up to when the
8 Board told you to hold up in November?

9 A. Uh-huh.

10 Q. Is that right?

11 A. That's right.

12 Q. Which, again, is a window of opportunity that you
13 saw, but it ended six or seven months before the
14 enactment -- this change was enacted, right?

15 A. That's right.

16 Q. So you closed the window before these new regs
17 were even enacted, didn't you?

18 A. I didn't close it. The Board directive --

19 Q. Well, Rewa close it?

20 A. -- said that they wanted to reassess the pump
21 station option.

22 Q. You said that there's currently a study going on
23 now, or has gone on recently about that lower end
24 and what it might look like to build another plant
25 down there?

- 1 A. Yeah. After getting into the issue of how to
2 serve these subdivisions, the Board wanted a
3 engineering review of how best to serve the basin
4 on Reedy Fork Road.
- 5 Q. So you did it, didn't you?
- 6 A. We had one done, that's correct.
- 7 Q. Isn't it true that nothing may ever, ever possibly
8 be built down there, right?
- 9 A. There's always that possibility.
- 10 Q. And, in fact, right now there's no specific plan
11 to do it, is there?
- 12 A. No. There is -- if you say specific plan from the
13 aspect that we have funded and engineered a
14 facility to go down and --
- 15 Q. It might never happen?
- 16 A. Might never happen.
- 17 Q. You have already agreed, I have here, that in the
18 process such as the one River Trace went through,
19 that it's proper for them and actually necessary
20 for them to submit things to Metro since they were
21 annexed in. And their whole plan was going to be
22 going through Metro, right? I mean that was
23 proper for them and they would actually be
24 required by Metro to do that for approval?
- 25 A. Under normal conditions, yes.

1 Q. And you have no reason to believe that that didn't
2 happen in the River Trace case, do you?

3 A. No.

4 MR. FULTON: I only brought one copy of this. Do you
5 have a copy, Mr. Stilwell, of the judgment from
6 the lower court?

7 MR. STILWELL: The order?

8 (OFF THE RECORD)

9 MR. FULTON: Mr. Glenn, if I may approach?

10 HEARING OFFICER: Sure.

11 EXAMINATION RESUMED BY MR. FULTON:

12 Q. Mr. Orvin, I'm going to show you what I'm going to
13 be asked to marked as Exhibit Number 28, which is
14 an order from Greenville County Circuit Court.
15 And let me just ask you if you've ever seen that?

16 (EXHIBIT NUMBER 28 MARKED)

17 WITNESS ANSWERS:

18 A. (Reviewing document.) Yes.

19 EXAMINATION RESUMED BY MR. FULTON:

20 Q. And you're aware that Harrison Partners brought a
21 lawsuit against ReWa about the issue that we've
22 been talking about these last couple days, and
23 that the judge in that case dismissed the case
24 until the resolution of this Administrative
25 Hearing. Is that right?

1 A. That's correct.

2 Q. And you didn't appeal that -- you, through your
3 lawyers, didn't appeal that decision by the judge,
4 did you?

5 A. No.

6 Q. In fact, you agreed that this Administrative
7 Hearing needed to happen first, right?

8 A. It was my understanding that it needed to go
9 through the appeals process first.

10 Q. And, in fact, in the very last paragraph, Judge
11 Miller says, "For the foregoing reasons, now,
12 therefore, it is hereby ordered that Plaintiff's
13 claims against the ReWa Defendants be dismissed,
14 without prejudice, pending Plaintiff's exhaustion
15 of the administrative review process provided in
16 the ReWa regulations." That's what it says,
17 right?

18 A. That's right. Uh-huh.

19 Q. And you folks didn't appeal that and you're here
20 today, right?

21 A. That's correct.

22 Q. Now, it's possible that that reserve that you were
23 talking about building in your costs for the
24 eventual rebuilding or refitting or switch-over to
25 a gravity if it ever got built. There's no way of

- 1 knowing when that would happen, or even if it
2 would happen, is there?
3 A. (Witness shakes head.)
4 Q. So there's no guarantee that that money, if it was
5 put aside, would ever really be used?
6 A. It would be used, but it'd probably be sometime
7 down the road.
8 Q. Well, you said probably. But again, I'm asking,
9 really, there's no way to be certain that even if
10 you charge these folks the money, it could
11 possibly never, ever happen and never be used;
12 isn't that right? I mean you have to admit that.
13 A. From my experience, it may be 20 years down the
14 road, but it would be used.
15 Q. But you already said, just a little while ago, it
16 may never happen, just about five minutes ago when
17 I asked you. You admitted that, right?
18 A. I think what I was trying to get at is there's a
19 plant that's in the concept down here. That may
20 never happen.
21 Q. That's right. It may never happen, right?
22 A. But if they continue to develop in here, there
23 would be trunk line, there would be force main
24 that would eventually have to be built in there.
25 Q. Now, let me ask you this. At the beginning of

1 your testimony, Mr. Stilwell had you go through
2 the process of all these different routes that you
3 folks asked River Trace to look at. And then you
4 gave a pretty detailed explanation about the flag
5 route and what it meant, and then why you didn't
6 think it was a good idea. And you gave all the
7 policy reasons, all the reasons that you thought
8 it would not have worked, right?

9 A. Yes.

10 Q. And then you suggested another possible -- and
11 whether it was you, or you told Brian and Dr.
12 Graef to do it, another route was suggested up
13 along the road to come around the top, right, and
14 then there was some problems with that, right?

15 A. Right.

16 Q. Different problem maybe having to do with Metro or
17 maybe having to do with the property or maybe
18 both, right?

19 A. Right.

20 MR. STILWELL: Your Honor, can I ask counsel to regain
21 his seat?

22 MR. FULTON: Oh. Sorry.

23 MR. STILWELL: He's hovering over the witness.

24 MR. FULTON: I was only trying to get close to the map,
25 but I'll back off. I don't want to -- it wasn't

1 my intention to hover over anyone.

2 EXAMINATION RESUMED BY MR. FULTON:

3 Q. And then after that one didn't work, there was
4 talk about -- you said maybe another one somewhere
5 and then eventually got around to the river route,
6 right?

7 A. Right.

8 Q. And again, that was something you suggested.
9 "Okay, the first one didn't work and the second
10 one's not going to work. Here's a third one you
11 should try. Take a look at it. Do the work, and
12 let's see how it works," right?

13 A. Uh-huh.

14 Q. And all this time, all these changes, and during
15 all that re-looking and then re-surveying and re-
16 engineering, that all takes time, right?

17 A. Uh-huh.

18 Q. I mean it doesn't just happen one day then the
19 next day and the next?

20 A. Uh-huh.

21 Q. And, in fact, the whole process started in 2006
22 and you talked about a window of opportunity that
23 you finally saw for them not until late in 2007.
24 And then all of a sudden, your Board told you not
25 to approve anything else and then it wasn't until

1 2008, two years later, that the regs were
2 approved. So in this -- with all these changes
3 and all these re-looks, a bunch of time went by,
4 right?

5 A. Yes. About five years had gone by.

6 Q. That's right.

7 A. Yeah.

8 Q. And it was because of the need to look at all
9 these different things, all these different routes
10 that -- the first wasn't acceptable to you, right?

11 A. Right.

12 Q. And the second one didn't work out for whatever
13 reasons, right?

14 A. Right.

15 Q. And then you suggested a third one. And each
16 time, Mr. Bolo, or Harrison Partners or InSite,
17 whoever was working on this, had to go back to the
18 drawing board, if I can use that expression, and
19 re-look at a new plan and re-survey it and re-
20 engineer it and re-look at it. I mean that's what
21 happened, wasn't it?

22 A. Well, let me answer your question this way. And
23 I'll preface it with --

24 Q. How about preface it with an answer?

25 HEARING OFFICER: Let him answer the question.

1 MR. FULTON: Okay.

2 WITNESS ANSWERS:

3 A. No good deed should go unpunished. We could have
4 very easily said, "We're not going to approve that
5 route. Come back with another route." We were
6 trying to help them because obviously, from our
7 exposure and dealings with them, is they were at a
8 loss. We were trying to be constructive with
9 them. We could have very easily said, "We will
10 not approve that route," end of story. We didn't
11 do that. We stayed engaged with them.

12 EXAMINATION RESUMED BY MR. FULTON:

13 Q. And gave them another route?

14 A. We gave them options. They didn't have to look at
15 those options. It was their decision as to
16 whether they wanted to pursue those options, not
17 ours.

18 Q. And then gave them another route?

19 A. It's a business decision for your client, not us.
20 We were trying to help them by saying, "Here's
21 some options that we've identified. You need to
22 decide whether you want to pursue them or whether
23 you don't want to pursue them.

24 Q. Do you disagree with what Mr. McCall said
25 yesterday, that under normal circumstances this

1 process only takes usually three, four, five
2 months, and even under complicated circumstances,
3 no more than eight months to a year? Do you agree
4 that that's the norm?

5 A. Yes, but this is -- it's beyond that.

6 Q. This had one route proposed, then another route
7 proposed, then another route proposed, right?

8 A. Counselor, I'll get back to what I said. We were
9 trying to be helpful to your client.

10 Q. Let me ask you this.

11 A. We could have very easily, like I said, just said,
12 "We're not going to buy that route." I --

13 Q. Let me ask you this. Do you remember yesterday
14 when -- you were here yesterday, right, when Mr.
15 McCall testified?

16 A. Yes. Uh-huh.

17 Q. And he testified that he had a conversation with
18 you a long time ago about you saying that, you
19 know, it was your intention for ReWa to take all
20 the plans and all the systems. What was the
21 context of that conversation? I mean how did that
22 -- what was the context of that conversation?

23 A. I don't remember the context of that conversation.
24 I can only imagine, if it was as far back as he
25 said it was, that back in the late seventies or

1 early eighties, there was a group of folks in the
2 Upstate chartered by the delegation or the county
3 or somebody. I don't -- I've never seen the
4 report. I've only been told about it, where they
5 recommended that over time, that all the districts
6 fold into one entity because it would be the most
7 efficient way to do business. Now, to --

8 Q. So you don't deny expressing that to him?

9 A. I -- what I just said, I'm sure we expressed to
10 him. I've expressed to others because that's the
11 common understanding.

12 Q. And you finally figured out a way to do it with
13 these amendments, didn't you?

14 A. No. Let me --

15 Q. That's all the questions I have.

16 HEARING OFFICER: You can finish your answer if you'd
17 like.

18 WITNESS CONTINUES:

19 A. I think one thing you need to understand is that
20 if our intent over the years was to consolidate
21 these folks into ReWa, you need to ask yourself
22 the question about how did Metro get formed, who
23 had them formed, why were they formed, where were
24 they residing for the first four or five years
25 they were in business, and why did they get

1 structured the way they got structured? And the
2 answer to that is we had them formed because our
3 charter says that we do treatment and trunk line
4 systems. We are not required, nor really
5 authorized to tie people onto the system. That
6 comes through the local government. So if we
7 really wanted to do away with the districts, we
8 would have never had Metro formed. We would have
9 simply exercised our authority and done it
10 ourselves. So I think you need to go back. I
11 think what Mr. McCall wants and what's truly
12 occurring are entirely two different things.

13 REEXAMINATION BY MR. STILWELL:

14 Q. Ray, I want to clean up some things, first, this
15 whole rigmarole about the PSC.

16 A. Right.

17 Q. Actually it ties into what you were just talking
18 about. You're an SPD, aren't you?

19 A. Yes, we are.

20 Q. Metro is an SPD?

21 A. That's correct.

22 Q. Gantt is an SPD, Taylors is an SPD?

23 A. That's correct.

24 HEARING OFFICER: And a SPD is a special --

25 MR. STILWELL: Special purpose district.

- 1 WITNESS CONTINUES:
- 2 A. Special purpose district, right.
- 3 REEXAMINATION RESUMED BY MR. STILWELL:
- 4 Q. You all are governmental entities, right?
- 5 A. Yes.
- 6 Q. Ray, you couldn't consolidate them together if you
- 7 wanted to, could you?
- 8 A. No. I mean that's got to be done by legislation.
- 9 Q. Let's talk a little bit more about what an SPD is
- 10 in relation to the PSC. Okay? I handed you --
- 11 what is that, Exhibit 12?
- 12 A. This is Exhibit 12.
- 13 Q. And I can't remember the acronym of where the
- 14 staff of PSC went. Is it called ORS?
- 15 A. ORS, office of regulatory staff.
- 16 Q. That's the PSC staff, right?
- 17 A. That's the way I read this.
- 18 Q. That letter was marked yesterday. That's a letter
- 19 to Mr. Bolo's attorneys from the PSC lawyer,
- 20 right?
- 21 A. That's correct.
- 22 Q. Can you read the last line of that first paragraph
- 23 of what the lawyer for the PSC says about its
- 24 jurisdiction over Western Carolina?
- 25 A. "This letter is to advise you that ORS has no

1 jurisdiction concerning the services provided by
2 Western Carolina Regional Sewer Authority."

3 Q. Talking about people who've got no jurisdiction
4 over ReWa, the county is one of those, isn't it?

5 A. That's correct.

6 Q. Whatever the county puts on its plat or something
7 -- is it true the County of Greenville is not in
8 the sewer business, are they?

9 A. They are -- no, they're not. They have never
10 voted themselves in the sewer business.

11 Q. They're actually -- and so they actually lack the
12 legal authority to be in the sewer business, don't
13 they?

14 A. That's correct.

15 Q. The people who are in the sewer business are you
16 and the subdistricts and municipalities, correct?

17 A. That's correct.

18 Q. As a matter of fact, that idea that everyone has
19 to be PSC-approved, all those people I mentioned,
20 the municipalities, the other special purpose
21 districts, none of those people are PSC-approved,
22 are they?

23 A. No, not that I know of. Why do they need to be?

24 Q. If those people -- following up on what Mr. Fulton
25 was saying, how much of the percentage of the

1 sewer in Greenville County is controlled by PSC-
2 regulated people like Mr. McCall versus non-PSC
3 people like all the subdistricts that we just
4 talked about?

5 A. I would say much less -- I don't know, one or two
6 percent, three percent maybe. There are four or
7 five subdivisions that are PSC-approved that are
8 privately owned, if it's that much.

9 Q. Did you understand that all the people that were
10 requested to be grandfathered were all Gene
11 McCall's customers, potential customers?

12 A. Yeah.

13 Q. There was a question about whether we should have
14 invited these guys to a public hearing, which was
15 publicly announced, correct?

16 A. That's correct.

17 Q. Could Gene McCall have told them about the
18 hearing?

19 A. Sure.

20 Q. There's another thing about retroactive
21 application. This reg doesn't apply
22 retroactively, does it?

23 A. No.

24 Q. None of these people had flow acceptance letters,
25 did they?

- 1 A. No.
- 2 Q. They weren't even close to them, in fact?
- 3 A. You'd need to get Brian --
- 4 Q. We'll talk to Brian.
- 5 A. Brian about -- to talk to about what --
- 6 Q. But you said when Gene came to request
- 7 grandfathering, there were a couple people on that
- 8 list you've never even heard of?
- 9 A. Right.
- 10 Q. I want to go back and clear up this temporal
- 11 thing, too, a couple of temporal things. First of
- 12 all, when Judge Miller entered that order, wasn't
- 13 that like a year and a half after they were here
- 14 requesting to be grandfathered?
- 15 A. I believe so.
- 16 Q. Do you know what your reg says about when you're
- 17 supposed to request an administrative decision
- 18 after you get turned down for a permit
- 19 application? Is it 15 days?
- 20 A. I believe it says 15 days.
- 21 Q. A year and a half is substantially longer than 15
- 22 days, isn't it?
- 23 A. Yes.
- 24 Q. Let's go back and talk about the window of
- 25 opportunity. Mr. Fulton talked about a window of

1 opportunity between August and November. How long
2 was the window of opportunity for them to do their
3 work between March of '06 and August of '07?

4 That's another 18 months, isn't it?

5 A. That's correct.

6 Q. They could have had Condor, United Utilities,
7 anybody run that thing if they had come in and
8 done their work during that period, couldn't they?

9 A. That's correct.

10 Q. Mr. Fulton asked you if it takes a year for a
11 normal project. Is this in any way a normal
12 project?

13 A. No. It's not a normal project for a variety of
14 reasons. First, it's down below the plant. They
15 wanted to go through our property. They were
16 working with these folks. It wasn't just one
17 developer coming in here. There was questions
18 about whether the manifold -- whether it be
19 parallel. There were just a slew of unanswered
20 questions and responses that the staff was getting
21 on how this process would work. I think that was
22 part of the problem.

23 Q. I want to ask you about the continuances. We
24 talked about two, and you said the plant might
25 never be built?

1 A. Right.

2 Q. Then you said the pump station may never have to
3 be rebuilt? If you --

4 A. If you put a gravity line in there, the pump
5 station would never have to be rebuilt as long as
6 you got it in before it wore out, which is
7 generally -- we're looking at if you do good PM
8 and you do good O&M maintenance, it'll last about
9 20 years.

10 Q. But it's got to be one or the other, doesn't it?
11 I mean either the gravity line is going to take it
12 out or the pump station's is going to be worn out,
13 right?

14 A. Yeah. You got to -- that's right.

15 Q. So he's talking about two mutually exclusive
16 contingencies?

17 A. Right.

18 Q. Now, the last piece on this. That part about if
19 the pump station had to be rebuilt, somebody's got
20 to pay for that right?

21 A. Right.

22 Q. Was it your understanding in the discussion with
23 the developers that Rewa was willing to let that
24 money go back to the developers or back to the
25 homeowners association if it didn't have to be

1 rebuilt?

2 A. I think if you go back and look at the draft
3 agreements, it provides -- the thesis of the
4 agreement is twofold. We get paid for the costs
5 that we incur based on our plan, our business
6 plan. Anything in excess of maintaining that
7 system would be refunded either to the developer
8 or to the homeowners association, whoever the
9 entity was at the time. And there was discussion
10 with folks about that.

11 Q. We'll go over that with Dr. Graef. But just to
12 come back to that, if that reserve account is
13 sitting there when the gravity line comes through
14 under the Condor contract, is it your
15 understanding that money goes into Condor's
16 pocket?

17 A. As I understand their business plan, there was no
18 reserve for the collector system and there was no
19 provision for money to go back to anyone.

20 MR. STILWELL: Let's just do that real quick. Have we
21 got the exhibits, the Condor contract?

22 REEXAMINATION RESUMED BY MR. STILWELL:

23 Q. I just want to hand you Exhibit 1 and just let you
24 look at this piece on page 4 and ask you where the
25 money goes if it's still sitting there when the

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1 gravity line comes through. I think I got you on
2 the right page. There's something about after two
3 years, after three years.

4 A. (Reviewing document.) It says, "Any interest
5 earned on the reserve account shall be the
6 property of Condor. Further, any -- all or any
7 portion of said reserve account may be used to pay
8 for the cost and expenses of insurance, preventive
9 maintenance, and other" --

10 Q. Let me see that. I'm talking about the allocation
11 part down there. If that money is still sitting
12 there after a period of years, who gets it, Condor
13 or the developer or the homeowners? Who gets the
14 money? You haven't looked at that before, have
15 you?

16 A. No. (Reviewing document.) On the fifth
17 anniversary of this agreement, it all goes to
18 Condor.

19 Q. Okay. That's all the questions I have.

20 MR. FULTON: May I just ask one follow-up, please, Mr.
21 Glenn?

22 HEARING OFFICER: Sure.

23 REEXAMINATION BY MR. FULTON:

24 Q. Would you have had to get your rates approved by
25 the PSC?

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1 A. No.

2 EXAMINATION BY HEARING OFFICER:

3 Q. I have two or three questions. Do you know when
4 you first became aware of it, or ReWa did, in '06,
5 are the lines already in the ground in the
6 subdivision, the collector lines?

7 A. No, no. I don't think they got that far along.
8 And I'm not sure -- I'm not even sure of when the
9 proposed line up the flag lots was proposed to us.
10 I'm not sure of that date. I don't know whether
11 that was '06 or '07.

12 Q. So far as you know, anytime during this time, were
13 the collector lines in place in the subdivision?

14 A. Not to my knowledge. I don't think they're there
15 yet.

16 Q. If, say, in late '07 -- mid '07 when you talked
17 about the river route --

18 A. The river route.

19 Q. -- if that had been approved at that time in some
20 manner that was satisfactory and had been
21 approved, do you know about how long it would take
22 to complete the system, get the lines in, and get
23 it up there and get the pump station in?

24 A. Well, under normal circumstances, the force main
25 and pump station, probably a year. That's

1 normally what we're seeing. And I believe
2 yesterday we were chatting about the fact that
3 there were -- we commit capacity. We will give
4 them a capacity letter based on build-out.

5 Q. A two-year build-out?

6 A. A two-year build-out, so we would ask them to give
7 us a set of plans that showed phases, phase 1,
8 phase 2, possibly 100 each, or how would they want
9 to do it. And then we would permit those phases
10 based on the number that we think they can get
11 built out over two years.

12 Q. If it had been approved in the fall of '07, would
13 a year be a reasonable time to expect the whole
14 thing to be up and going, including the collector
15 lines in the subdivision and the pump station and
16 the connection in your plant?

17 A. I will say their phase 1 -- I'll use that term,
18 the first two-year build-out, yeah, they could
19 have done that because it -- you can have
20 different contractors doing different parts of it,
21 yeah.

22 Q. Under Rewa regulations, there's been talk about
23 application, an application to get approval.

24 A. Uh-huh.

25 Q. Do you know whether any application was actually

1 filed in this case?

2 A. The application process, and Brian Bishop can
3 probably be a little more attune to this, really
4 is a process where we sit down with them. We find
5 out what they want to do, and then they go through
6 the initial process where there's a conceptional.
7 As I understand it, based on that conceptional,
8 there's a meeting with all the vendors at the
9 county level I alluded to where we basically say
10 that there's capacity. You know, at this point in
11 time we have the capacity available to --

12 Q. If there's a letter saying, "ReWa has the capacity
13 available for this" --

14 A. Right. I think I'm using the right term.

15 Q. -- that means that someone has applied and said,
16 "We're interested in doing this deal," right?

17 A. Right. That's correct, but at the end of them
18 turning everything in and we're all comfortable
19 with things --

20 Q. Right. There's a long process after that
21 approval?

22 A. Well, there's a process. It could be short or
23 long. They will get a capacity commitment letter,
24 which is like DHEC wants in order to give them a
25 construction permit.

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1 HEARING OFFICER: Anything else?

2 MR. FULTON: No. Thank you.

3 HEARING OFFICER: Thank you, Mr. Orvin.

4 WITNESS: Thank you.

5 (BREAK; OFF THE RECORD)

6 (JOE E. WILLIS DULY SWORN)

7 EXAMINATION BY MR. FULTON:

8 Q. Mr. Willis, we're here today at this Hearing
9 having to do with Harrison Partners' application
10 process for the River Trace Subdivision back in
11 the 2006, 2007, 2008 time period. And you are
12 here as a witness because you also had a
13 development back during that time period; is that
14 correct?

15 A. Correct.

16 Q. And I just wanted to start so Mr. Glenn understood
17 that you weren't part of the Harrison Partners --

18 A. No, sir.

19 Q. -- but you were a similarly-situated, at least to
20 some degree, person that -- we've been using a
21 phrase the last two days, that was in the pipeline
22 of trying to get approved during that time?

23 A. Yes, correct.

24 Q. Just tell us a little bit about your development,
25 real estate development experience.

- 1 A. Oh, my personal experience --
- 2 Q. Yes.
- 3 A. -- not necessarily related to my project?
- 4 Q. Right. We're going to talk about your project in
- 5 a few minutes.
- 6 A. Sure.
- 7 Q. But just your background and knowledge.
- 8 A. My background is I have a background in
- 9 electrical, electronics. I was troubleshooting
- 10 for Michelin Tire Corporation for 12 years. I
- 11 left them, owned and operated five Subway
- 12 restaurants, did some commercial land development,
- 13 purchased and constructed my own set of mini
- 14 warehouses, about 80,000 square feet. I obtained
- 15 a residential builder's license probably in --
- 16 sometime the early part of 2000-2001, somewhere in
- 17 there. I did a number of residential homes, spec
- 18 and custom. I partnered up with some individuals
- 19 back in the '06 time period and had a general
- 20 contractor's license under our company's name.
- 21 We did several additions to some strip centers,
- 22 things of that nature, and then we also started in
- 23 the development business. And we developed, to
- 24 some extent, five projects, all residential, all
- 25 residential developments.

1 Q. And the development that we're here to hear a
2 little bit about from you today is called what?

3 A. Grant Estates.

4 HEARING OFFICER: Graham?

5 WITNESS: Grant.

6 HEARING OFFICER: Grant

7 WITNESS CONTINUES:

8 A. Grant Estates located on Griffin Mill Road.

9 EXAMINATION RESUMED BY MR. FULTON:

10 Q. And that's within the Rewa service area, right?

11 A. Correct.

12 Q. Now, if you would, please, tell Mr. Glenn about
13 the beginning of that project and how you started
14 the process.

15 A. Obviously we identified the parcel, property that
16 we were interested in to come up with a
17 development and, you know, we did some preliminary
18 investigations. It was zoned for the type of
19 project we wanted to do, so we didn't have to go
20 through a re-zoning process on this project. We I
21 guess did what most people would do. We found a
22 builder at that time that was willing to, you
23 know, enter into a letter of intent to procure
24 lots from us. And so we went about our general
25 business plan and we also employed Land Design

1 Services, Kevin Ross, and initiated him to do some
2 preliminary work on the site, you know, some cost
3 estimates, things of that nature. And one of the
4 things that we did was also -- was to make --
5 check into the sewer availability and the capacity
6 in the area, make sure that, you know, we could
7 sewer and service our site -- or Western could, at
8 that time Western, ReWa. We received a letter
9 back from Brian Bishop stating that the capacity
10 was there to set the flow from the subdivision and
11 it was a number of stipulations in that letter of
12 things that we had to do in order for them to
13 accept our -- the flow from that neighborhood.
14 And so, you know, after entering into discussions
15 with our engineer, these items were doable,
16 entered in discussions with our buyer, our end
17 user, the -- Adams Homes was the builder we used.
18 We proceeded to purchase our property. I believe
19 it was in like May of 2006. We engaged Land
20 Designs to start, you know, working towards
21 obtaining the grading permit, doing all the
22 engineering on the site.

23 Q. You had a letter of intent from the builders?

24 A. Yes. Uh-huh, had a letter of intent, had a
25 purchase contract, had a actual purchase contract

1 -- purchase for sale contract. It's the only way
2 I got the money borrowed from the bank. I don't
3 know how familiar you are with the residential
4 development business, but I've dealt with Eastwood
5 Homes, which is another regional builder, and
6 Eastwood gives you an option contract. They'll
7 give you a deposit, a small deposit on each lot.
8 They might give you some up-front money, which
9 they did on one of mine, but at the end of the
10 day, they'll tell you they're going to take X lots
11 a quarter, but it's an option. And so if the
12 economy takes a downturn, they just opt out of
13 their option. They lose their deposit, and they
14 walk away and you're on your own.

15 Q. But in any case, that was just part of your
16 business plan to build --

17 A. I had a purchase for sale contract, which is just
18 like what you'd put on a house. These -- this was
19 a purchase for sale, it's not a option. Adams
20 Homes was obligated legally to purchase all 48 of
21 my lots.

22 Q. And this was after you had fully investigated and
23 gotten the capacity letter with the conditions
24 from Brian Bishop?

25 A. Yes, correct.

1 Q. And you bought the property?

2 A. So we bought the property, engaged Land Design.
3 He obtained our grading permit for us, and because
4 time's money, we proceeded down the road and
5 started grading our site. And we graded our site,
6 we installed all our storm water, all our erosion
7 control devices. We did all of this. And
8 simultaneously, he was working on the plans for
9 our sewer for -- to submit to Western.

10 Q. And what was the nature of the system that you
11 guys had planned?

12 A. We had a pump station on site so all of our lines
13 would gravity flow into our pump station and then
14 be pumped in through a force main up the hill.
15 And across the road, Western has their own pump
16 station and we were going to pump into their pump
17 station.

18 Q. And who was going to do that? Who was going to
19 own and operate that?

20 A. Our business plan called for that person to be
21 Condor. And one of the reasons Condor was
22 selected was because although my property was
23 zoned for what I wanted to do, you still have to
24 get approval by the Greenville County Planning
25 Commission. And in their approval letter, part

1 of the process stipulated verbatim that I had to
2 have my pump station owned and operated by a
3 utility that was regulated by the Public Service
4 Commission. And it listed Condor and United
5 Utilities as two of my options, but it didn't say
6 I could, it said I had to. So we engaged Condor
7 to do the preliminary pricing and preliminary work
8 on our pump station. As I say, you know, the
9 normal -- we followed the same process I followed
10 on my other developments. As soon as we purchased
11 the land, we started working to get the grading
12 permit and started grading and work on all our
13 other water, sewer, all those drawings
14 simultaneously. You submit them to the proper
15 agencies, in this case Western and Greenville
16 County Water District, and obviously nothing's
17 perfect the first time. They generally -- they
18 make changes. They send it back to your
19 engineering. He corrects -- you know, there's a
20 give and take and you come up with a set of
21 working plans and you receive a permit. In this
22 case, when we started down this road, you know,
23 there was certain stipulations. United Utilities
24 had a force main that came down the road and went
25 into this pump station owned and operated by

1 western. Well, one of our stipulations were that
2 we were to -- we had to obtain permission from
3 United to tie into their -- to put a manhole at
4 the top of the road, install a gravity flow line
5 all the way down to the pump station so future
6 developments could tie into this manhole because
7 western didn't want a bunch of force mains running
8 across their property. So I paid for that
9 engineering, got an estimate on the price. It was
10 like \$63,000; and started engaging United in this
11 process. And United said that they didn't want to
12 disturb your force main because they were worried
13 about odor issues. Well, we were to use their
14 right-of-way. Well, in this process we discovered
15 they didn't have a right-of-way. So instead of
16 working with me to get United to see our point of
17 view and let us make this improvement to Western's
18 property and to Western's system, Western granted
19 United a right-of-way on something that was
20 already there. You know, they didn't require them
21 obviously to get a right-of-way, but they were
22 requiring me to get one. So they granted them a
23 right-of-way, but then later discussions -- you
24 know, I was given permission -- Ray Orvin agreed
25 that I could run my line down the other side of

1 Western's property and gravity feed into the pump
2 station, so that issue was resolved and solved.
3 But when I submitted my plans -- and there was a
4 number of emails between Brian Bishop and my
5 engineer and there was mention that they -- I
6 guess there was mention of Metro owning the pump
7 station. But the email specifically stated, "If
8 Western" -- I mean, "If Metro decides not to own
9 the pump station, here's what you have to do," and
10 that's where we got to the gravity line system.
11 They -- again, they didn't say they had to own it,
12 they told me -- the first time that I was aware
13 that Western -- that Rewa wanted Metro to own the
14 pump station and no one else was when I submitted
15 my plans for review in December of '07.

16 Q. You submitted the plans, the check?

17 A. I submitted plans. I submitted a check, which has
18 been cashed, by the way, and was cashed shortly
19 thereafter it was submitted and got a response
20 from Brian Bishop that he was not going to review
21 my plans, so he obviously had them, but he
22 couldn't review them until the Board decided on
23 how they were going to handle pump stations in the
24 future.

25 Q. And this was late '07?

1 A. This was in -- this was -- yes, December of '07.
2 And, you know, my first question obviously was,
3 "Well, we're not in the future. We're right here
4 and now. What's stopping you from reviewing my
5 plans?" And he goes, "The Board's going to meet
6 and decide how they're going to handle pump
7 stations in the future. And even at that time, it
8 wasn't stated to me that the only way it was going
9 to happen was that if Western owned the pump -- or
10 if Metro owned the pump station. And part of my
11 process of getting into the sewer system was that
12 I had to annex my property into Metropolitan's
13 subdistrict, which I did.

14 Q. Just like River Trace at that time?

15 A. Yeah, and I received that annexation in November
16 of '07, before I submitted my plans. I submitted
17 -- I was annexed, so at that time I was in
18 Western's service area and in Metropolitan's
19 subdistrict.

20 Q. So up until the time that you submitted the plans
21 and check and everything, you had to jump through
22 all the hoops --

23 A. Correct.

24 Q. -- that you were supposed to, according to Rewa?

25 A. Correct.

- 1 Q. The local requirement, and especially Rewa's
2 requirements, right?
- 3 A. Correct. And --
- 4 Q. Now, at that point in time, was your project 100
5 percent engineering complete, or at least enough
6 for --
- 7 A. For all -- yes. For argument sake, yes, because
8 as I said, anytime I've ever submitted a set of
9 plans to any governmental agency, there's
10 generally some type of change, but it's not a
11 change that would just kill the project. It's --
12 you know, nothing's perfect the first time.
- 13 Q. But it was designed out?
- 14 A. It was designed. I had already basically -- you
15 know, was -- like I say, I was already grading the
16 site.
- 17 Q. Would you consider it an exceptionally technically
18 challenging project --
- 19 A. No.
- 20 Q. -- from an engineering standpoint?
- 21 A. No. I mean -- and I'm not an engineer, but no.
22 I mean it's a pump station of which there are
23 plenty.
- 24 Q. I'm sorry to interrupt you. Please continue.
- 25 A. I've installed pump facilities on individual

1 residential homes when I couldn't access the sewer
2 off a residential contractor's license -- or
3 residential builder's license. So same thing,
4 bigger scale.

5 Q. So what happened next?

6 A. Well --

7 Q. You said you submitted everything and he said,
8 "I'm not going to review it"?

9 A. "I'm not -- I can't review the plans." So then
10 were several phone conversations and meetings with
11 Western in which Ray Orvin was present, Brian
12 Bishop was present, my engineer was present, my
13 partner was present, you know, and several other
14 employees. There was a number of meetings where
15 we discussed why, you know, we couldn't move
16 forward with our project. And during this time,
17 you know, my phone -- my conversations with Brian
18 was that -- you know, "Listen, guys, the Board's
19 going to meet. They're going to figure out what
20 they're going to do with pump stations in the
21 future. And I feel confident -- I feel sure you
22 guys -- you're not the only ones out there.
23 You'll be grandfathered in and be allowed to
24 proceed with your project." So based on that, I
25 kept going full steam ahead. One, I didn't have a

1 choice. I had already bought a six-\$700,000 piece
2 of land. I kept forging full steam ahead. Time's
3 money. I can't lose time, so I graded all my
4 pads. I mass graded my site. I installed all my
5 storm drains. And now because I mass graded my
6 site, I can't use a standard septic system because
7 I've cut and filled the land. And DHEC won't
8 issue standard septic permits, so I can't even use
9 my land for that. It's basically a dead piece of
10 dirt at the moment as we speak. But I continued
11 down the road that this would --

12 Q. Based upon his representations?

13 A. Based upon the representations from Mr. Bishop
14 that this would get worked out. Well, you know, I
15 received a letter from Ray Orvin. The Board
16 finally met some eight -- well, the Board finally
17 came to a decision some eight months after I
18 submitted my plans for review. And to my
19 knowledge, there was no -- there's no rule on
20 their books that was preventing them from
21 reviewing my plans other than they just didn't
22 want to. And in one of our meetings, we
23 questioned, "why won't you review our plans? why?
24 whose decision was it not to allow the pump -- you
25 know, to change the rules on pump stations?" And

1 Ray Orvin said it was his decision personally to
2 stop any project with a pump station, and he did
3 that against advice of his counsel, who's in this
4 room now. So, you know, I don't know. You can go
5 by the rules, but when you got an individual
6 personally changing the rules, there are no rules.
7 So in -- sometime in '08, about eight months after
8 I submitted my plans for review, I received a
9 letter of the policy change of ReWa stating that
10 -- you know, that basically it was their sole
11 discretion what to do with pump stations. But
12 this letter I received stated that it was at their
13 -- that if a piece of property -- if a project
14 was in their service area but outside of one of
15 their subdistricts, then at their sole discretion,
16 that's how this would be handled. But per their
17 request, I was annexed into one of their
18 subdistricts, so this new policy still did not
19 apply to my project and it still did not get
20 reviewed. And till this day, I don't think my
21 project's been reviewed. Has it?

22 MR. STILWELL: Yes.

23 EXAMINATION RESUMED BY MR. FULTON:

24 Q. Well, let me ask you this question. You said that
25 you got a letter at a certain point in time

- 1 explaining to you about --
- 2 A. Some roughly eight months after I submitted my
- 3 plans. That's my recollection.
- 4 Q. And that letter had a copy of the policy attached
- 5 to it?
- 6 A. It had -- it indicated that it was the policy. It
- 7 says, "Policy" and gave the -- you know, the place
- 8 you would find the policy.
- 9 Q. Let me show you this piece of paper that you gave
- 10 me and ask you if that is what you received from
- 11 ReWa in the summer of '08?
- 12 A. From Ray Orvin.
- 13 Q. From Ray Orvin?
- 14 A. Yeah. And it's -- you know, it says, "Policy" and
- 15 "Pursuant to act number 9.16." It goes on to
- 16 describe which section.
- 17 MR. FULTON: Let's let the court reporter mark that.
- 18 (EXHIBIT NUMBER 29 MARKED)
- 19 EXAMINATION RESUMED BY MR. FULTON:
- 20 Q. That's Number 29. And this is the document that
- 21 was attached to the letter, and it's your
- 22 impression, and what the letter said was, "This is
- 23 the policy"?
- 24 A. That's the new policy.
- 25 MR. STILWELL: Objection. Can we see this letter?

1 Because these dates are all out of whack.
2 HEARING OFFICER: I'm sorry? What did you say?
3 MR. STILWELL: He's talking about the letter that
4 covered this and what it said and the date.
5 HEARING OFFICER: Let me ask, do you have the letter?
6 WITNESS: Pardon?
7 HEARING OFFICER: Do you have the letter?
8 WITNESS: Possibly. I'll have to look through my file.
9 HEARING OFFICER: What you're offering into evidence is
10 the policy?
11 MR. FULTON: What Mr. Ellis testified to.
12 WITNESS: Willis.
13 MR. FULTON: That after about -- in June maybe or
14 sometime in '08, he got a letter with that policy
15 attached to it trying to explain to him why his --
16 WITNESS: That this was the new policy that I needed to
17 follow.
18 HEARING OFFICER: The letter is not in evidence?
19 MR. FULTON: No.
20 MR. STILWELL: I've been advised that my objection is a
21 completeness objection, that he's got a partial
22 document here and he's trying to represent what
23 the whole thing is.
24 WITNESS: No. I got a document that says it's the
25 policy.

1 MR. STILWELL: I'm just saying Mr. Bolo has it, too, and
2 we should be looking at it.

3 HEARING OFFICER: Overrule the objection. I think it's
4 admissible. I understand it's not the whole
5 document, but -- or not everything he got with the
6 letter, but it is an independent document so I'll
7 let it in.

8 WITNESS CONTINUES:

9 A. Right. I got a letter saying, "Here's the
10 document."

11 EXAMINATION RESUMED BY MR. FULTON:

12 Q. "Here's the policy"?

13 A. Yeah, "Here's the policy."

14 Q. So what happened next?

15 A. Well, you know, what happened next is -- you know,
16 it's been quite some time, you know, since I
17 purchased this property. But we had -- the whole
18 rub of this whole thing was that Western was
19 insisting that Metropolitan own and operate -- or
20 own; excuse me, own the pump station. And they
21 said that as long as Metro owned it, that it Metro
22 wanted to sub out the operation to Condor, that
23 was fine, but that the pump station had to be
24 deeded to Metro. And I questioned Ray as to why
25 this was the case, and the response I got was that

1 in the past they'd had problems that -- you know,
2 and, sir, I don't know what your background is and
3 how familiar you are with subdivisions.

4 HEARING OFFICER: I'm listening to you.

5 WITNESS CONTINUES:

6 A. Okay. Well, within the neighborhood, there's a
7 collector system. Everybody's sewer runs into it.
8 And the normal process is, you know, all that
9 sewer would run, and if you're in Metropolitan's
10 subdistrict, Metro owns and maintains those lines.
11 I deed them -- I install them. I pay for them. I
12 do the engineering with their approval, pay for
13 them, and then deed them over to them. And if
14 there's a gravity-fed line that they can tie into
15 that's owned and operated by Rewa, then it just
16 ties in. And so if there's an issue in the
17 neighborhood, you call Metro. The point that was
18 pointed out to me is that I'm going to have a pump
19 station. If we have an issue, if we have an odor
20 issue or something of that nature, then we call
21 Metro and say, "Hey, y'all got a problem." Metro
22 says, "No, it's Condor's problem." And Condor
23 says, "No, it's Metro's problem." So we were
24 trying to eliminate this. I said, "So if I have
25 one individual operating my pump station and my

1 collector system, this will resolve the issue?"
2 And the answer was yes, so I contacted Condor and
3 I said, "Will you own and operate not only my pump
4 station but my collector system and my force
5 main," and they said yes. Well, when I brought
6 that to Mr. Orvin's attention, he said no, that
7 would not do, that Metro was the only entity that
8 they want to own and operate the pump station.

9 EXAMINATION RESUMED BY MR. FULTON:

10 Q. And he wasn't going to let Condor do it, was he?
11 A. He was not going to let Condor own the pump
12 station. It could not be deeded to them. So over
13 a period of time, at some point in time the
14 discussions became futile because due to the fact
15 that I wasn't able to obtain a permit -- well, I
16 wasn't able to get my plans reviewed or approved
17 by Western, so obviously I couldn't submit them to
18 DHEC in Columbia and receive a permit to install
19 my sewer, my project stopped dead in the water.
20 And at some point in time, I ran out of contract
21 with my builder and he terminated his contract
22 with me, which was at over a two million dollar
23 value and so at that point, you know, my option's
24 severely limited. And, you know, myself, my
25 partner, we had several personal discussions with

1 Mr. Orvin about the effect that this was having on
2 us personally and financially by not being able to
3 go forward with our projects, but it fell on deaf
4 ears.

5 Q. Did ReWa ever offer you a proposal, a financial
6 proposal for --

7 A. They offered suggestions and possible solutions.
8 One suggestion was to look into the fact of
9 installing a central septic system on my property,
10 which I investigated and it was cost prohibitive.
11 They also suggested that they would take over the
12 entire system, that they would take over the
13 collector system, the pump station, and the force
14 main. Now --

15 Q. Did they give you pricing on that?

16 A. Well, you know, here's the thing. Short answer,
17 yes, but there's a longer answer which goes back
18 to all these continued delays which just killed my
19 fricking project. They gave me a letter that --
20 stating that, you know, "Here -- we've got
21 capacity for your project and here's what you need
22 to do to tie into our system." Nowhere in that
23 letter did it state that I needed to make sure
24 Metropolitan's subdistrict would own and operate
25 my pump station. That was never brought up to me.

1 Q. That was a change?

2 A. That was a change. Okay, so they took eight
3 months after they decided they were going to
4 change to come up with a change. So then I said,
5 "Fine. If you're going to own and operate my pump
6 station, what's going to be the cost?" The
7 initial response was, "We don't know." So I'm
8 their customer and the way they're going to treat
9 -- they're supposed to be in this county for -- to
10 help grow -- do planned controlled growth which
11 would be beneficial to everybody in the county.
12 And I'm their customer and they tell me they're
13 going to provide this service to me. Then they
14 say, "No, we're not. Here's the new service."
15 And I said, "Well, what does the new service
16 cost?" And they don't know, so they spent eight
17 months coming up with a new plan, but they still
18 didn't have a complete plan. They don't have the
19 price.

20 Q. And this is after a couple years and hundreds of
21 thousands of dollars or more?

22 A. I'm over -- you know, over a million dollars into
23 my project. And so, you know, discussions were
24 -- you know, so they finally came up with a --
25 they sent me a projected cost based on a 75-lot

1 subdivision, of which mine was 48 lots. So again

2 --

3 Q. But if you look at it apples to apples, how did
4 their pricing compare to your original business
5 plan?

6 A. It was significantly higher than what the private
7 utility was going to run and operate the system
8 for, significantly.

9 Q. And in addition to the lost time that you just
10 talked about, did that price difference -- was
11 that at least part of what killed the project?

12 A. It would have put my builder at a market
13 disadvantage in the area, simply because -- you
14 know, if you -- the way the fee was being
15 collected was through the homeowners association,
16 the HOA. So the subdivision up the road that
17 gravity-fed into a trunk line, let's say their
18 HOA is \$400 a year. Well, mine was going to have
19 to be 1,200 to cover the cost of what Western
20 wanted to charge me to maintain and operate my
21 system. Now, my dues -- the fee from Condor was
22 -- I don't have these numbers, but definitely
23 less than half of that. I would have -- I was
24 estimating that my HOA in that neighborhood was
25 going to be in the \$600 a year range, which is

1 not, you know, outlandish compared to, say, a 400
2 or \$350 up the road. You know, we were going to
3 be tot lot and all this, give some walking trails
4 and try to make them think, you know, they were
5 getting a value for their money. So, you know,
6 my builder was balking. He's like, "I can't, you
7 know, tell somebody their homeowner dues is going
8 to be \$1,200 a year when they can go right up the
9 street and get the same thing for" -- so it was
10 just cost prohibitive. It was not a workable
11 solution from a realistic standpoint for me.

12 Q. It killed the project?

13 A. It killed the project. I'd have sewer, but I
14 wouldn't have a buyer. And the other fact, you
15 know, they still -- I mean I don't know if
16 somebody goes to them with a project today if they
17 can give them a definitive answer on what they're
18 going to charge.

19 Q. But the prices they gave you were twice as much?

20 A. Well, like I say, again it goes back to having a
21 business plan. This is supposedly a business.
22 It's a monopoly, and it controls itself. It's
23 unregulated. It's regulated -- a self-regulated
24 monopoly. But they still don't -- you know, do
25 you guys have a business plan if I want to build a

- 1 200-lot one? Can you tell me what you're going to
2 charge me? I don't know.
- 3 Q. But at least what was sent to you as a proposal --
4 A. It was a proposal.
- 5 Q. -- was at least twice as much as what your
6 original business plan --
7 A. Called for, correct.
- 8 Q. And that business plan was a business plan that
9 you established and then pursued after receiving
10 that first letter from ReWa?
11 A. Correct.
- 12 Q. That told you specifically what you needed to do
13 and it didn't talk anything about this change?
14 A. No.
- 15 Q. It didn't say anything about having to use ReWa?
16 A. No.
- 17 Q. And having to use their numbers?
18 A. No. And --
19 Q. So what happened?
20 A. Well, you know, what happened is my builder
21 canceled the contract. My project's dead in the
22 water, and except for the fact that one of my
23 partners is suing the bank over it, I'd already be
24 in foreclosure on it.
- 25 Q. And you testified a little while ago, and I just

1 want to make sure it's clear, that in your stages
2 of discussion, especially when news of this change
3 first came out, that you were assured by Rewa
4 personnel --

5 A. Repeatedly assured that -- by Brian Bishop that he
6 felt that he was sure the Board would grandfather
7 us in.

8 Q. Because you were in the pipeline?

9 A. Because we were in the pipeline.

10 Q. You had already made your business plan?

11 A. Correct.

12 Q. And you relied upon the way things had been done
13 and what was in place at the time?

14 A. The way things had been done in the past, yes.

15 Q. And what was in place at the time?

16 A. The normal procedure, to my knowledge, in
17 Greenville County was that Condor Utilities exists
18 because they normally filled that gap of owning
19 and operating a pump station because Western
20 didn't want to. Western didn't want to own it,
21 and they were trying to make me make Metro own it,
22 another government agency that I have no control
23 over. They -- and they wanted me to go against
24 Greenville County's Planning Commission. They're
25 making their own rules independent of all these

1 other agencies that they're supposed to be working
2 together with. And they were putting it on me to
3 go get all these changes done. How am I going to
4 force Metropolitan's subdistrict to make a policy
5 change? How am I going to force Greenville County
6 Planning Commission to make a policy change to
7 suit me simply because Western woke up one day and
8 decided they wanted to change the policy? They're
9 supposed to be working in conjunction with all
10 these government agencies. They call these people
11 their partners in their subdistricts, but they're
12 all independent of each other.

13 Q. Anything else you'd like to tell Mr. Glenn?

14 A. You know, I mean -- you know, it's just like I'm
15 -- I was a licensed homebuilder. If you engaged
16 me to build you a home and you pick out a set of
17 plans and I give you a price for that and I tell
18 you to go borrow the money and we buy the lot and
19 we start your house and we get it halfway built
20 and then I tell you, "You know what, I'm not
21 building this plan. I can't build it like that.
22 You got to build it like this, and oh, by the way,
23 I'm the only licensed contractor in the State of
24 South Carolina so you can't use anybody else, and
25 oh, you can use this guy, but he's got to play by

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1 my rules and if he don't want to do it by my
2 rules, then you can't use him." And in the
3 meantime the bank is telling you, "Hey, you
4 borrowed this money. Start paying me," so you're
5 not living in your house. You can't get your
6 house built because the guy you paid to build it
7 won't build it, and he's the only guy that can
8 build it. This is a monopoly. It's the poster
9 child for, you know, bad government, inefficient,
10 and unresponsive. And, you know, my engineer
11 overheard some conversations. I'm not going to
12 bring them up because he's not here, so --

13 MR. STILWELL: Can I ask some questions instead of a
14 narrative?

15 HEARING OFFICER: All right. Cross.

16 WITNESS: Well, I thought narrative was important to let
17 somebody feel my position that I was in.

18 HEARING OFFICER: I heard you.

19 EXAMINATION BY MR. STILWELL:

20 Q. You said you bought the property in May of 2006?

21 A. I believe that's correct.

22 Q. In November of '07, you annexed into Metro?

23 A. Correct.

24 Q. December of '07, you submitted your final plans
25 and specs, or you submitted some plans?

1 A. I submitted plans, correct.

2 Q. So let's count that up. May of '06 to May of '07
3 is a year and then December -- so it was basically
4 and 18-month delay between when you bought and
5 when you put your plans and specs in?

6 A. No. I said I bought it in '06 and submitted them
7 --

8 Q. Right. It's 18 months, right? Let me ask you
9 another question. You said that -- first of all,
10 Rewa doesn't know what your business plan and what
11 your numbers are, do they?

12 A. No, just as I don't know what Rewa's policies are
13 and what their business plan is and what their
14 numbers are.

15 Q. Fair enough. You never had a signed contract with
16 Condor, did you?

17 A. No, I did not.

18 Q. Nobody from Condor, when you were building your
19 business plan, ever told you you were going to
20 have to pay a gravity line surcharge? You never
21 heard of that before it came in the Rewa numbers?

22 A. It didn't come in my Rewa numbers, to my
23 knowledge.

24 Q. When you talked about the twice as much, you were
25 talking about the piece that was in the homeowners

1 dues, right?

2 A. Correct.

3 Q. You weren't talking about the part that would have
4 been paid to Metro for ad valorem taxes and the
5 part paid to Metro for taxes?

6 A. Correct. But in the information I received from
7 Western, that was not included either. So they
8 weren't -- they didn't provide me with their
9 numbers for maintaining the collector system.

10 Q. I just take that that like under the ReWa system,
11 you understood you weren't going to have to pay
12 Metro, your homeowners weren't, and you weren't
13 going to have to pay --

14 A. The homeowners were going to pay Metro through
15 property taxes, which is the way it's done across
16 the county.

17 Q. If ReWa was going to own the system, then it was
18 going to be outside of Metro, right?

19 A. Correct. But their price was already higher and
20 they still didn't have a price for maintaining the
21 collector system. So it was going to be yet again
22 higher than that.

23 Q. We'll do the math with Dr. Graef. Do you
24 understand that Condor agreed at one point to own
25 the whole collector system and the whole pump

- 1 station and force main?
- 2 A. I was verbally told that they would do it.
- 3 Q. By Condor?
- 4 A. By Condor.
- 5 Q. And then you understood under the regulation -- I
- 6 don't know if you knew or not. You understand
- 7 under the regulation, Condor can own and operate
- 8 that whole system under the regulation that was
- 9 passed in May of '08?
- 10 A. At your sole discretion.
- 11 Q. No, under the regulation. Do you understand that
- 12 or not?
- 13 A. No, I do not.
- 14 Q. You never read the regulation?
- 15 A. I read what I received.
- 16 Q. That policy you received, I don't know where it
- 17 went, but --
- 18 A. The policy change.
- 19 Q. This policy right here, do you think that's a
- 20 policy change?
- 21 A. It was submitted to me by Ray Orvin as the reason
- 22 that they were not going to allow me to let Condor
- 23 operate my facility. And I had a conversation
- 24 with Ray about them -- about Condor owning and
- 25 operating the entire system and Ray said no, it

- 1 had to be owned -- the pump station had to be
2 owned by Metropolitan.
- 3 Q. There's a reference at the top of that policy to a
4 law. Can you tell us what that is? I mean can
5 you just read what the law is?
- 6 A. It's act 9.16 of 1946, section 1.
- 7 Q. You don't know what that 1946 --
- 8 A. No. I do not know.
- 9 Q. And you don't know whether that policy is actually
10 a new policy or an old policy, do you?
- 11 A. The way it was presented to me, it was a new
12 policy.
- 13 Q. You mentioned you were a ReWa customer. Other
14 ReWa customers would be homeowners, yes?
- 15 A. Sure.
- 16 Q. Rate payers?
- 17 A. Sure.
- 18 Q. Future rate payers?
- 19 A. Sure.
- 20 Q. So there's a lot of other customers other than
21 developers that ReWa has to balance, correct?
- 22 A. Oh, absolutely.
- 23 Q. You said something about, "Against the advice of
24 counsel." I recall a meeting up there. Was Scott
25 hollering at Ray right then?

- 1 A. Don't know.
- 2 Q. The advice of counsel was, "Don't answer that
3 question when he's hollering at you," wasn't it?
- 4 A. Don't remember the exact words. But counsel
5 advised him not to answer the question.
- 6 Q. But I didn't advise him about what to do with the
7 policy or anything like that, did I?
- 8 A. You advised him not to answer the question.
- 9 Q. That's fair.
- 10 A. That's what I said.
- 11 Q. I'm going to show you a couple documents.
- 12 MR. STILWELL: Let's mark that. Let me start with a
13 different document because it's just a date order.
14 Can I do that?
- 15 (EXHIBIT NUMBERS 30-31 MARKED)
- 16 HEARING OFFICER: Which one is going to be 30?
- 17 WITNESS: I'm sorry? We're looking at 31 at the moment.
- 18 HEARING OFFICER: I was asking the court reporter.
- 19 COURT REPORTER: It's emails.
- 20 EXAMINATION RESUMED BY MR. STILWELL:
- 21 Q. It's a string of emails in March. Ernie, we can
22 just talk about these together. You said you
23 submitted your plans in December?
- 24 A. Yes.
- 25 Q. And then in February, that document that's

- 1 February, the single page which is 31, that's
2 Brian sending your people a right-of-way
3 agreement? Is that what that is?
4 A. That's what it -- yeah.
5 Q. And it's in, what, February, late February?
6 A. Right.
7 Q. So Brian is working with -- is that your engineer
8 or is that somebody in your office?
9 A. That's someone in the office. Greg was someone in
10 the office.
11 Q. And that's after you had submitted your plans and
12 specs?
13 A. Right.
14 Q. And then the next one that's the string email,
15 Grant 59 down there, that's in March of 2008,
16 correct?
17 A. Yes.
18 Q. Patrick Hines, down at the bottom of the first
19 page, 59, that guy works for you, or he works for
20 -- who does he work for?
21 A. I'm not sure.
22 Q. How about Mack Mitchell?
23 A. I believe he's with United.
24 Q. Kevin Ross at the top, is he with you?
25 A. He's Land Design. He's our engineer.

- 1 Q. And G. Gallagher, A.W., is that --
- 2 A. It's a individual in the office.
- 3 Q. I just want to read the sentence down at the
- 4 bottom, March 4, 2008. It says, "Mack, they are
- 5 apparently waiting on United and Metro to give
- 6 them direction. Metro is okay with everything
- 7 and wishes to proceed." Did I read that
- 8 correctly?
- 9 A. Uh-huh.
- 10 Q. So after you submitted your plans, this is some
- 11 three months after the plans. They're still
- 12 working with Metro and United to get this stuff
- 13 resolved?
- 14 A. To get the right-of-way resolved, correct.
- 15 Q. And based on Brian sending you that right-of-way
- 16 and easement agreement, isn't it apparent he did
- 17 actually review your plans between when you
- 18 submitted it and when he submitted that right-of-
- 19 way agreement?
- 20 A. No.
- 21 Q. That's not apparent to you?
- 22 A. No, it's not because they knew I needed a right-
- 23 of-way. They knew I had to run a force main down
- 24 to -- you don't need a set of engineering plans to
- 25 know that. I have to get the sewer to their

1 property.

2 Q. You don't know what work Brian did with your
3 project engineer either, do you?

4 A. No. Do you?

5 Q. No, I don't.

6 A. I mean that's impossible for me to know. I wasn't
7 there.

8 Q. No, I don't. That's all the questions I've got.

9 A. But I know that we submitted the plans and that
10 they were never returned red-lined and marked up
11 or they -- you know, we never received them back,
12 which would be the normal procedure, right?

13 Q. I'm done with my questions.

14 HEARING OFFICER: Anything else?

15 MR. FULTON: Yes, thanks.

16 REEXAMINATION BY MR. FULTON:

17 Q. There's been some discussion about Exhibit 29,
18 which I believe you testified was the document
19 sent to you by Ray Orvin explaining that this was
20 their policy and this is why they couldn't review
21 and improve your plans; is that right?

22 A. Right.

23 MR. STILWELL: Objection. That's not what he said.

24 HEARING OFFICER: I'm sorry. I didn't hear the
25 question.

1 REEXAMINATION BY MR. FULTON:

2 Q. Tell us again what that is.

3 A. It's a document I received from Ray which I
4 interpreted as his explanation as to why that I
5 couldn't proceed with my project and that why I
6 had to have Metropolitan own my pump station.

7 Q. Now, actually even about a year after you received
8 that, you went to an ACOG meeting, didn't you?

9 A. Correct.

10 Q. And that document resurfaced in that ACOG meeting,
11 didn't it?

12 A. I believe it did.

13 Q. Would you explain that?

14 MR. STILWELL: Your Honor, this is redirect, which would
15 be fine. He's completely starting a new scope and
16 he's not even talking about Mr. Bolo's project.
17 So to the extent it's 12:30, before we --

18 HEARING OFFICER: I'll let him go into it briefly.

19 REEXAMINATION BY MR. FULTON:

20 Q. Go ahead.

21 A. I'm not exactly -- you know, I'm not exactly sure
22 of the question. I'm drawing a blank here.

23 Q. Let me ask you this.

24 MR. FULTON: And this is proper on redirect because
25 there was some questions about if he knew what

- 1 this was.
- 2 HEARING OFFICER: I already ruled with you.
- 3 MR. FULTON: Yeah, you already did. But I'm trying to
- 4 get him to explain what happened at the ACOG
- 5 meeting.
- 6 REEXAMINATION BY MR. FULTON:
- 7 Q. Didn't Ray Orvin hold that piece of paper up at
- 8 the ACOG meeting?
- 9 A. He held the policy -- a piece of paper up stating
- 10 that it was the policy. And I'm under the
- 11 assumption that it was that same piece of paper.
- 12 Q. And he said that was the policy?
- 13 A. That was their policy. And again, you know, that
- 14 meeting deteriorated into the same thing the rest
- 15 of our meetings usually did, with no movement on
- 16 Western's part and no place for us to move to, you
- 17 know.
- 18 Q. And that was in the summer of 2009 at the ACOG
- 19 meeting?
- 20 A. If -- you know, I'll agree to -- as long as
- 21 everybody agrees. I don't really remember
- 22 exactly.
- 23 Q. Does that sound right to you?
- 24 A. Sounds right. Sounds right.
- 25 Q. Okay. Thank you.

1 MR. STILWELL: Objection. That's not what he said.
2 HEARING OFFICER: You may be excused. Thank you.
3 (BREAK; OFF THE RECORD)
4 HEARING OFFICER: Let the record show that in an in
5 camera meeting with the attorneys, the attorneys
6 for the parties stipulated that the Petitioner
7 could submit the deposition testimony of William
8 Alexander, IV, in its entirety as evidence in the
9 case, and I have that deposition.
10 They also stipulated that in the event we are
11 not able to finish Defendant's testimony today and
12 take a Board member whose name is --
13 MR. DAVIS: It depends. It'll be either Mr. Martin or
14 Mr. Boyette.
15 HEARING OFFICER: A Board member. If we're not able to
16 take that testimony live today, then the parties
17 have stipulated they will take that by deposition
18 and submit it in its entirety, having their
19 objections on record. Is that correct?
20 MR. FULTON: Yes, sir.
21 MR. STILWELL: Yes, sir.
22 HEARING OFFICER: We're ready to go. That concludes the
23 Petitioner's case, I take it?
24 MR. FULTON: Yes.
25 HEARING OFFICER: Mr. Davis?

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- 1 EXAMINATION BY MR. DAVIS:
- 2 Q. Good afternoon, Mr. Bishop. Could you please
- 3 state your full name?
- 4 A. Brian Bishop.
- 5 Q. Mr. Bishop, where do you live?
- 6 A. I live at 606 Buttermilk Court in Simpsonville.
- 7 Q. Are you married?
- 8 A. Yes, I am.
- 9 Q. Do you have any children?
- 10 A. I have one.
- 11 Q. Boy or girl?
- 12 A. A boy.
- 13 Q. How old?
- 14 A. He's six.
- 15 Q. What is his name?
- 16 A. His name's Cory.
- 17 Q. Cory Bishop?
- 18 A. Cory Bishop, Cory Brian Bishop.
- 19 MR. DAVIS: Mr. Glenn, are we swearing witnesses in?
- 20 HEARING OFFICER: I'm sorry; I forgot to swear him.
- 21 (J. BRIAN BISHOP DULY SWORN)
- 22 EXAMINATION RESUMED BY MR. DAVIS:
- 23 Q. Can you tell us a little bit about your
- 24 educational background, Mr. Bishop?
- 25 A. I graduated from Clemson University with a civil

- 1 engineering degree. I have a professional
2 engineering license in civil engineering also.
3 Q. State of South Carolina?
4 A. That's correct.
5 Q. Have you ever been professional disciplined?
6 A. No, I have not.
7 Q. Have you received any additional training after
8 your educational career at Clemson?
9 A. No. Most of my training's been here at Rewa in
10 the wastewater industry.
11 Q. So there's been -- but professional training
12 programs through ReWa?
13 A. Yes, that's correct.
14 Q. Is that a pretty substantial amount of training
15 through Rewa?
16 A. We have training about once a month at -- that's
17 conducted here. I've taken some classes. We have
18 been given supervisory classes. I've taken three
19 -- 18 course in that. So there's been a lot of
20 offered -- training offered here while I've been
21 here.
22 Q. Can you do me just a little favor? I'm not asking
23 you to shout. I know you're a soft-spoken fellow.
24 A. I'm sorry.
25 Q. But I've got a little bit of deafness in my one

- 1 ear. Can you just turn it up just a little bit?
- 2 A. I'm sorry. Okay.
- 3 Q. I could come sit closer. When did you come to
- 4 ReWa?
- 5 A. I came to work here in September of '01.
- 6 Q. And prior to arriving in '01, did you work at an
- 7 engineering?
- 8 A. Yes, I did.
- 9 Q. And for how many years prior to 2001 did you work
- 10 as an engineering?
- 11 A. Officially -- well, soon as I graduated from
- 12 Clemson in 1990, I started my engineering career
- 13 working for firms up in Charlotte, North Carolina.
- 14 And then I believe it was '98 I received my
- 15 professional engineering license and so that
- 16 really started what would be considered my
- 17 professional engineering working at that point.
- 18 Q. When you were working in those jobs, were you out
- 19 in the field?
- 20 A. Yes, out in the field and working in the office,
- 21 both.
- 22 Q. Were you doing civil engineering work related to
- 23 sewer?
- 24 A. In my earlier years, no. It was more doing civil-
- 25 related engineering work, but it wasn't in the

- 1 sewer industry.
- 2 Q. Since you came to ReWa -- what was your position
- 3 when you first came here?
- 4 A. I was hired in as the engineering supervisor.
- 5 Q. Has that been the position that you have
- 6 maintained since arriving in 2001?
- 7 A. That's correct.
- 8 Q. You've had the position of engineering supervisor
- 9 for the past ten years, right?
- 10 A. Ten years in September, that's correct.
- 11 Q. What does that position entail?
- 12 A. I have a staff of four -- one, two, three, four
- 13 that work for me. My main duties here at ReWa is
- 14 dealing with the collection system. Just so I can
- 15 explain what I mean by collection system, it's the
- 16 sewer pipes that bring from, say, a subdivision or
- 17 something out there that brings the flow to our
- 18 treatment plants and pump stations, anything
- 19 related to bringing that flow to our treatment
- 20 plants.
- 21 Q. Do you do any work with respect to new
- 22 development?
- 23 A. Yes, I do.
- 24 Q. What does that entail?
- 25 A. Probably half my job description is dealing with

1 that. It entails a developer, or some cases an
2 engineer would contact me and request wanting
3 sewer service for their -- to be able to get their
4 subdivision up and going.

5 Q. I'm going to come back to that in one second. But
6 the first thing I'd like to ask is, who is your
7 boss?

8 A. My current boss?

9 Q. Yes, sir.

10 A. My current boss is Charlie Logue.

11 Q. Charlie Logue is the fellow we see in the back of
12 the room?

13 A. Yes.

14 Q. And who is his boss?

15 A. His boss is Ray Orvin.

16 Q. And who is Ray Orvin's boss?

17 A. Our Board of Commissioners.

18 Q. How many people did you say worked underneath you?

19 A. I have four.

20 Q. Four people below you?

21 A. Uh-huh.

22 Q. There's four rungs above you, and four rungs below
23 you?

24 A. Well, we're actually missing the engineering
25 manager. That would be another boss above me when

- 1 we hire that position.
- 2 Q. So Charlie; engineering manager; Ray; the Board.
- 3 So that's four above you?
- 4 A. Yes.
- 5 Q. And then there's four people who work below you?
- 6 A. That's correct.
- 7 Q. And I don't mean to -- understand this is from
- 8 somebody who's middle management at my firm.
- 9 That's kind of a middle management position,
- 10 right?
- 11 A. Yes.
- 12 Q. And do people in middle management positions
- 13 participate in formulating Rewa policy?
- 14 A. Nowhere I've been, nor at this location that would
- 15 be the case.
- 16 Q. Are there any other Rewa middle management
- 17 supervisors who participate in formulating the
- 18 policies that are adopted by Rewa's Board?
- 19 A. No.
- 20 Q. None?
- 21 A. None.
- 22 Q. I want to turn your attention back to your job
- 23 responsibilities. Do part of those
- 24 responsibilities entail dealing with capacity
- 25 issues and flow acceptance letters?

1 A. That's correct.

2 Q. If you don't mind, will you give the Hearing
3 Officer a snapshot sketch of the process whereby
4 a new development would go in getting a flow
5 acceptance letter.

6 A. Okay.

7 Q. Start from the beginning and just give him the
8 steps as you know them from the person inside of
9 Rewa who does that.

10 A. Okay. The way it happens is first of all, someone
11 would contact me. It could be a developer, an
12 engineer, or a Realtor in some cases would contact
13 me and ask about where sewer is in relationship to
14 their property, the property that they're either
15 selling or buying or trying to put a subdivision
16 on.

17 HEARING OFFICER: This first contact might be a call or
18 oral, or it might be a letter?

19 WITNESS CONTINUES:

20 A. It's usually never a letter. It could be an email
21 or it could be -- typically it's a phone call. At
22 that point, I would help them in trying to locate
23 their site. I would look up the information on
24 our GIS, which is -- which has basically what you
25 see here. All this information you see here we

1 have on a computer that I'm able to look the
2 information up on. I would inform them who the
3 subdistrict was. Again, there's 17 sewer
4 subdistricts in Greenville County and the
5 surrounding area, so it would typically fall
6 within one of those areas. And then I would let
7 them know that they would need to contact those
8 folks also in order to make this project come to
9 fruition. At that point, sometimes they would
10 ask for what we refer to as a flow availability
11 letter, which is different than a flow acceptance
12 letter. This availability letter would indicate
13 to them whether we have wastewater treatment plant
14 capacity, so --

15 EXAMINATION RESUMED BY MR. DAVIS:

16 Q. Is that the capacity letter also? Is that where
17 we use -- do we use those interchangeably?

18 A. No. This is the very beginning. This is a flow
19 availability letter, meaning is there capacity at
20 the treatment plant. We're just -- they're just
21 wanting to know whether there's sewer available is
22 basically what they're looking for. Sometimes
23 they ask for that, sometimes they don't. Once we
24 get through that portion, they have to talk to the
25 sewer district. The sewer district is the one

1 that would actually -- in nine cases out of ten
2 would actually own and operate the gravity sewer
3 and the on-site sewer there. There are cases
4 where -- I mean we could go into a lot of
5 different cases out there, but I'm just giving you
6 a general overview here. At that point, they
7 would need to start providing information back to
8 me on their design. You know, if I had told them
9 there was available capacity in the treatment
10 plant, I would expect them to then start supplying
11 -- I need a review fee. I need the engineering
12 plans. I need the flow calculations. I need the
13 ACOG letter. I need --

14 HEARING OFFICER: Tell me what the ACOG letter is.

15 WITNESS CONTINUES:

16 A. Appalachian Counsel of Governments. They regulate
17 -- or they watch out for what is called the 201
18 plan. I may be getting this a little confused,
19 but anyway, they're making sure that that
20 development is part of the overall scheme of
21 Greenville County. In other words, it's part of
22 the system and they actually give a letter saying
23 that they agree with the amount of flow and that
24 they think this project is something that meets
25 the overall general layout of Greenville County.

1 Let's see, what else? We talked about the plans,
2 the calculations, the COG letter. I also would
3 need a letter from the sewer district saying
4 whether they're going to own and operate the sewer
5 collector system, or who's going to own and
6 operate that. I also ask for a copy of the
7 executed DHEC application form, and in that form
8 there's a whole list of things that has to be
9 included with that. And last but not least, if
10 all that matches up and everything looks good and
11 we're able to accept the flow, then I would write
12 the flow acceptance letter. And that letter goes
13 with this application to DHEC in order for that
14 subdivision to get a permit.

15 MR. DAVIS: Let me stop you right there. And I would
16 like to mark this as Exhibit 32, and I'm going to
17 show it to Gene. I only have one copy. I'll make
18 some more on a break, but this is what I'm going
19 to ask him about. It's just a form we use.

20 MR. FULTON: Okay.

21 (EXHIBIT NUMBER 32 MARKED)

22 EXAMINATION RESUMED BY MR. DAVIS:

23 Q. And the question I have is, does this reflect what
24 a flow acceptance letter from Rewa looks like?

25 A. That's correct.

1 MR. DAVIS: I'd like to just publish it.

2 HEARING OFFICER: That's Exhibit 32?

3 MR. DAVIS: Yes, sir.

4 EXAMINATION RESUMED BY MR. DAVIS:

5 Q. I want to take -- was there any other steps in the
6 flow acceptance letter process? I don't want to
7 skip anything.

8 A. Well, you asked what did I need. That doesn't
9 mean what does other folks need in order to make
10 this process happen.

11 Q. Sure. And we'll talk about that in one second.
12 That's a good point. But what I'd like to do is
13 I'd like to turn your attention to the map behind
14 you, and the map behind you --

15 HEARING OFFICER: Do you have copies of this?

16 MR. DAVIS: I don't have copies of it yet, but I will
17 get them.

18 HEARING OFFICER: All right.

19 EXAMINATION RESUMED BY MR. DAVIS:

20 Q. The map behind you is -- do you recognize that
21 map?

22 A. Yes, I do.

23 Q. What is it?

24 A. It's a map that represents in red the River Trace
25 property and the Riversway property in

- 1 relationship to our Lower Reedy wastewater
2 treatment plant.
- 3 Q. Is that a fair and accurate representation of
4 where the subdivisions are and what the map of the
5 area in general is?
- 6 A. It looks to be correct.
- 7 Q. Prior to ever talking with somebody from Harrison
8 Partners, had you ever come across people
9 inquiring about the area that is labeled River
10 Trace on that map?
- 11 A. Yes, I have.
- 12 Q. Is it your understanding that that's the land that
13 Harrison Partners eventually purchased?
- 14 A. That's correct.
- 15 Q. Tell the Hearing Officer a little bit about your
16 encounters with that tract of land before Harrison
17 Partners ever came along.
- 18 A. Okay. These phone calls and conversations
19 happened over a period of time. This particular
20 piece of property here, the River Trace property,
21 I don't know, maybe five or so people, Realtors,
22 or people interested in that property had
23 contacted me over the time since I've been here at
24 Rewa asking about sewer service availability, you
25 know, what's going on with this tract of land.

1 And during those conversations, you know, I would
2 look up the information and tell them, "Well,
3 currently there's no sewer out there." And they
4 would, you know, ask questions about they get
5 sewer, this and that, and I would explain that,
6 you know, "Your -- this property is well below our
7 wastewater treatment plant, and that you'd have to
8 find a way to get that up to our plant in order to
9 serve this." And inevitably, every one of those
10 -- it would just go away. Again, I can't speak
11 for them personally as to what they did, but the
12 information I provided to them never led to any
13 further activity on the property.

14 Q. Were these perspective purchasers of that land?

15 A. Yes.

16 Q. Did they ever buy the land, to your knowledge?

17 A. No.

18 Q. Did you ever hear from them again?

19 A. No.

20 Q. After they spoke with you about the difficulty in
21 obtaining sewer service, you never heard from them
22 again?

23 A. No. That's correct.

24 Q. I'd like to turn your attention to this dispute.

25 And some of the documents that I want to talk to

1 you about are already into evidence, so to avoid
2 duplication, I'll ask you about the already-marked
3 exhibits. This is what has been marked as Exhibit
4 13. Is this an email from you to Scott Bolo dated
5 March 16, 2006?

6 A. That's correct.

7 Q. Does the first line -- and what I'm going to ask
8 you, the first line says, and I quote, "Western
9 Carolina currently has sufficient wastewater
10 treatment capacity at our Lower Reedy plant to
11 serve this property based on a two-year build-
12 out," end quote. Do you see that?

13 A. Yes, I do.

14 Q. What does that mean?

15 A. Relating this back to your earlier question about
16 the flow availability, this is answering the flow
17 availability. It's stating whether our treatment
18 plant has capacity in it to be able to take the
19 flow.

20 Q. Is this correspondence from you the very first
21 step in the process?

22 A. Yes. It's -- this is basically when someone
23 contacts me and wants to know about initial
24 information, yes.

25 Q. Is this the first part of the train, not the last,

1 right?

2 A. That's correct.

3 Q. This isn't the caboose? This is not the flow
4 availability letter?

5 A. No, it is not.

6 Q. The next thing that I want to ask you about is the
7 two-year build-out language in that sentence. Can
8 you explain that to the Hearing Officer?

9 A. What Rewa means by the two-year build-out is we
10 expect the builder, or the developer, whoever
11 we're talking about here, once they start their
12 project, once they get their permits and start
13 working on building homes out there, we expect
14 them to be able to complete the amount of -- well,
15 let me explain one more thing. When I approve
16 flow, it represents flow from X number of houses,
17 100 houses or whatever. So if I approve X number
18 of -- X amount of flow for so many houses, we
19 expect that many houses to be built in two years.
20 That's what the two-year build-out represents.

21 HEARING OFFICER: If they're not built in two years, you
22 may not have the capacity available?

23 WITNESS CONTINUES:

24 A. That would be correct. We're wanting to make sure
25 that someone doesn't just come along and decide,

1 well, I'm going to get these permits and I'm going
2 to kind of go through the thing, but I'm really
3 not going to do anything with it. And we don't
4 want to have flow counted towards our plant
5 because DHEC puts this on a file that they keep.
6 And if we kept permitting stuff to this plant and
7 nobody was building it, we're running out of
8 capacity, but yet no flow's coming. And DHEC
9 would actually make us upgrade this plant way
10 before it was necessary. So that's kind of a
11 reason that we don't want people to just kind of
12 go through the motion and not really follow
13 through with it.

14 EXAMINATION RESUMED BY MR. DAVIS:

15 Q. Does the policy prevent capacity squatters, so to
16 speak?

17 A. Yes. We don't want to reserve capacity for people
18 that we don't know that they're actually going to
19 use.

20 Q. I'm going through detail on this because this is
21 the first important piece of correspondence. The
22 next paragraph states, and I quote, "Please keep
23 in mind that Western Carolina has not made a
24 determination regarding right-of-way access
25 through our treatment plant property," end quote.

1 The question I have for you is, at this point in
2 time, March 16, 2006, what route are we talking
3 about?

4 A. We are talking about -- I think it's been referred
5 to as the flag lot route.

6 Q. And will you bring that map down here for me for a
7 second?

8 A. (Witness complies.)

9 Q. Can you put your finger for me just generally
10 where it goes?

11 A. Let me find my bearings here. Starting here on
12 New Harrison Bridge Road, this represents the flag
13 lots right here (indicating). And then the way it
14 was kind of proposed to us was running it
15 somewhere up through here and back around our
16 property to get up to the head works.

17 Q. So it then really goes that way (indicating); is
18 that right?

19 A. That's correct.

20 Q. And that generally is flag lot route, right?

21 A. That's correct.

22 Q. And that's the route that's in play sometime in
23 March of '06?

24 A. Yes.

25 Q. Let's leave that right here for a second because

- 1 we'll talk about that. In your email -- was there
2 any emails before this that you recall, or that
3 you know of?
- 4 A. Not that I know of.
- 5 Q. You're telling Mr. Bolo that you have not made a
6 determination with respect to the right-of-way.
7 Does that refer to the route that you said was
8 going to go up through the Lower Reedy wastewater
9 plant?
- 10 A. Yes.
- 11 Q. What kind of line were they intending to build
12 through that flag lot route? Was it gravity?
- 13 A. Not a lot of detail had been talked about it, but
14 it would have to be a force main because gravity
15 wouldn't flow uphill.
- 16 Q. The next sentence you say, and I quote, "I would
17 recommend that you provide us a potential force
18 main route for our review before you finalize your
19 design," end quote. Is that right?
- 20 A. That's correct.
- 21 Q. And you're telling Scott Bolo this in March of
22 '06, right?
- 23 A. That's correct.
- 24 Q. Why are you telling him to shore up the potential
25 force main route before he finalizes his

1 engineering work in March of '06?

2 A. Well, I guess it's twofold. Number one, I needed
3 to see exactly where the route was going to be.
4 It's not -- hadn't been, you know, laid out
5 exactly. It was just a general, we're going to --
6 you know, looking up through here. So I wanted
7 something that I could really see and really know
8 what they were talking about. And secondly, you
9 know, I was really trying to help them out in a
10 way to say, "Look, don't spend a lot of money on
11 this until we determine whether this is really the
12 route that's going to be approved."

13 Q. Whose idea was the flag lot route?

14 A. What I recall is --

15 Q. Let me ask it this way. Was the flag lot route
16 your idea?

17 A. Well, again, there was a meeting and I don't
18 remember the person's name. It was, you know, of
19 course many years ago. But we had a meeting with
20 Harrison Partners and with my manager at the time
21 and there was a -- kind of a topo map looking
22 thing like this that was talked about how to get
23 the sewer service there. And somewhere in that
24 meeting it was talked about, "well, you know,
25 here's a possible location. Here's a point from

1 point A to B that could get through to our plant."

2 So I guess the flag lot conversation was talked
3 about at the initial meeting.

4 Q. Was Mr. Bolo at that meeting?

5 A. To my recollection, I don't remember him being
6 there.

7 Q. To your recollection, was the flag lot route your
8 idea?

9 A. It was a combination of all the parties in that
10 room that talked about how could we get that force
11 main up to the property. So no, I wouldn't say it
12 was my exact idea, it was talked about and
13 discussed in that meeting.

14 Q. And in this email, what you're telling them is,
15 "Look, we haven't confirmed that we'll be able to
16 do this, so what we need to do is to have you
17 provide us with a potential force main route so we
18 can go get it approved"; is that right?

19 A. Correct.

20 Q. Let me ask you a question. If Harrison Partners
21 were going to cross the ReWa property, would that
22 be something that ReWa's Board had to approve?

23 A. Yes, because we've never had a request like that
24 before.

25 Q. And what you'd have to do is provide some sort of

- 1 encroachment or right-of-way or something, right?
- 2 A. That would be correct.
- 3 Q. And that's a property, right?
- 4 A. Yes. We own that property so we -- if we would
- 5 allow that, we would expect an encroachment
- 6 agreement to be, you know, entered into.
- 7 Q. So you agree that Board of -- that ReWa's Board
- 8 would have to grant access formally for that to
- 9 happen, right?
- 10 A. Yes.
- 11 Q. The next paragraph of your email, March 16th of
- 12 '06, "The pump station must meet Western Carolina,
- 13 Metropolitan Sewer, and if applicable, Condor's
- 14 specifications," right?
- 15 A. Correct.
- 16 Q. "Also, an agreement between all parties will be
- 17 required to define ownership and operation of the
- 18 pump station and force main," right?
- 19 A. Correct.
- 20 Q. And by all parties, you're talking about Western
- 21 Carolina; Metropolitan; Condor, if applicable; and
- 22 Harrison Partners, right?
- 23 A. That's correct.
- 24 Q. "This agreement must be signed by all parties."
- 25 And you're communicating this to Mr. Bolo on March

- 1 16, 2006?
- 2 A. That's correct.
- 3 Q. With that agreement with respect to the ownership
- 4 and maintenance, would that be what you would call
- 5 a sustainability agreement?
- 6 A. You could word it that way. It's something that
- 7 we expect everybody to be on board and that it's
- 8 written as to who owns what, who's doing what, and
- 9 why.
- 10 Q. And would a gravity line surcharge be discussed at
- 11 that time?
- 12 A. Once we got to that point, that would have come
- 13 up.
- 14 Q. Now, this next paragraph is sort of important
- 15 because there's been a lot of confusion about the
- 16 interplay between these entities. And you say,
- 17 and I quote, "Our willingness to serve this
- 18 project is contingent upon the property owner
- 19 complying with all the requirement standards of
- 20 Western Carolina, Metropolitan Sewer, and the
- 21 Greenville County Planning Commission," end quote.
- 22 Do you see that?
- 23 A. I do.
- 24 Q. The requirements of Greenville County Planning
- 25 Commission, are they the same as Western

- 1 Carolina's?
- 2 A. No, they're not.
- 3 Q. And are Metropolitan Sewer's requirements the same
- 4 as Western Carolina?
- 5 A. No, they're not.
- 6 Q. Now, the stuff that Harrison Partners needs to
- 7 file in the flow acceptance process, do they get
- 8 to just send it to Metro and say, "Oh, yeah,
- 9 Metro, forward it on to Rewa"?
- 10 A. No. It's not Metro's responsibility.
- 11 Q. That's now how it works, is it?
- 12 A. No.
- 13 Q. Those filings have to be made directly to you,
- 14 don't they?
- 15 A. They have to be made to each one of these
- 16 agencies.
- 17 Q. Are the things that those respective agencies are
- 18 tasked with the same? Bad question?
- 19 A. No, just -- I lost train of thought. What'd you
- 20 say, again?
- 21 Q. Is Rewa's responsibility treatment and trunk
- 22 lines?
- 23 A. Yes.
- 24 Q. Is that the same responsibility as Metro?
- 25 A. No.

1 Q. Metro has what responsibility?

2 A. Metro has the responsibility to serve them,
3 meaning that -- typically what that means is they
4 would take on the on-site sewer. A lot of times
5 it would be the pump station. Again, you know, we
6 talked about if applicable, Condor could be
7 involved with this, but Metro usually does the
8 collection system. We do the trunk and the
9 treatment system.

10 Q. How about the county? What is the county doing in
11 this process?

12 A. The county's responsibility is to make sure that
13 they're -- the subdivision is following, you know,
14 setbacks on the property, they're following --
15 making sure that the roads are the right widths.
16 They're making sure there's -- you know, they're
17 putting sidewalks in if they need to, more of a
18 city-county type review.

19 Q. I want you to look and turn to Exhibit 15 for me,
20 if you don't mind.

21 MR. FULTON: What number, Lane?

22 MR. DAVIS: Fifteen.

23 MR. FULTON: Thank you.

24 EXAMINATION RESUMED BY MR. DAVIS:

25 Q. Now, this document, is it an email chain between

- 1 you and Scott Bolo?
- 2 A. Yes, it is.
- 3 Q. And it basically goes between February the 12th
- 4 and February 14th, right?
- 5 A. That's correct.
- 6 Q. I had a exhibit that got inadvertently attached,
- 7 but I'll come back to the earlier one. I'm going
- 8 to go out of order just for one second. This
- 9 email down below, it's from Scott Bolo to you
- 10 dated February 12th. The email states, and I
- 11 quote, "Could you please send me a willingness to
- 12 serve letter for this project. It is a
- 13 requirement for the DHEC permits," end quote. Do
- 14 you see that?
- 15 A. I do.
- 16 Q. And what do you tell Mr. Bolo up above about what
- 17 it is that he needed to do to get the flow
- 18 acceptance letter?
- 19 A. I sent a email back to Scott saying that, "I
- 20 cannot send the flow acceptance letter until we
- 21 have the final plans for both subdivisions and the
- 22 force main route, along with working out the
- 23 easement agreement."
- 24 Q. So at this point in time, had the owner of River
- 25 Trace, Harrison Partners, teamed up with the owner

- 1 of Riversway, Windsor/Aughtry?
- 2 A. Yes.
- 3 Q. And you were saying, as of February 14, 2007,
- 4 "Look, you can't get a flow acceptance agreement
- 5 until you've got the force main route," which is
- 6 the route on your property, correct?
- 7 A. Correct.
- 8 Q. Until you've gotten that straightened out and we
- 9 have final plans for this one, which is Riversway
- 10 and final plans for River Trace, right?
- 11 A. Correct.
- 12 Q. Is that because these two were collaborating and
- 13 tying their line together?
- 14 A. What was my indication on these two properties is
- 15 they were going to each have a pump station of
- 16 their own and then somewhere in this area where
- 17 the flag lot area was, they were going to tie them
- 18 together and then try to run it up to our
- 19 treatment plant.
- 20 Q. What I want to ask you about was we had had some
- 21 prior testimony about the time line of obtaining a
- 22 flow acceptance permit. And we had just looked at
- 23 the prior exhibit, which was dated March of '06.
- 24 And already we are at February 14, 2007; is that
- 25 fair?

1 A. That's correct.

2 Q. Is it fair to conclude from your email that you
3 had not received final plans for both
4 subdivisions, force main route through your
5 property, and had not finalized an easement
6 agreement as of February 14, 2007?

7 A. That's correct.

8 Q. Had you received any of that stuff yet?

9 A. No. That's why the email was sent.

10 Q. That's why you're asking for it, right?

11 A. Correct.

12 Q. And the force main route that you discussed,
13 you're asking for that because at this point, do
14 you know the exact route they're going?

15 A. No. I needed the plans to be able to look at to
16 see whether we could have -- well, basically Rewa
17 could approve that route or not.

18 Q. Had you ever -- did you ever receive those plans?

19 A. Not the full plans. Again, plans means everything
20 I need. A full set of plans on that route, no.

21 Q. The force main? Had you ever received fully
22 designed force main plans through here?

23 A. No.

24 Q. Did you ever receive a final route that they were
25 proposing to take?

1 A. A final route, no.

2 Q. Let me show you what has been previously marked as
3 Exhibit 2. And this is a route that Mr. Bolo
4 graciously sent to me the day before this hearing
5 started. And let me ask you, the first thing I
6 want to know is, does this document reflect
7 finalized survey plans of the flag lot route?

8 A. No. It's just a representation of where possibly
9 the line could run.

10 Q. Did Mr. Bolo ever send even this to you?

11 A. No.

12 Q. Before Monday, did you ever see this before?

13 A. I've seen -- I will say that I've seen the design
14 down here on his site, but no clear plans as to
15 how that flow would come across our property with
16 a set of plans finalized so that I could approve
17 --

18 Q. Brian, we were just looking at Exhibit 13. And if
19 I can find it, I'll bring it back to you. Exhibit
20 13, let's look what happened in Exhibit 13. You
21 tell Mr. Bolo, do you not, on March 16, 2006,
22 "Don't do these finalized plans," right?

23 A. Yes.

24 Q. Until what?

25 A. "Until you get me a" -- I'd have to read the exact

- 1 wording, but basically, "Until you give me plans
2 of where the route's going to be."
3 Q. Potential force main route, right?
4 A. Correct.
5 Q. And Mr. Bolo does the exact opposite, does he not?
6 A. He didn't provide what I asked for.
7 Q. He goes ahead with the engineering plans, right?
8 A. Yes.
9 Q. He doesn't tell you the potential force main
10 route?
11 A. Correct.
12 Q. And to make things worse, he never even gives this
13 to you, does he?
14 A. No. Again, just to clarify, he provided some
15 information, but it's not -- it was not clear as
16 to what he was doing up here. I mean it's not
17 that I didn't receive something from him, it was
18 not what I needed in order to approve the plans.
19 Q. Have you ever contended that Mr. Bolo didn't give
20 you the information?
21 A. No.
22 Q. That over a period of time, you know, information
23 crept in and crept out?
24 A. No.
25 Q. You received data, right?

- 1 A. Yes.
- 2 Q. You're not contending otherwise?
- 3 A. No.
- 4 Q. What you're saying is that when it comes to the
5 part on the actual ReWa property, he never gave
6 you the design plans, right?
- 7 A. Correct.
- 8 Q. Never even told you the route?
- 9 A. And furthermore could not get the easement
10 agreements signed because I didn't have that
11 information.
- 12 Q. Never gave you a survey, right?
- 13 A. Correct.
- 14 Q. Never even gave you this thing that isn't even a
15 real survey?
- 16 A. Correct.
- 17 Q. I want to show you what's been marked as Exhibit
18 14. Do you remember this? Sorry, do you not --
- 19 MR. FULTON: I have them. I just want to know which one
20 it is.
- 21 MR. DAVIS: I'll give the dates if that will help you.
- 22 MR. FULTON: Thank you.
- 23 EXAMINATION RESUMED BY MR. DAVIS:
- 24 Q. And I apologize, because I got wonky with the
25 documents. I meant to do it in order. I just

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1 gave you a February 14th one, and now I'm giving
2 you a February 9 document. I recognize that. But
3 this one here, is this an email from you to Scott
4 Bolo dated February 9, 2007?

5 A. That's correct.

6 Q. And in this, do you tell Mr. Bolo, and I quote, "I
7 will send you our encroachment permit application
8 next week," end quote?

9 A. Correct.

10 Q. Did you do that? Did you send it to him?

11 A. I did.

12 Q. And then down below here, February 9, 2007, almost
13 11 months after you sent him the March, '06
14 email, you say, and I quote, "As part of the
15 permit application, we need the survey map and
16 description for the portion of the force main
17 which will be located on our property," end
18 quotation mark, right?

19 A. Correct.

20 Q. At this point in time, you're asking him again for
21 the force main which will be located on the ReWa
22 property, right?

23 A. Correct.

24 Q. That's about an 80 million dollar wastewater
25 treatment plant on ReWa property, right?

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1 A. Correct.

2 Q. And it's important to ReWa where this force main
3 is potentially going to go, right?

4 A. Extremely important.

5 Q. Because it could interrupt or interfere with
6 wastewater treatment service for huge numbers of
7 customers in the ReWa district?

8 A. Correct, meaning I need that easement agreement to
9 lay all that information out.

10 Q. And Brian, tell Mr. Glenn, are these routing
11 issues always this important?

12 A. No. It's important because it's going across a
13 treatment plant site.

14 Q. Right. You need ultra detail here because it's
15 going across a piece of land containing a 60
16 million dollar wastewater treatment plant, right?

17 MR. FULTON: Excuse me. Mr. Glenn, we've been pretty
18 loose here, but --

19 HEARING OFFICER: I agree. Let him testify.

20 MR. FULTON: Ask some questions.

21 HEARING OFFICER: Mr. Davis was testifying. This
22 witness can handle himself pretty well, I think.

23 MR. DAVIS: So let's go back. Remember, Gene, I gave
24 you the deli sandwich question at the end of the
25 day yesterday, so turnabout is fair play.

1 MR. FULTON: Okay.

2 EXAMINATION RESUMED BY MR. DAVIS:

3 Q. What do you tell Mr. Bolo in February of '07 in
4 your next paragraph?

5 A. This would be the third paragraph?

6 Q. The one that begins, "In addition."

7 A. Yeah. I'll just read it, just what I sent to him.
8 "In addition, we will need the final plans and
9 profiles for both subdivisions and the force main
10 route, along with the flow request in order to
11 provide you the flow acceptance letter."

12 Q. So are you asking him for the final plans for both
13 subdivisions?

14 A. I am.

15 Q. Are you asking him for the final plans for the
16 force main?

17 A. I am.

18 Q. Is the force main proposed to be located on the
19 Rewa property?

20 A. Yes.

21 Q. Is the wastewater treatment plant located on
22 Rewa's property worth approximately 60 million
23 dollars?

24 A. Sixty-80, you know, whatever.

25 Q. Is that why you're concerned about it?

- 1 A. Yes.
- 2 Q. Now, I want you to look back real quickly at the
3 exhibit we just looked at, February 14th email
4 chain, and it was 15 we just looked at and I want
5 to ask you a quick question. On February 9th, we
6 just looked at that you communicated those things
7 to Mr. Bolo about what you were going to need,
8 right?
- 9 A. Correct.
- 10 Q. What is Mr. Bolo asking you for at the bottom of
11 Exhibit 15, only three days later?
- 12 A. He asked could I please send him a willingness to
13 serve letter for this project so that he can I
14 guess submit to DHEC.
- 15 Q. Were you surprised by that request?
- 16 A. Well, yes, and that's basically why I responded
17 back the way I did.
- 18 Q. And when you responded back to him, did you
19 communicate the same exact requirements that you
20 had communicated to him on February 9th, but had
21 not received?
- 22 A. Correct.
- 23 Q. Mr. Bolo testified at length that he was waiting
24 for you to identify the proposed route across
25 Rewa's property. Is that how that works?

- 1 A. No. Basically I've stated in these other emails I
2 was asking that from him.
- 3 Q. If somebody comes into a deli and doesn't order
4 the sandwich, do you know enough information to
5 tell them that you can't give them the sandwich?
- 6 A. No.
- 7 Q. Right. I want you to turn to Exhibit 17, if you
8 don't mind. It's right here. And that is the
9 email dated February 14, 2007 from Brian Bishop to
10 Scott Bolo.
- 11 MR. DAVIS: It's this one.
- 12 MR. FULTON: Thank you.
- 13 EXAMINATION RESUMED BY MR. DAVIS:
- 14 Q. Does your email to Mr. Bolo communicate certain
15 things that he needs to submit directly to you
16 with respect to a flow acceptance letter?
- 17 A. Yes. That's what I'm indicating -- or asking him
18 to provide.
- 19 Q. And is this first a \$220 review fee?
- 20 A. Yes. And that -- it's for both subdivisions.
- 21 Q. Is the second one a request for flow?
- 22 A. That's correct.
- 23 Q. Is the request for flow because now
24 Windsor/Aughtry is on line, too?
- 25 A. Yes, because -- you know, I said here for each

1 subdivision, meaning there's two separate
2 submittals, meaning that the way we had described
3 it, they were looking at having a pump station at
4 each one, coming up and manifolding it in. So I
5 needed to know what each site was doing and what
6 the flow -- and what they're asking for, so I
7 needed that information.

8 Q. Stamped plans. Can you tell Mr. Glenn what the
9 stamped plans mean?

10 A. It's our requirement, but it's even more so DHEC's
11 requirement. DHEC requires that when a engineer
12 designs something like this and a pump station
13 and, you know, are transporting sewer, that when
14 they submit these plans to DHEC for a permit, that
15 it has to be stamped by a South Carolina
16 registered engineer.

17 Q. Are stamped plans another way of saying
18 completely, totally finalized engineering plans?

19 A. They better be final if someone's going to put
20 their stamp on it.

21 Q. Stamp of approval, so to speak?

22 A. Yes.

23 Q. And then a statement about the pump stations. But
24 the very next sentence is what I'm curious about.
25 And it says, and I quote, "Please be patient with

1 the approval process of these projects since they
2 are not typical," end quote. What makes these
3 plans atypical?

4 A. Well, first of all, we've never approved -- or at
5 least since I've been here for sure, I've never
6 approved a site where you had two pump stations
7 wanting to manifold into one line. And so there's
8 some issues of making sure that each one of them
9 were working properly, that they can serve each
10 subdivision when one's running and the other one's
11 not running. When both of them are running,
12 there's pressures, there's issues that need to be
13 worked out with that. So that's the main
14 nontypical thing about this, not to mention the
15 fact that they're wanting to go through our
16 treatment plant.

17 Q. Did you communicate to Mr. Bolo that you needed to
18 have finalized plans for Riversway and River
19 Trace?

20 A. I did.

21 Q. Was Riversway on pace with River Trace?

22 A. No.

23 Q. How far behind were they?

24 A. I'd say probably a year -- well, a year to even
25 get me plans. They may have been even -- they

1 could have been further than that to actually do
2 construction. I don't know their full time line.

3 Q. You should be happy I'm just going on without
4 exhibits.

5 MR. DAVIS: Let's mark this one.

6 (EXHIBIT NUMBER 33 MARKED)

7 EXAMINATION RESUMED BY MR. DAVIS:

8 Q. This one had been previously marked as Exhibit 18.
9 Is this an email from Scott Bolo to you carbon
10 copying Ashley Hornung dated March 21, 2007?

11 A. That's correct.

12 Q. At this point, are you a full year beyond when you
13 sent the original March, 2006 email?

14 A. Correct.

15 Q. Mr. Bolo had contended during his testimony that
16 this document reflects that he had submitted
17 completely finalized plans to Metro and had
18 obtained approval, and that the project had
19 finalized engineering plans. First of all, did
20 you ever receive finalized engineering plans?

21 A. I did not.

22 Q. And was it Metro's responsibility or Mr. Bolo's
23 responsibility to submit finalized engineering
24 plans, assuming, in fact, they actually existed?

25 A. It's still the responsibility of the developer to

- 1 submit the plans to me.
- 2 Q. Is it the developer who's asking for capacity in
3 Rewa's treatment plant's responsibility to submit
4 the finalized engineering plans to you?
- 5 A. Yes.
- 6 Q. Had that ever been done?
- 7 A. No.
- 8 Q. Down below, Mr. Bolo is reporting, and I quote,
9 "We are collecting DOT encroachment permits and
10 finalizing the WCRSA easement forms forwarded,"
11 end quote. At this point, had he submitted a
12 proposed force main route to you?
- 13 A. Not at -- not the design route, no.
- 14 Q. So you don't know what route he's taking and what
15 the design looks like?
- 16 A. We're still talking the general location, but not
17 a final survey engineered route.
- 18 Q. And previously we looked at the document where you
19 asked for the survey map, right?
- 20 A. Correct.
- 21 Q. Did you ever receive that?
- 22 A. No.
- 23 Q. How is it possible that he could be finalizing the
24 easement forms if he hadn't even obtained that
25 stuff yet?

1 A. Well, again, mine's not a DOT encroachment, mine's
2 an encroachment on my property.

3 Q. But he's recording that he's finalizing easement
4 forms, right?

5 A. Yes.

6 Q. But he's finalizing forms and he doesn't even know
7 whether the design and route had been approved?

8 MR. FULTON: Objection, Your Honor.

9 EXAMINATION RESUMED BY MR. DAVIS:

10 Q. Had the design and route been approved?

11 A. Not by us.

12 Q. Mr. Bishop, I'm going to show you what has been
13 previously marked as Exhibit 19. This is an email
14 from Ashley Hornung to you, subject line, River
15 Trace, dated July 3, 2007?

16 A. That's correct.

17 Q. Does this email reflect that Ashley Hornung, as of
18 July 3, 2007 is still working on filling out an
19 encroachment permit application onto ReWa's
20 property with a force main?

21 A. Correct.

22 Q. Had you received the proposed route as of this
23 date?

24 A. No.

25 Q. Had you asked for a survey before this time?

- 1 A. Yes.
- 2 Q. Does this email ask you to be able to submit
3 something other than a survey?
- 4 A. She asks, "Does this need to be a survey or can I
5 send two copies of our line that is on engineering
6 sheets." So I guess she's asking does she have to
7 send a survey.
- 8 Q. "Do I have to send a survey or can I send
9 something else," right?
- 10 A. Correct.
- 11 Q. If they had completed a survey at this point, who
12 would they have called at Rewa?
- 13 A. As far as I know, I was the only contact for them.
- 14 Q. Were you the point of contact for this project at
15 Rewa?
- 16 A. Yes.
- 17 Q. Let me ask you a question. We have heard some
18 testimony about how there were people, apparently
19 a group of surveyors and Mr. Bolo on the Rewa
20 plant and either walked the route or took a survey
21 or something. They were out there looking at it.
22 Is there a fence that encircles this plant?
- 23 A. Correct.
- 24 Q. How high is it?
- 25 A. Ten or so odd feet.

1 Q. Is there a security gate?

2 A. Well, there is now. There was -- at the time we
3 were getting towards putting that security gate
4 in, so I don't think it was actually in.

5 Q. At the time?

6 A. This particular time, but there still was the gate
7 -- I mean the fence around everything.

8 Q. Have you ever walked that proposed route once you
9 found out about it?

10 A. To my knowledge, I still had not gone out to the
11 site.

12 Q. At this point, but later did you?

13 A. Yes.

14 Q. Did you walk it later?

15 A. Yes.

16 Q. And we'll talk about that in a second. But I just
17 want you to tell Mr. Glenn what happened as far as
18 the ability to walk the route when you went out
19 there.

20 A. Well, I was -- again, the dates -- well have to
21 see when the dates were. But at some point I was
22 contacted by Scott's surveyor and asked to -- you
23 know, for me to show them the property and go out
24 there with them, and so we did. We went out
25 there. We actually met right there on Harrison

1 Bridge Road where we're calling the flag lots.

2 Q. Let me stop you there.

3 A. Okay.

4 Q. When you walked the route, or tried to walk the
5 route, were you physically capable of walking the
6 route?

7 A. Well, we could only go to the fence through the
8 flag lots. And then we drove around and came into
9 the plant site, and then we got out again and then
10 we continued to walk until we started getting into
11 the woods and ravines and other things. And then
12 we physically stopped walking because we couldn't
13 go any further.

14 Q. Because the ravine was so deep?

15 A. Yes. So we never made it from here all the way to
16 the top of the plant.

17 Q. Does this email from Ashley Hornung reflect that
18 as of July 3, 2007, nearly 17 months after your
19 initial March of '06 email, they still had not
20 submitted a survey to you?

21 A. That's correct.

22 Q. Does it reflect that they still had not submitted
23 an encroachment permit to you?

24 A. That's correct.

25 Q. They hadn't submitted the proposed route to you?

- 1 A. Correct.
- 2 Q. There's been some testimony -- I want this to be
3 clear for the record. There's been some testimony
4 that you somehow prevented them from doing all of
5 that. Did you prevent them from doing that?
- 6 A. No. When I got the contact from the surveyor, I
7 met him on site and we proceeded to try to walk
8 the route.
- 9 Q. I want to show you -- so this last email, Exhibit
10 19 that we looked at, that's dated July 3, 2007.
11 Would you have told Ashley that it was okay for
12 her not to submit surveys?
- 13 A. No, because our attorney, who was writing the
14 easement agreement up specifically said we had to
15 have something on file that he could take to the
16 county and actually log that in as a legal
17 easement.
- 18 Q. Sure. An easement has to have specific meets and
19 bounds, right?
- 20 A. Right.
- 21 Q. So what happens next is reflected in Exhibit 20,
22 and we already had marked it. Exhibit 20 is an
23 email from -- it's an email chain between you and
24 Scott Bolo from August 29, 2007. Your email down
25 below, the first line references a guy named Mike

1 Deaton. Does Mike Deaton work with Mr. Bolo?

2 A. That was the name that I got from the surveyor.

3 That would -- I mean yes, from my understanding,
4 Scott had hired him or whatever to meet me at the
5 site to do the survey.

6 Q. So Mike Deaton is some guy who met you at the site
7 to do a survey?

8 A. Yes.

9 Q. Had anybody from the InSite Group before this time
10 contacted you about completing a survey?

11 A. No.

12 Q. When did Mr. Deaton call you in relation to this
13 email?

14 A. A day or two. I mean I can't remember exactly,
15 but it was a couple days prior to that we tried to
16 set up, you know, a convenient time to meet out
17 there.

18 Q. Were you able to set up a meeting with Mr. Deaton
19 within only a few days after his contacting you?

20 A. Yes.

21 Q. Did Mr. Deaton tell you that the reason for the
22 meeting was to try to complete a survey?

23 A. That was the intend of the meeting, yes.

24 Q. Was this meeting intended to actually clear the
25 flag lot?

1 A. No.

2 Q. Was there ever a meeting where you told them,
3 "Come on out here. Let's do the clearing of the
4 flag lot" before the proposed route had even been
5 submitted and before the easement agreement was
6 completed?

7 A. No.

8 Q. That never happened, did it?

9 A. No, it did not happen.

10 Q. Tell Mr. Glenn about the flag lot that we heard
11 some testimony was intended to be cleared. What
12 is the flag lot?

13 A. Well, the county names it this way because the
14 way this is done, it -- there's one, two, three,
15 four -- there's five properties here. And they
16 literally look like a flag because you've got the
17 square part and then you have a shared driveway
18 coming out, so it literally looks like flags. So
19 these are the flag lots that they were talking
20 about, and the driveway is shared by all of these
21 folks. And the area you were talking about
22 clearing is in the back right here before our
23 fence.

24 Q. The vast majority of the flag lot route, however,
25 is a driveway, right?

1 A. Driveways and trailers out there.

2 Q. Would there be clearing necessary for that?

3 A. There's only a few trees even out there on those
4 lots.

5 Q. Brian, would you have told them to go out there
6 and start clearing the route before the actual
7 easement had been granted?

8 A. No.

9 Q. Would that have ever happened?

10 A. No.

11 HEARING OFFICER: If he had used the flag lot, would it
12 have gone down that road, or driveway, or would it
13 go through the lot?

14 WITNESS: It would go through the driveway and if I can
15 add, when I met with the surveyor, I explained
16 that to him. And I said that we don't own all of
17 these, we only own -- it was either two or three
18 of these lots.

19 HEARING OFFICER: Do you know if that was a public road
20 or a driveway?

21 WITNESS: That I don't know for sure. I just know that
22 this driveway are shared driveways here. And so I
23 told him that although we own one or two of these,
24 he still would have to get right-of-way easement
25 from these other folks to come through there. So

1 he didn't have a -- I couldn't just give him
2 permission to go through there because we didn't
3 own all of that.

4 EXAMINATION RESUMED BY MR. DAVIS:

5 Q. Brian, where's the fence in relation to where this
6 driveway is?

7 A. This is the fence line right here.

8 Q. That's the fence right there?

9 A. Basically the property line and the fence line is
10 the same thing.

11 Q. That's the ten-foot high fence?

12 A. Yes.

13 Q. So I guess they were planning to, what, clear
14 straight through a ten-foot high fence?

15 A. Again, I never talked to them about clearing out,
16 so I don't know what was the conversation there or
17 what they were doing.

18 Q. I want to show you Exhibit 20. Exhibit 20 is an
19 email from August 29th between you and Mr. Bolo.
20 What prompted your email to Mr. Bolo?

21 A. It was in response to our walking the route.

22 Q. And tell Mr. Glenn what you found when you finally
23 went out there to walk the route with the InSite
24 Group employee.

25 A. Well, to spare you from reading word for word

1 here, I'll just kind of summarize, if that's okay.
2 My concern at the time was having to clear some of
3 the tree line on our property being that it was
4 close to other residents there. And, you know, in
5 order to put this force main in, you're going to
6 have to clear through there. So I was concerned
7 about the number of trees that would have to be
8 taken out. I was concerned about this 20 to 30-
9 foot ravine that was going to have to be crossed.
10 Again, I'm not saying I'm an expert geotechnical
11 engineering, but I did see some outcropping of
12 rocks, which would indicate probably difficult
13 construction, potentially having to use some
14 explosives to blast the rock out. I don't know
15 that for sure, but that was a concern that I had.
16 Let's see, I still had concerns about -- they were
17 going to have to cross our fiber optic line. The
18 security on our site -- I mean remember this is
19 not that far from 9/11. You know, we were getting
20 a little more concerned about having outsiders or
21 whatever on our property and putting things on.
22 So there was just areas there that were of a
23 concern to me about the route.
24 Q. Does this email reflect the laundry list of things
25 that you were concerned about on the route?

- 1 A. That's correct.
- 2 Q. And you communicated it to Mr. Bolo -- let me
- 3 rephrase that. In relation to when you walked the
- 4 route with Mr. Deaton, how quickly did you tell
- 5 Mr. Bolo?
- 6 A. It was either that afternoon when I got back or
- 7 the next day.
- 8 Q. So in March, '06, you informed Mr. Bolo that he
- 9 should shore up the route before he begins all the
- 10 engineering design?
- 11 A. Correct.
- 12 Q. They don't contact you until August. How long
- 13 between when Mr. Deaton contacted you and when you
- 14 went actually out there?
- 15 A. A few days.
- 16 Q. A few days. After you actually went out there,
- 17 how long did it take for you to tell them about
- 18 the problems with the route?
- 19 A. Within roughly 24 hours.
- 20 Q. Within 24 hours. Was that a problem that could
- 21 have been discovered in March of '06?
- 22 A. It could have if we had went out there and walked
- 23 the route, yes.
- 24 Q. If Mr. Bolo had done what you recommended in March
- 25 of '06, it could have been immediately discovered,

1 couldn't it?

2 A. I would have seen the same things then, yes.

3 Q. So after August 29, 2007, 18 months later, we're
4 not really pursuing the river route anymore; is
5 that fair?

6 A. The which route?

7 MR. FULTON: Which one?

8 EXAMINATION RESUMED BY MR. DAVIS:

9 Q. Sorry; the flag lot route.

10 A. Well, that was my intentions with the email was
11 saying, "Look, there's just too many concerns
12 here."

13 Q. And, in fact, that's what you say down below when
14 you have bullet points one through four. Are you
15 proposing a different route?

16 A. Well --

17 Q. Or suggesting an alternative?

18 A. Well, even with Mike Deaton, when we were out
19 there, once we got to a point where I just
20 couldn't physically go down there and climb up the
21 other side, I said, "Have you looked at where
22 Metropolitan sewer has a sewer just right above --

23 Q. Show Mr. Glenn on the --

24 A. Of course this is their property here
25 (indicating). It doesn't show it on here, but

- 1 roughly there's a Metropolitan Sewer line that
2 runs somewhere right in here that comes right off
3 of this road right here. So I actually took them
4 up here and showed them the manhole where that
5 location was and said, "You know, it's a straight
6 shot up this road right there to the manhole."
7 And I offered to take them up there.
8 Q. That's a suggestion you made there?
9 A. Yes.
10 Q. And that's what we've been calling the Brian
11 Bishop proposal, right? It goes up that road and
12 it goes approximately where, Brian?
13 A. I'd say roughly somewhere right in here to
14 probably that manhole right there (indicating).
15 It doesn't actually show it on there, but that's
16 the general location.
17 Q. And you make that suggestion as an alternative on
18 August 29th?
19 A. Correct.
20 Q. Now, when you make these proposals, you're not
21 telling them, "Hey, this is definitely going to
22 work," are you?
23 A. No. I'm saying, "Look, this is another option.
24 Metropolitan serves that area. There's already a
25 line that comes down to our site. I don't know

1 the status of it. You'd have to talk to Metro."

2 Q. Exactly. Are you just trying to help them find a
3 solution?

4 A. Well, after seeing the potential troubles that
5 might be trying to go through the flag lots, yes,
6 I was trying to find an alternative.

7 Q. Now, let me ask you another question. When the
8 route like that changes, Mr. Bolo doesn't have to
9 go back and re-engineer this whole subdivision,
10 does he?

11 A. To be fair, the only thing that he should have to
12 look at would be, you know, changing the location
13 of the force main and possibly if there's more
14 elevation or something, there may have to be some
15 changes to his pump station. But as far as the
16 layout and all of this, no, it wouldn't --

17 Q. The vast majority of what is reflected on Exhibit
18 2, that stays the same? There's been testimony
19 that accused you of continuously changing the
20 route. Did you change the flag lot route or was
21 the flag lot route not viable?

22 A. The way I saw it, it was -- it's not that it
23 couldn't be done, it's the concern of our 80
24 million dollar plant -- I guess that's how much it
25 was, somewhere in that neighborhood, the issues

1 with the property owner, this home right here, the
2 potential of, you know, the blasting that might
3 need to be done, where it was located. I mean
4 there's just -- there was a lot of things involved
5 with that. And I was offering what I thought to
6 be actually a simpler, easier route.

7 Q. I'm going to show you what we're going to mark as
8 Exhibit 34.

9 (EXHIBIT NUMBER 34 MARKED)

10 EXAMINATION RESUMED BY MR. DAVIS:

11 Q. Is this an email chain between you -- well,
12 there's an email on here between Mr. Bolo and Ms.
13 Hornung and there's also an email on here between
14 Mr. Bishop and Mr. Bolo, right?

15 A. Correct.

16 Q. Can you go down below? Does this email reflect
17 two possible tie-in points on the proposal you had
18 made in the previous email?

19 A. Yes. It's -- again, I don't have the map or
20 whatever that was sent, but it indicated there was
21 two possible locations.

22 Q. Where approximately are they up here? Just so Mr.
23 Glenn gets an idea.

24 A. Well, one is the one we've been talking about
25 earlier. Somewhere in here there's another

1 property owner and so there would need to be an
2 easement, but there could be an easement, not to
3 use Metro's line, okay, but to just bring their
4 force main down this property owner's line and get
5 to the same location.

6 Q. So they could to Metro or they could go to that
7 same location?

8 A. Yes.

9 Q. Up above, do you see the email from Mr. Bolo to
10 Ms. Hornung?

11 A. Yes.

12 Q. Does Mr. Bolo communicate to Ms. Hornung that, and
13 I quote, "It is a complete cluster F," end quote?

14 A. That's what it says.

15 Q. Did Mr. Bolo ever communicate that to you?

16 A. I don't -- I never had a conversation or any email
17 that -- from Scott that would indicate that that
18 was a -- you know, a bad route or whatever.

19 Q. And if he felt that way, could Mr. Bolo have
20 pursued other alternatives?

21 A. Yes. There's -- I mean, again, we're going to
22 find out there's even another potential route.

23 Q. Are your suggestions the only thing that he can
24 do?

25 A. No.

- 1 Q. He can pursue any viable route, right?
- 2 A. Correct.
- 3 Q. You were just trying to help?
- 4 A. That was my intent.
- 5 Q. What happened to those Bishop proposal tie-in
- 6 points and lines; do you remember?
- 7 A. My understanding is -- I'm assuming Scott talked
- 8 to Metropolitan Sewer about tying the force main
- 9 into their manhole. And my understanding was
- 10 Metro indicated to them that there was not --
- 11 currently not capacity for him to tie in there,
- 12 and that there would have to be some upgrades or
- 13 something done.
- 14 Q. So is there an existing Metro line here?
- 15 A. Yes.
- 16 Q. Is there capacity issues with that line?
- 17 A. That's what Metro indicated. Again, it's not my
- 18 line so I had no knowledge of whether there was a
- 19 problem or not.
- 20 Q. In order for there to be a line there, however,
- 21 does Metro have an easement?
- 22 A. Yes.
- 23 Q. Could that line have been upsized theoretically?
- 24 A. Yes.
- 25 Q. Do you have any information as to why it wasn't

1 upsized?

2 A. Again, I -- you know, this is coming either -- I
3 don't know if I heard it from Metro or whether it
4 was from Scott telling me this. I'm not sure
5 exactly where I got the information from. But the
6 indication was that there was a property owner
7 that was troublesome out there and that they
8 didn't really want to deal with him and try to
9 make this work.

10 Q. Was that property with the troublesome property
11 owner, to your understanding, the one where they
12 owned the right-of-way, though?

13 A. That's correct.

14 Q. Could Metro have provided service across the
15 right-of-way?

16 A. Yes. You could have pipe burst or done some other
17 means that would stay within their right-of-way if
18 they wanted to, and really they had the right to
19 do that.

20 Q. Was Harrison Partners a constituent of Metro at
21 some point?

22 A. No.

23 Q. They didn't exist in the Metropolitan subdistrict?

24 A. Ask that question again, please.

25 Q. Did Harrison Partners eventually annex into

- 1 Metropolitan's subdistrict?
- 2 A. Oh. Yes.
- 3 Q. As a constituent of Metropolitan, do you feel
- 4 Metropolitan would have an obligation to serve
- 5 them if they could?
- 6 A. That's why Metropolitan is there.
- 7 Q. That's their function?
- 8 A. That's their function.
- 9 Q. It's not Rewa's function to provide collector
- 10 system services?
- 11 A. No, not ours.
- 12 Q. At any point, did Mr. Bolo communicate to you
- 13 concerns about the cost of pursuing your proposal?
- 14 A. I don't believe Scott actually expressed that to
- 15 me personally. I know that if there were to be
- 16 upgrades on that line, there would be a cost, I
- 17 mean a cost to deal with the pipe.
- 18 HEARING OFFICER: Seems like a good recess point.
- 19 (BREAK; OFF THE RECORD)
- 20 EXAMINATION RESUMED BY MR. DAVIS:
- 21 Q. Mr. Bishop, at any point, did Rewa do anything
- 22 that kept Harrison Partners from pursuing the
- 23 Bishop proposal?
- 24 A. No.
- 25 Q. Do you remember there being any discussion about

- 1 Windsor/Aughtry, the owner of Riversway objecting
2 to the cost of the Bishop proposal?
- 3 A. I think I recall there was an email that talked
4 about that.
- 5 Q. I'm going to show you what's been marked as 21.
6 Is this an email from you -- or from Dr. Graef to
7 you dated October 1, 2007?
- 8 A. That's correct.
- 9 Q. Does it forward an email down below from Scott
10 Bolo?
- 11 A. Correct.
- 12 Q. Does that email from Mr. Bolo say, and I quote, "I
13 talked to my partners at Windsor/Aughtry and was
14 told that they are not willing to accept the
15 longer route," end quote?
- 16 A. That's what it says.
- 17 Q. Shortly after October 1, 2007, Harrison Partners
18 wasn't pursuing the Bishop proposal any longer; is
19 that fair?
- 20 A. The -- yes, that's fair to say.
- 21 Q. I want to show you what's been previously marked as
22 Exhibit 22. This is an email from you to Scott
23 Bolo. And down below it's an email from --
- 24 HEARING OFFICER: What number is it?
- 25 MR. DAVIS: Twenty-two, sir.

1 MR. FULTON: What's the date on that?

2 MR. DAVIS: It's November 26, 2007. They should be kind
3 of chronologic.

4 EXAMINATION RESUMED BY MR. DAVIS:

5 Q. Your email says, "Also, can you send me a map that
6 shows in general where the proposed route would go
7 up the river"?

8 A. It's hard to read this. Oh, at the top there?

9 Q. Very top.

10 A. Okay. Yes.

11 Q. So at some point between October and the date of
12 this email, a different route came into the
13 picture?

14 A. Yes.

15 Q. How did that happen?

16 A. My recollection is that Ray Orvin offered that
17 route to them.

18 Q. Was it to try to help them complete the project?

19 A. It was a better route. It was still going through
20 our property, but it was a better route than the
21 original route was proposing.

22 Q. Now, roughly is it -- point on the map for the
23 Hearing Officer about where this one was going.

24 A. I believe we own all of this property here, and
25 of course this is the treatment plant site

1 (indicating); somewhere here following kind of the
2 curvature of the river and then up our property
3 line and up to the top.

4 Q. Is that what has become known as the river route?

5 A. Yes.

6 Q. Did Rewa generally agree to the river route?

7 A. Yes. That was the -- you know, the -- basically
8 the final option for them to be able to get
9 service.

10 Q. Could Rewa have just told them, "No, you're not
11 going up this way"?

12 A. Oh, of course.

13 Q. Could Rewa have just told them they couldn't go up
14 the flag lot route?

15 A. Of course.

16 Q. Is that because Rewa actually owns the land?

17 A. Of course.

18 Q. Did Rewa tell them that they could do those
19 things, or try to do those things?

20 A. We never officially told them they could do the
21 flag lot, but we did officially say they could do
22 the river route.

23 Q. But you said you'd consider the flag lot?

24 A. Oh, yes.

25 Q. And you did tell them that they could do the river

1 route, right?

2 A. Yes.

3 Q. If you want to query their project, could you have
4 just told them, "No, you're not crossing our
5 land"?

6 MR. FULTON: Objection.

7 HEARING OFFICER: Overruled.

8 WITNESS: I answer it?

9 MR. DAVIS: Yes.

10 HEARING OFFICER: You can answer.

11 WITNESS ANSWERS:

12 A. Yes.

13 EXAMINATION RESUMED BY MR. DAVIS:

14 Q. Can you tell the Hearing Officer just sort of
15 generally what the plan for that route was just so
16 he understands, just map it -- draw it out with
17 your finger.

18 A. Well, generally there's -- this is along the
19 river, which is typical of putting sewer lines.
20 I mean it's not uncommon to run sewer lines along
21 the river. It just follows the back part of our
22 plant around and it was considered a less impacted
23 route for our situation. And it literally just
24 followed the river all the way up through here and
25 back to the back part of the property. And part

1 of that reason was if we ever had to expand this
2 plant for future capacity, that we needed the room
3 over here in order to do that. And of course if
4 there was a line there, that could -- it'd have to
5 be moved. It could be other things that would
6 take place.

7 Q. Mr. Bishop, I want to show you what we marked as
8 Exhibit 23. And I want to go through very slowly
9 with these exhibits for the Hearing Officer. Is
10 Exhibit 23 an email from Ashley Hornung dated
11 January 9, 2008?

12 A. Yes, it is.

13 Q. Does the email reflect that she has attached a
14 proposed route through your property? "I have
15 labeled them to show which structures we will be
16 going over"?

17 A. That's correct.

18 Q. First of all, were there structures on the river
19 route?

20 A. Yes. We have an outfall line that comes from our
21 plant down to the river. That's one of the
22 structures.

23 Q. She says, "Please let me know if the route is okay
24 so I can get an easement document wrote up and
25 signed by you all." Do you see that?

- 1 A. I do.
- 2 Q. With respect to this particular document, is there
- 3 an attachment? I mean just turn it over.
- 4 A. Well, yeah. She sent --
- 5 Q. But it's not reflected here, right?
- 6 A. I don't have the attachment here, but there was a
- 7 attachment that showed the proposed route.
- 8 Q. Originally there was an attachment?
- 9 A. Yes.
- 10 Q. So let's go back and look at what was put into
- 11 evidence as Exhibit 6 if I can find it. Exhibit 6
- 12 is the email from Brian Bishop responding to
- 13 Ashley Hornung dated January 11, 2008. Is this
- 14 email from you?
- 15 A. Yes, it is.
- 16 Q. What are you telling Ashley in your first sentence
- 17 there?
- 18 A. That the route in general looks to be okay.
- 19 Continue?
- 20 Q. No. I want to ask you, the last sentence in your
- 21 January 11, 2008 email states that, "There appears
- 22 that the force main route along this area is not
- 23 on our property, nor is in the fence." Do you see
- 24 that?
- 25 A. I do.

1 HEARING OFFICER: What Exhibit are you reading from?

2 MR. DAVIS: Exhibit 6, sir. It looks like this.

3 Actually, here's one for you.

4 HEARING OFFICER: I don't know what happened to my
5 exhibit.

6 MR. DAVIS: It's Exhibit 24 as well, I think. I think
7 that was the second duplicated exhibit.

8 EXAMINATION RESUMED BY MR. DAVIS:

9 Q. Now, can you turn the page? This is the
10 attachment that you sent back?

11 A. Yes.

12 Q. Is this the attachment that Ashley had sent to you
13 on January the 9th?

14 A. That's the attachment January 9th, yes.

15 Q. And on that particular survey, they had actually
16 mapped the proposed route off of Rewa's property,
17 right?

18 A. Well, again, that was -- I had marked on here with
19 the circles which appeared to be our property pins
20 and our fence line, and it appeared that the force
21 main had gone past our property and along the back
22 of the fence.

23 Q. I want to show you what has been entered into
24 evidence in this case as Exhibit 10.

25 HEARING OFFICER: Let me ask a question about where it

1 looked like it went across your line. I take it
2 that would have been a simple thing to fix, just
3 change this, show it inside of the line?

4 WITNESS: Yeah. It was just kind of confusing to me
5 that if a surveyor had been out there, why would
6 it have shown -- you know, that would be another
7 easement they would have to obtain. Why --

8 HEARING OFFICER; Right. But they could leave it inside
9 your fence and it'd still do the job, right?

10 WITNESS: Yes. That was the original plan is to be
11 inside our fence, yes.

12 EXAMINATION RESUMED BY MR. DAVIS:

13 Q. Mr. Bishop, can you look at Exhibit 10? Is that
14 the same survey that Ashley Hornung sent to you on
15 January 9th?

16 A. No. It appears to have a lot more detail on it.

17 Q. What is the last date of the revision on Exhibit
18 10?

19 A. 1/9/08 looks to me like.

20 Q. So this more detailed survey is dated after your
21 response back to Ashley, is it not?

22 A. Correct.

23 Q. Does this more detailed survey fix the property
24 issue?

25 A. Yeah. It -- in this Exhibit 10, it actually shows

1 our fence line and it shows the route being on our
2 property all the way.

3 Q. Now, notwithstanding -- let me start over. Your
4 email back to Ashley Hornung was dated January the
5 11th, was it not?

6 A. Yes.

7 Q. It raised the property boundary issue?

8 A. Yes, it did.

9 Q. And that was dated January 11th, correct?

10 A. Correct.

11 Q. This survey that was put into evidence by the
12 Plaintiff with your correction from January the
13 11th is dated January the 9th, is it not?

14 A. That's what the date shows on there.

15 Q. Was this survey that's reflected in Exhibit 10
16 ever submitted to you or Rewa?

17 A. No, just the general survey, not the detailed
18 survey.

19 Q. Notwithstanding the discrepancies in the survey
20 and how the changes to the survey that you
21 suggested two days later had actually occurred in
22 the January 9th survey, as submitted into
23 evidence, besides that, can you explain to me
24 whether the river route was generally okay with
25 ReWa?

1 A. Yes. And, you know, I'm pretty sure I showed it
2 to my manager or Ray or somebody to get
3 concurrence. And what I looked at, it appeared to
4 be what we had offered to them.

5 Q. I want to show you what's been marked as Exhibit
6 25. Is this an email from you to Chip Fogleman
7 dated January 16, 2008?

8 A. Yes.

9 Q. Is Chip Fogleman the engineer with Riversway?

10 A. That is correct.

11 Q. And Riversway was a joint venture of River Trace
12 on this project?

13 A. That's correct.

14 Q. What are you communicating to Mr. Fogleman in this
15 email?

16 A. It would have to be from either another
17 conversation, another email, but I said, "No one
18 has indicated to me that there would be two force
19 mains." so he had asked me could they run two
20 force mains on the property, and I had not heard
21 of that option.

22 Q. Had anyone ever told that to you before?

23 A. This was the first I had heard that option.

24 Q. So two months or so into this, now what used to be
25 one force main is now two force mains?

1 A. That would be what was indicated to me that they
2 were wanting to do.

3 Q. Are the force mains that they're talking about at
4 this point in time, are they little bitty force
5 mains? Is that your understanding?

6 A. My understanding is they would probably be two
7 individual force mains, one from each site
8 probably four inch in diameter.

9 HEARING OFFICER: What diameter?

10 WITNESS: Four inches or so, something like that.

11 EXAMINATION RESUMED BY MR. DAVIS:

12 Q. But is that the same type of proposal that was
13 later on the table about two force mains? Wasn't
14 there something else about two force mains much
15 later in this process?

16 A. Well, later we talked about -- because we did --
17 you know, we continued to look at the full build-
18 out of this area. And we did not want somebody
19 coming back again and wanting to put another force
20 main across our property and somebody coming back
21 and doing the same thing again over and over and
22 over again. And plus, there was only so much room
23 along this route. I mean there's a few little
24 tight places and stuff, so there was only so much
25 room. So there was discussion that there would be

1 a force main that would serve what they needed
2 currently and then a larger force main that could
3 take up the capacity in the future, but they would
4 both be put in at the same time.

5 Q. Mr. Bolo testified that he had submitted finalized
6 -- multiple sets of finalized engineering plans
7 that related to this force main. Did you ever
8 receive multiple sets of finalized engineering
9 plans for the force main?

10 A. Well, even to the end, you know, we were again
11 talking about that route. So I mean all we had
12 was -- the survey that I showed you in that
13 exhibit is all that I had for that route. So it's
14 not final plans, no.

15 Q. So the survey that we just looked at, which was
16 sort of creepy about how it changed around, that
17 was all you ever got?

18 A. All I ever got was that -- the drawing that Ashley
19 sent to me.

20 Q. Is that a finalized engineering plan for the force
21 main?

22 A. No, because it doesn't really tell me how the two
23 properties and how -- you know, is it two
24 individual lines? Is it one line? Is it -- what
25 size line? There's not enough detail to know what

1 the actual plan was.

2 Q. And you told Mr. Bolo way back on the flag lot
3 route in March of '06 that if they were going to
4 come across your property, that you needed
5 finalized engineering plans, did you not?

6 A. Right.

7 Q. Finalized survey, right?

8 A. An encroachment agreement.

9 Q. In order to obtain the right-of-way. Did you ever
10 receive that?

11 A. No.

12 Q. Let me ask you this question. There's been a lot
13 of testimony that you never told them, or ReWa
14 never told them what route they should take or
15 what plan they wanted. Is that how this actually
16 works?

17 A. They're supposed to come to us and say, "Here's
18 our plan. Here's what we're wanting to try to do.
19 Give me enough information that I could review and
20 either say this is a good route, you can do it, or
21 no, it's not."

22 Q. As the engineering supervisor at ReWa, are you out
23 there formulating proposed routes and designs for
24 force mains for people who are seeking flow
25 acceptance letters? Is that your job?

1 A. No.

2 Q. Is that even credible for them to say that they
3 were waiting for you to choose how to design their
4 project?

5 MR. FULTON: Object, Your Honor. That's --

6 HEARING OFFICER: Sustained.

7 EXAMINATION RESUMED BY MR. DAVIS:

8 Q. Is that how it works?

9 A. I probably gave more information to them than I
10 have most developers as far as trying to get
11 alternates. Most the time it's, "Hey, guys, you
12 know, you're the engineer. You design it. You
13 come up with it. Send me the plans, let me review
14 it." So --

15 Q. Let me ask a question. Do you recall a point in
16 time when Metro began objecting to Mr. Bolo's
17 engineering work?

18 A. There was a point in time where Metro was
19 questioning or talking with Scott about the
20 gravity line that would connect these two pieces
21 of property.

22 Q. And did Metro express concerns about the
23 engineering aspects of that?

24 A. Metro expressed concerns that it wasn't really
25 meeting their requirements.

1 Q. Was there a dispute between Metro and Scott about
2 that?

3 A. Yes. Scott had put together some calculations or
4 a plan as to how to connect these two sites with
5 gravity. He had one route -- or design that he
6 had proposed. And Metro basically said, no, they
7 like their route.

8 Q. So in relation to that proposal, what was going to
9 happen with respect to the force main?

10 A. That was in the time where -- that going back and
11 forth I guess between Scott and Metro. We needed
12 to have a means to -- one day to be able to -- if
13 we were to actually put another treatment plant
14 downstream or another means to treat sewer, that
15 there would have to be a gravity sewer line
16 because we did not want these pump stations to be
17 there forever. That's not the way this basin was
18 designed. It's not designed to be pumping it all
19 up there, so we didn't want these to be permanent
20 fixtures out there. So we had looked at what
21 would it take in order to serve these two by
22 gravity if there was another future plant. And we
23 even paid a consulting engineering to come up with
24 options and design and stuff on that.

25 Q. Is that something that you normally look at when

1 you're trying to figure out basin line planning?

2 A. Especially when there is no sewer out there. I
3 mean some -- at some point you've got to say if
4 these guys come in, somebody else is going to come
5 in next. I mean it only makes sense that you
6 start developing, there's going to be somebody
7 else one day. And you have to plan for the future
8 as to how to serve that area.

9 Q. I want to show you what's been marked as 26. Is
10 this an email from Joe Thompson to -- sorry, from
11 Chip Fogleman to Joe Thompson at Metro?

12 A. Yes.

13 Q. I want to turn your attention to the second
14 paragraph of this letter.

15 MR. FULTON: What's the date on that letter?

16 MR. DAVIS: April 14th. It's 26.

17 EXAMINATION RESUMED BY MR. DAVIS:

18 Q. The second sentence of the second paragraph
19 states, and I quote, "Also, per our conversation,
20 we are not sure at this time if we will be using a
21 combined force main from Harrison Bridge to the
22 Western Carolina site or two separate force mains
23 in the same right-of-way. We will review this
24 design and make this final determination as soon
25 as we begin finalizing our design," end quote. Do

- 1 you see that?
- 2 A. I do.
- 3 Q. First, does that reflect that Riversway hadn't
- 4 finalized the design?
- 5 A. Correct. They were still trying to finalize it.
- 6 Q. Does that reference the force mains that are being
- 7 proposed to be run across Rewa's property?
- 8 A. That was the two force mains that I had questioned
- 9 earlier.
- 10 Q. Are those the same force mains that were raised in
- 11 the email that we looked at from January?
- 12 A. Yes. That's what I was referencing to.
- 13 Q. So from January to April 14th, they still haven't
- 14 gotten that part figured out?
- 15 A. According to this, they had not gotten that
- 16 figured out.
- 17 Q. Is that consistent with what you recall about the
- 18 situation?
- 19 A. Yeah. Again, there was a lot of different talk
- 20 about whether it was going to be, you know,
- 21 individual force mains manifolded into one. You
- 22 know, then they started talking about two
- 23 individual force mains. So --
- 24 Q. Did Mr. Bolo and Mr. Fogleman ever come to you and
- 25 say, "This is what we're going to do across your

1 property. Are you okay with it?" Did they ever
2 get to the point where they said, "This is our
3 design. This is what we'd like to do. Are you
4 okay with it?"

5 A. No.

6 Q. I want to show you what's marked as Exhibit 3, and
7 I'm getting myself turned around so give me a
8 second. This is Exhibit 3. Do you recognize that
9 document?

10 A. Yes. This is the sewer use plan that was adopted
11 on May 5th, '08.

12 Q. That's the amendment, right?

13 A. Yes.

14 Q. What I want to ask you about in relation to the
15 amendment, had Mr. Bolo submitted to ReWa
16 finalized engineering plans for the line that they
17 planned to run across ReWa's property?

18 A. No.

19 Q. As of May 5th, had they done that?

20 A. No.

21 Q. Did they ever do that?

22 A. No.

23 Q. Had Harrison Partners submitted an easement
24 application for that route across ReWa's property?

25 A. No.

1 Q. Did they ever do that?

2 A. No.

3 Q. They didn't do it as of May 5th, did they?

4 A. No.

5 Q. Had Mr. Bolo and Harrison Partners executed an
6 agreement with ReWa, Metro, if applicable Condor
7 and Harrison Partners about the maintenance and
8 ownership of that force main as of May 5th?

9 A. I don't know. I just know that there was no
10 easement agreement with us, you know, the other
11 things you said. Now I don't know what they did
12 with Metro or Condor.

13 Q. Rewa didn't sign one, did they?

14 A. No.

15 Q. So you told Mr. Bolo you had to get that back in
16 March of '06, right?

17 A. Right.

18 Q. As of May 5th of '08, they didn't get it, right?

19 A. Right.

20 Q. Let me ask you a question. If you were so
21 inclined, and ReWa was so inclined, could they
22 have granted a flow acceptance letter on May 5th
23 of '08 or before based upon what Harrison Partners
24 had submitted up to that date?

25 A. No. There was not a finalized set of plans with

- 1 the routes showing so that I could approve it.
- 2 Q. At that point in time, was their project file
- 3 substantially incomplete?
- 4 A. Yes.
- 5 Q. Let me ask you this question. Even if ReWa were
- 6 so inclined, could it have grandfathered Harrison
- 7 Partners after May 5th of '08 underneath the
- 8 regulation?
- 9 A. Could they have?
- 10 Q. How could they have if their application was
- 11 substantially incomplete?
- 12 A. Well, I couldn't approve it, which means they
- 13 couldn't have taken it to DHEC to get a permit to
- 14 even construct it.
- 15 Q. If Harrison Partners' plans were substantially
- 16 incomplete as of May 5, 2008, how could ReWa even
- 17 determine what it was grandfathering?
- 18 A. True.
- 19 Q. Could it have?
- 20 A. There was nothing -- there wasn't enough
- 21 information to know what we were -- what they
- 22 could grandfather.
- 23 Q. Is it fair to say Harrison Partners had not
- 24 submitted enough information as of May 5, 2008 for
- 25 ReWa to even consider grandfathering them?

1 A. Correct.

2 Q. Did the dispute about the whole engineering thing
3 with Metro ever get resolved?

4 A. Not that I know of.

5 Q. Did Harrison Partners ever submit the stuff that
6 you asked for dating all the way back to March of
7 '06?

8 A. I still had information that I needed in order to
9 approve the plans that I had not received. I
10 needed that information.

11 Q. I want to show you what we'll mark as the next
12 exhibit.

13 (EXHIBIT NUMBER 35 MARKED)

14 EXAMINATION RESUMED BY MR. DAVIS:

15 Q. Is this an email from Skip Limbaker to you?

16 A. Yes.

17 Q. Is it dated March 12, 2010?

18 A. Yes.

19 Q. And what I want to know specifically is down at
20 the very bottom where skip is emailing you. And
21 he says he -- he was talking about Mr. Bolo. And
22 he wanted to know the standard operating
23 procedures for developers to get sewer approvals,
24 et cetera. And we explained that we are just a
25 clearing house and the developers work directly

- 1 with the sewer providers, so he would have to
2 contact you about it. Do you see that?
3 A. I do.
4 Q. Do you agree with that statement?
5 A. This -- it's been a while since I've even seen
6 this, so just be patient with me for a second.
7 Q. Sure.
8 A. (Reviewing document.) Yeah. I mean what he's --
9 we're all saying is that the Planning Commission
10 is not, quote, "the approver of sewer." They'd
11 have to deal with the individual agencies.
12 Q. Were you ever instructed to stop working and to
13 stop helping Harrison Partners move forward with
14 its project?
15 A. No. I was not instructed to stop working with
16 them.
17 Q. In your ten years at ReWa, can you identify for
18 the Hearing Officer what the most difficult
19 project you ever worked on was? Was it this one?
20 A. Well, as far as a subdivision, again, this one --
21 we had never had this many different issues on one
22 site, being the issue of crossing our property,
23 the issue of two developers wanting to tie into a
24 single manifold and trying to make all of that
25 work. So yes, this was a very difficult project

1 to manage and be able to -- for me to be able to
2 make this approval process.

3 Q. I want to talk to you a little bit about these
4 Greenville County Planning Commission stamped
5 plans because there's been a lot of testimony
6 about what it means to be PSC-approved and a PSC
7 owner. First off, is ReWa subject to the Public
8 Service Commission?

9 A. No.

10 Q. Does the Public Service Commission regulate
11 private companies who provide utilities?

12 A. Correct.

13 Q. Is that because they regulate rates charged to
14 customers by private customers -- private
15 utilities?

16 A. Yes. They review the actual rates that these
17 private entities would be charging the homeowners.

18 Q. When the county stamps that a pump station has to
19 be approved by a PSC-approved company, are they
20 doing that in instances where public service is
21 not available?

22 A. They do that as a reminder, I would say, that
23 since there is no public entity in that location
24 and if you were to use a private entity, you would
25 need to go to the PSC. They would need to be

1 approved by the PSC if you were going to use them.
2 Q. The Greenville County Planning Commission is not
3 saying that Rewa can't do it when they stamp,
4 right?
5 A. Correct.
6 MR. FULTON: Objection, Your Honor. That calls for
7 speculation.
8 HEARING OFFICER: Sustained.
9 EXAMINATION RESUMED BY MR. DAVIS:
10 Q. Well, let me ask you this, Mr. Bishop. How many
11 years have you been doing this?
12 A. Almost ten.
13 Q. How many applications have you processed?
14 A. Thousands. I mean it -- a couple thousand.
15 Q. What is your familiarity with this process? Do
16 you know it like the back of your hand?
17 A. I'm pretty familiar with it.
18 Q. When Greenville County stamps that a pump station
19 where sewer is not available, does it mean to say
20 that a public provider couldn't do it?
21 MR. FULTON: Same objection.
22 EXAMINATION RESUMED BY MR. DAVIS:
23 Q. Are you familiar with those instances?
24 A. Rewa has taken on ownership -- now this is -- a
25 lot of these were even before I came on board.

1 We have pump stations that we own that are
2 subdivisions that we own. So obviously we can own
3 the pump stations.

4 Q. Has Greenville County Planning Commission ever
5 tried to express an objection when that happened?

6 A. No, not that I know of.

7 Q. Because Rewa is a public entity, right?

8 A. Yes.

9 Q. Isn't it sort of silly to say that the Public
10 Service Commission, a private rate paying
11 overseer, has anything to do with Rewa's ownership
12 of a pump station?

13 MR. FULTON: Objection.

14 HEARING OFFICER: Sustained. He's already said they
15 don't have anything to do with it. Whether it's
16 silly or not doesn't matter.

17 EXAMINATION RESUMED BY MR. DAVIS:

18 Q. Did you ever tell anybody that they were going to
19 get grandfathered in underneath the amendment to
20 the regulation?

21 A. No.

22 Q. Would you have ever told anyone that?

23 A. No.

24 Q. Are you a middle management guy?

25 A. Yes.

1 Q. Are you painfully aware of that, like I am?

2 A. Yes.

3 Q. Would you ever go out on a limb to say what your
4 Board of Directors is going to do?

5 A. I had better not if I want to keep my job.

6 Q. Is it fair to say that the only one who had the
7 authority to grandfather these folks was your
8 Board of Directors?

9 A. Correct.

10 Q. Would you ever go out and do that? Would you say
11 that they were going to get grandfathered?

12 A. No.

13 Q. Mr. Bishop, there's been some testimony that Mr.
14 Orvin was the decision maker who stopped all of
15 Harrison Partners' perspective projects. Is that
16 consistent with what you know about these
17 projects?

18 A. He never stopped the projects.

19 Q. In fact, didn't he come up with the river route?

20 A. Yes.

21 Q. I have no further questions at this time. I
22 appreciate your work.

23 (OFF THE RECORD)

24 HEARING OFFICER: We'll take a short break.

25 (BREAK; OFF THE RECORD)

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1 HEARING OFFICER: We'll resume now with cross
2 examination of Mr. Bishop.

3 MR. FULTON: Thank you, Mr. Glenn.

4 EXAMINATION BY MR. FULTON:

5 Q. Mr. Bishop, do you remember back in February when
6 we took your deposition up in Mr. Davis' office,
7 right?

8 A. Yes.

9 Q. And that was a question and answer period between
10 you and I in which you were sworn to tell the
11 truth, just like you were today?

12 A. Yes.

13 MR. DAVIS: Gene, do you mean for him to have that?

14 MR. FULTON: Not yet.

15 MR. DAVIS: Okay.

16 EXAMINATION RESUMED BY MR. FULTON:

17 Q. Isn't it true that all the route changes for
18 Harrison Partners came from ReWa?

19 A. All but one.

20 Q. So it's not true that all the route changes came
21 from ReWa?

22 A. Three of them were proposed by ReWa.

23 Q. So your testimony today is not that all the route
24 changes came from ReWa?

25 A. The one across the private property, the surveyor

1 had indicated that that was -- had already been
2 looked at. Now, I indicated then that that was a
3 viable option, but I didn't bring that one up. I
4 brought the one up about the Metro line.
5 Q. But all the rest of them came from ReWa?
6 A. We made proposals as to the different routes, yes.
7 Q. All of them? Except for that first one, all the
8 changes came from ReWa; is that your testimony
9 today, all the changes -- all the route changes
10 came from ReWa, yes or no?
11 A. Three of the route changes were proposed to them
12 as alternatives. Again --
13 Q. By ReWa?
14 A. -- I testified that Ray even offered one of those.
15 Q. By ReWa, right?
16 A. Yes.
17 Q. Also, you understood that during all the time we
18 talked about, the period of time that the
19 different routes were being considered, the route
20 changes, except for maybe the first one, according
21 to you, you proposed that Harrison Partners made
22 submittals and did some work on every option, and
23 they were dealing with Metro and that was the way
24 it was supposed to be, to have Metro involved in
25 the process; isn't that right?

1 A. Yes. Metro was to be involved.

2 Q. And they made some submittals on every option?

3 A. They did not make a submittal on the Metro option
4 to me, on the one going to the line. That was
5 between them and Metro.

6 Q. Also, during that time of the different routes
7 being explored -- well, let me ask you this. You
8 would agree with me today, wouldn't you, that you
9 would expect there to be a period of time if there
10 was a route change called for, that some other
11 work had to be done, some other engineering work
12 dealing with Metro before it came back to you,
13 right? You would expect some time to pass,
14 wouldn't you?

15 A. The time that passed from my March, '06
16 conversation with Scott needing information -- in
17 that year, I still never received anything from
18 them.

19 Q. Well, that wasn't my question. My simple question
20 is, today, sitting here telling Mr. Glenn about
21 the time passing and the route changes, I'm just
22 asking you, doesn't it seem reasonable to you, and
23 wouldn't you expect that with route changes and
24 then the different work that needed to be done to
25 address each route change, that that would cause

- 1 more time to pass, and you would expect that to be
2 true; isn't that -- wouldn't you agree with that
3 day?
- 4 A. Some time would pass, but not that much time.
- 5 Q. Well, you would agree that in October of 2006,
6 that was during that first year, Harrison Partners
7 sent in a check for the review, with some
8 materials, that Rewa cashed?
- 9 A. October 10th of '06, correct.
- 10 Q. And you guys cashed the check, right?
- 11 A. Correct.
- 12 Q. And that had with it materials for your review,
13 right and you reviewed them?
- 14 A. No survey -- no route on the design of where that
15 -- where the route was going.
- 16 Q. What was with it? What was it?
- 17 A. There was no design on where the route was going
18 that I asked for in -- at the very beginning. It
19 was still not included.
- 20 Q. So what came in with the check?
- 21 A. Well, I can tell you this, that there was another
22 email a year later that said, "You're still
23 missing stuff," that I had sent there.
- 24 Q. That's not what I asked you. That's not what I
25 asked you. You already admitted that they had

1 sent some things in with a check that you cashed
2 in October?

3 A. Yes, correct.

4 Q. That first year. The year that you're wanting to
5 make sound so long, in October, they sent you a
6 check with some things. You cashed the check.
7 And I'm asking you, what did you review? You're
8 claiming that they didn't send you what you
9 wanted, and I'm asking you why did you cash the
10 check and what you reviewed.

11 A. I reviewed whatever they sent in.

12 Q. What was it?

13 A. I've got the file. I think it's sitting over
14 there. We can pull it out and look at it.

15 Q. Would you do that for me?

16 A. If they brought it. I mean I gave it to the
17 attorneys.

18 Q. Well, we're in your building, right?

19 A. I gave the file to them. I don't know if they
20 brought it or not.

21 Q. Can you take a look and see what came in with that
22 check and what you reviewed?

23 HEARING OFFICER: Do you have the file?

24 MR. DAVIS: I don't think I do, but I'll look.

25 HEARING OFFICER: Look and see. If you do, give it to

1 him.

2 WITNESS: I gave them the original file, so I don't -- I

3 did not keep a copy. I'm sorry.

4 HEARING OFFICER: Stop right now and see if you've got

5 his file. And if you do, give it to him.

6 WITNESS: What I have in front of me is everything that

7 has ever been submitted from your folks. It looks

8 like it's all got -- so it's going to be hard for

9 me to tell exactly what was submitted originally

10 to me.

11 MR. FULTON: With this pile of things, may I approach to

12 take a look at it, Your Honor.

13 HEARING OFFICER: Do you have anything in there that's

14 privileged?

15 MR. DAVIS: I don't know. I wasn't planning on using

16 the materials, but I could check if there's

17 attorney-client stuff in here first.

18 (OFF THE RECORD)

19 EXAMINATION RESUMED BY MR. FULTON:

20 Q. So in October of '06, you received a check, cashed

21 the check, and you reviewed something from all of

22 these things that were submitted, but you don't

23 know exactly what; is that your testimony?

24 A. I -- again, if you will look through those plans

25 and I'll be happy to go one by one with you. And

1 I --

2 Q. I'm just asking if you --

3 MR. DAVIS: No. He gets to answer.

4 HEARING OFFICER: Let him answer the question.

5 MR. DAVIS: Listen, I had to sit through --

6 HEARING OFFICER: Sit down. Answer the question.

7 Finish what you were saying.

8 WITNESS CONTINUES:

9 A. Okay. What you see there is the design on site.

10 I did not see in there the force main route that I
11 had been asking for, so I could not approve those
12 plans.

13 EXAMINATION RESUMED BY MR. FULTON:

14 Q. Well, that wasn't my question. I just wanted to
15 be clear. You said to me before we got your file
16 that you got the check, cashed the check, and did
17 a review of something in October of that first
18 year. And I just asked you what it was, and you
19 said you didn't know. And then we got your file
20 -- and now we've gotten your file. And I'm just
21 asking you, now can you tell me if you look at the
22 file?

23 A. What he submitted me is what I reviewed, yes, some
24 -- again, this is a hodgepodge of different
25 things.

1 Q. So you don't know if that was all submitted that
2 first time or if that was other things that came
3 in?

4 A. I am pretty sure that this is not -- this whole
5 thing is not what was submitted the first time.

6 Q. So there were -- this file probably includes other
7 things that were sent along the line?

8 A. Yes, but they're the same information.

9 Q. Just take a look through, and if you can, tell me
10 what things you -- if you can, tell me what things
11 you reviewed when you got the check and what was
12 sent to you in October of '06, if you can.

13 A. Certainly I can. What you see here in front of
14 you is the interior, the lots, the information
15 about the site. Okay? When I review a set of
16 plans, this is typically what Metro reviews.
17 Typically Metro would own this stuff. They would
18 deed that over. They could deed it over to
19 Condor, but it's not something that Rewa would
20 own. So technically I don't care what --

21 MR. FULTON: Excuse me. Mr. Glenn, I just asked him a
22 simple question, to tell me which of those things
23 he reviewed on that day.

24 WITNESS CONTINUES:

25 A. I looked at a couple of these sheets here

1 (indicating).

2 MR. DAVIS: Mr. Glenn, I sat through three hours of
3 rambling answers yesterday. If my witness would
4 like to explain something, it's certainly fair.

5 HEARING OFFICER: Your witness is doing fine for
6 himself. He doesn't need your help.

7 MR. DAVIS: I understand.

8 HEARING OFFICER: You looked at some of those plans,
9 right?

10 WITNESS: Yes, sir.

11 HEARING OFFICER: Do you know which ones on the first
12 day?

13 WITNESS: Again, it got convoluted because when I
14 handed it to the attorneys, it got put in one
15 folder, when I probably gave them two folders.
16 But again, I looked at plans that he submitted,
17 yes, sir.

18 EXAMINATION RESUMED BY MR. FULTON:

19 Q. And then maybe he submitted some other ones later?
20 There are some other ones in there that may have
21 been submitted later?

22 A. There's some other information in here, yes, sir.

23 Q. And, in fact, you saw plans that were almost
24 complete and you never gave your input as to
25 whether or not they were, or whether they would

1 meet your requirement; isn't that right?
2 MR. DAVIS: Objection.
3 HEARING OFFICER: Overruled.
4 WITNESS ANSWERS:
5 A. I never saw plans that were complete, no, sir.
6 EXAMINATION RESUMED BY MR. FULTON:
7 Q. But you saw plans that were almost complete, but
8 you never gave your input as to whether or not
9 they would meet your requirements; isn't that
10 right?
11 A. They were not even almost complete in ReWa's eyes.
12 Q. Oh, okay.
13 A. Again, I need the force main route.
14 Q. So you're now saying that you did not see plans
15 that were almost complete?
16 A. This is what I have.
17 Q. I'm just asking you.
18 A. This is what was submitted to me.
19 MR. DAVIS: Your Honor, can I ask something? There's
20 been a couple of occasions now when I've seen Mr.
21 Bolo point at the witness, and I would
22 respectfully ask for a ruling that that stop.
23 HEARING OFFICER: I'm sorry; I didn't notice. Do not
24 point at the witness and do not make faces.
25 MR. BOLO: No, sir. I would never do that. I was

1 pointing to this piece of paper.

2 MR. FULTON: I think he was trying to make sure I saw
3 something.

4 EXAMINATION RESUMED BY MR. FULTON:

5 Q. Mr. Bishop, I'd like to show you a copy of your
6 deposition and put your finger in there. Take a
7 look at page 92, please. On line 13 I asked you
8 this question on that day: "In fact, you saw the
9 plans that were almost complete and you never gave
10 your input as to whether or not they were -- would
11 meet your requirements, didn't you?" And you --

12 A. Where am I reading here? I'm sorry.

13 HEARING OFFICER: Line 13.

14 EXAMINATION RESUMED BY MR. FULTON:

15 Q. Page 92, starting with line 13.

16 A. Your question. Okay.

17 Q. "In fact, you saw the plans that were almost
18 complete and you never gave your input as to
19 whether or not they were -- would meet your
20 requirements, didn't you and never gave a final
21 full acceptance?" "No."

22 A. Right. I never gave a final full acceptance.

23 Q. That's what you said on that day and then today
24 you're saying you didn't see plans that were
25 almost complete. Which one is true?

1 A. Again --
2 Q. Which date was true?
3 HEARING OFFICER: Let him answer the question.
4 WITNESS ANSWERS:
5 A. I never gave a final full acceptance. That is a
6 true statement. I answered your question. These
7 plans here are not complete. I answered that
8 question. What else do you want me to answer?
9 EXAMINATION RESUMED BY MR. FULTON:
10 Q. Well, answer this question. Mr. Bolo and Harrison
11 Partners had basin studies done; isn't that right?
12 A. They worked with Metro on -- yes. They were --
13 yes, sir.
14 Q. They had the basin studies done. Was that at
15 Rewa's request or Metro's?
16 A. I'm trying to think back. I believe it was Metro.
17 Q. Did you see them?
18 A. I saw -- yes. I saw some of the things that Scott
19 had submitted to Metro, yes.
20 Q. So those were basin studies?
21 A. That is the information about this gravity line
22 here.
23 Q. Now, they also did -- between Mr. Bolo and the
24 engineers for Riversway, they also did some
25 pumping studies, too, right?

1 A. At some point during the end when -- I believe
2 when they submitted information to Metro, there
3 was pumping information in those plans.

4 Q. So with regard -- wouldn't it be typical for you,
5 as an engineer, to get either plans or studies
6 like that and make comments on them? In fact,
7 we've seen some emails where you did acknowledge
8 looking at some plans and making comments, right,
9 a little bit earlier?

10 A. Not those plans you're --

11 Q. No, but just some submittals, right?

12 A. These right here (indicating), yes, sir.

13 Q. You had the -- I didn't see anything in there.
14 You don't have anything that shows where you
15 redlined -- don't engineers usually redline things
16 and send them back?

17 A. If there was something to comment on. Again, this
18 was the subdivision site which Metro would comment
19 on.

20 Q. So we have all of these studies. We have the
21 basin studies, we have the pumping studies that
22 were done. And I think Mr. Davis could even
23 answer this maybe. You're not trying to say that
24 Harrison Partners didn't do any work on these
25 different routes that you proposed to them, are

1 you?

2 A. No. I'm not saying he didn't do work.

3 Q. And, in fact, would you agree that he cooperated
4 with you and answered your requests in a
5 reasonable manner?

6 A. Cooperation?

7 Q. Let me get these.

8 MR. DAVIS: Can he answer the pending question?

9 MR. FULTON: Sure.

10 WITNESS CONTINUES:

11 A. You asked did -- if Scott was cooperating. Was
12 Scott communicating with me and, you know, emails
13 going back and forth and I'm sure he was working
14 on things, yes. Did he cooperate by providing the
15 information I asked for, no. So cooperation?

16 EXAMINATION RESUMED BY MR. FULTON:

17 Q. So would you agree with me that Harrison Partners
18 in this process generally acted in good faith and
19 cooperation and generally met with you when
20 requested and responded to you when requested?

21 A. No.

22 Q. You wouldn't?

23 A. No. Again, I kept asking for certain information
24 that I was not getting provided.

25 Q. Isn't it true that -- excuse me a second. I've

1 got a little clutter over here.

2 (Side conference between Mr. Fulton and Mr. Bolo.)

3 EXAMINATION RESUMED BY MR. FULTON:

4 Q. Mr. Davis took you through some emails and part of
5 the process that went over from late '07 into
6 early '08. Do you remember those emails and
7 things?

8 A. Yes.

9 Q. Isn't it true that really, in November -- around
10 November of '07, that ReWa decided it was not
11 going to review any plans for pumping stations
12 like one River Trace was trying to do because it
13 was scheduled and planned to be done by a private
14 contractor?

15 A. I don't know whether a private contractor was on
16 board or not. I never saw anything, so that was
17 not -- did not come into play.

18 Q. Is it your testimony that you were not aware of
19 the contract between Harrison Partners and Condor?

20 A. I know that their intent was to use a private, but
21 I don't know whether there was a contract, whether
22 they did anything with that.

23 Q. But you knew from the beginning that was their
24 intent, right?

25 A. Their intent was to pump station in and probably

1 use someone like Condor to operate it.

2 Q. And so I'm asking you, knowing that, isn't it true
3 that around November of '07, ReWa decided it was
4 going to put all the brakes on and just stop
5 reviewing anything that involved that because of
6 the pending amendments that might be coming down
7 the line, which came out I think in May of '08?

8 A. I was told to continue to work with all the
9 developers in trying to get the information I
10 needed, but I was not going to be approving them
11 at that point in time.

12 Q. So you were told around November of '07 that --

13 A. I don't know if it was November, '07. It was
14 just --

15 Q. But if I told you that earlier today Mr. Orvin
16 said that that was around the time, you wouldn't
17 have any reason to disagree with it?

18 A. I have no reason to say that that wasn't the
19 time.

20 Q. So starting then, you were told nothing should get
21 approved?

22 A. Again, I was told to continue to work with them,
23 but not to give a flow acceptance letter. Can I
24 add one more comment?

25 HEARING OFFICER: Yes, you may.

1 WITNESS CONTINUES:

2 A. Even if I was told to approve the plans, I did not
3 have enough information to approve them at that
4 time.

5 EXAMINATION RESUMED BY MR. FULTON:

6 Q. Well, I understand that's your testimony, but
7 there's been other testimony that a lot of things
8 were submitted. Did you get the things that were
9 from Metro? Let me ask you this. Didn't I
10 already get you to agree that -- let me get back
11 to your deposition; that the way that it was
12 supposed to work is that things were supposed to
13 get submitted to Metro and have Metro involved in
14 the process?

15 A. Metro should have been involved in the process.

16 Q. And then sometime after Metro got the things, you
17 would look at them after Metro made their
18 comments, right?

19 A. I needed to see Metro's comments, correct.

20 Q. So you got some of the things that these guys sent
21 to Metro, maybe not directly from them, but from
22 Metro, right?

23 A. I do not recall ever getting anything submitted to
24 me from Metro other than the -- sorry; I didn't
25 mean to point -- other than the calculation stuff

1 with the basin thing that we talked about earlier.

2 Q. Right. That was actually in an email that you had
3 seen Metro's comments on something, right?

4 A. That's right, yes, sir.

5 Q. So the way it was properly supposed to work was
6 that Scott and his group, the Harrison group and
7 InSite and the other engineer -- a lot of that
8 stuff got sent to Metro for their approval, right?

9 A. That's how it's supposed to work, yes.

10 Q. And then Metro was working with you to get that
11 done, which is what you said, right?

12 A. Once Metro gives, quote, "approval," or any
13 corrections that they wanted Scott to change on
14 there, I needed to see a final set of plans. Now,
15 again, Metro wouldn't have submitted to me. I
16 needed to see a final set of plans with their
17 comments on there.

18 Q. Is it your testimony that you never had anything
19 sent over from Metro?

20 A. What do you mean by anything?

21 Q. Well, I mean things that are submitted to Metro by
22 an applicant in the process.

23 A. That's hard to answer. I mean we correspond on
24 things. Metro's part of -- I mean we work
25 together, but it's not their responsibility to

1 submit the final set of plans to me. That's
2 never --

3 Q. And it wasn't Metro who changed -- who made all
4 the route changes, according to you, right? It
5 was you, ReWa?

6 A. We offered route changes.

7 Q. I want to show you a couple other things.

8 (OFF THE RECORD)

9 EXAMINATION RESUMED BY MR. FULTON:

10 Q. Those plans do -- the things you received does
11 include -- excuse me. Your file of the things you
12 received does include a detailed plat of the river
13 route force main, right?

14 A. No. It has the one that Ashley sent that I
15 commented on. We already established that the
16 other one, that was not what was sent to me.

17 Q. Let me ask you this. You testified a little
18 earlier that in general, ReWa would have been okay
19 with the river route?

20 A. The river route meaning this one right here?

21 Q. Right.

22 A. Well, we -- I think even Ray testified that he
23 made that offer, yes.

24 Q. Until November of '07 came and then nothing was
25 going to get approved?

1 A. I've already answered that question.
2 Q. Can you answer it again?
3 HEARING OFFICER: He's answered it. Go ahead.
4 MR. FULTON: One moment, please, Mr. Glenn. I think I'm
5 about done.
6 (OFF THE RECORD)
7 EXAMINATION RESUMED BY MR. FULTON:
8 Q. Have you ever been an engineer of record on a set
9 of plans?
10 A. A set of subdivision plans or the --
11 Q. Any kind of plan.
12 A. I have actually stamped plans before, yes.
13 Q. You have? For what kind of project?
14 A. For design of a remediation system.
15 Q. What kind of system?
16 A. Remediation system. In other words, where you
17 pull groundwater out of the system and you treat
18 it through carbon and through different methods
19 before you can put it back into the river.
20 Q. Have you ever been involved with installing sewer
21 pipeline or a force main?
22 A. Again, I'm the engineering supervisor here, and we
23 have internal projects where we install force
24 main, sewers, pump stations, and those have been
25 my projects.

- 1 Q. Have you been the engineer of record on the plans.
2 for those?
- 3 A. No, not here.
- 4 Q. And I think you said a minute ago that the plat
5 for the river route that you got in your file was
6 the one without the corrections. But isn't there
7 one with corrections?
- 8 A. This was not -- this was the last thing at some
9 point that was submitted.
- 10 Q. Right. But it isn't the one before the
11 corrections, it is the final submission after the
12 corrections?
- 13 A. Of the river route, right.
- 14 Q. What is this sheet on the inside of your file?
15 What does that tell you that you have in the file?
- 16 A. This sheet here was some pump station
17 calculations.
- 18 Q. And also it says, "Sewer plans," right?
- 19 A. Yes. It says that.
- 20 Q. Do you see them in there?
- 21 A. Again, I'm not sure whether I can identify it.
22 There's no date to -- again, it got convoluted and
23 I'm not sure that I could tell you exactly which
24 one it's referencing to.
- 25 Q. But it says there that there was some sewer plans

1 in your file, right?

2 MR. STILWELL: Those are all sewer plans.

3 WITNESS ANSWERS:

4 A. Yeah. Everything there is sewer plans.

5 EXAMINATION RESUMED BY MR. FULTON:

6 Q. And calculations, right?

7 MR. DAVIS: Object. What are you talking about?

8 EXAMINATION RESUMED BY MR. FULTON:

9 Q. What were those calculations? I mean you said --
10 you spent a long time saying you just didn't get
11 anything you needed from these folks and I keep
12 finding things, so I want to know what they are.
13 What are these calculations?

14 A. These are calculations, but I don't know what they
15 are for or what they're to. I mean they're pump
16 station calculations, but there's no way of
17 knowing if it's to deal with this, the river
18 route, the one up through the other one. I mean I
19 have no idea as to what to apply this to.

20 Q. It's just something else that you got, though,
21 right?

22 A. Again, there's a lot of misfit stuff to come
23 through that -- just pieces here and there.

24 Q. So if this does, in fact, reflect the corrections,
25 this would be what you would call engineering

1 complete?

2 A. No.

3 Q. No? okay.

4 A. Because you could not send that to a contractor
5 and he would have any clue as to how to install
6 that.

7 Q. So your testimony is that is not engineering
8 complete? That wouldn't allow somebody to put it
9 in?

10 A. That's the plan. Where's the profile?

11 Q. That's your testimony, that that wouldn't be
12 engineering complete? That wouldn't allow to be
13 approved by you?

14 A. That -- not only would it not be approved by me,
15 DHEC wouldn't approve it.

16 Q. Isn't it true that the profile is in there that
17 you need?

18 A. I don't see it. I don't see a profile, not of
19 that route it's not in there.

20 Q. Well, those are all the questions I have. Thank
21 you.

22 MR. DAVIS: I have a couple.

23 HEARING OFFICER: Are you finished?

24 MR. DAVIS: Give me a couple minutes, if you don't mind,
25 unless you want to ask questions.

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1 HEARING OFFICER: No. If you have more questions, you
2 ask them.

3 REEXAMINATION BY MR. DAVIS:

4 Q. Mr. Bishop, can you come down here for me? Does
5 this stack of paperwork reflect everything Scott
6 Bolo sent to you?

7 A. That's what I have in my file.

8 Q. Can you show me the final force main design for
9 the flag lot route?

10 A. No. The only thing I see here is a survey of the
11 river route.

12 Q. So is there a final engineering plan for the force
13 main on the river route?

14 A. Again, this itself does not define the plan and
15 profile that's needed in order to know exactly how
16 this is going to work.

17 Q. Does this reflect one or two force mains?

18 A. It doesn't specify, but it shows a 20-foot force
19 main easement with a single-wide showing going
20 down the middle. So without knowing anything
21 else, I would have to conclude it's a single force
22 main.

23 Q. Is this what was submitted on January 9th of '08,
24 according to the date on the actual revisions?

25 A. Yes.

1 Q. Did we look at documents earlier --

2 A. That's just -- this is just a blowup of the other
3 one.

4 Q. And did we look at documents earlier from Chip
5 Fogleman where they were stating that they weren't
6 sure whether they were doing a single or double
7 force main?

8 A. Yes.

9 Q. We heard some testimony, or had some testimony
10 about stopping work on projects that had pump
11 stations. First, did you ever stop working on any
12 projects?

13 A. I did not.

14 Q. And were there any projects that had -- let's zoom
15 it in and just narrow it to this point. Harrison
16 Partners. Did Harrison Partners' application file
17 ever get to the point where you could go back to
18 the Board or Ray and say, "I have an applicant
19 now, his complete file. Tell me what to do with
20 the pump station"? Did that ever happen?

21 A. No.

22 Q. You were told to stop approving them, not to stop
23 working on them, correct?

24 A. That's correct.

25 Q. And had you gotten to the point where you had a

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1 complete project file with an applicant, you were
2 directed at that point to come back and here from
3 the Board what to do basically, right?

4 A. Again, I was told to continue to get as -- you
5 know, all the information I needed, but not to
6 issue the flow acceptance letter at that time.

7 Q. One last thing about the Metro versus Rewa
8 involvement and the plan review process. We
9 talked a lot about that plan and Rewa's need for
10 specific routed and specific finalized design.
11 Was this project atypical because of Rewa -- the
12 easement crossing Rewa's land?

13 A. What do you mean by atypical?

14 Q. Have you ever had a project where you were getting
15 a right-of-way across Rewa's land before?

16 A. Not a treatment plant, no.

17 Q. And, in fact, that's why you asked for that
18 information in March of '06?

19 A. Correct.

20 Q. And you never got it?

21 A. Correct.

22 Q. Thanks.

23 HEARING OFFICER: Anything else?

24 REEXAMINATION BY MR. FULTON:

25 Q. Is it your testimony, Mr. Bishop, that that is

1 your whole file on this project?

2 A. That is the file that I kept throughout the whole
3 project.

4 Q. I didn't see any notes in there. Did you make any
5 notes? You said you reviewed some things. Did
6 you make any notes?

7 A. Again, the information that was provided to me was
8 the onsite, which I don't review anyway --

9 Q. I'm just asking, do you have any or not?

10 A. So I had nothing to -- I had no notes to put on.
11 There was nothing to review.

12 MR. STILWELL: Except the emails.

13 MR. FULTON: I'm sorry?

14 MR. STILWELL: You got all his emails and everything in
15 production.

16 REEXAMINATION RESUMED BY MR. FULTON:

17 Q. I'm just asking about handwritten personal notes
18 that you made with regard to anything that was
19 submitted. Is there another file that they might
20 be in or anything?

21 A. There's -- what you -- what's there is what was in
22 my file.

23 MR. DAVIS: Just for record clarity, you're not asking
24 him about the notes he may have made and emails to
25 other people, right?

1 MR. FULTON: I'm talking about notes that he might have
2 written.

3 MR. DAVIS: So just handwritten?

4 MR. FULTON: Yeah.

5 REEXAMINATION RESUMED BY MR. FULTON:

6 Q. In other words, all the other emails and things
7 we've looked at, things you've looked at --

8 A. That is my file. That is the only thing I can
9 provide as part of this project, what you see is
10 there.

11 Q. With regard to the river route, what do you
12 contend was missing for you to review, the river
13 route?

14 A. The river route. Again, at least an easement
15 agreement, the profile so that I know that they're
16 -- they were not going to be impacting any of our
17 utilities or what was out there. Even they asked
18 about the outfall structure and, you know, this
19 could be something that needed to be dealt with.
20 Well, I need a little more detail on how are we
21 going to get across that and not impact our
22 outfall.

23 Q. So the first thing you said was easement
24 agreement. The second thing you said was --

25 A. I need a -- I need the profile. I need to know

1 how deep, I need to know these -- where they're
2 crossing these utilities, the outfall structure.
3 I need to know how that was going to be done.
4 Q. What else?
5 A. I need the ACOG letter. There's a gap between his
6 site and what you see there, so I don't know how
7 he's getting it from his site to that point. I
8 need to see that. What else do I need? We still
9 haven't -- I mean we still need to agree -- have
10 an agreement as to who's going to own and operate
11 and maintain all of this.
12 Q. The agreement?
13 A. We need an agreement.
14 MR. STILWELL: Before we go on, Scott just pulled that
15 out of his file and not out of Brian's file.
16 MR. BOLO: No. I just pulled it out those papers right
17 there.
18 MR. STILWELL: And you put Brian's file on top of your
19 file.
20 MR. BOLO: I don't have a file. I didn't bring a file.
21 MR. STILWELL: Whatever you produced the day before the
22 hearing that we said we never got, you pulled that
23 out of there.
24 MR. BOLO: No, I didn't.
25 MR. FULTON: Actually it's -- see, it's folded.

1 MR. BOLO: It's folded. It was in your file.
2 MR. FULTON: I mean believe me, I don't want to --
3 MR. STILWELL: Okay. If it was folded, then I'm wrong.
4 REEXAMINATION RESUMED BY MR. FULTON:
5 Q. What's that? Isn't that the profile --
6 A. No.
7 Q. -- for the force main?
8 A. No. The river route. This was like the first
9 stuff that was submitted. This is 7/06. This is
10 -- the river route was never even proposed at this
11 time.
12 Q. So this is a profile of which route?
13 A. I don't know.
14 Q. This is another one of these things you said you
15 didn't get, though, and it's in the file, right?
16 A. You asked me specifically about the river route
17 and what was lacking, and I told you I needed the
18 profile of that. That's not it.
19 Q. Well, I'm just saying, you spent about two hours
20 saying you just didn't get anything from them, but
21 this is now something else that --
22 A. But there's a gap between -- I can't match that up
23 with that because there's a gap between -- that's
24 his on-site force main. That's not the force main
25 going up this easement, across our flag lots,

1 through our treatment plant. He never even got
2 that surveyed. He never even got on our property
3 to survey that. He didn't even go out to survey
4 until '07 when the surveyor called me up.

5 Q. So your testimony is this is not a profile of the
6 force main -- or one of the force mains that he
7 was submitting to you. You think this is a
8 profile of the force main in the neighborhood?

9 MR. DAVIS: Wait a minute. You said once of the force
10 mains? I mean he said it wasn't the one on ReWa's
11 property.

12 WITNESS CONTINUES:

13 A. Again, that came -- if that came, it came with
14 original stuff and that's about his on-site stuff.
15 the -- his plan does not show where the force
16 main's running on there.

17 REEXAMINATION RESUMED BY MR. FULTON:

18 Q. So your testimony is that this relates to his
19 neighborhood and not the force main?

20 A. I'd have to go back and look at it, but again, I
21 do know that the plan does not show that so I
22 could not determine whether that is the full route
23 or whether that's just on his own site.

24 Q. So you could -- you just said you could go back
25 and look at it? Look at it and see if you can.

- 1 okay?
- 2 A. (Reviewing document.) First of all, there is
3 nothing on here to even reference anything to even
4 know where this is located. Far as I know, other
5 than it says River Trace, I don't know where it's
6 located at. There's no roads. There's no --
7 there's -- I mean, yeah, it shows -- it says force
8 main on here, but I don't know whether it's on the
9 site or his site, whether it's the four -- which
10 of the four routes it is. There's no way to tell
11 on here. So I would be --
- 12 Q. Can you tell by looking at the distances whether
13 it was just about his site or not?
- 14 A. I do know that we've already determined it's,
15 what, 7,000 feet. So it needs to be at least
16 7,000 feet on here to be a full route, and I don't
17 think it's 7,000 feet on here.
- 18 Q. But it's clearly longer than just a neighborhood,
19 isn't it?
- 20 A. I think we'd have to go measure and go through all
21 that. It's -- again, there's no way of knowing
22 whether this is actually on the site, off the
23 site, near the site.
- 24 Q. But that was in your file, right?
- 25 A. Yes.

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1 Q. So it was submitted to you?

2 A. But I had no way of commenting on it.

3 MR. FULTON: Your Honor, I'd like to mark his entire
4 file, what's in the envelope and notes as an
5 exhibit.

6 HEARING OFFICER: Can we have copies made?

7 MR. FULTON: And we can tell which are his by the folds,
8 plus the envelope and the sheets pinned inside.
9 What number will that be, Sheila?

10 COURT REPORTER: Thirty-six.

11 HEARING OFFICER: It'll be Exhibit 36.

12 (EXHIBIT NUMBER 36 MARKED)

13 MR. FULTON: Those are all the questions I have.

14 HEARING OFFICER: Anything else?

15 (BREAK; OFF THE RECORD)

16 (STEPHEN B. GRAEF, Ph.D. DULY SWORN)

17 EXAMINATION BY MR. STILWELL:

18 Q. Dr. Graef, we're going to what we call stick and
19 move here since it's 5:15.

20 A. Okay.

21 Q. So I'm going to squish it down a little bit.
22 First of all, you were basically the number two
23 guy here?

24 HEARING OFFICER: Wait a minute. Give your full name
25 for the record.

1 EXAMINATION RESUMED BY MR. STILWELL:

2 Q. Can you give us your full name?

3 A. Yes. My name is Stephen B. Graef, G-R-A-E-F. I'm
4 the retired technical services director for ReWa.

5 Q. You're still doing some of the same job as a
6 consultant?

7 A. Yes, I do.

8 Q. I'm going to try to get you squeezed down here.
9 The first thing I want to talk about is what --
10 typically you're not involved in a project
11 application, are you?

12 A. No.

13 Q. Is it generally -- we sketched this earlier today,
14 but it's like when you were working full-time, it
15 was Ray, you, then the engineering department is
16 under you?

17 A. That's correct.

18 Q. And there's a person in that job who runs the
19 engineering department?

20 A. Engineering manager.

21 Q. And then Brian?

22 A. An engineering supervisor.

23 Q. When is the first time you found out about this
24 particular project?

25 A. Fall of 2007 Brian Bishop and the then engineering

1 manager, Lauren Hildebrand, approached me and said
2 that there was a development situation downstream
3 of the Lower Reedy plant that I needed to be
4 briefed on. And I was told that there were
5 discussions underway for two subdivisions to be
6 served, potentially served by pump stations
7 coming together in a common force main and flowing
8 through some properties that ReWa referred to as
9 flag lots, but it's a series of mobile homes, into
10 the back end, or the effluent end of the treatment
11 plant and then proceeding through the effluent end
12 of the treatment plant to the influent end of the
13 treatment plant and discharging into an incoming
14 trunk sewer.

15 Q. How did that idea strike you?

16 A. It -- as unfeasible for possibly a couple reasons,
17 and then even further reasons when I got some
18 background from Brian Bishop about the site. But
19 first of all, this area that it would go through
20 with the mobile homes was an area that had been a
21 contentious -- it was a contentious community
22 situation with the homeowners being --

23 Q. They didn't like the smell?

24 A. They didn't like ReWa. They didn't like the
25 smell. They didn't like the -- they didn't like

1 Rewa. Then secondly, it would be going through
2 the treatment plant and then from briefing I got
3 from -- in asking about the -- some other things
4 about the plant, Brian Bishop explained that they
5 had walked the plant site. He had walked the
6 plant site I think with one of the engineers
7 involved, surveyors, and that there was rock
8 conditions, considerable elevation changes and a
9 gully situation, structures in the plant that were
10 involved, security concerns.

11 Q. When you talk about security concerns, even the
12 way it used to be, people can't go walk around the
13 Rewa plant unless somebody takes them down on the
14 property, can they?

15 A. No. That's not permitted.

16 Q. The part that was on the Rewa plant, was that the
17 part where the gullies are, because that's got
18 woods all through it?

19 A. Yes, that and other parts of the plant have woods.

20 Q. Tell me what -- when you heard that plan and you
21 had those concerns, what did you do?

22 A. I said that we need to meet with the developers.

23 Q. You called a meeting?

24 A. Yes -- no. I asked Brian Bishop to set it up.

25 Q. Was that meeting -- that's when Rewa was still in

1 its temporary building up in Hitachi?

2 A. We were at Hitachi.

3 Q. What happened at that meeting?

4 A. We had several of the -- at least the Riversway
5 developers, the River Trace developers. There may
6 have been another developer. I'm not sure. There
7 was ReWa staff and engineering staff with the
8 developers, and that I called -- I told the group
9 that I'd been briefed on the discussions about the
10 piping -- pipeline situation, and that it was not
11 feasible and that it would be a waste of time to
12 consider that further, and that what I wanted the
13 group to do is to focus on other alternatives that
14 would meet the needs of the projects.

15 Q. And those other alternatives ended up being the
16 Metro connections up at the top of the plant?

17 A. That was one of the options that was brain-
18 stormed. There were other similar connections
19 that could have been made north of the plant along
20 this road here (indicating). I think that this is
21 probably symbolic of the Metro connection here and
22 then there's an arrow here. I don't know who drew
23 it, but there would have been other opportunities
24 to move across, but the Metro connection would
25 have been up here (indicating).

1 Q. And then it ended up those options up top didn't
2 work out either?

3 A. I don't think the developers found them
4 acceptable.

5 Q. Do you know why?

6 A. I believe it's because of cost.

7 Q. Do you know anything more about the cost? These
8 would have been Metro costs?

9 A. Well --

10 Q. I don't think you were --

11 A. My perception was that the developers rejected it
12 because of the cost, that they thought it would --
13 that they would incur and that it's my
14 understanding that the -- at least one of the
15 Metro solutions would have required them to
16 upgrade the size, expand the size of the Metro
17 line so the Metro line would be large enough to
18 carry the existing Metro flow, plus what -- the
19 additional flow from the subdivisions.

20 Q. Did Rewa then offer them the river route as an
21 alternative?

22 A. Eventually.

23 Q. Why did the river route not work? Why didn't it
24 get built? Let me bite that off a little smaller.

25 I don't think we can do the whole rest of the day

1 in one question. What was your involvement in the
2 river route, your personal involvement, any?

3 A. Limited. It's my understanding that at some point
4 in time, Ray offered the river route alternative
5 that would be close to the river out of the way of
6 most structures, processes in the treatment plant,
7 and allow the flow to -- the force main to
8 traverse all the way to the incoming line to the
9 plant.

10 Q. There was a lot of discussion from a previous
11 witness about the route and the obstructions and
12 things like that, but I want to focus on something
13 different. I want to ask you a question. Did you
14 ever have any understanding about what was going
15 to actually be built in that lot as far as a
16 double barrel, a manifold? Do you know if the
17 developers ever decided what they wanted to build
18 there?

19 A. I think we talked concept. The -- it was -- I
20 don't -- it was not finalized, to my knowledge.

21 Q. Was it up in the air?

22 A. The concept -- I think there was agreement on the
23 concept. As far as the details, I don't think
24 that was ever resolved.

25 Q. And we looked at some emails before about whether

1 there was going to be -- an email with Brian where
2 he said, "Nobody ever told me about two force
3 mains." Was two force mains a problem to Rewa, to
4 put two force mains through the property?

5 A. A problem was building something now and then two
6 years, five years, ten years later, building
7 something else, tearing -- in other words,
8 disrupting the plant twice. That was something
9 that was not going to be acceptable.

10 Q. We've been talking about basin studies and all
11 this stuff. These plans about whatever might have
12 been built up the river route, those were to serve
13 these two neighborhoods and nothing else?

14 A. That's part of the problem.

15 Q. What do you mean?

16 A. The engineering staff and our internal discussions
17 is that at various places along the way, there
18 were -- at least with the -- when the regulation
19 was passed, that shut some doors for -- a door for
20 the developers. However, Ray's direction to me
21 and to the staff was to keep working with the
22 developers, find some way to get a solution to
23 their problem -- to their project. However, one
24 of our challenges was we had to come up with ways
25 -- a way, or alternatives that would be fair for

1 not only River Trace but Riversway, not only that,
2 it had to be -- we had to be cautious of
3 establishing a precedent that if some other
4 subdivision, let's say in the neighborhood of
5 either one of those subdivisions in the future, or
6 some other basin in Rewa's service area, that we
7 didn't do something that would not be fair or that
8 we -- could not be -- follow through on with other
9 developments, unknown developments in the future.
10 So it made -- that added a little bit of
11 complexity to it that we had to consider in coming
12 up, or discussing or evaluating alternatives that
13 developers, or we, or Metro, the subdistrict, came
14 up with.

15 Q. I want to go back to the period before the
16 regulation when the river route was -- we had
17 talked about with Ray, an open window. Was that
18 -- and focus on what was going to be built there.
19 Did you ever see anything during that -- before
20 the regulation when they were talking, Chip
21 Fogleman and Scott Bolo, about what they wanted to
22 build up the river, did you see a solution that
23 provided for anything other than their
24 neighborhoods to be served by those lines, before
25 the Rogers and Callcott study?

- 1 A. I don't recall seeing anything.
- 2 Q. There had been some discussion about basin studies
3 and people had been saying that Scott and other
4 people were doing basin studies. I mentioned the
5 Rogers and Callcott study. Did ReWa actually pay
6 to have a study done by an outside firm, the
7 basin?
- 8 A. Are you talking about the basins downstream of the
9 Lower Reedy plant?
- 10 Q. Right.
- 11 A. In other words, the area below this plant?
- 12 Q. Right, the region there.
- 13 A. And are you saying did they -- did ReWa pay for
14 that after, let's say, 2008 or so?
- 15 Q. I've actually got it here. We don't need to mark
16 it.
- 17 A. Oh, okay.
- 18 Q. But that's what we called the Rogers and Callcott
19 study?
- 20 A. Yes. ReWa paid for that.
- 21 Q. And it was a study of what to do down there for
22 the whole region, right?
- 23 A. That's correct.
- 24 Q. And that was -- ReWa paid for that, right?
- 25 A. For the region from here to roughly down in here

1 -- down to here (indicating) somewhere.

2 Q. Well, there was discussion -- there had been
3 testimony that all this work was done by the
4 engineers and it was in the basins and it was for
5 ReWa's benefit. Is that true or not?

6 A. What engineers, this?

7 Q. No, these engineers, Scott Bolo and Chip Fogleman.
8 Was that to benefit ReWa or to benefit their
9 neighborhoods?

10 A. The -- what I recall seeing by Chip Fogleman was
11 for the two of -- those two developers. From my
12 recollection, just those two developers. There
13 was some preliminary engineering work done by
14 Scott Bolo for some gravity line type work from
15 sort of this area down into here (indicating).

16 Q. So just the piece between his neighborhood and the
17 plant?

18 A. Yes. I would consider it preliminary engineering
19 work.

20 Q. I think we've gone over the regulation with other
21 people, and we probably don't need to go over the
22 enactment of the regulation with you. I want to
23 go to the part you had touched on before after
24 ReWa stepped in and offered to own this stuff
25 itself. Were you the guy who was in charge of

- 1 getting those numbers together?
- 2 A. The cost numbers?
- 3 Q. Yes, sir.
- 4 A. Yes.
- 5 Q. How did you go about doing that?
- 6 A. Well, we had -- there were several elements to
- 7 that. The cost for serving those two properties
- 8 would -- first of all, there would be -- the
- 9 collection system, the sewer system for -- to
- 10 operate and maintain the sewers in this area and
- 11 this area (indicating). Secondly, there would be
- 12 a pump station here and a pump station here
- 13 (indicating), and to do the operations and
- 14 inspection and maintenance on those pump stations,
- 15 we do that all the time. Rewa does that all the
- 16 time. Then there was electrical and mechanical
- 17 maintenance on those pump stations. That's stuff
- 18 that Rewa does every year, every there years,
- 19 every five years maybe.
- 20 Q. Let me stop you there. And all those costs about
- 21 the stuff we do, that's for pump stations that
- 22 Rewa owns, correct?
- 23 A. That's correct.
- 24 Q. Those are internal costs instead of something that
- 25 was paid to somebody else or charged to somebody

- 1 else, right?
- 2 A. That's correct.
- 3 Q. So you had to go back and figure out what those
- 4 internal costs actually were?
- 5 A. Yes.
- 6 Q. Let me see if this will help, if we use this
- 7 exhibit to talk about the elements of the costs.
- 8 If you'd let her stamp it and give it back to you.
- 9 (EXHIBIT NUMBER 37 MARKED)
- 10 MR. FULTON: What is that number?
- 11 COURT REPORTER: Thirty-seven.
- 12 EXAMINATION RESUMED BY MR. STILWELL:
- 13 Q. Dr. Graef, before we get into this, I just gave
- 14 you that document so we could use it so you talk
- 15 about the cost elements. I just wanted to ask you
- 16 generally what you did, who you talked to. How
- 17 did you go about figuring this stuff out?
- 18 A. What is this? You want me to tell you what this
- 19 is?
- 20 Q. No. The first thing I just want you to tell me,
- 21 before we get into the document, what you did and
- 22 who you talked to. How did you go about figuring
- 23 out these costs?
- 24 A. Okay. The operation and maintenance costs for the
- 25 pump station and the sewer system, we know that

1 because we do that every day. Secondly, we would
2 have to -- there would be at some point in time a
3 trunk sewer that would come down this river valley
4 to an eventual treatment plant down here. That
5 would serve this whole thing because pump stations
6 virtually everywhere are temporary. At some point
7 the pump stations would go away, so there would be
8 a trunk sewer coming down this river to some point
9 in time. On our master facility plan, there is a
10 -- going to be a treatment plant down where Huff
11 Creek intersects this river, which would be about
12 where the floor is (indicating) in this river. So
13 there would be some -- there would be a cost for
14 that trunk sewer some day and that every property
15 that has -- generates sewage in this basin of this
16 river valley would be using that pipe. So there
17 would be some kind of a future cost for that pipe.

18 Q. That's the gravity line charge?

19 A. The gravity line. Then the -- another thing is
20 that that pump station may be there for five years
21 before that gravity line is put in there. It
22 might be there for 25 years. It might be there
23 for 30 years before that pipeline goes in. If
24 it's -- the pump stations are only built to last
25 20 years on paper, from an engineer standpoint.

- 1 So if the pump station is around more than 20
2 years, from a planning standpoint, you figure you
3 replace the pump station. So there is a cost to
4 replace the pump station nominally in 20 years.
5 And then another thing that was in the cost was
6 when this pipeline goes in, the pump station comes
7 out. There is a connection between -- let's say
8 the pump station is where the R is in river.
9 There's maybe anywhere from a hundred to 500 feet
10 over to the gravity line that has to be built.
11 And then Rewa would demolish the pump station and
12 clear that area and probably turn the hundred by
13 hundred foot piece of property over to the
14 homeowners association for a little park or
15 whatever.
16 Q. That's the decommissioning?
17 A. That's decommissioning, yes, decommissioning.
18 Q. Those elements that you just described, are they
19 on -- if you look at Exhibit 37, those elements
20 are described in those bottom two slots of the
21 right -- the slides that's got the numbers on
22 them.
23 A. No. There -- yes. The two on the right, meaning
24 these two right here (indicating).
25 Q. And the bottom slide -- first of all, this

- 1 PowerPoint is one of your PowerPoints?
- 2 A. Yes. This is something I made to show the Board.
- 3 Q. The stuff on the bottom slide down there, the 7K
- 4 and the 28K, that's the cost to run the pump and
- 5 the force main and the collector system?
- 6 A. That's the O&M cost.
- 7 Q. Is that something -- did you all hire a consultant
- 8 to help you figure out these numbers?
- 9 A. Not those numbers. And the -- not the O&M cost.
- 10 on the -- what was -- this slide above it says,
- 11 "The one-time cost to cover." Okay, that -- there
- 12 was some changes there subsequently, but the cost
- 13 for the future trunk sewer, those costs were -- we
- 14 came at those numbers by the help of some rate
- 15 study work that was done several years in advance
- 16 of this.
- 17 Q. Which one was that? That's the --
- 18 A. The share of the future trunk sewer, \$100,000.
- 19 That came from -- in coming up with that number,
- 20 we used information we had from a rate study a
- 21 couple years earlier. The --
- 22 Q. I want to talk about the roundness of these
- 23 numbers because they've been essentially ridiculed
- 24 for being rounded like that. The \$200,000 number
- 25 there you have to rebuild the pump station in 20

- 1 years if it's still going, how did you get
2 \$200,000 there? What does that number represent?
- 3 A. That's the nominal cost of pump station for a
4 small subdivision.
- 5 Q. So that's basically what it costs to build a pump
6 station?
- 7 A. Yes.
- 8 Q. Is that meant to be a down-to-the-pennies number?
- 9 A. No.
- 10 Q. Did you know what it cost to build the pump
11 stations?
- 12 A. At some point in -- we had -- at least by the time
13 of this, we had some pretty good numbers. I don't
14 know if I ever saw Scott's numbers or Jay's
15 numbers.
- 16 Q. You were just looking for something of what's the
17 cost going to be to build this if it's got to
18 rebuilt?
- 19 A. Yes. We had some complex spreadsheets with all
20 this on it, and these were numbers to start
21 negotiations. These were subject to change.
22 They're subject to negotiation, and that to have a
23 placeholder for this concept of replacing or
24 dealing with the fact that if the pump station was
25 around beyond its lifetime, somebody's going to

- 1 have to pay for it.
- 2 Q. I wanted to get you that sheet. It already got
- 3 marked.
- 4 HEARING OFFICER: Should be Number 9.
- 5 MR. STILWELL: Mr. Glenn is way ahead of me.
- 6 WITNESS CONTINUES:
- 7 A. Yes, something like this.
- 8 EXAMINATION RESUMED BY MR. STILWELL:
- 9 Q. So Exhibit Number 9 is the details that go behind
- 10 these PowerPoint slides?
- 11 A. Yes, they are.
- 12 Q. This was something as far as like rebuilding the
- 13 pump stations and owning collector systems, that's
- 14 something Rewa does not do other than in this
- 15 project they were offering to do it; is that
- 16 correct? Was this the first time you ever had to
- 17 collect these kind of costs?
- 18 A. Probably.
- 19 Q. In addition to putting these together, were you
- 20 kind of the point guy talking to the developers,
- 21 too?
- 22 A. At this point, yes.
- 23 Q. Ray gave you that job?
- 24 A. Yes.
- 25 Q. Do you remember about what time you gave them this

1 Exhibit 9?

2 A. I would think it was early '09.

3 Q. Who did you work with on these numbers? How were
4 they presented to them? Did you all have
5 meetings? How did they go to the developers?

6 A. Well, it was primarily with Scott and with Jay
7 Alexander. Jay Alexander was the representative
8 from the Riversway Subdivision. At various points
9 in the process, Ernie Willis with Grant Estates
10 was involved. What I would do was to put this
11 together as a point of discussion, as a point of
12 departure for discussion, and that -- actually the
13 first time this was surfaced might have been a
14 meeting that was held upstairs. I sent it out in
15 advance, and one of the -- actually the developers
16 had some feedback that was quite helpful to us.
17 This sheet here, one of the slides, is a --

18 Q. You're talking about Exhibit 37?

19 A. Exhibit 37. This slide right here talks about
20 one-time costs. And the feedback we got back from
21 the developers was we got -- it would be helpful
22 if we looked at something other than one-time
23 costs. A developer -- if a developer has to
24 sustain -- pay this all themselves, that affects
25 their plan, their business plan and that we ought

1 to -- ReWa ought to consider other alternatives of
2 who pays this and when. That -- Ray and I and
3 Brian Bishop talked about it afterward. That was
4 very constructive feedpoint. Ray's point is that
5 ReWa's charter, or our --
6 Q. Enabling agreement.
7 A. Our act requires that we recover our costs. It
8 doesn't say how we have to recover it, whether we
9 recover it all at the beginning, all at the end,
10 or somewhere in the middle. Initially we thought
11 this would -- we would expect the developers to
12 pay this money up front and that we would know
13 that we had it and we could proceed forward. But
14 the developers said, "Look at -- would you
15 consider other alternatives," which we did. I had
16 subsequent meetings, two, or three, or four, with
17 Scott and Jay Alexander looking at some different
18 approaches to this spreadsheet right here and who
19 would -- whether it would be the homeowners,
20 whether it would be the person who buys the lot
21 that builds on the lot would pay these -- some of
22 these costs, whether it would be paid off over a
23 ten-year period. Some of these costs we
24 ultimately looked at spread over a ten-year
25 period, some over a 20-year period.

1 Q. So you all -- in later versions, the numbers
2 changed as to who pays it and when they pay it and
3 what they paid, too?

4 A. That's correct.

5 Q. Looking at Exhibit 37, I want to focus on those
6 two charges there, the pump station replacement
7 and the share of the future trunk, the gravity
8 line charge. Okay?

9 A. All right.

10 Q. When you started talking to the developers about
11 the gravity line charge, is that something they
12 knew about?

13 A. They should have.

14 Q. Did they think that if they had been, quote,
15 "grandfathered" they were not going to pay the
16 gravity line charge? Is that something they had
17 in their head?

18 A. If they did, it's because they had not worked with
19 us before or they had not talked to anybody else
20 who did recent subdivision work with us that had a
21 pump station.

22 Q. Like Gene McCall with the Kilgore line?

23 A. Yes. He -- I think he's an example of a
24 subdivision that had an agreement where at the
25 turnover of the pump station, there is a

1 decommissioning charge and a gravity line
2 proportionate share charge of some sort.

3 Q. And you talked about the enabling act saying that
4 Rewa had to capture its costs. When you were
5 putting these numbers together, were you making
6 any effort to be competitive with Condor's
7 numbers? Did you even know Condor's numbers?

8 A. No. I didn't know Condor's numbers. We had some
9 ideas of the -- of some of the things that they
10 were doing with their contracts, but I didn't know
11 their numbers. The intent was not to be
12 competitive because it's not an apples and oranges
13 things. In my opinion, the -- Condor and the
14 private utilities are not trying to cover the
15 costs of the same things that Rewa is.

16 Q. Right on that point, I want to focus on the charge
17 for the rebuilding of a pump station at the 20-
18 year mark if it's still there and needs
19 rebuilding. Is that a rule of thumb, that at 20
20 years you're going to have to put it back
21 together?

22 A. A rule of thumb is you design a -- there are
23 certain things like plant facilities or pump
24 stations or pipelines or roads or buildings that
25 have a design life. The design life on a pump

1 station is 20 years.

2 Q. From what you learned from the developers later
3 and learned of how Condor was doing their
4 contracts, did you have any understanding of
5 whether Condor had any plan for who was supposed
6 to pay for the 20-year maintenance on the pump
7 station, the rebuild?

8 A. From my knowledge, I don't know of any indication
9 that Condor anticipated doing that.

10 Q. So it just wasn't covered in the Condor setup?

11 A. To my knowledge, they don't.

12 Q. To your knowledge, is it going to have to be
13 covered if the pump station is still there?

14 A. It's wishful thinking if it isn't.

15 Q. And another point, if that money had been put in a
16 fund to provide for that, is it your understanding
17 that ReWa was willing to let that money -- if it
18 was still there, like if the gravity line took it
19 over before you rebuilt --

20 A. Yes.

21 Q. -- is it your understanding ReWa was going to let
22 that money go back to the developer or the
23 homeowner?

24 A. That's Ray's direction.

25 Q. So that's between the homeowners and the developer.

- 1 who gets the money?
- 2 A. That -- yes. In the negotiation, in the
- 3 agreement, in the developer's agreement, that
- 4 would be specified.
- 5 Q. Do you know whether in Condor's contract that
- 6 money would go back to Condor?
- 7 A. No. I don't -- I mean I don't know.
- 8 Q. You had a bunch of meetings with them talking
- 9 about the numbers?
- 10 A. I'd say at least four.
- 11 Q. I want to show -- I've got a set of documents here
- 12 that go through some of the back and forth
- 13 discussion, and I just want to put those in. We
- 14 don't have to dwell on them too long, but I just
- 15 want to kind of -- let me show you this first one.
- 16 Let's let her mark it.
- 17 (EXHIBIT NUMBER 38 MARKED)
- 18 EXAMINATION RESUMED BY MR. STILWELL:
- 19 Q. Dr. Graef, who is Joe Clark. Is that somebody
- 20 that works with Scott?
- 21 A. It's my understanding that Joe Clark is one of a
- 22 couple partners with Scott Bolo.
- 23 Q. How did you end up talking to him instead of
- 24 Scott?
- 25 A. Oh, Scott became difficult to deal with.

1 Q. What do you mean?

2 A. And that I was -- Scott would get angry, would get
3 upset, become irrational to a certain extent, and
4 that I started talking to Joe and I think another
5 fellow named Lee to be comfortable in my mind that
6 the communications were getting to other members
7 of the partnership. I wrote this letter to Joe
8 for that reason as well, to ensure that he was
9 aware of the position that ReWa was taking and
10 that to see if he had any -- he had a different
11 take on this than what we were perceiving Scott's
12 take was, and that wanted to make sure he was
13 aware that we wanted to consider other options,
14 that we wanted him to be aware that -- see if he
15 was aware that there was a change and whether to
16 annex or de-annex, and I wrote to him.

17 Q. In the first part it says Scott had written the
18 county attorney asking to stop the de-annexation
19 process. Is that something that ReWa had already
20 started on their behalf?

21 A. We'd spent time on it, yes.

22 Q. The middle paragraph, the one that says, "I ran
23 all the numbers without discount the present
24 value, and assuming all of the costs would
25 eventually be incurred. Neither of these is an

1 absolute." Does that relate to your comment about
2 these preliminary numbers?

3 A. Yes.

4 Q. Did you intend to negotiate the numbers with them?

5 A. Yes.

6 Q. And you talked about -- this next exhibit has to
7 do with your discussion about trying to change
8 some of the timing of the payments.

9 (EXHIBIT NUMBER 39 MARKED)

10 EXAMINATION RESUMED BY MR. STILWELL:

11 Q. This email is with Jay Alexander?

12 A. Yes.

13 Q. And Jay says in part there, "I have attached a
14 summary of the thoughts I conveyed that would make
15 an agreement more palatable on your part." Was
16 Jay a little bit easier to work with than Scott?

17 A. Yes.

18 Q. We don't have the attachments to this, but these
19 were basically -- he was giving you feedback on
20 the timing and cost of the charges?

21 A. Yes.

22 Q. Let's go look at another one.

23 (EXHIBIT NUMBER 40 MARKED)

24 EXAMINATION RESUMED BY MR. STILWELL:

25 Q. Dr. Graef, what is the date on that exhibit? Is

1 that Exhibit 40?

2 A. It's Exhibit 40. The date is July 29, 2009.

3 Q. Is that something you gave to Scott before you
4 went to the ACOG?

5 A. Do you mean send it to him?

6 Q. Yes, sir.

7 A. Yes.

8 Q. Dr. Graef, I just want to focus on the \$92,000
9 part. There's a discussion in the middle there
10 about the \$92,000 that you calculated a different
11 way. Can you just tell me briefly about where the
12 thousand dollar a lot rule of thumb for the
13 gravity charge came and how that \$92,000 is a
14 little bit differently done than that?

15 A. The thousand dollars a lot came from some work
16 that a rate consultant had done to look at a new
17 account fee for a collection system analogous to
18 the new account fee that Rewa has for its plant
19 facilities. That was in our initial approach to
20 getting some kind of discussions going on Rewa
21 owning and operating these pump stations as a
22 starting point. In obviously the negotiations
23 with Scott and Jay and Ernie, I mean kept
24 struggling to find a way of lowering that cost
25 and still achieving what Ray was -- directed us

1 to do, and that is to recover our costs, is there
2 a different way of looking at it so we can recover
3 our costs. This approach here, instead of doing
4 it on a per-lot basis, given the -- looking at the
5 ReWa service area as a whole, this was based on if
6 you have a trunk sewer that goes from here down to
7 Huff Creek, and you've got a subdivision here
8 that's using a portion of it and a subdivision
9 here that's using a portion of it, can you come up
10 with a formula that allocates this subdivision's
11 portion of that and this subdivision's portion of
12 it and just charge that amount to the subdivision.

13 Q. So it's basically a hand-calculated thing to say
14 when the gravity line comes in, this is about what
15 your neighborhood's piece of it is going to be?

16 A. Yes.

17 Q. And that piece of it has to do with its length and
18 its diameter?

19 A. No. It has -- well, in a sense. It's how many
20 gallons and what the length and diameter of the
21 area that goes by that subdivision would be.

22 Q. You've just got to let me butcher that, Dr. Graef.
23 I haven't had a math class in 25 years. So that's
24 just basically how much capacity their
25 neighborhood would be using?

- 1 A. Proportion.
- 2 Q. So that number you're giving Scott for the ACOG,
3 it's coming down again?
- 4 A. Yes.
- 5 Q. The cost is coming down?
- 6 A. Yes.
- 7 Q. I want to show you this email, which is after the
8 ACOG. We didn't do a very good copying job
9 either.
- 10 (EXHIBIT NUMBER 41 MARKED)
- 11 EXAMINATION RESUMED BY MR. STILWELL:
- 12 Q. Dr. Graef?
- 13 A. Yes.
- 14 Q. I can hear Scott whispering over here in my ear,
15 so I'm going to ask you the question he's going to
16 ask. One of them says 92 and one says 94. Is one
17 of those just a typo?
- 18 A. I'd say the 94 is a typo.
- 19 Q. In that email after ACOG, are you all offering to
20 own the package plant if he wants to do a package
21 plant?
- 22 A. Yes.
- 23 Q. He's still going to have to pay a charge for the
24 gravity line coming through there one day, isn't
25 he?

- 1 A. Yes.
- 2 Q. Because the gravity line that comes through the
3 package plant is just going to stay there?
- 4 A. That's right.
- 5 Q. Now, at that point in time when you went to ACOG,
6 were you having any kind of productive discussions
7 with Scott at all?
- 8 A. You mean me or the ACOG people?
- 9 Q. Both of you.
- 10 A. I wasn't saying much. I was there as part -- I
11 was there as part of the ReWa team.
- 12 Q. Well, hang on a second. Before we talk about the
13 ACOG, I just mean in the context of those months,
14 was he giving you any feedback on these costs?
- 15 A. Not constructive.
- 16 Q. How did he act at that ACOG meeting?
- 17 A. I thought it was immature and hostile and angry
18 and unprofessional.
- 19 Q. Did he get what he wanted from the ACOG?
- 20 A. I think ACOG was very professional. I think
21 reading the response they gave him, I thought they
22 answered him professionally, given the way he
23 handled it.
- 24 Q. I'm going to go over and talk about the other one
25 that's still left, the Windsor/Aughtry guys. Have

- 1 you all still been exchanging numbers with them,
2 Jay Alexander and his crew?
- 3 A. Ray does and Charlie, Charlie Logue the engineer
4 -- the technical services director that replaced
5 me.
- 6 Q. So you all still continue to work with them on
7 those numbers. Has that been a very -- there's
8 been a lot of time that's passed. Has that been a
9 very heated negotiation or has it been something
10 that's intermittent?
- 11 A. Well, let me say this. It is -- Jay Alexander and
12 Windsor/Aughtry are not singing Kumbaya with Rewa
13 at any -- in any way, but it is a normal give and
14 take like in a labor management negotiation. It's
15 moving and not just at a standstill.
- 16 Q. We're going to submit Jay Alexander's whole
17 deposition. Are you aware he testified they don't
18 have any imminent plans to develop the property?
- 19 A. I was in his deposition, so yes, I'm aware of
20 that.
- 21 Q. And is it true that in the last three years, there
22 hadn't been a single neighborhood built in
23 Greenville County?
- 24 A. I thought there was one.
- 25 Q. There's one patio home development?

1 A. Yeah.

2 Q. Let me look at this outline here because I skipped
3 a lot of things trying to get this going. That's
4 all the questions I have for you, Dr. Graef. Mr.
5 Fulton may have some.

6 (EXHIBIT NUMBER 42 MARKED)

7 EXAMINATION BY MR. FULTON:

8 Q. Dr. Graef, just to be clear, you're not denying,
9 are you, that the cost and charges that you
10 submitted in your proposal -- Rewa's proposal to
11 Harrison Partners was more than what it had
12 planned for the Condor-owned plan that they had
13 at the beginning of their business plan, are you?
14 You're not trying to deny that the costs that you
15 have proposed are higher than the original Condor
16 plan that Harrison Partners had? I mean yours was
17 higher, right?

18 A. Are you asking me was the original plan by
19 Riversway to River Trace serviced with Condor to
20 match what Rewa proposed to do, and if so, was
21 Rewa's higher than Condor's?

22 Q. Yeah.

23 A. Yes.

24 Q. And we looked at a draft, that preliminary draft,
25 for discussion only on the numbers you put

1 together. I'd like to hand you something, and it
2 starts with a letter dated June 24th, and it also
3 has some proposed numbers from Rewa attached to
4 it. This is a letter from June 24, 2008 to Mr.
5 Bolo from Ray Orvin and he says at the bottom, "We
6 have attached a proposed schedule of costs for
7 services hereto for your review and
8 consideration." And then if you go back a couple
9 pages, you'll see that those costs are laid out in
10 a couple pages. Are these some numbers that you
11 worked on?

12 A. These are numbers that I had worked on, yes, they
13 are.

14 Q. Let me ask you this. After the first letter page,
15 there's a second page that has Western Carolina
16 Regional Sewer Authority Policy on it. Do you see
17 that?

18 A. Yes.

19 Q. Were your numbers put together in compliance with
20 that policy or the policy that's attached after
21 your numbers? If you look after your numbers,
22 you'll see there's another set of regulations.

23 A. Are you talking about the last page, HP 00016?

24 Q. Well, no, the last three pages.

25 A. Oh.

1 Q. And then 00011. Compare the last three pages and
2 then 11, and I'm asking you, which one of those
3 two between the two do these numbers -- are they
4 meant to comply with?

5 A. (Reviewing document.) I'm reading it quickly, but
6 this back attachment is the regulation dealing
7 with ownership of pump stations, and I'm just not
8 seeing instruction there on ReWa costs. If you
9 see it, let me know. I'll start reading this
10 first one. I believe it's this first one that's
11 more applicable than the sewer use regulations,
12 probably the third paragraph. "Such terms shall
13 include however, that the expenses and liabilities
14 for such services be borne in whole by the persons
15 enjoying the services."

16 Q. So as far as you can tell, you put your numbers
17 together to be in conformity with that policy?

18 A. Short answer, yes, and let me expand on it by
19 saying that these were preliminary numbers for --
20 as a starting point for negotiations.

21 Q. Well, you say that, but in the letter on the front
22 it says, "We have attached a proposed schedule of
23 costs for services hereto," and I notice -- so
24 that sounds more like an official quote and
25 proposal, doesn't it, than just a preliminary

1 thing for discussion? I mean this is what was
2 presented to them as what you were offering,
3 wasn't it?

4 A. (Reviewing document.) "We have attached a
5 proposed schedule of costs for services hereto for
6 your review and consideration." The way I read
7 that is, let's talk.

8 Q. Isn't it true that the policy on page 00011, which
9 is the second page there, and the regulations on
10 the last three pages contain contradictory terms?

11 A. They may. It looks like this one was written in
12 1946, and the other one was written in 2008 or
13 whatever.

14 Q. But you would agree that they contain
15 contradictory terms?

16 A. Could be.

17 Q. I want to confirm a couple things that we went
18 over in your deposition. Do you remember we took
19 your deposition on January 14th up in Mr.
20 Stilwell's office? Do you remember that?

21 A. Yes, I do.

22 Q. I just want to confirm a couple things. You would
23 agree, and you would tell Mr. Glenn today that Mr.
24 Bolo did quite a big of engineering work to try
25 and find solutions? Do you agree with that?

1 A. Mr. Bolo did quite a bit of engineering work to
2 find solutions. A lot of the engineering work was
3 preliminary and did not come to finalization, but
4 that he did preliminary engineering work on a
5 number of different areas with this project.

6 Q. And you would -- let me just go on to something
7 else. You certainly agree that Rewa changed its
8 policy while a lot of these folks were kind of in
9 midstream in the pipeline, the application
10 pipeline?

11 A. Rewa changed its policy, and no matter when they
12 would have changed their policy, an area this big
13 would have people in various stages of completion
14 of whatever they were doing. I agree with that.

15 Q. And more importantly, didn't you tell me that you
16 did not think it was 100 percent fair to do that
17 to those people, did you?

18 A. That's correct. I told you -- I said that I think
19 that it was a good thing that the -- that Rewa
20 Board decided that pump stations and force mains
21 needed to be either -- and the collection system
22 needed to be operated entirely by one entity and
23 not have a situation where the pump station is in
24 a sewer district and operated by a contractor that
25 could decide to go out of business at any point

1 and leave the people hanging. And I went on to
2 say that the thing I felt a little uncomfortable
3 about was that the developers were going to be
4 delayed somewhat by that change. And that was, I
5 said, 80 percent I was in favor of, ten percent --
6 20 percent, I had that little cringe about.

7 Q. You didn't think it was 100 percent fair?

8 A. I didn't think it was 100 percent fair. I thought
9 it was 80 percent fair.

10 Q. And you know in business, delay can cause a lot of
11 changes, and even failure, can't it?

12 A. It can, and I know in business nothing is 100
13 percent fair.

14 Q. And then finally, you did tell us at the
15 deposition that Harrison Partners generally acted
16 in good faith and cooperation with Rewa?

17 A. Can you read that?

18 Q. Yeah, "That Harrison Partners generally acted in
19 good faith and cooperation."

20 A. Can you read the two paragraphs or --

21 HEARING OFFICER: Are you reading the question or the
22 answer?

23 MR. FULTON: I'm just reading from my notes.

24 MR. STILWELL: It's just got to be a question, Your
25 Honor. It can't be --

1 HEARING OFFICER: Ask him a question.

2 EXAMINATION RESUMED BY MR. FULTON:

3 Q. Do you agree that Harrison Partners generally
4 acted in good faith and cooperation?

5 A. I'll answer that if you can read the two
6 paragraphs ahead of it.

7 Q. I'm just asking you that question. Forget about
8 the deposition. Do you agree that Harrison
9 Partners acted in good faith and cooperation?

10 A. The prelude to that question was --

11 Q. Well, can you answer the question, then explain?

12 A. All right. Ask the question again.

13 Q. Do you believe that Harrison Partners generally
14 acted in good faith and cooperation?

15 A. In parts of the period of this project, yes.

16 Q. And do you also agree that they generally --

17 A. But I thought you said I could expand on that.

18 Q. Oh, okay. Go ahead.

19 A. Towards the -- in my deposition, there was a awful
20 lot of focus on Rewa delaying your client. And I
21 kept answering your questions and I didn't dwell
22 on that. But then at the end of the deposition I
23 said, "May I say a few words?" And you agreed to
24 that, and I pointed out that there were delays in
25 this project, some of which were caused by Rewa

1 and some of which were caused by River Trace. And
2 that happens in any kind of project, but I said
3 that there were situations all along the way where
4 things were sort of done on a preliminary basis or
5 not done to completion. And then -- and those
6 types of things caused delays. And you said,
7 "Well, then what happened," and what did we do
8 about it? And I said, "We would inform Scott that
9 this was missing or that was missing." And then
10 you said, "What would he do?" And I said, "He
11 would respond," and that we had this sort of a
12 incomplete package and we would notify what was
13 missing and then he would respond. And we -- it
14 was kind of an ongoing thing all throughout the
15 project. During my -- probably my first year of
16 involvement with Scott and the project, if we --
17 if I asked for something from Scott, he would tend
18 to get on it. Now, what he would provide me might
19 -- although he would get on it, it might not be
20 done to completion or fully, but he would get on
21 it. So in that case, he was being cooperative and
22 he was giving me something. But that was how I
23 answered that, in that context.

24 Q. And to be fair, Doctor, the flag lot route, the
25 Bishop route, and the river route, Scott and

1 Harrison Partners they were shooting at a moving
2 target, weren't they?
3 A. I don't -- I wouldn't characterize it that way.
4 I've been thinking about this for the last few
5 days. I think this is a situation like if you've
6 got a school here and you've got a -- if you've
7 got a family that lives here -- a family lives at
8 both ends of these pens (indicating). And these
9 kids have to go to school and this -- these kids
10 here have to go all -- decide to go all the way
11 around here (indicating). And this family here
12 has a couple guys in it, and they think, you know,
13 why don't we just try to cut through these yards
14 and go here? Maybe we'll get -- maybe it'll work.
15 I think we've had that situation here on this
16 project. Anybody else down in this area here
17 (indicating) would go all the -- have to all the
18 way around this block to get to school. These
19 particular projects cut through the yard, so to
20 speak, to get to school. Now, the people that
21 live here tried to find a way for that to work out
22 and it never did, or it hasn't yet. And because
23 trying to work with it, they're getting a bad
24 name. And I think anybody else that would be down
25 here in this area would have to go around here,

1 and in their business plan that would have been
2 what they would have had to come up with to begin
3 with. And so I don't see it that way myself.

4 Q. And you aware that Mr. Bishop testified not too
5 long ago sitting right in that chair?

6 A. No. I've been -- I have been sequestered. I'm
7 not aware of that.

8 Q. Well, if I told you that he admitted that all the
9 route changes came from Rewa --

10 MR. STILWELL: Objection, Your Honor. He's pitting
11 witnesses.

12 HEARING OFFICER; I'll sustain the objection.

13 HEARING OFFICER: Ask him a question.

14 EXAMINATION RESUMED BY MR. FULTON:

15 Q. Isn't it true that all the route changes came from
16 Rewa?

17 A. I don't think so.

18 Q. And the other thing I wanted to ask you is, would
19 you agree and tell Mr. Glenn today that with
20 regard to Scott and Harrison Partners that they
21 generally met with you when you -- and you already
22 said this -- when you requested it and responded
23 to you?

24 A. That first year in my dealings with Scott, that's
25 true.

1 Q. Those are all the questions I have. Thank you.

2 MR. STILWELL: Nothing, Your Honor.

3 EXAMINATION BY HEARING OFFICER:

4 Q. Are you aware -- do you know whether or not from
5 mid '07 up through '08 any subdivisions were
6 approved -- their plans were approved where they
7 decided not to go forward with their projects?
8 I'm not talking about any of these subdivisions --

9 A. Between '07 and '08?

10 Q. -- generally subdivisions who had submitted plans
11 for sewer in a subdivision and discontinued, or
12 did not have it built, even though the plans were
13 approved?

14 A. Mike, I just don't follow the subdivisions today.
15 I was involved in this because it was contentious.

16 Q. You normally wouldn't be dealing with that as
17 Bishop and the others in his group?

18 A. No.

19 HEARING OFFICER: Anything else?

20 MR. DAVIS: Not for the witness. I have something I
21 want to put on the record, Your Honor.

22 HEARING OFFICER: The witness is excused. Thank you,
23 Dr. Graef. Hope you enjoy your almost retirement.

24 (OFF THE RECORD)

25 MR. DAVIS: Mr. Glenn, regarding Mr. Bishop's testimony,

1 I had asked a question about Exhibit 10. After
2 that, Mr. Fulton asked him a question about
3 Exhibit 10 with respect to the private file that
4 we pulled out later, and when he did, I went back
5 after, when Dr. Graef was on the stand to check
6 and compare Exhibit 10 to one of the surveys that
7 was in the project file. And I made a mistake in
8 asking Mr. Bishop a question about Exhibit 10 when
9 I asked him, "Did you ever receive this,"
10 believing that it was not there. There was
11 apparently some mistake made. I made a mistake
12 about that. I just wanted to clarify, for the
13 record, that it appears, on further review,
14 Exhibit 10 was in that project file. And so --

15 HEARING OFFICER: The project file had a big sheet,
16 right?

17 MR. DAVIS: Yes. This was in there, and I had made a --
18 you know, I made a mistake about that. But I
19 didn't want to go home tonight and not clarify
20 that mistake.

21 HEARING OFFICER: Okay. But he did testify that the big
22 sheet was in there, and I think he said there was
23 a smaller version already in the --

24 MR. DAVIS: I couldn't hear what he said at the time. I
25 didn't want there to be --

1 HEARING OFFICER: He did say the smaller one was already
2 there.

3 MR. DAVIS: I didn't want there to be ambiguity about
4 that. I made an error about that part.

5 HEARING OFFICER: Anything else we need to put on the
6 record?

7 MR. FULTON: I guess just to get some clarification
8 about how and where we go from here. I guess we
9 agreed that Jay's deposition is already going to
10 go in as the next exhibit number.

11 HEARING OFFICER: Right.

12 MR. FULTON: And then I guess it's yet to be decided
13 whether we're going to have more testimony from a
14 Board member.

15 HEARING OFFICER: Are you going to offer a Board
16 member's deposition?

17 MR. STILWELL: That was what my understanding was, that
18 we would just go and shoot testimony of a Board
19 member, then submit. It can be by video. We can
20 send it to you and you can review it at your
21 leisure.

22 HEARING OFFICER: Is that satisfactory with you?

23 MR. FULTON: Yeah. We can video or do the depo like
24 Jay's.

25 HEARING OFFICER: You can just to a deposition or you

1 can do a video, either one.

2 MR. FULTON: And then we'll attach that with all the
3 objections that come up during that as the last
4 exhibit.

5 HEARING OFFICER: If it's a video, I'll watch it and
6 deal with that. And after that's done --
7 obviously you're going to have to get together on
8 when to do that, and I would assume you would want
9 to get that done within the next week or ten days
10 if you could. Once that is done, I will be happy
11 to receive your --

12 MR. FULTON: Proposed orders?

13 MR. STILWELL: We close on paper as a --

14 MR. FULTON: I thought you judges usually like a
15 proposed order.

16 HEARING OFFICER: Well, proposed orders are good. We'll
17 just have two proposed orders if you want to do
18 that.

19 MR. FULTON: I just naturally assumed that's what we'd
20 do.

21 HEARING OFFICER: You can pretty much tell me in your
22 proposed order what you think the result ought to
23 be.

24 MR. STILWELL: Well, we'll put in a brief to say what
25 all that stuff means in lieu of a closing argument

1 in the proposed order, too.

2 HEARING OFFICER: Okay.

3 MR. FULTON: Will you accept my proposed order as my
4 closing argument so I don't have to do a brief,
5 then a closing?

6 HEARING OFFICER: I will accept yours as your brief.

7 MR. FULTON: Thank you.

8 (EXHIBIT NUMBER 43) (TO BE MARKED AND ATTACHED)

9 (EXHIBIT NUMBERS 44-45; RETAINED)

10 (ADMINISTRATIVE HEARING [3/23/11] CONCLUDED AT 6:30
11 P.M.)

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CERTIFICATE

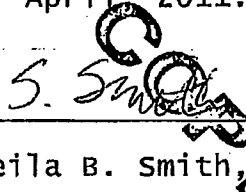
I, the undersigned, Sheila B. Smith, CVR-CM,
Notary Public in and for the State of South Carolina,
do hereby certify that the foregoing Administrative
Hearing was taken on March 23, 2011;

That the within witnesses were sworn to tell the
truth, and that the foregoing is an accurate
transcription of the testimony taken under oath;

That all exhibits entered herein are attached
hereto (if requested by counsel) and made a part of
this Administrative Hearing.

I further certify that I am neither counsel nor
solicitor to any of the parties in said suit, nor
interested in the event of the cause.

In witness whereof, I have hereunto set my hand
and seal this 11th day of April, 2011.



Sheila B. Smith, CVR-CM
Notary Public for South Carolina
My Commission Expires: 3/9/2014

In Re:

Renewable Water Resources, Inc.
Administrative Proceeding
Concerning Harrison Partners, LLC

COPY

EXHIBITS TO

ADMINISTRATIVE HEARING

DATE TAKEN: March 22, 2011
March 23, 2011
LOCATION: Renewable Water Resources, Inc.
561 Mauldin Road
Mauldin, South Carolina

MARKED IN VOLUME 1: (3/22/11)

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Exhibit 44 [Testimony of ReWa Board member]...	--
Exhibit 45 [Map].....	--

PUMP STATION AND FORCE MAIN AGREEMENT

THIS PUMP STATION AND FORCE MAIN AGREEMENT (the "Agreement") is made and entered into on this 23rd day of April, 2007, by and among HARRISON PARTNERS, LLC, a South Carolina Limited Liability Company ("Harrison") and CONDOR ENVIRONMENTAL, LLC, a South Carolina Limited Liability Company ("Condor").

WITNESSETH:

WHEREAS, Harrison is currently developing a residential subdivision, named the Rivertrace Subdivision ("Rivertrace") in Greenville County, South Carolina, on the property which is described on Exhibit A, hereto attached and made a part hereof; and

WHEREAS, Harrison currently owns the property and will form a property owners association (the "Association"), which will become the governing association for the Rivertrace Subdivision; and

WHEREAS, the development plan for the Rivertrace Subdivision provides for a total of 121 homes which will be served by a Pump Station and Force Main ("PSFM") as hereinafter defined; and

WHEREAS, due to the topography of the land on which Rivertrace Subdivision is being developed, a Pump Station and Force Main will be required to be installed within the subdivision, and under its current policies Western Carolina Regional Sewer Authority is unwilling to assume the ownership or maintenance responsibility PSFM; and

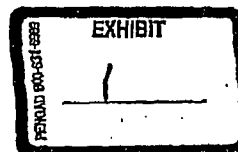
WHEREAS, Condor has agreed to assume the ownership and maintenance responsibility for the PSFM in accordance with the terms and provisions of this Agreement;

NOW, THEREFORE, for and in consideration of the foregoing premises, and of the mutual covenants of the parties herein set forth, the parties hereto hereby agree as follows:

1. COMPLETION AND CONVEYANCE OF THE PUMP STATION AND FORCE MAIN. Harrison agrees to design and complete the construction of the PSFM and appurtenances in accordance with the plans and specifications prepared by The Insight Group (the "Engineer") that meet the requirements of Condor. The Pump Station shall include a standby electric generator and spare pump which becomes part of the Pump Station, to be approved to operate by the Department of Health and Environmental Control of the State of South Carolina ("DHEC").

HARRISON agrees that at such time as construction of the PSFM is completed, it will be tested as appropriate for leakage, the pump station performance tested. Such testing information will then be submitted for approval by DHEC and Condor. Upon receiving approval from DHEC and Condor, Harrison shall transfer and convey the PSFM and appurtenances, the real property in fee simple free of any mortgage on which the Pump Station is located, and along with

- 1 -



Condor_00033

all necessary and appropriate easements or right of ways to Condor. At the time of said transfer and conveyance, Harrison shall also assign to Condor all warranties which shall have been made to Harrison by the Contractor and the Engineer in regard to the PSFM along with a copy of the as-built plans and specifications in both hard copy and electronic forms of the PSFM.

Condor agrees that it will assist with permitting the PSFM and that during construction, and prior to the transfer and conveyance of the PSFM to it, that it will conduct such inspections of the PSFM during construction as Condor shall deem necessary to satisfy itself as to its condition. Harrison agrees to pay Condor's fees and costs of such inspections. Condor's charges will be \$75/hr for permit assistance and inspections and \$200/hr for either Vactruck line cleaning or TV truck line inspection. Harrison additionally agrees to pay Condor's attorney fees associated with this Agreement, permitting and construction of the PSFM, and transfer of the PSFM to Condor. Such attorney charges will be at a rate of \$200/hr for such assistance. Attorney's fees and inspection fees will not exceed \$5,000.

2. OPERATION OF WASTEWATER COLLECTION SYSTEM. Condor agrees to accept the transfer and conveyance to it of the PSFM and thereafter to operate, repair, maintain and replace the same in accordance with the terms and provisions of this agreement.

Condor shall operate and maintain the PSFM so that all houses served by the PSFM shall receive continuous sanitary sewer service without interruption. The repair, maintenance and replacement responsibilities of Condor under this Agreement shall include the replacement of all parts of the PSFM which shall become worn out or obsolete and the making of all capital repairs and replacements as shall be necessary in order for Condor to carry out its obligations under this Agreement without interruption.

It is anticipated that the wastewater collected from the Premises and delivered to the PSFM consists only of wastewater of typical residential strength waste. Harrison and the Homeowners Association, when it takes over responsibilities under this Agreement from Harrison, shall be responsible for and shall ensure that the sewage collected from the Rivertrace Subdivision and delivered to the PSFM consist only of wastewater of typical residential strength waste, which shall not exceed 300 ppm BOD or TSS, and does not contain excessive grease, sediment, rags or other deleterious substances. Condor may require Harrison or the Association, and Harrison and the Association agree, to take necessary steps to prevent sewage from the Harrison Subdivision that the contaminant level or waste concentration of this sewage exceeds the level described herein. Additionally, Harrison and the Association agree and are responsible for payment to Condor, in addition to the Monthly Fee, for any response actions Condor takes to remedy and repair the damage caused by such excessive contaminants or other deleterious substances. If Condor determines that there is excessive infiltration and inflow ("I & I") into the PSFM from the homes or gravity sewer system in the Rivertrace Subdivision, then Condor may require, and Harrison or the Association shall take, such remedial action as is necessary to correct the excessive I & I.

If that is not the case, Condor may take necessary and appropriate action, in accordance with reasonable wastewater industry standards and charge separately and in addition to the normal Monthly Fee for such action.

Condor shall operate and maintain the PSFM so that the same will at all times comply with and fulfill all governmental laws, rules and regulations that shall be applicable to the operation and maintenance of the PSFM. Without limiting the generality of the foregoing, Condor shall operate and maintain the PSFM in accordance with all rules and regulations which shall be promulgated at any time, and from time to time, by DHEC for privately owned and maintained satellite sewer systems. Condor shall comply with all policies and requirements of South Carolina Public Service Commission or other appropriate governmental agency which may be applicable to the PSFM and costs and expenses which it shall incur in connection with the carrying out of its duties and responsibilities under this Agreement.

3. PAYMENT BY HARRISON AND THE ASSOCIATION. Harrison, or the Association at which time it assumes such obligation from Harrison, hereby agrees that in consideration for the performance by Condor of its duties and obligations under this Agreement, Harrison or the Association shall pay to Condor, upon start up of the PSFM and thereafter, the amount of Twenty Five Dollars (\$25.00) per Month per lot brought on-line with sewer service. The Project will be completed in two phases. The initial Monthly fee will be One Thousand Five Hundred Dollars (\$1,500.00) (the "Monthly Fee") per month from the initial date of PSFM start up. This monthly fee shall increase to Three Thousand Twenty Five Dollars (\$3,025.00) per month upon the initial construction of Phase II or the 61st house in the subdivision, whichever comes first.

Prior to the start up of the PSFM, Harrison or the Association shall deliver to Condor an irrevocable letter of credit from a bank located in Greenville, Pickens or Spartanburg County, South Carolina in the amount of Thirty Six Thousand Dollars (\$36,000.00) to guarantee the payment by Harrison or The Association of the Monthly Fee to Condor in accordance with the terms hereinafter. The letter of credit is to have a term of twenty-four (24) months or longer. The Association agrees to renew the letter of credit or to maintain a Thirty Six Thousand Dollars (\$36,000.00) cash escrow to be held by Condor to guarantee the payment of the Monthly Fee.

Harrison or the Association, at which time it assumes such obligation from Harrison, shall pay the Monthly Fee to Condor on or before the tenth day of each calendar month by means of a check made payable to Condor and mailed or otherwise delivered to the address herein below provided. In the event that Harrison or the Association shall at any time fail to pay to Condor the Monthly Fee within thirty (30) days of the due date, Condor shall have the right to draw the Monthly Fee plus ten percent (10%) of the Monthly Fee as a delinquency charge from the Letter of Credit or from the escrow amount upon presentation of such unpaid invoice and an accompanying notarized statement that payment plus penalty are due.

Upon no less than ninety (90) days prior notice to Harrison or the Association, Condor shall have the right to increase the amount of the Monthly Fee at any time, in order to compensate Condor for any reasonable increase in the cost and expense to Condor of performing its responsibilities under this Agreement, and further provided that the increase in the Monthly Fee shall not be increased by more than ten (10%) percent in any twelve month period. Notwithstanding the foregoing, Condor shall not increase the amount of the Monthly Fee because of any fine or penalty assessed by any regulatory agency to Condor for any act or

omission by Condor for repairs or replacements to the PSFM, that are the result of the negligent or intentional acts or omissions of Condor.

4. **RESERVE ACCOUNT BY THE ASSOCIATION.** At the execution of this Agreement Harrison shall pay to Condor the one third of the reserve account fee in the amount of Ten Thousand Two Hundred Fifty Dollars (\$10,250.00). At the time of transfer and conveyance of the PSFM by Harrison and just prior to start up of the PSFM to serve the first Phase of houses, Harrison shall pay to Condor an additional third of the reserve account fee in the amount of Ten Thousand Dollars (\$10,000.00). At the initiation of Phase II or the construction of the 61st house in the subdivision, whichever comes first, Harrison shall pay to Condor the final third of the reserve account fee in the amount of Ten Thousand Dollars (\$10,000.00). The parties hereto agree that the establishment of such reserve account is a one-time obligation which may be drawn on by Condor for emergency response and for replacement of the PSFM, or any portion thereof, if damaged by accident, vandalism or other disaster. Any interest earned on the reserve account shall be the property of Condor. Further, all or any portion of said reserve account may be used to pay for the costs and expenses of insurance, preventative maintenance, upgrade or emergency repairs.

After Harrison has delivered the PSFM to Condor, Harrison shall not be required to upgrade pump station facility or make any capital upgrades for any reason other than those specifically provided for in this Agreement. Harrison agrees that it grants permission for additional properties to connect to this PSFM, and that Condor may charge them separately for such wastewater flows, as long as the engineer(s) for these additional properties certifies that the PSFM can adequately handle the flow without interference with or impeding the wastewater flow from Rivertrace, or, provide upgrades to the PSFM, at no cost to Harrison, to allow the PSFM to accommodate such additional wastewater flow.

If the ownership and operation of the PSFM is transferred to and assumed by a public entity having jurisdiction and authority therefore, or after five (5) years, the reserve account shall terminate. The funds remaining therein including any interest shall be paid and distributed according to the following schedule:

<u>PERIOD</u>	<u>ALLOCATION</u>
Effective date of this Agreement to 1 st Anniversary	100 % to Harrison
1 st Anniversary of this Agreement to 3 rd Anniversary	70% to Harrison 30 % to Condor
3 rd Anniversary of this Agreement to 5 th Anniversary	30% to Harrison 70% to Condor
5 th Anniversary of this Agreement and thereafter	100% to Condor

6. **NOTICES.** Any notices which may be permitted or required under the terms and provisions of this Agreement shall be in writing and shall be deemed to have been duly given, except as otherwise provided in this Agreement, as of the date and time are received by the parties to whom the notices are sent. Such notices shall be deemed received upon hand delivery with a written receipt, by Certified Mail or by Federal Express to the parties at the following addresses or at such other address as a party shall notify the other parties in writing:

(a) HARRISON PARTNERS, LLC
Joe Clark
1531 Blanding Street
Columbia, SC 29201

(b) CONDOR ENVIRONMENTAL, LLC
200 Augusta Arbor Way, Suite B
Greenville, SC 29605

7. **TERM.** The term of this Agreement shall commence on the date on which this Agreement shall be executed by all parties hereto and shall continue in full force and effect until such time, if any, as Condor shall have transferred and conveyed the PSFM to a governmental subdivision of the State of South Carolina which shall have all power and authority necessary to operate and maintain the PSFM and shall have agreed with Harrison and The Association to do so.

In addition to the above, this Agreement may terminate in the following ways:

- (a) This Agreement will terminate if a public entity agrees to assume the operation of the premises;
- (b) Condor may terminate the Agreement upon ninety (90) days prior written notice to the Association, provided that prior to termination Condor has identified for the Association and the Association has approved a successor entity that is properly qualified and licensed to enter into an Agreement substantially similar to this Agreement or into an Agreement reasonable satisfactory to the Association to operate the PSFM. Condor shall at all times be responsible for the continued performance of its duties and obligations under this Agreement until the successor entity has assumed the obligations under this Agreement.
- (c) The Association may terminate the Agreement upon thirty (30) days prior written notice to Condor, if (i) any performance standard included within this Agreement is not met for a cumulative period of fourteen (14) days or more during any rolling twelve (12) month period; or (ii) a sewage back up in any residence, caused by the PSFM, occurs four (4) or more times during any twelve (12) month period; or (iv) a sewage overflow out of the PSFM, occurs four (4) or more times during any rolling twelve (12) month period; or for the convenience of The Association. In the event of

Condor_00037

any default of Condor of any of these conditions, Condor agrees to promptly deed the PSFM premises back to The Association without consideration.

8. If after reasonable opportunity to cure, Condor, or its assigns, does not fulfill its obligation to maintain the PSFM, then upon written notice delivered via Certified Mail to Condor, the Association may assume the obligations of Condor as set forth herein and Condor shall assign its deeds and easements to the Association without further consideration. If the Harrison or the Association, at which time it assumes such obligation from Harrison, shall fail to pay for PSFM services for a period of over ninety days (90) and is in breach of this Agreement by not maintaining the required Letter of Credit, Condor may plug the gravity sewer lines and may bring legal action for nonpayment and the Harrison, or the Association if it has assumed such obligation from Harrison, agrees to pay all litigation costs including Condor's attorney fees.

9. APPLICATION OF LAWS. This Agreement is governed by the laws of South Carolina.

10. AMENDMENTS. This Agreement and any provision herein contained may be modified or amended only by the express written consent of all of the parties hereto or their successors or assigns.

11. ASSIGNMENT. This Agreement and the obligations of Condor may not be assigned to any other party without the express written consent of the Association, which consent will not be unreasonably withheld.

12. WAIVER OF DEFAULT. No waiver of any default by any party hereto will be implied from the failure by any other party to take action with respect to such default. No express waiver of any default will affect any default or extend any period of time for performance other than as specified in such express waiver. One or more waivers of any default in the performance of any provision of this Agreement will not be deemed a waiver of any subsequent default in the performance of the same provision or any other provision. The consent to or approval of any subsequent similar act or request by any party hereto will not be deemed to waive or render unnecessary the consent to or approval of any subsequent similar act or request. The rights or remedies provided by this Agreement are cumulative and no right or remedy will be exclusive of any other, or of any other right or remedy at law or in equity which any party hereto might otherwise have by virtue of a default under this Agreement. The exercise of any right or remedy by any party hereto will not impair such Party's standing to exercise any other right or remedy.

13. SEVERABILITY. If any provision of this Agreement is, to any extent, declared by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement (or the application of such provision to persons or circumstances other than those in respect to which the determination of invalidity or unenforceability was made) will not be affected thereby and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.

14. CAPTIONS. The captions of the sections of this Agreement are for convenience only and are not intended to affect the interpretation or construction of the provisions herein contained.

15. BINDING EFFECT. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

16. ENTIRE AGREEMENT. This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understanding or written or oral agreements between the parties respecting the within subject matter, and may be amended only by a writing signed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto each of who being duly authorized have set their hands and seals on the day and year first above written.

HARRISON PARTNERS, LLC

By: [Signature]

DATED: 4/24/07

CONDOR ENVIRONMENTAL, LLC

By: [Signature]

DATED: 4/24/07

Exhibit 2
Oversized documents
submitted separately at
Pages 732- 771

WESTERN CAROLINA REGIONAL SEWER AUTHORITY

RESOLUTION

SEWER USE REGULATION

WHEREFORE Western Carolina Regional Sewer Authority has experienced a noticeable increase in the number of applications for sewer service involving privately owned pump stations and force mains within its service region; and,

WHEREFORE the multiplication of privately owned pump stations and force mains within WCRSA's service region complicates the administrative and enforcement burden on the Authority; and,

WHEREFORE WCRSA desires to leave the responsibility for the administration and maintenance of the satellite collector systems to the various sewer subdistricts, municipalities and counties which are authorized to provide retail sewer services within WCRSA's region so long as the policies of those respective entities do not impact WCRSA's operation and administration of the region's trunklines and wastewater treatment facilities; and,

WHEREFORE WCRSA has as yet been unable to reach agreement with several of the satellite sewer systems within the service region on the eradication of excess infiltration and inflow from the sewer system and therefore desires to provide a uniform standard against which adequate progress on individual work plans can be measured;

NOW THEREFORE BE IT RESOLVED by the Western Carolina Regional Sewer Authority Board that the attached amendments to the Sewer Use Regulation be enacted and codified appropriately within said Regulation. AND FURTHER that should any part of said amendment be found unenforceable by a Court of competent jurisdiction, that the remainder of the amendment shall retain its full force and effect.

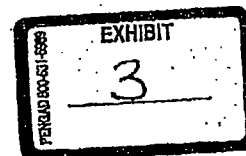
The above Resolution, upon motion duly made, was passed and approved by the Board of Commissioners of the Western Carolina Regional Sewer Authority at their regular meeting held on May 5, 2008.

IT IS SO RESOLVED.


J.D. MARTIN, CHAIRMAN


WITNESS

ATTEST: 
GARY GILLIAM, SECRETARY/TREASURER



G 000210

Additions and Amendments to
Western Carolina Regional Sewer Authority
Sewer Use Regulations

1. Additions

The following definitions are added to Section 1.2.

Collector Sewer - Any portion of a sewer system that connects to a WCRSA line.

Collector Sewer System - That system of gravity lines, force mains and pump stations within the lateral lines (collection line) that are owned, operated and maintained by a sub-district or another entity that carries wastewater stream to a connection at a WCRSA trunk line.

Trunk Line - A line owned, operated and maintained by WCRSA that transports the wastewater stream to a treatment plant.

Person - Shall mean any individual, partnership, venture, firm, company, association, joint stock company, trust estate, governmental entity, or any other legal entity or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

Public Utility - Any utility owned by a governmental entity.

Private Utility (PU) - Any utility owned or operated by a privately owned entity.

User - This definition shall include without limitation any consumer of residential, commercial or industrial services such as individual or associated homeowners, developers, public or private utilities, satellite systems, subdistricts, municipalities, or any permittee who directly or indirectly discharges, causes, or permits the discharge of wastewater to WCRSA.

Point of Connection - That point determined by WCRSA to be the site where a User, if authorized, may connect to a WCRSA trunk line.

The following provisions are added to Section 2.

1. WCRSA shall not accept a connection from any Collector Sewer System owned by more than one User. This requirement shall not apply to Collector Sewer Systems which are owned by multiple public entities.

G 000211

Service requests outside of the service area of a subdistrict or a municipal or county sewer subdistrict

2. For service requests outside of the service area of a subdistrict or a municipal or county sewer subdistrict, any Private Utility ("PU") desiring to connect a Collector Sewer System to a WCRSA trunk line shall make application to WCRSA and must enter into an agreement ("Agreement") with WCRSA whereby the PU covenants to restrict future conveyances of the Collector Sewer System as follows:
 - a) The PU and its successors agree that any and all future conveyances of the Collector Sewer System are restricted and limited to conveyances to a single entity of the entire system of gravity lines, force mains and pump stations constituting a Collector Sewer System;
 - b) WCRSA may seek injunctive relief to enforce the terms of the Agreement until such time that the Collector Sewer System in its entirety is owned by a public entity.

Further, the application to WCRSA will include an opinion from the PU's legal counsel that such PU is authorized to own and operate the Collector Sewer System and to enter into the contracts by which it gained ownership and control of the system.

Service request inside the service area of a subdistrict, municipality or county sewer subdistrict

3. All requests for service inside the service area of a subdistrict, municipality or county shall be under the direction and approval of a subdistrict, municipality or county. This provision allows the subdistrict, municipality or county to use a PU under contract. WCRSA shall consider such Collector Sewer System a part of that subdistrict, municipality or county's collector system.

The application for service to WCRSA shall be under the direction and approval of the subdistrict, municipality or county with a pledge to WCRSA that should the PU become insolvent, inoperable, or subject to any regulatory warning for unsafe or unsanitary operating conditions which is uncured for more than 30 days, then the subdistrict, municipality or county will assume ownership, operational and financial responsibility for the PU.

For any Collector Sewer System owned by a PU, WCRSA shall be provided with a copy of the contract by which such entity obtained control of the system. A term of that contract shall require ownership of the system shall be transferred to a public utility if the PU becomes insolvent, or the Collector Sewer System becomes inoperable or

G 000212

subject for 30 days to an uncured regulatory warning for unsafe or unsanitary operating conditions. The contract will include express provision giving WCRSA standing to bring an action to enforce the terms of the contract as a third-party beneficiary thereto.

The following provision is added to Section 4.1. Prohibited Discharges

(15) Wastewater which includes excessive infiltration and inflow which shall be defined as a flow which exceeds the applicable Habbitt equation for the pipe in question during a 10 year rain event. For purposes of this regulation, excessive wet weather flows for any 3 consecutive rain events above 1" shall be considered non-compliant. In the case of a conflict between this provision and any separate Agreement between WCRSA and a User regarding I/I, the terms of the Agreement shall be controlling.

G 000213



J. D. Martin, Chairman
Board of Commissioners
561 Mauldin Road • Greenville, SC 29607
Ph 864.299.4012 • Fax 864.299.4003

FAX: 803.233.3628
MAIL

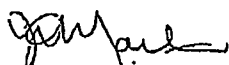
December 4, 2008

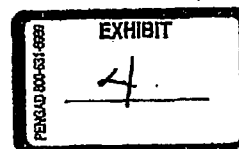
Scott Bolo
The InSite Group
Program Management and Engineering Solutions
111 Executive Center Drive, Suite 202
Columbia, SC 29210

Dear Mr. Bolo,

Since our last meeting in Greenville, a meeting was held between representatives of Renewable Water Resources (WCRSA), the Metropolitan Sewer Subdistrict, and some local County Council and Legislative Delegation members. At that meeting, Metropolitan discussed serving Riversway and River Trace Developments. I believe the Metropolitan Board and staff are meeting further on this plan during mid-December. If Metropolitan decides not to serve both developments, we stand prepared to honor our commitment to serve those developments once they are de-annexed from Metropolitan Sewer Subdistrict. It is our understanding from Metropolitan's management that they would support de-annexation.

Sincerely yours,


J. D. Martin, Chairman
Western Carolina Regional Sewer Authority
DBA Renewable Water Resources



B 0499

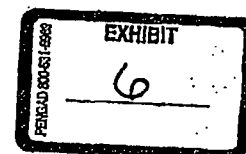
pg. 2 of 2



mail merge

From: Brian Bishop (bbishop@wcrsa.org)
Sent: Friday, January 11, 2008 10:39 AM
To: 'Ashley Hornung'
Subject: RE: Rivertrace Force Main

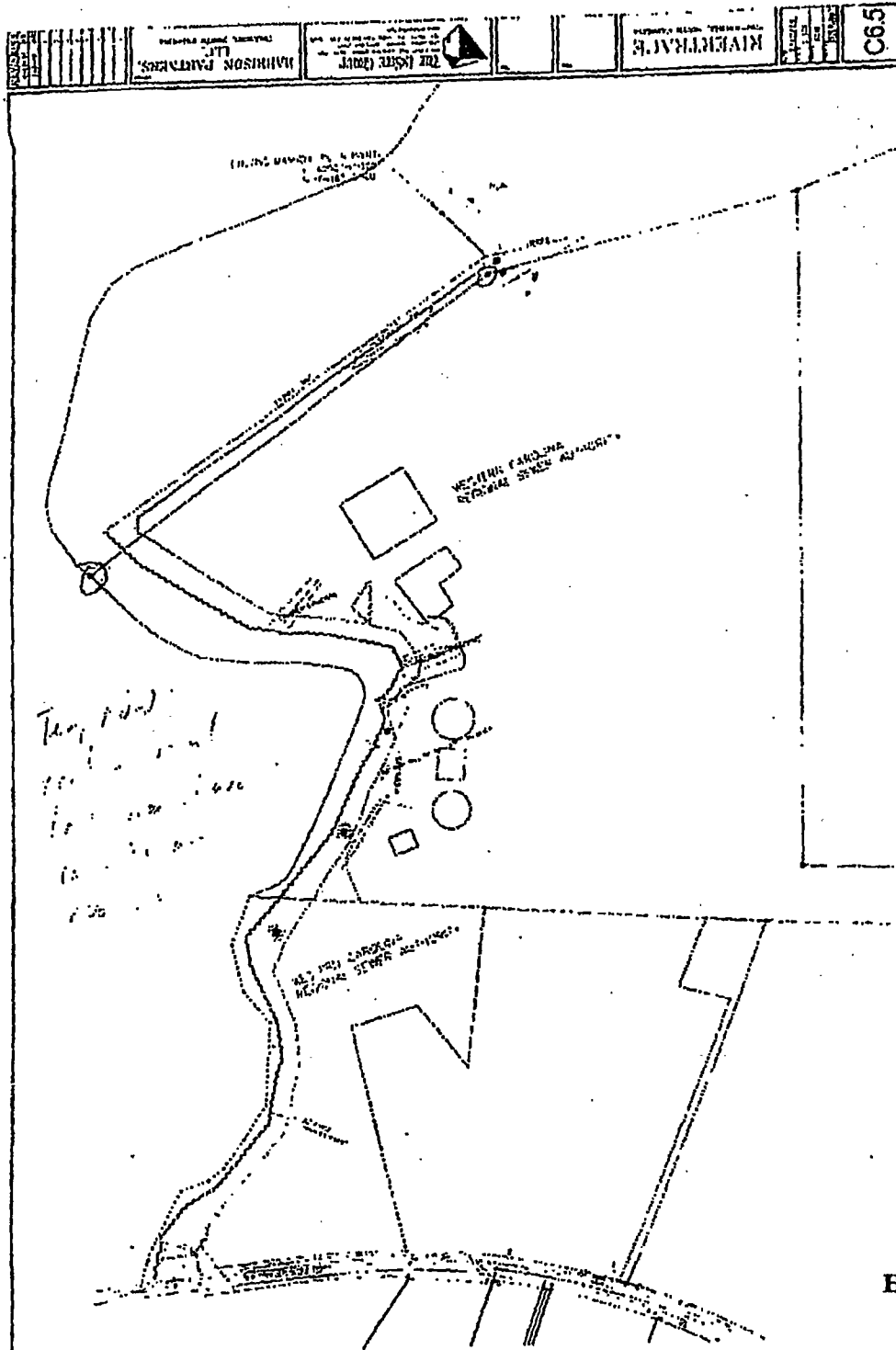
The route in general looks to be ok. Do you know if the surveyor place any stakes in the field so that we could visually see the route? Also, the survey shows what I believe to be is property pins at the northern portion of the property. It appears that the force main route along this area is not on our property nor is the fence?



HP_00054

12/17/2009

778



HP_00055

2/17/2009

Please let me know. Thanks,

Brian Bishop
Engineering Supervisor
Western Carolina Sewer Authority
575 Mauldin Road
Greenville, SC 29607
tel: (864) 299-2624
fax: (864) 299-2725

-----Original Message-----

From: Ashley Hornung [mailto:ahornung@insiteusa.net]
Sent: Wednesday, January 09, 2008 5:13 PM
To: bbishop@wcsa.org
Subject: Rivertrace Force Main

Brian

Good afternoon. I have attached the proposed route through your properties. I have labeled them to show which structures we will be going over. Please let me know if this layout is ok so I can get an easement document wrote up and signed by you all. I will then also have to get an encroachment application signed by you to go through the property I suppose. Please let me know if this is ok asap so I can get the attorney helping us to move on to the next step in this process. Thanks so much

Ashley Hornung
The InSite Group
Program Management and Engineering Solutions
111 Executive Center Drive Suite 202
Columbia, SC 29210
Ph: 803/551-0006
Fax: 803/233-3628
www.InSiteUSA.net

HP_00056

2/17/2009

780

Scott Bolo

From: Scott Bolo [scolo@insiteusa.net]
Sent: Monday, September 17, 2007 12:43 PM
To: 'sgraef@wcrsa.org'
Cc: 'bbishop@wcrsa.org'; 'Ashley Hornung'
Subject: Revised Force Main
Importance: High

Dr Graef,

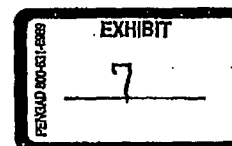
Included please find a revised route that would allow for a different entry point to WCRSA and a tie point gravity line to retail trunk line. This route offers the best access to the plant while minimizing any of the route on the plant property. The last section of the route from the roadway down would be owned and operated by Metro.

We wanted to get this revised layout blessed by you all before we buy the ROW and work with Metro to final this route. Please respond to this request so that we may either move forward or re-evaluate other options. We are really under the gun and have the civil construction people on hold. It is very important to all of us to get this back on track.

Oh I finally got the joke about the athlete's foot. My - you are very humorous. I appreciate the levity. Please let me know at your earliest convenience.

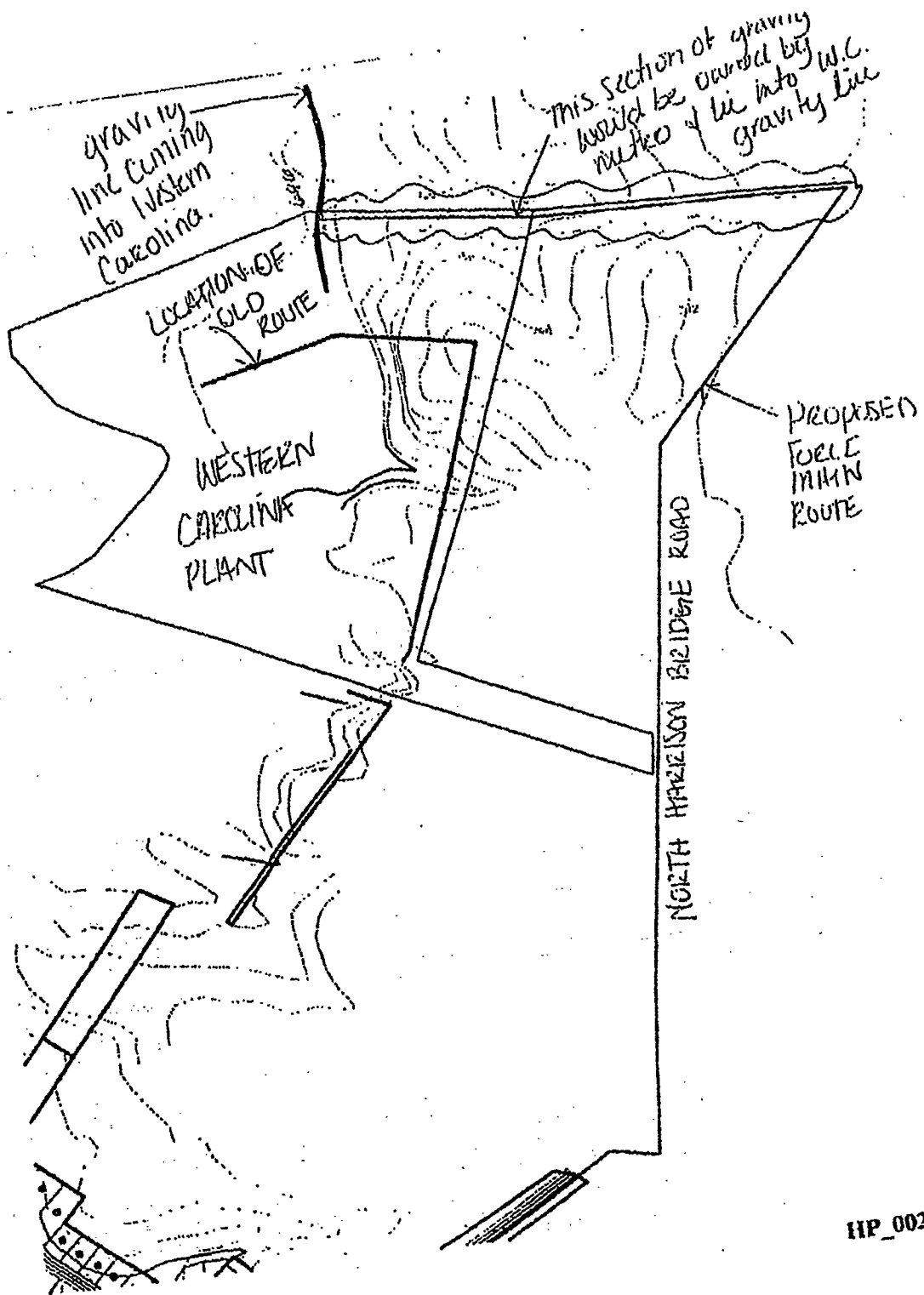
Regards,
Scott

Scott T. Bolo ME PE MBA
President
The InSite Group Companies
The Lighthouse Private Equity Fund
111 Executive Center Drive #202
Columbia, SC 29210
Ph: 803/551-0006
www.InSiteUSA.net

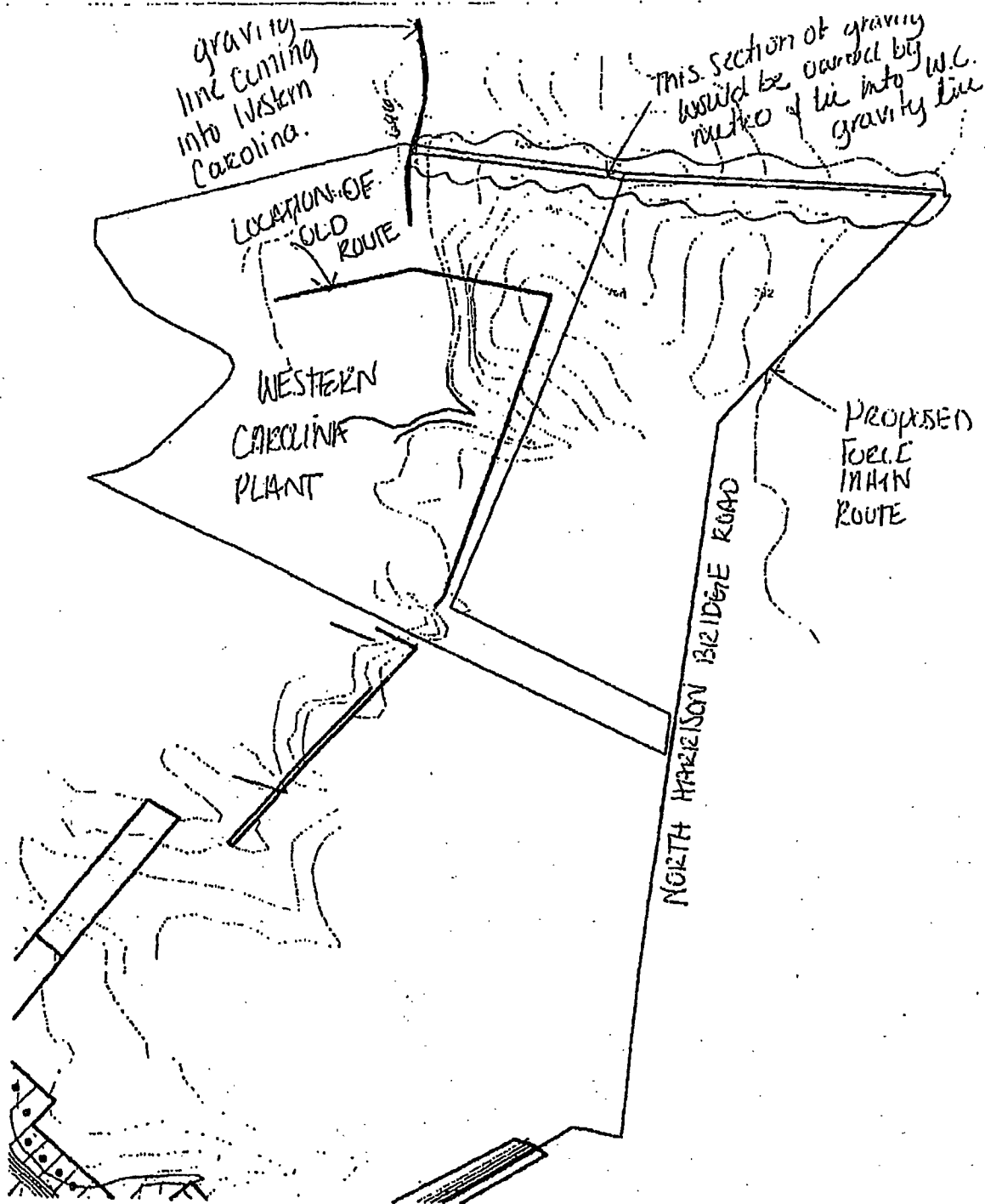


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12/16/2009



HP_00283



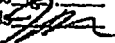
HP_00283

- square feet of heated area. No maximum square footage shall be imposed.
- 6) All Lot corners and offsets shall have an eighteen (18") length section of one half inch (1/2") rebar set to finished grade level with adjoining above ground wood stakes visually marking property locations.
 - 7) Seller shall provide the following map documentation:
 - a. One (1) Reproducible copy of recorded map
 - b. One (1) CAD file of recorded map loaded on Compact Disc (CD)
 - c. Five (5) 'black line' copies of recorded map
 - d. One (1) Reproducible copy of 30' scale map layout as specified in Exhibit "F"
 - e. One (1) Reproducible copy of Sewer and Water "As-built" survey
 - f. Three (3) 'black line' copies of Sewer and Water "As-built" survey
 - g. Two (2) 'black line' copies of erosion control plan
 - 8) Seller shall provide a public water distribution system for the Subdivision with individual service available to each individual Lot. The water distribution system must be designed and installed in conformance with all government standards and specifications. Seller must provide Purchaser written confirmation that the water distribution system has been inspected meets all specifications and accepted for public use by the governing utility department. Water connections must be marked and located in the street right of way between the front of each Lot, between the property line and the Lot side edge of the concrete curb and gutter. The water connection to each Lot shall be no more than two (2') feet from the front of each property line. Seller warrants that no additional equipment be required between the water meter and any valve located within the house structure such as backwash valves, holding tanks or back-flow prevention equipment.
 - 9) Seller shall provide a public sanitary sewer system for the Subdivision with individual tap connections available to each Lot. The sanitary sewer system must be designed installed in conformance with all government standards and specifications. Seller must provide Purchaser written confirmation that sanitary sewer system has been inspected meets all specifications and accepted for public use by the governing utility department. Sewer tap connections must be located in the street right of way between the front of each Lot, between the property line and the Lot side edge of the concrete curb and gutter. Sanitary sewer taps to each Lot will be located at an elevation no deeper than twenty (20') feet below curb elevation. The sewer tap elevation must allow the gravity flow of sewage from the house into the sewer main without the need of special additional equipment. If backflow prevention is required for any water or sewer application, seller shall reimburse purchaser for the costs of the backflow device.
 - 10) Seller will provide connections for electricity, natural gas, telephone, and coordinate the installation of cable television to each Lot in the Subdivision. Primary electric, natural gas, telephone and cable television utility service must be installed within the designated road or street right of way or easement with all above ground utility equipment located within twelve (12") inches of any front property line. Functioning electric service must be available to all Lots at time of Lot closing.
 - 11) Seller shall provide decorative neo-traditional street lighting in community. Seller shall provide decorative neo-traditional street signs. All street lighting and street signs shall be installed no later than when 75% of the lots of a given recorded plat map are purchased.
 - 12) All temporary and permanent storm water management features must be installed in conformance with government approved Subdivision development plans and specifications, inspected and approved by each applicable governmental code enforcement agency. In addition, no above ground storm water management structure shall be located on a Lot in front of the building set back, within the building pad or less than twenty feet (20') outside the front or rear set back line of any Lot. Any Lot containing a permanent above ground storm water management structure must be finished in a manner that is maintenance free and child-safe.
 - 13) Lots shall contain an area extending from the street to a point at least Ninety feet (90') behind the minimum setback line shown on the recorded subdivision map upon which to locate and construct a residence completely outside a flood fringe, buffer, plain or other low lying area where flooding or surface water problems may occur or where surface water may not adequately drain away from the residence.
 - 14) All Lots be free of any governmental holds or encumbrances that would prevent Purchaser from

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obtaining a building permit and receiving a county government issued 'Certificate of Occupancy'.

- 15) Seller must complete Subdivision entrance monuments entering Subdivision within 60 days of initial quarterly takedown. Subdivision entrance monuments shall include mounding for signage area, signage, seeding, planting, irrigating and lighting the subdivision's frontage area. Entrance and amenity features must be constructed to in conformance with the designs and specifications referenced in Exhibit "E". The budget shall be as described in paragraph 24(d). Entrance monuments must be erected on dedicated common open space located in the Subdivision. Seller shall record sign easement(s) in a mutually agreed upon location(s).
 - 16) Seller must complete all community amenities within the first 90 days of initial quarterly takedown.
 - 17) All Lots be clean and free of any materials, equipment and debris accumulated during the development process.
 - 18) All Lots, public right of ways, streets and roadways, storm water management system, water distribution system and sanitary sewer shall be free of the liens of all deeds of trust and other encumbrances.
 - 19) The Seller will conduct a 'walk through inspection' for each recorded map section within the Subdivision with Purchaser for the purpose of confirming that the Seller has completed development work within the specifications defined within paragraph 1c) of this Contract. If during this 'walk through inspection' the Purchaser and Seller agree specific Lot(s) are deficient, the Seller has the right at that time to correct any deficiencies before the Lots are purchased by Purchaser or to exclude the deficient Lot(s) from the Purchasers purchase requirement. The deficient Lot(s) may be sold to a third party after the Purchaser has completed its purchase requirements as stated in this contract and has vacated its 'Model Home'.
 - 20) Purchaser and Seller agree to use the 'Contract Checklist' referenced in Exhibit "G" as the written mechanism to validate that Seller has completed Lots within a given phase of development in conformance with those specifications stipulated in paragraph 1C of this Contract.
 - 21) Purchaser has the right to review & approve final grading & drainage plan.
- D. The Seller warrants that the property comprising the Lots has not been used for the disposal of any hazardous or toxic waste materials, nor, to the best knowledge and belief of Seller, (a) has the property comprising the Lots ever contained any hazardous or toxic waste materials or (b) has any "cleanup" of the Lots occurred pursuant to the Environmental Laws. This warranty shall survive the closing of any Lot. Seller will deliver to Purchaser a copy of Seller's Phase I environmental report on the Lots, prior to the initial closing.
- E. The Seller warrants that none of the Lots contain any wetlands within any building envelope. Seller also warrants that there are no imperious surface restrictions on the property.
- F. If power is not available at the time of Lot closing, Seller will reimburse Purchaser reasonable costs incurred to rent generators for temporary power until permanent power is available. All utilities, electric, natural gas and telephone must be available and functioning at the time of any closing to a third party. If Purchaser is unable to convey title to a completed home to any of its customers because any of the utilities are not completed, Seller shall pay Purchaser a "per diem" interest charge calculated as follows: the contract price of the home shall be multiplied by an interest rate of 12% per annum and divided by 365 to determine "per diem" interest. The "per diem" charge shall begin on the day the closing with Purchaser's customer was to have occurred and shall end on the day the closing for the lot actually occurs after the utilities are completed. Seller shall also be liable to Purchaser for any other consequential damages suffered by Purchaser as a result of Seller's failure to have utility service available at the time Purchaser has home closings scheduled with its customers.
- G. Purchaser shall be responsible for the removal of dirt, mud, debris and snow only from the streets fronting the lots where dwellings are under construction, and shall also be responsible for removing any dirt, mud and debris from any streets within the subdivision if the activities of Purchaser have caused their appearance on said streets. Seller shall be responsible for performing those tasks on all other streets in the Subdivision as well as any access roads connecting to the roads in the Subdivision, unless Purchasers activities create the problem on said access roads. All other road shoulders and grassed areas that are considered as common areas, as well as those areas around the entrance monument, will be mowed and maintained on a regular basis by the Seller. In

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addition, all plant maintenance, watering, weeding, fertilizing, etc. of those plants, trees, shrubs and flowering plants will be maintained on an ongoing regular basis by the Seller, or until such time that a Homeowner's Association or Garden Club has been formed, and this duty has been transferred to same entity. Should the monument or common area reach a state of disrepair as viewed by the purchaser, the purchaser may perform need maintenance at the seller's expense. Maintenance shall be defined as care given weekly during a growing season, and bi-monthly during the non-growing season.

- H. Seller warrants that all Lots in the Subdivision shall be conveyed subject to restrictive covenants that establish a homeowner's association, membership in which is mandatory for all Lots within the Subdivision. Seller further warrants that said restrictions shall provide that the homeowners association shall have the obligation to maintain common areas.

driveway entrance area shall be part.

SB [Signature]

- I. If no single-family residential building permit can be obtained by Purchaser, or if a Lot otherwise does not fulfill the foregoing covenants, Purchaser may elect not to purchase the Lot, or it may require Seller to cure any deficiencies, or Seller may elect to exclude the Lot from Purchaser's purchase requirement (see paragraph 1d).

- J. Seller shall provide Purchaser with proof of acceptance of water lines and sewer lines by the appropriate governmental authority. If Sewer and Water "as-built" surveys are not accurate and Purchaser is unable to locate a water service or sewer lateral by excavating within a six (6) foot radius of the location shown on the "as-built" plans, Seller will accept responsibility for the costs incurred in locating said service or lateral. In addition, if the sewer tap is not on an elevation that allows gravity flow, it shall be the Seller's responsibility to fill the building pad of the Lot to an elevation that will allow sewage to gravity flow. If Purchaser agrees that it is not practical to raise a building pad or house structure to an elevation that allows sewage to gravity flow, then it will be the Seller's responsibility to pay or reimburse the Purchaser any additional cost for extra equipment such as waste-grinder pumps or lift stations. *Sewer service to basement lots shall be responsibility of Purchaser.*

SB [Signature]

- K. If flood insurance is required by any mortgage bank or lender seeking to finance the construction or purchase of a single-family residence on any of the Lots, then said lot(s) shall be deemed not to comply with the development requirements of this Contract. In the event seller needs to apply for a LOMA in order to remove or move a flood condition, seller shall have the LOMA complete by initial takedown if the condition exists in the first phase. If the condition exists in any future phases the LOMA will be completed within 90 days of the initial takedown.

- L. The Seller may develop the Subdivision in up to two (2) phases as identified in Exhibit "A". The Seller must use best efforts to complete no fewer than sixty (60) lots, not including designated model Lots and any Lot(s) containing temporary erosion retention dams or ponds, by November 1, 2007. In the event Seller has not fully completed at least the first sixty (60) Lots in conformance with the specifications stipulated in paragraph 1c of this Contract, on or before January 1, 2008, time being of the essence, the Purchaser shall at its option terminate this Contract and demand the Seller return the Purchaser's Deposit established to secure the performance of its obligations under this Contract. Seller shall start the development of the second phase when no less than twenty (20) Lots in the first respective completed phase remain available for Purchaser to purchase. If the Seller has not completed all of the remaining Lots within the second phase of the Subdivision within one hundred eighty (180) days from the start of grading of such phase, then in that event, Purchaser shall have the right to terminate this Contract and have the Deposit released by Seller. If at any time during this contract the Seller has no lots to provide the Purchaser during a scheduled lot takedown, then the lot takedown schedule and lot escalator identified in Exhibit "B" will cease. The lot takedown schedule and lot escalator will resume only when the Seller can provide the Purchaser with sufficient lots, as described in Exhibit "C".

SB [Signature]

2. **PURCHASE PRICE AND METHOD OF PAYMENT.** The purchase price and absorption schedule of the Lots shall be as described in Exhibit "B".

The Purchaser will be responsible for all capacity fees, "off-site" assessments and user fees, including, but not limited to, "road impact" fees, "park impact" fees, "school impact" fees and "off site improvement" fees. Purchaser shall pay sewer and water connection fees in the amount defined by Greenville County.

SM

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In the event any governmental authority imposes a moratorium preventing the construction or utilization of dwelling units on the Lots, then in that event, either the Purchaser or the Seller shall have the right to extend all time deadlines provided in this Contract by a period equal to the length of the moratorium(s). Provided, however, that should any moratorium extend beyond six (6) months, either party may terminate this Contract and the Deposit shall be released by Seller. Seller agrees to allow Purchaser to retain up to five (5) marketing lots which at the Purchaser's option may be purchased during the final scheduled lot takedown regardless of the phase of the marketing lots. Purchaser agrees to pay the escalated price on all marketing lots.

Purchaser has designated, as "Model" Lots, Lot No. TBD purchaser may close one (1) of the Model Lots within ten (10) business days after sufficient development work has been done by Seller to reasonably allow Purchaser access to the model lot by an all-weather road and a map containing the Model Lot has been recorded.

As a good faith deposit, Purchaser will provide the Seller deposits in the amount of Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00), One Hundred Twenty Five Thousand Dollars and No Cents (\$125,000.00) being in the form of cash, to be held in Escrow at the law office of Babb and Brown ("Escrow Agent") and One Hundred Twenty Five Thousand Dollars (\$125,000.00) in the form of an irrevocable letter of credit, to secure the obligations of the Purchaser hereunder. Purchaser will provide Escrow Agent the cash installment of One Hundred Twenty Five Thousand Dollars and No Cents (\$125,000.00) within (10) days of both parties executing this Contract. The Seller shall return to the Purchaser its deposit in the following manner:

Letter of Credit in the amount of One Hundred Twenty Five Thousand Dollars and No Cents (\$125,000.00) shall be eliminated at the 60th lot closing.

Cash deposit in the amount of One Hundred Twenty Five Thousand Dollars and No Cents (\$125,000.00) shall be reduced at a rate of Two Thousand Eighty Three Dollars and Thirty Three Cents (\$2,083.33) per lot closing for the final sixty (60) lot closings.

3. **CONDITIONS OF SALE.** This Contract is made subject to the following conditions being met by Purchaser and Seller within the time periods set forth below, unless unavoidably delayed by governmental authorities, time being of the essence:

A. Within one hundred twenty (120) days of the date of this Contract, Seller will provide Purchaser with the following map documentation:

- 1) One (1) Reproducible copy and three (3) 'black line' copies of Engineer sealed and Greenville County Planning Commission approved development plan illustrating Lots and street layouts, suitable in form and content for recordation with the Greenville County Registry.
- 2) Two (2) black line copies of electric and natural gas utility layouts.
- 3) One (1) Reproducible and three (3) black line copies of Engineer sealed and government approved storm/water management plans.
- 4) One (1) Reproducible and three (3) black line copies of Engineer sealed and government approved clearing and grading plans.

In the event above referenced approved development plans are materially different from Exhibit "A", the Purchaser shall have the right to approve such plans prior to recordation.

4. **DELIVERY OF DEED AND WARRANTIES.** At the closing of the sale and purchase of each lot, and upon receipt of the purchase price as herein provided, Seller shall deliver to Purchaser a general warranty deed conveying to Purchaser a good, indefeasible, fee simple and insurable title to the property, said title to be insurable both as to fee and marketability thereof at regular rates of Investor's Title Insurance Corp. (collectively referred to herein as "title company"), without exception, except as to those matters enumerated hereafter in this paragraph. In the event that said title shall not be insurable by the title company, as herein provided, Seller agrees that it will promptly take such steps, at its own expense, as the title company shall require in order to cure any defects or objections of said title. The property shall be conveyed by Seller to Purchaser, free and clear of all liens, encumbrances, claims, rights of way, easements, leases, restrictions, and restrictive clauses, except that said property may be conveyed subject only to:

- A. General public utility and service line easements and rights of way in customary form, which do not materially affect Purchaser's development plan, to serve the property, including public drainage, sewer, and utility easements;
- B. County of Greenville South Carolina ad valorem taxes for the current year of closing, which taxes shall be prorated on a calendar year basis to the date of closing;

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Buyers Initials *MB*

- C. Applicable single-family residential zoning ordinances; Restrictive covenants of record, as shown on Exhibit "D", attached hereto, which shall not be violated in any respect as of the date of closing;
- D. Such matters as would be disclosed by an inspection and accurate survey of property.

Purchaser shall move promptly and in good faith after execution of the Contract and prior to conveyance of title to examine title to all the property. If, in the opinion of the title company's officers or counsel, title to the property fails to meet the requirements set forth in this paragraph, then any such deficiency shall be pointed out in writing to Seller, and Seller shall have thirty (30) days in order to begin to cure such deficiency at Seller's sole cost and expense. If the Seller fails to cure such defect within sixty (60) days of written notice, Purchaser shall have the option of taking title to the property "as is" and consummating the closing of the purchase and sale, or Purchaser may terminate and cancel this Contract, in which event Seller shall refund to Purchaser all of the deposit.

5. **EXPENSES, CLOSING COSTS AND CLOSING LOCATION.** Purchaser shall bear all expenses and closing costs in connection with the sale or sales of the Contract Lots except that Seller shall pay South Carolina transfer tax, deed or Seller's document preparation, a pro rata share of city and county property taxes for the year in which title to the lot or lots is conveyed to Purchaser, and its attorneys' fees and costs of title or other defect clearance. All Lot closings shall take place at the law office offices of Babb and Brown, located at 605 West Butler Road, Greenville, SC 29607.

6. **ELECTION TO PRE-PURCHASE LOTS.** It is understood that Exhibit "B" is a schedule of the minimum number of Lots, which Purchaser agrees to close during each period. Seller agrees to transfer any or all of the Lots at any time after recordation of the plat upon the request of Purchaser and tender of payment therefor. Such an election by Purchaser shall not be construed as a waiver of Seller's obligation to install such items of work as required by the provisions of this Contract. In the event Purchaser elects to close Lots earlier than required, such purchases shall be credited against the number of lots Purchaser is obligated to close at the next scheduled closing date(s).

7. **RESPONSIBILITY FOR DAMAGE.** Purchaser shall be responsible for any damage it causes to any of the streets of the subdivision and will repair the same in a manner satisfactory for dedication for public purposes.

8. **SURVEY AND INSPECTIONS.** If Purchaser desires a survey of the property, it shall have the property surveyed at its own expense and at reasonable times shall have the right to enter upon the property for the purpose of inspection, examining, testing, and surveying the property. Purchaser assumes all responsibility for the acts of itself, its agents or representatives in exercising its rights hereunder and agrees to hold Seller harmless for any damages to persons or property resulting therefrom.

9. **DEFAULT BY PURCHASER.** Except as otherwise provided herein, should the Purchaser fail to perform any of the covenants of this Contract within the time specified, the Seller shall have the right to secure the remaining portion of the Purchasers' aforesaid deposit as its sole means of recovering damages. Any controversy, dispute or claim arising out of or relating to this agreement, or breach thereof, shall be subject to arbitration and the arbitration provisions contained in South Carolina Uniform Arbitration Act, SC Code 15-48-10 et seq. and that any award or decision derived therefrom may be entered in any court of competent jurisdiction following the statutory provisions of the arbitration act. In addition, if the Arbitrator should decide that Purchaser is in default of its obligation to purchase lots as provided herein, then in that event, Seller shall be authorized to present the Arbitrator's award to Branch Banking and Trust Company along with a statement signed by Seller, to allow Seller to draw on any Standby Letters of Credit that have been established by Purchaser to provide assurances of Purchaser's performance under the Contract.

10. **DEFAULT BY SELLER.** If the Seller fails to perform any of its covenants of the Contract within the time specified other than the failure of the Seller to render its title marketable after diligent effort or by reason of the provisions contained in Paragraph 4 above, the Purchaser, at its option, may demand the return of the aforesaid deposit, and each party shall execute a separate release of the other party of their rights and obligations under this Contract.

11. **BREACH.** At Seller's or Purchaser's option, each may terminate this agreement, reserving all its rights upon so doing as outlined in paragraphs 9 and 10, on the occurrence of any of the following events:

- A. Appointment of a receiver for the purchase of any of their properties; or
- B. The filing by either Purchaser or Seller of any Petition under any chapter of the bankruptcy laws of the United States; or
- C. Assignment for the benefit of the creditors of either Purchaser or Seller; or
- D. Institution of foreclosure, whether judicially or under power of sale, against any real estate owned by

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either Purchaser or Seller in this subdivision; or
E. Breach by either Purchaser or Seller of any of the conditions of this Contract.

12. **RIGHT TO CURE.** In the event of a default under any covenant contained in this Contract, the non-defaulting party shall give the defaulting party Notice of such default, specifying in reasonable detail the nature of the default, and the defaulting party shall have forty five (45) days in which to cure said default.

13. **EXCHANGE OF LOTS.** With respect to the closings required or permitted by this Agreement, it is agreed that at the time Purchaser is required to purchase one or more lots Purchaser may or may not have identified the Lot(s) upon which it wishes to construct improvements. Therefore, as long as Purchaser purchases a sufficient number of lots to maintain this Agreement in force and effect, Purchaser reserves the right and privilege to require Seller to exchange one or more Seller-owned lots within the Lots for a like number of Purchaser-owned lots, as designated by Purchaser in a written notice to Seller. Seller shall convey to Purchaser fee simple title to each exchange lot meeting the obligations of this Contract, as hereinabove described, within fifteen (15) days following Seller's receipt of such written notice setting forth the Lot(s) to be exchanged and simultaneously therewith Purchaser shall reconvey to Seller, fee simple title to the Lot(s) to be conveyed to Seller, free and clear of all liens and encumbrances and subject only to such title exceptions as were applicable to the Lot(s) to be exchanged at the time of Purchaser's initial acquisition of such Lot(s). All expenses of each such exchange of lots, including title insurance premiums, recording costs, and revenue stamps, shall be borne by Purchaser. Moreover, Seller shall be entitled, upon termination of this Agreement, to market and convey any and all of its Lots and after such termination the exchange privilege reserved by Purchaser shall be void.

14. **DAMAGE, DESTRUCTION OR EMINENT DOMAIN.** In the event that any portion of the Lots, or the personal property or improvements located thereon, shall be damaged or destroyed by fire or other casualty between the date of execution hereof and the date of any lot purchase, and such damage or destruction cannot be repaired or restored within sixty (60) days, or if Seller fails to give notice to Purchaser in writing within fifteen (15) days after such damage or destruction that Seller intends to repair or restore such damage or destruction, Purchaser shall have the option: (a) to close the remaining Lot purchases in accordance with the tenor of this Agreement, in which event Purchaser shall be entitled to all insurance proceeds received or receivable by Seller as a result of such damage or destruction under any and all insurance policies covering that portion of the Lots so damaged or destroyed; or (b) to terminate this Agreement, in which event Seller shall retain all insurance proceeds, and the Parties shall be released from further liability or obligation hereunder. If, prior to the date of closing, eminent domain proceedings shall be threatened or commenced against all or any part of the Lots, Purchaser may: (a) elect to proceed with the remaining lot purchases in accordance with the tenor of this Agreement, in which event Purchaser shall be entitled to all payments payable to Seller on account of such taking as is applicable to the lots being purchased; or (b) elect to rescind this Agreement, in which event the Parties shall be released from all further liability or obligation hereunder. If Purchaser elects to rescind the Agreement, it shall so notify Seller in writing within twenty (20) days after Purchaser has received written notice from Seller of such taking. Failure by Purchaser to so notify Seller shall constitute an election to proceed with the remaining lot purchases, and Purchaser shall be entitled to all payments on account of such taking. Seller represents and warrants that it has no knowledge of any threatened taking which would affect, involve, or be adverse to the Lots.

15. **PRORATIONS.** Taxes shall be prorated on a calendar year basis as of the date of delivery of deed, unless otherwise specified. If the amount of taxes for the current year cannot be ascertained, rates, millages, assessed valuations for the previous year with known changes shall be used, with due allowance being made for homestead or other exemptions, if allowed. Tax proration based on the estimate may be readjusted subsequently where so agreed in the closing statement.

16. **ALTERATION OR MODIFICATION.** This document may not be altered or modified in any manner or form whatsoever except by special stipulation set forth in a rider to Contract which shall be attached to and made a part of this document. The said rider shall not be effective to modify or alter this document unless said rider is acknowledged and accepted in writing by all parties hereto.

17. **MAINTANANCE.** Seller maintenance shall include the following areas: Entrance and all common areas, irrigation repairs, lighting repairs and seller owned lots. In the event seller is not performing maintenance in a timely manner the following will occur; Purchaser will notify seller in writing of the maintenance item that is not being performed, If the item is not remedied within 7 days of the letter then purchaser reserves the right to resolve the maintenance issue and back charge the Seller for the costs associated. If the Purchaser needs to write a second letter on the same item, Seller shall have 7 days to remedy the item. If the item is not remedied at this time the quarterly escalator as described in exhibit "B" will be frozen in 30 day increments until the item is complete. Refer to

Seller Initials *SB*
Buyers Initials *902*

paragraph 1G for maintenance definition.

18. **ARCHITECTURAL REQUIREMENTS.** The Seller has reviewed and approved the planned architecture submitted by the Purchaser for the Subdivision. The Seller warrants that the planned architecture meets the requirements set forth by the municipality. If subsequent to the signing of the contract the planned architecture is deemed not to meet the requirements of the municipality, then the Purchaser has the option of canceling the contract and receive a full deposit refund within ten (10) business days of written notification by Purchaser of its' intent to cancel the contract.

19. **CONTRACT DATES.** Any date specified in this Contract which is a Saturday, Sunday or legal holiday shall be extended to the first regular business day after such date which is not a Saturday, Sunday or legal holiday.

20. **CORPORATE RESOLUTIONS.** Purchaser and Seller each represent and warrant to the other that they are duly organized and validly existing corporations qualified to do business in South Carolina and in good standing in that state; that they have the corporate power to execute and perform this Contract and that all necessary consents and approvals from the Board of Directors and the stockholders of each are duly empowered to bind each to perform its obligations hereunder. Copies of Directors' resolutions and stockholders' approvals are to be furnished by either upon written request by the other.

21. **INDEMNIFICATION.** Each party to this Contract shall hold the other harmless from and against all loss, cost, damage, claim or liability arising out of or related to the construction activities undertaken by the indemnifying party, including claims for damage to property, or injury or death to persons. Each party shall maintain comprehensive general liability insurance coverage of no less than \$1,000,000.00 per occurrence on a per location basis and including at least \$1,000,000.00 in insurance for bodily injury and \$1,000,000.00 of insurance for property damage, and, at the request of the other party, shall name such other party as an additional insured on its policy and shall provide each party with evidence of the required insurance.

22. **BROKERS.** Purchaser represents to Seller that Purchaser has not dealt with any real estate broker or other person entitled to claim a commission on the sale or optioning of the properties described herein and that if any such claim is made, it shall be the sole responsibility of Purchaser to resolve same. Seller represents to Purchaser that Seller has not dealt with any real estate broker which is entitled to claim a commission on the sale or optioning of the properties described herein and that if any such claim is made, it shall be the sole responsibility of Seller to resolve same.

23. **NOTICES.** All notices and communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed by certified mail, return receipt requested, postage prepaid,
If to Seller, to:

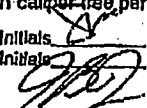
Harrison Partners, LLC
Attn: Scott Bolo
111 Executive Center Drive, Suite 202
Columbia, SC 29210

If to Purchaser to:

Eastwood Construction Co., Inc.
Attn: Brian Johnston
1200 Woodruff Road
Suite H-20
Greenville, SC 29607

And
Eastwood Construction Co., Inc.
Attn: Joe Stewart
2857 Westport Road
Charlotte, NC 28208

24. **OTHER AGREEMENTS.** Seller will be responsible for posting required bonds or letters of credit for public sidewalks and street trees adjacent to the Lots. Purchaser must install all public sidewalks adjacent to each Lot purchased as required by approved site development map provided by Seller prior to third party closing on property. Purchaser will install at least one two inch caliper tree per

Seller Initials
Buyers Initials


101.

24a. Model Homesite.

Purchaser requests that Seller prepare a minimum of two lots ASAP in order for us to *Jump-Start* the community with our model home.

24b. Speculative Homes.

Purchaser requests that Seller allow us to *Jump-Start* approximately 5 spec homes ASAP.

24c. Sidewalks.

Purchaser shall install sidewalks on the interior of community per development plan.

24d Amenity area.

Seller agrees to cut an amenity area, which will include a walking trail area. Construction of this amenity shall be complete within 90 days of the initial lot closing. Purchaser shall install all other amenities.

24e Community Identification.

Seller shall install an entrance monument as described in exhibit "E" to the community upon the approval of purchaser using a budget of \$65,000.00.

24f Gas Lines.

~~Seller shall provide landscaping along the 50' right of way in an effort to beautify the area. Purchaser shall have final approval of the landscaping of this area.~~

25. HOA Dues. Purchaser's assessed HOA dues will equal 1/4 (one quarter) of the HOA dues assessed to homeowners. The dues will be pro-rated each year and will be due at the later of the transfer of ownership to the final homebuyer or December 31 of each year, for each lot owned by Purchaser during the year.

26. PERSONS BOUND. The covenants herein contained shall bind and the benefits and advantages shall inure to the respective successor and assigns of the parties hereto. Whenever used, the singular number shall include the plural, the singular, and the use of any gender shall include all genders.

27. ENTIRE AGREEMENTS. The parties hereto acknowledge and agree that this Contract represents their entire agreement with respect to its contents and that all prior drafts and correspondence are totally superseded by the contents hereof. The contents of any prior draft or agreement or other correspondence may not be used to interpret the intention of the parties with respect to the terms and conditions herein contained.

28. SURVIVAL. The terms and conditions of this Contract shall survive the closing and remain valid and binding upon the parties until the last lot or lots have been sold to the Purchaser.

29. STREET INGRESS AND EGRESS. From the date of the purchase of the first Lot(s), Purchaser shall have a continuing right of egress and ingress to and from all Lots, over streets completed in conformity with Paragraph 1 hereof.

30. OTHER LOT PURCHASERS. Purchaser acknowledges that one competitor of Purchaser may have contracts with Seller to purchase lots within the Subdivision. Seller warrants that it will not sell any Lot(s) within the Subdivision at a price or absorption schedule less than the Purchaser is paying for comparable Lot(s) at the time. Purchaser shall have the right to approve or disapprove the Seller's other Purchaser, which approval shall not be unreasonably withheld or delayed. In addition, the Seller warrants that no Lots in the community may be transferred to another builder without the written permission of the Purchaser.

31. UNENFORCEABLE PROVISIONS. If any of this Contract shall be declared invalid or unenforceable by laws applicable thereto, or unenforceable as to certain parties, then the performance of such provision shall be excused by the parties hereto and the remaining provisions of this Contract shall remain in full force and effect.

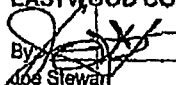
32. CONSTRUCTION. This Contract shall not be construed more strictly against either party regardless of which party is responsible for the preparation of same.

33. ASSIGNMENT. Seller may assign its interest in the related LLC of which HARRISON PARTNERS, LLC is the manager.

IN WITNESS WHEREOF the parties hereto execute this Contract in their respective individual or corporate names and affix

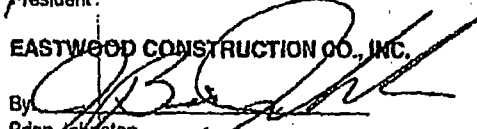
their hands or corporate seals by authority duly given, the day and year first above written.

EASTWOOD CONSTRUCTION CO., INC.

By: 
Joe Stewart
President

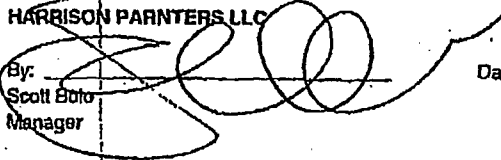
Date: 3/2/07

EASTWOOD CONSTRUCTION CO., INC.

By: 
Brian Johnston
Vice President of Corporation

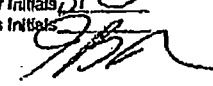
Date: 3-21-07

HARRISON PARTNERS LLC

By: 
Scott Bolo
Manager

Date: 4/19/07

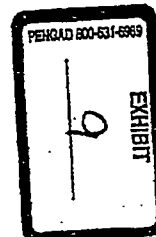
10 of 12

Seller Initials 
Buyers Initials 

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Rates for WCRSA to Own and Provide O&M Services for a Small Pump Station and Subdivision Sewer System						
Maintenance	Hours Per Occurrence	Cost Per Hour	Unit Cost Per Occurrence	Occurrences Per Year	Occurrences Per Month	Cost Per Month
	0.50	\$ 114.00	\$ 57.00	48.00	4.000	\$ 228.00
	0.67	\$ 114.00	\$ 76.38	96.00	8.000	\$ 611.04
	0.75	\$ 114.00	\$ 85.50	24.00	2.000	\$ 171.00
	0.50	\$ 114.00	\$ 57.00	12.00	1.000	\$ 57.00
	0.25	\$ 114.00	\$ 28.50	12.00	1.000	\$ 28.50
	3.00	\$ 112.00	\$ 336.00	4.00	0.333	\$ 111.89
	3.00	\$ 144.00	\$ 432.00	12.00	0.167	\$ 72.14
						\$ 1,279.57
	1.00	\$ 2,930	\$ 2,930	168.00	14.000	\$ 41,002
	20.00	\$ 0.505	\$ 10.10	168.00	14.000	\$ 141.40
						\$ 182.42
Costs						\$ 1,461.99
Costs						\$ 17,543.88
Based on minimum quarterly charge						\$ 60.00
Based on WCRSA phone bills per pump station						720.00
Compared to Tubbs #2						1,800.00
County minimum charge						30.00
Estimated 60 gal/hat weather season						600.00
Based on current WCRSA coverage for small pump stations						1,000.00
Site callings of \$85/call						510.00
						\$ 4,720.00
Maintenance and Repair Costs						
For years 1 thru 10, project that 1 crew day every two months at \$144 per hour						\$ 6,912.00
						\$ 29,176.00
						2,626.00
						\$ 31,802.00

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منہ

Wild Station
entirely

~~Receivable~~
~~from~~
~~private~~
~~others~~

Sinking Fund Payment from line 30 for example

#2000/lot per

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28	Example of Reserve Account Payment			
29				
30	Cost of Constructing & Decommissioning Facilities:			
31	Assumed Number of Developed Lots in a Subdivision	100	161	
32				
33	Assumed Capital Costs for Trunk Lines & Pump Stations Per Lot	\$ 1,000	\$ 1,000	
34				
35	Future Pro Rated Trunk Line Costs for the Subdivision	\$ 100,000	\$ 161,000	
36				
37	Estimated Cost to Decommission the Pump Station	\$ 15,000	\$ 15,000	
38				
39	Total Facility-Related Costs:			
40	Future Capital Costs For Trunk Lines	\$ 100,000	\$ 161,000	
41	Cost to Decommission the Pump Station	15,000	15,000	
42				
43	Total Costs to be Recovered in the Reserve Payment	\$ 115,000	\$ 176,000	
44				
45	Number of Years of Service Life for the Facilities	10	10	
46				
47	Annual Reserve Account Payment			
48	Annual Sinking Fund Payment	\$ 11,500.00	\$ 17,597	
49	Annual 1/20th Pump Station Replenishment	\$ 10,000.00	\$ 10,000	
50	Annual Reserve Account Payment	\$ 21,500.00	\$ 27,597	
51				
52	Costs Per Lot:			
53				
54	Number of Lots	100	161	
55				
56	Annual Reserve Payment Per Lot	\$ 215.00	\$ 171.41	
57				
58	Monthly Reserve Payment Per Lot	\$ 17.92	\$ 14.28	
59				

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Reserve Account Costs Put Into Price of Lot

	Estimated	Number of Lots	
		100	161
Future replacement of pump station - 200K!	\$200,000	\$200,000	
Development's share of cost of future trunk sewer (estimated at \$1600 per lot)	\$100,000	\$161,000	
Future cost to decommission pump station	\$15,000	\$15,000	
Total for the development	\$315,000	\$376,000	
Cost per lot	\$3,150	\$2,335	

Other Up Front Costs Per Lot

Greenville Water System tap fee	\$ 1,500	
ReWa New Account Fee	\$ 2,500	future plant expansion
Metropolitan Sewer Sub District tap fee (This would not be paid for this development)	\$ (750)	
Total per lot	\$ 3,250	

4000

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ESTIMATED TYPICAL WASTEWATER BILL FOR A LOT IN THE NEW SUBDIVISION With Reserve Costs Paid Monthly by Lot Owner

Total Costs Per Lot:	Phase I	Phase II
Assumed Number of Developed Lots in a Subdivision	100	161
Total Annual Pump Station O&M Costs	\$ 35,022	\$ 35,022
Annual Reserve Account Payment	21,500	27,597
(Assumes 10 year recovery of trunk and decommissioning costs and 20 year recovery of pump station replacement)		
Total Annual Costs for the Subdivision	\$ 56,522	\$ 62,619
Total Annual Costs Per Lot	\$ 565.22	\$ 388.94
Total Monthly Costs Per Lot	\$ 47.10	\$ 32.41

Typical Monthly Wastewater User Charge for Homes in ReWa Service Area:

Assumed Monthly Wastewater Flow Billed (Gallons)	6,000	6,000
Monthly Base Charge Per Account	\$ 8.00	\$ 8.00
Volumetric Charges	25.80	25.80
	\$ 33.80	\$ 33.80

80/mo. in fees

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ICAL WASTEWATER BILL FOR A LOT IN THE NEW SUBDIVISION **Built into Price of Lot**

	Phase I	Phase II
of Developed Lots in a Subdivision	100	161
Station O&M Costs	\$ 35,022	\$ 35,022
for the Subdivision	<u>\$ 35,022</u>	<u>\$ 35,022</u>
Per Lot	\$ 350.22	\$ 217.53
ts Per Lot	<u>\$ 29.19</u>	<u>\$ 18.13</u>

asterwater User Charge for Homes in ReWa Service Area:

Wastewater Flow Billed (Gallons)	6,000	6,000
ge Per Account	\$ 8.00	\$ 8.00
	25.80	25.80
	<u>\$ 33.80</u>	<u>\$ 33.80</u>

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Exhibit B						
Cost of Labor, Equipment and Materials for WCRSA to Own and Provide O/M Services for a Small Pump Station and Subdivision Sewer System						
Cost of Scheduled Operation and Maintenance						
Tasks	Hours Per Occurrence	Cost Per Hour	Unit Cost Per Occurrence	Occurrences Per Year	Occurrences Per Month	Cost Per Month
Inspection & Maintenance:						
Level I Operational Inspection	0.50	\$ 114.00	\$ 57.00	48.00	4.000	\$ 228.00
Level II Operational Inspection	0.67	\$ 114.00	\$ 76.38	96.00	8.000	\$ 611.04
Generator Inspection	0.75	\$ 114.00	\$ 85.50	24.00	2.000	\$ 171.00
Float Pull Inspection	0.50	\$ 114.00	\$ 57.00	12.00	1.000	\$ 57.00
Auto Dialer Inspection	0.25	\$ 114.00	\$ 28.50	12.00	1.000	\$ 28.50
Air Relief Valve Maint. quarterly	3.00	\$ 112.00	\$ 336.00	4.00	0.333	\$ 111.89
Wet Well Vacuum Clean, semi annual	3.00	\$ 144.00	\$ 432.00	2.00	0.167	\$ 72.14
Subtotal						\$ 1,279.57
Travel & Transportation:						
Vehicle Transportation ⁽¹⁾	1.00	\$ 2,930	\$ 2,931	168.00	14.000	\$ 41,002
Travel (in Miles) ⁽²⁾	20.00	\$ 0.505	\$ 10.10	168.00	14.000	\$ 141.40
Subtotal						\$ 182.42
Monthly Inspection & Maintenance Costs						\$ 1,461.99
Annual Inspection & Maintenance Costs						\$ 17,543.88
Annual Service Costs						
Water Bill	Based on minimum quarterly charge					\$ 60.00
Phone Bill	Based on WCRSA phone bills per pump station					720.00
Power Bill	Compared to Tubbs #2					1,800.00
Odor Control	County minimum charge					30.00
Grounds Maintenance	Estimated 60 gal/hot weather season					600.00
Insurance	Based on current WCRSA coverage for small pump stations					1,000.00
Storm Water Fee	Six tubings of \$85/cut					510.00
Annual Service Costs						\$ 4,720.00
Annual Subdivision Gravelly Sewer Maintenance and Repair Costs						
	For years 1 thru 10, project that 1 crew day every two months at \$144 per hour					\$ 6,912.00
Annual Sub-Total (Rounded)						\$ 29,176.00
Administrative Cost at 9%						2,626.00
Total Scheduled and Service Costs						\$ 31,802.00

Preliminary Draft for Discussion Only - Subject to Change

Tel 803-771-7900

Fax 803-343-7017

Mail PO Box 100200 (29202)

220 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

ROGERS TOWNSEND & THOMAS, PC

ATTORNEYS AND COUNSELORS AT LAW

www.rtt-law.com

Shaun W. Cranford
scranford@rtt-law.com
803-744-9230

March 2, 2009

Elizabeth B. Fleming, Chairman
Public Service Commission of SC
101 Executive Centre Drive, Suite 100
Columbia, SC 29210

Re: Bolo, et al. v. Western Carolina Sewer Authority
RTT File No.: 13991.6

Dear Ms. Fleming:

Our firm currently represents and is working with Scott Bolo relating to issues he is having with the Western Carolina Sewer Authority in Greenville County, SC. We would like to have an opportunity to discuss these issues with the Public Service Commission to voice our concerns and to work with the Commission to resolve some of the issues we are having with the Authority. Please let me know of a time that may be suitable for us to meet with yourself and other commissioners.

Thank you for taking your time to address this matter and we look forward to working with you.

Please do not hesitate to contact me if I can be of further assistance.

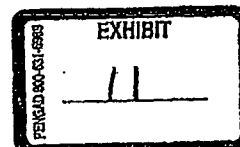
With warmest regards, I am,

Sincerely yours,


Shaun W. Cranford

SWC:mrs

cc: Scott Bolo



2850205-1

C. DUKES SCOTT
EXECUTIVE DIRECTOR

1101 Main Street, Suite 900
Columbia, SC 29201



Phone: (803) 737-0800
Fax: (803) 737-0801

DAN F. ARNETT
CHIEF OF STAFF

fbelser@regstaff.sc.gov

*Florence P. Belser
General Counsel*

April 21, 2009

Shaun W. Cranford, Esquire
Rogers Townsend & Thomas, PC
PO Box 100200
Columbia, SC 29202

RE: Bolo, et al. v. Western Carolina Sewer Authority
RTT File No.: 13991.6

Dear Mr. Cranford:

The South Carolina Office of Regulatory Staff ("ORS") is in receipt of correspondence from the Public Service Commission of South Carolina ("PSC") dated March 6, 2009, by which the PSC forwarded your correspondence referencing a matter involving Western Carolina Regional Sewer Authority. This letter is to advise you that ORS has no jurisdiction concerning the services provided by the Western Carolina Regional Sewer Authority ("WCRSA").

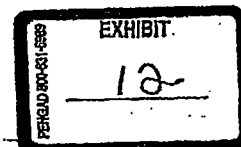
The ORS, upon creation as a state agency, was charged with specific and definite duties and responsibilities. Among its duties and responsibilities, the ORS has been authorized to review, investigate, and make appropriate recommendations to the PSC concerning the rates charged by public utilities under the jurisdiction of the PSC and to make inspections and examinations of public utilities regarding matters within the jurisdiction of the PSC.

WCRSA is a special purpose district created by an act of the South Carolina General Assembly.¹ Public service districts are governed by a board of commissioners and operated pursuant to the

¹ According to a recent Comprehensive Annual Financial Report issued by WCRSA,

[WCRSA] is a special purpose district originally created under the name of the "Greater Greenville Sewer District" by Act No. 362 of the Acts of the General Assembly of the State of South Carolina in 1925. As originally constituted, Act No. 362 provided for the Greater Greenville Sewer District to be governed by a commission known as the "Greater Greenville Sewer District Commission." The Greater Greenville Sewer District was initially comprised of the City of Greenville, the former Parker School District, and the area bordering the City of Greenville known as City View. In 1926, by Act No. 782, the Commission of the Greater Greenville Sewer District was empowered "to establish, extend, enlarge, maintain, conduct and operate sewer systems, sewer lines and sewer mains; to make any and all regulations which they consider necessary to effectuate this Act; and generally to do all things necessary to create and maintain a sewerage system in the District."

...



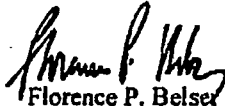
April 21, 2009
Shaun W. Cranford, Esquire
Page 2

statutes of Title 6, Chapter 11. WCRSA is not a provider over which the ORS has jurisdiction as to rates or service.

In your correspondence, you also requested a meeting with the PSC Commissioners to discuss issues related to your client and WCRSA. With the passage of Act 175 in 2004, the PSC Commissioners and employees came under to the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules. See S.C. Code Ann. § 58-3-30 (Supp. 2008). A procedure for allowable briefings of the Commissioners and PSC employees was also developed. That procedure is found in S.C. Code Ann. § 58-3-260(C)(6) (Supp. 2008). Meetings with PSC Commissioners and PSC employees concerning issues that are, or that can reasonably be expected to become, issues in a proceeding before the PSC must be held in compliance with the procedures set forth in S.C. Code Ann. § 58-3-260(C)(6) (Supp. 2008).

Should you have any questions concerning this letter, please feel free to contact me. I may be reached at 803-737-0853 or via email at fbelser@regstaff.sc.gov.

Sincerely,


Florence P. Belser

FPB:pjm

A nine member Board of Commissioners governs the Authority. Each member of the Commission is appointed to a four-year term by the Governor upon recommendation of the Legislative Delegation. One member is required to be a resident of Anderson County, and one member is required to be a resident of Laurens County. The other seven members are residents of Greenville County.

"Comprehensive Annual Financial Report for the Year ended June 30, 2008,"
Prepared by Pamela H. Carnes, Controller, p. 6.

Scott Bolo

From: Brian Bishop (bbishop@wcrsa.org)
Sent: Thursday, March 16, 2006 2:24 PM
To: Scott Bolo
Cc: Lauren Hildebrand
Subject: RE: Property - TMA 0575010101100

Scott,

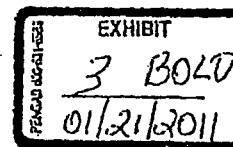
Western Carolina currently has sufficient wastewater treatment capacity at our Lower Reedy plant to serve this property based on a 2-year build out. A 2-year build out represents 80 to 100 homes. Therefore this project should be constructed in two phases. If phasing of the project is not an option, the developer/builder can pre-pay the new account fee for those units exceeding the 2-year build out.

Please keep in mind that Western Carolina has not made a determination regarding right of way access through our treatment plant property. It would recommend that you provide us with a potential force main route for our review before you finalize your design.

The pump station must meet Western Carolina, Metropolitan Sewer and if applicable, Concor's specifications. Also, an agreement between all parties will be required to define ownership/operation of the pump station and force main. This agreement must be signed by all parties in order for the project to be approved.

Our willingness to serve this project is contingent upon the property owner complying with all requirements/standards of Western Carolina, Metropolitan Sewer and the Greenville County Planning Commission.

BRIAN BISHOP, P.E. Engineering Supervisor bbishop@wcrsa.org	Western Carolina 561 Magglin Road Greenville, SC 29607 tel: (864) 299-4020 fax: (864) 299-8958



HP 00001

01/15/2008

Scott Bolo

From: Brian Bishop (bbishop@wcrsa.org)
Sent: Friday, February 09, 2007 10:19 AM
To: 'Scott Bolo'
Subject: Encroachment Permit

I will send you our encroachment permit application next week. I need to make some modifications to be relevant to the properties. It was modeled after the SCDOT permit which you will also need in order to construct in their right of way. The person/persons who will initially own the force main will need to complete the application (for construction). After construction, a new permit and/or transfer of the permit to the final owner (i.e., condor environmental) will be required. You should talk to Condor Environmental to make sure that they are ok with signing the encroachment permit and maintaining the required insurance.

As part of the permit application, we need the survey map and description for the portion of the force main which will be located on our property.

In addition, we will need the final plans and profiles for both subdivisions and the force main route along with the flow request in order to provide you with the flow acceptance letter. This also needs to be submitted to Metro Sewer for their approval and O&M letter.

You can not start construction of the force main until you receive the permit to construct from SCDHEC.

To help refresh my memory has both subdivisions obtained preliminary approval from the Greenville County Planning Commission?

BRIAN BISHOP, P.E. Engineering Supervisor bbishop@wcrsa.org	Western Carolina 561 Minklin Road Greenville, SC 29607 tel: (864) 299-4020 fax: (864) 299-8958

Signature powered by Ajax Mail 2 signature was there
noting to your address book.

-----Original Message-----

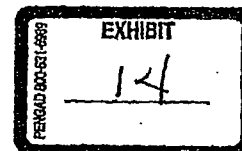
From: Scott Bolo (mailto:sbolo@insiteusa.net)
Sent: Tuesday, February 28, 2006 5:31 PM
To: bbishop@wcrsa.org
Cc: jclark@sc.rr.com
Subject: RE: Property - TM# 0576010101100

Brian,

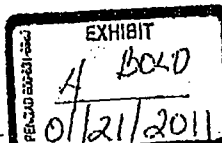
Thanks for the information it was very useful. We have talked with the folks at MISS and they related the requirements for connection. Thanks for letting me know that the line is gravity as that certainly changes the pumping requirements for the better.

We have advised our client of the requirements and are really looking forward to working with you on this important project.

Regards,



02/15/2008



Condor_00108

From: Brian Bishop
To: Scott Bolo
Subject: RE: Encroachment Permit
Date: Wednesday, February 14, 2007 5:16:11 PM

Brian

Ok thanks. Edward is putting the easements together. We can finalize our subdivision and forward to your attention.

Regards,
Scott

Scott F. Bolo PE
The InSite Group
111 Executive Center Drive #202
Columbia, SC 29210
Ph: 803.551.0006
www.insiteusa.net

From: Brian Bishop [mailto:bbishop@wcrsa.org]
Sent: Wednesday, February 14, 2007 3:36 PM
To: 'Scott Bolo'
Subject: RE: Encroachment Permit

I can not send the flow acceptance letter until we have the final plans for both subdivisions and the force main route along with working out the easement agreement.

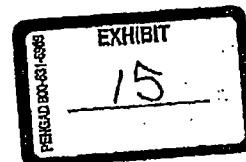
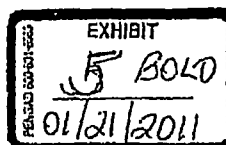
BRIAN BISHOP, P.E. Engineering Supervisor bbishop@wcrsa.org	Western Carolina 361 Mauldin Road Greenville, SC 29607 tel: (864) 299-4020 fax: (864) 299-8958

-----Original Message-----
From: Scott Bolo [mailto:sbolo@insiteusa.net]
Sent: Monday, February 12, 2007 11:29 AM
To: bbishop@wcrsa.org
Subject: RE: Encroachment Permit

Brian,

Thanks very much for sending this over. We are working with Jay Alexander to finalize the rest of this section of the line. We will be working on putting these together here shortly. I have also been completing the CHEC forms for approval per the requirements. Could you please send me a willingness to serve letter for this project (is a requirement for the CHEC permits)?

Regards



B 0293

Scott F. Bolo PE
The InSite Group
111 Executive Center Drive #202
Columbia, SC 29210
Ph: 803/551-0006
www.InSiteUSA.net

From: Brian Bishop (mailto:bbishop@wcrsa.org)
Sent: Friday, February 09, 2007 10:54 AM
To: 'Scott Bolo'
Subject: Encroachment Permit

Please get back to me with any questions.

Thanks,

BRIAN BISHOP, P.E. Engineering Supervisor	Western Carolina 561 Mauldin Road Greenville, SC 29607 tel: (864) 299-4020 fax: (864) 299-8958 bbishop@wcrsa.org

Sent: Friday, February 09, 2007 10:54 AM
Subject: Encroachment Permit

B 0294

RESIDENTIAL SITE DESIGN

Project Name: 2004 Cherokee Shores
Project Location: Lexington, SC
Client: Beau Ideal Development
Approximate Cost: \$7 Million

SCOPE OF WORK

The InSite Group completed the design and construction management of a 74-unit Lake front community in Lexington, SC. The project team completed design and construction of more than 9000 lf of roadways throughout the community as well as tie-ins to existing roadways and ROW abandonment and acquisition issues. The project was environmentally challenging being on the lake and InSite was recognized by Lake Murray Association and Lake Murray News for Environmental Stewardship.

Site design and construction activities included a commercial marina and all permitting for this Marina



through COE, SCDHEC and FERC. Other design-build work was done on the pool and cabana and tennis courts. This project demonstrates advanced low-impact design and neo-traditional design accents. This low-impact lake front community has been used as an example for high-end lake communities time and again.

Project Name: 2006 Rivertrace
Project Location: Greenville, SC
Client: Harrison Partners
Approximate Cost: \$4 Million

SCOPE OF WORK

The InSite Group completed the design and construction management of a 122-unit river front community in Simpsonville, SC. The project was permitted as a cluster rule development and involved ensuring green space compliance issues were met. By selecting the best permitting option InSite was able to give the client 30% more capacity in lots. **OUR SPECIALTY - DIFFICULT PERMITS / PUD ACCEPTANCE.** The project was very challenging from a permitting standpoint and involved several private right of ways, negotiating with PSC companies and public utility companies.

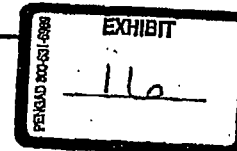
Site design and construction activities included all of the on-site and off-site sewer design and construction. The extended off-site routing and tie-ins made this project technically challenging. All of the roadway design, SW / hydrology, traffic design and construction management and CESPI compliance activities were completed by InSite.

The InSite Group

Program management, engineering and survey solutions

111 Executive Center Drive Suite 202 Columbia, SC 29210 Telephone: 803/551-0008 Fax: 803/233-3628

www.InSiteUSA.net



Scott Bolo

From: Brian Bishop (bbishop@wcrsa.org)
 Sent: Wednesday, February 14, 2007 3:39 PM
 To: 'Scott Bolo'
 Subject: RE: Encroachment Permit

Don't forget to include the following with your submittal:

1. 3220 review fee for each subdivision
2. Request for flow - not to exceed 2-year build out
3. Stamped plans
4. I will also need a statement that the pump stations are designed to meet WCRSA's minimum requirements.

Please be patient with the approval process of these projects since they are not typical.

Once I have received the plans and have reviewed the submittal, I will contact you if I need anything else.

Thanks,

BRIAN BISHOP, P.E. Engineering Supervisor bbishop@wcrsa.org	Western Carolina 561 Mauldin Road Greenville, SC 29607 tel: (864) 299-4020 fax: (864) 299-8938

-----Original Message-----
 From: Scott Bolo (mailto:sbolo@insiteusa.net)
 Sent: Wednesday, February 14, 2007 6:13 PM
 To: bbishop@wcrsa.org
 Subject: RE: Encroachment Permit

Brian

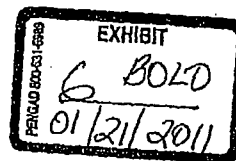
Ok thanks Edward is putting the easements together. We can finalize our subdivision and forward to your attention.

Regards,
 Scott

Scott T. Bolo PE
 The InSite Group
 111 Executive Center Drive #202
 Columbia, SC 29210
 Ph: 803/551-0006
 www.InSiteUSA.net



HIP_00202



12/16/2009

From: Scott Bolo
To: brian@wcrsa.org
Cc: "Aspen Hecolco"
Subject: Thanks for your message
Date: Wednesday, March 21, 2007 5:47:34 PM

Brian,

Thanks for your correspondence. Appreciate your taking the time to look over the plans.

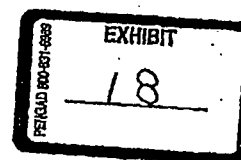
The Metro comments were integrated into the engineering drawings you are reviewing. So as far as comments from Metro and design we have been through this process. Hopefully the Metro review has the drawings where they are ready for your comments and corrections.

We are collecting the DOT encroachment permit and finalizing the WCRSA easement forms forwarded. These last two items should be complete soon. It has been a long process and we appreciate your help in working out the details.

Please do not hesitate to contact me if you need anything else from us in the interim.

Regards,

Scott T. Bolo PE
The InSite Group
111 Executive Center Drive #202
Columbia, SC 29210
Ph: 803/551-0006
www.InSiteUSA.net



B 0228

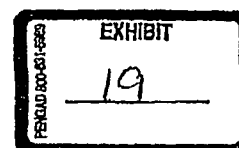
Brian Bishop

From: Ashley Hornung <ahornung@insiteusa.net>
Sent: Tuesday, July 03, 2007 9:16 AM
To: bbishop@wcrsa.org
Subject: Rivertrace

Brian

Good morning. I have a quick question for you. I have an encroachment permit to encroach onto Western Carolina's property with our force main. I am trying to get this thing filled out quickly, but I am waiting on some info from our surveyor. I was just curious if this would be a long process to get this encroachment? Also, it says that you all need two copies of the survey for the encroachment. Does this need to be a survey, or can I just send 2 copies of our line that is on our engineering sheets? If you would please let me know these things. Like I said I'm just trying to get this stuff to you quickly. Thanks so much.

Ashley Hornung
The InSite Group
Program Management and Engineering Solutions
111 Executive Center Drive Suite 202
Columbia, SC 29210
Ph: 803/551-0006
Fax: 803/233-3628
www.InSiteUSA.net



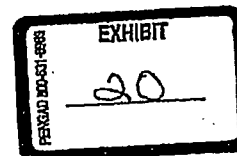
From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Property - TM# 0576010101100
Date: Wednesday, August 29, 2007 5:11:10 PM

Brian,

Mike had mentioned you had some concerns with the route. I read your notes and can understand what you are saying about the route. I am going to look at your suggestions and call you back in the am about 10 am.

Thanks -

Scott F. Bolo PE
The InSite Group
111 Executive Center Drive #202
Columbia, SC 29210
Ph: 803.551.0006
www.InSiteUSA.net



From: Brian Bishop [mailto:bbishop@wcrsa.org]
Sent: Wednesday, August 29, 2007 12:25 PM
To: 'Scott Bolo'
Subject: RE: Property - TM# 0576010101100

Scott,

Mike Deaton with your firm and I attempted to walk the proposed route through our Lower Ruedy WWTP property. It was not as I had expected. 2/3 of the route is heavily forested with one particular section that drops off 20+ feet and then rises 30+ feet. There also is no room to re-route the force main to decrease the elevation. Construction through this area would be very very expensive. An access road would have to be built, the force main line would be laid very deep, very difficult construction, a significant number of trees would have to be removed and there is a high potential for rock.

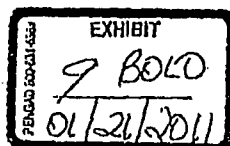
Also, we are installing security measures at the site and have new fiber optic running along the access road down to our plant site. I also do not want to deal with having Cantor owning a force main on our property given the new security measures.

WCRSA is also not receptive to having trees removed or having the potential for rock blasting on our site

With that said, I would like to propose the following.

1. Have the Riversway subdivision pump to your site using the right of way you recently purchased
2. Install a pump station sufficient to pump your site flow along with the Riversway's flows
3. Run your force main up Harrison Bridge road to Metropolitan's gravity sewer
4. All that would be needed to install the force main is a DCE encroachment which would not cost. Additionally there is sufficient room to install the force main and would be much easier, quicker and less expensive even if you had to upgrade Metro's existing gravity line

Additionally this option would solve the problem with the dual pump stations/pumping requirements



B 0333

which would allow the project to move forward much quicker

I would be happy to meet you at our site to show you our concerns at your convenience.

Thanks,

Brian Bishop
Sewerage Supervisor
Metropolitan Sewer District
111 Executive Center Drive #202
Columbia, SC 29210
Cell: (803) 351-0006
Fax: (803) 351-0715

-----Original Message-----

From: Scott Bolo (mailto:sbolo@insteusa.net)
Sent: Tuesday, February 28, 2006 5:31 PM
To: bbishop@wcrsa.org
Cc: jclark@sc.rr.com
Subject: RE: Property - FM# 0576010101100

Brian,

Thanks for the information it was very useful. We have talked with the folks at MSS and they related the requirements for connection. Thanks for letting me know that the line is gravity as that certainly changes the pumping requirements for the better.

We have advised our client of the requirements and are really looking forward to working with you on this important project.

Regards,

Scott C. Bolo PE
The InSite Group
Program Management and Engineering Solutions
111 Executive Center Drive #202
Columbia, SC 29210
Ph: 803/351-0006
www.InSiteUSA.net

From: Brian Bishop (mailto:bbishop@wcrsa.org)
Sent: Tuesday, February 28, 2006 4:10 PM
To: Scott Bolo; Lauren Hildebrand
Subject: Property - FM# 0576010101100

Please keep in mind that there are still several issues that must be addressed. This property must be annexed into Metropolitan Sewer Subdistrict. Right of ways must be acquired. You should contact Metropolitan sewer and with their assistance determine how this property can be served. Metropolitan sewer's phone # is (803) 277-1442.

You mentioned in you voice mail that you are looking for the operating pressure of our sewer line. Our lines at the Lower Roodly Wastewater Treatment Plant are gravity. If you are referring to the force main line running along Fork Shoals road, please be advised that we can not allow any connections to this force main line.

B 0334

Thanks,

BRIAN BISHOP, P.E. Engineering Supervisor bbishop@wvcrsa.org	Western Carolina 561 Mauldin Road Greenville, SC 29607 tel: (864) 299-4020 fax: (864) 299-8958

Western Carolina Regional Council of Governments
1000 N. Main St., Suite 200
Greenville, SC 29607
Phone: (864) 299-4020
Fax: (864) 299-8958
www.wvcrsa.org

B 0335

From: Steve Graef
To: Brian Bishop
Cc: sbolo@insiteusa.net
Subject: FW: Revised route
Date: Monday, October 01, 2007 1:55:30 PM

Brian,

FYI,

Scott has been trying to track down information since I told you he would be emailing you. It looks like he will be getting back to you perhaps on Thursday.

Steve

-----Original Message-----

From: Scott Bolo (mailto:sbolo@insiteusa.net)
Sent: Thursday, September 30, 2004 3:50 AM
To: sgraef@wcrsa.org
Subject: Revised route

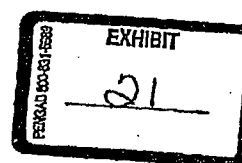
Dr. Graef,

Sorry for the delay on the revised route.

I talked to my partners at Windsor Aughtry and was told they are not willing to accept the longer route. They said they would get back to me on Wednesday after some discussions they are planning. Apologize for the miscommunication on my part. Hopefully, I can learn what they are planning and be back in touch soon.

Regards,
Scott

Scott F. Bolo PE
The InSite Group
111 Executive Center Drive #202
Columbia, SC 29210
Ph: 803/551-0006
www.InSiteUSA.net



B 0345

To: Scott Bolo [mailto:scbolo@insiteusa.net]
Subject: RE: Revised Route
Sent: Mon 11/26/2007 11:43 AM
From: Brian Bishop

I can meet anytime tomorrow or after lunch on Wednesday. Also, can you send me a map that shows in general where the proposed route will go up the river?

Let me know when you wish to meet.

Thanks,

On 11/26/2007 11:43 AM, Scott Bolo wrote:
> Brian Bishop
> 11/26/2007 11:43 AM
> I can meet anytime tomorrow or after lunch on Wednesday. Also, can you send me a map that shows in general where the proposed route will go up the river?
>
> Let me know when you wish to meet.

-----Original Message-----

From: Scott Bolo [mailto:scbolo@insiteusa.net]
Sent: Monday, November 26, 2007 11:44 AM
To: bbishop@vrsa.org; sgmaef@vrsa.org
Cc: 'Jay Alexander'
Subject: Revised Route
Importance: High

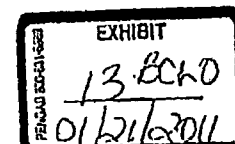
Gents:

We squared out the line ownership issues with Rivers and The Condor folks the other day. Ashley had contacted Brian asking for a route to the he networks to the plant. As I understand it we are coming up the river now.

Please let us know who we need to get with to survey the route for the sewer line. Windsor Aughtly has contacted us and asked us to coordinate and complete this work. If you could provide some dates when we could meet to survey the route that would really be helpful.

Thanks - Scott

Scott P. Bolo PE
The InSite Group
111 E. 1st St., Suite 200
Portland, OR 97201
Ph: 503.551.0000
Fax: 503.551.0001



B 0070

Please let me know. Thanks,

Brian Bishop
Engineering Supervisor
Western Carolina Sewer Authority
575 Mauldin Road
Greenville, SC 29607
tel: (864) 299-2634
fax: (864) 299-2725

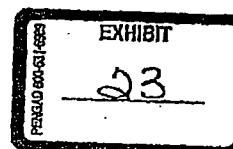
-----Original Message-----

From: Ashley Hornung (mailto:ahornung@insiteusa.net)
Sent: Wednesday, January 09, 2008 5:13 PM
To: bbishop@wcrsa.org
Subject: Rivertrace Force Main

Brian

Good afternoon. I have attached the proposed route through your properties. I have labeled them to show which structures we will be going over. Please let me know if this layout is ok so I can get an easement document wrote up and signed by you all. I will then also have to get an encroachment application signed by you to go through the property I suppose. Please let me know if this is ok asap so I can get the attorney helping us to move on to the next step in this process. Thanks so much

Ashley Hornung
The InSite Group
Program Management and Engineering Solutions
111 Executive Center Drive Suite 202
Columbia, SC 29210
Ph: 803/551-0006
Fax: 803/233-3628
www.InSiteUSA.net



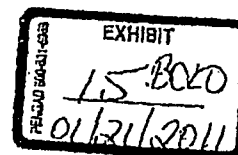
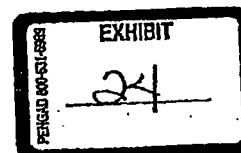
ITP_00056

2/17/2009

mail merge

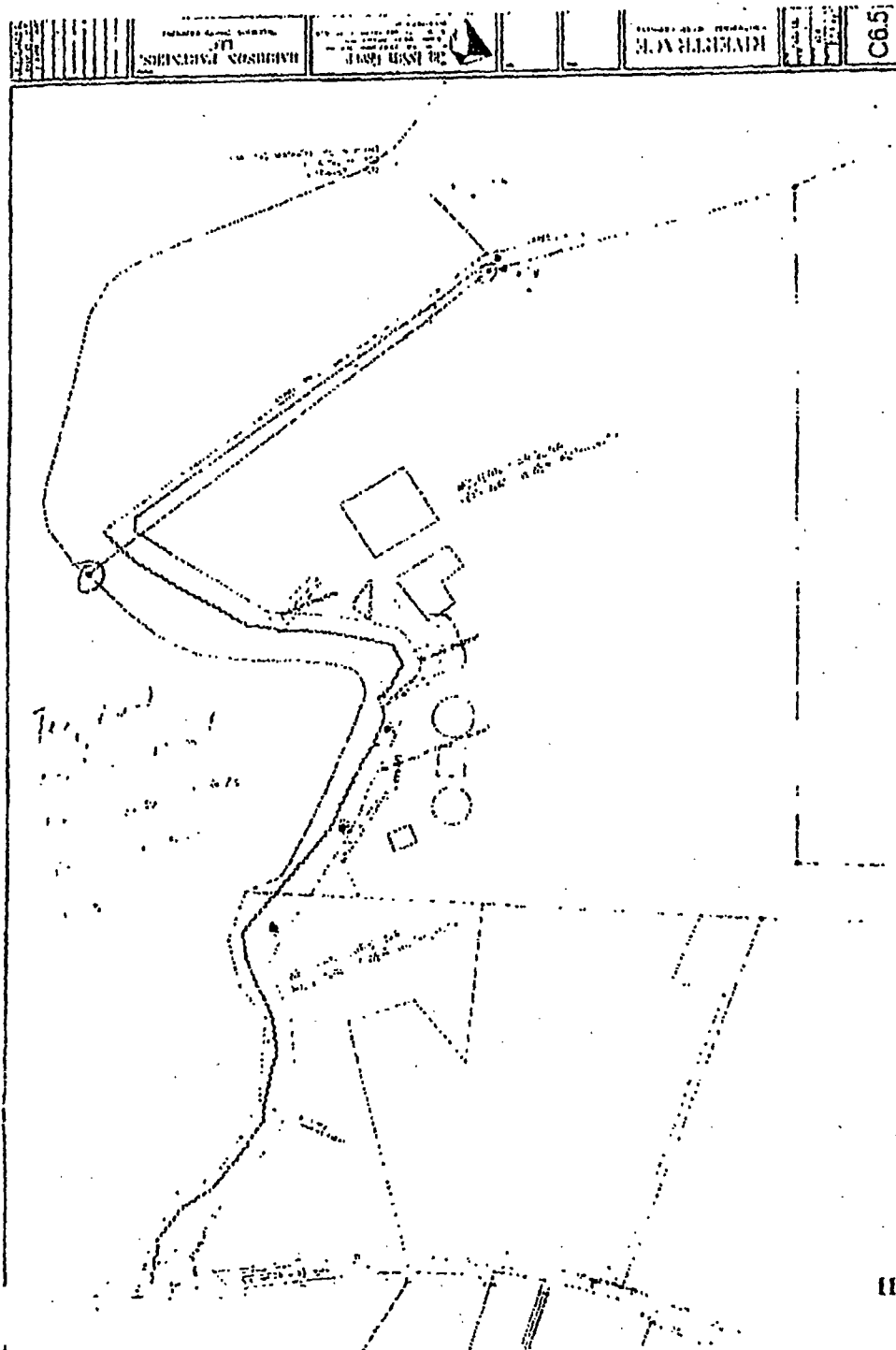
From: Brian Bishop (bbishop@wcrsa.org)
Sent: Friday, January 11, 2009 10:39 AM
To: 'Ashley Mcnug' [mailto:ashley.mcnug@wcrsa.org]
Subject: RE: Rivertrace Force Main

The route in general looks to be ok. Do you know if the surveyor place any stakes in the field so that we could visually see the route? Also, the survey shows what I believe to be is property pins at the northern portion of the property. It appears that the force main route along this area is not on our property nor is the fence?



HP_00054

12/17/2009



11P_00055

2/17/2009

820

Brian Bishop

From: Brian Bishop (bbishop@wcrsa.org)
Sent: Wednesday, January 15, 2008 3:11 AM
To: 'Chip Fogleman'
Subject: RE: riversway pump station

Tracking: Recipient Read
Chip Fogleman' Read: 1/15/2008 3:34 AM

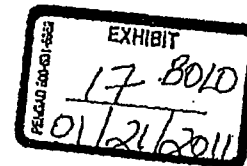
No one has indicated to me that there would be two force mains. This has never been discussed.

Brian Bishop
Engineering Supervisor
Western Carolina Water Authority
375 Mountain Road
Greenville, NC 27607
Cell: (361) 299-2621
Fax: (361) 299-2725

-----Original Message-----

From: Chip Fogleman (mailto:rlf.frf@charterinternet.com)
Sent: Tuesday, January 15, 2008 5:10 PM
To: bbishop@wcrsa.org
Cc: jalexander@windsor-aughttry.com
Subject: riversway pump station

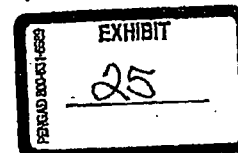
DATE & TIME: 1/15/08
ATTENTION: brian
ATTACHMENT(S):



REMARKS: my understanding is that you have approved a route to your plant for a 20 easement for the riversway s/d and the rivertrace s/d

I have been told this easement can be used for 2 separate force mains. 1 for riversway and 1 for rivertrace. Please confirm I am on the right track, chip

FROM: R L FOGLEMAN JR, P E.
Fant, Reichert & Fogleman, Inc.
725 Lowndes Hill Road
Greenville, SC 29607
(864) 271-8633



All digital representations (" drawings, etc) are released subject to the following terms and conditions

- Only stamped copies of final drawings released for construction should be used and/or relied upon
- Computer disks or other digital copies of drawings may include unchecked or incorrect information not intended for use.
- Dimensions of elements may not be accurate unless expressly shown on the released paper copies.
- It is understood that Fant, Reichert & Fogleman, Inc. releases digital representations as a courtesy

6/12/2008

B 0014

FRE FANT
REICHERT &
FOGLEYMAN, INC.

725 LOWMOUS HILL ROAD
GREENVILLE, SOUTH CAROLINA - 29607
PHONE 864-271-8633 - FAX 864-271-3299

April 14, 2008

Mr. Joe Thompson
Metropolitan Sewer Sub-District
120 Augusta Arbor Way
Greenville, SC 29605

Re: Riversway Subdivision
Project #06078

Dear Joe:

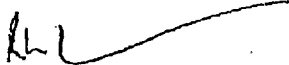
Per our recent conversation, my Client is requesting that Metropolitan Sewer Sub-District accept the gravity lines, pump station and force main in the above reference project for ownership and maintenance. I realize you cannot officially accept these facilities until final plans have been submitted and approved.

We do, however, need a definitive answer on the ownership of these facilities in order to determine how to proceed. Also, per our conversation, we are not sure at this time if we will be using a combined force main from Harrison Bridge Road to the Western Carolina site or 2 separate force mains in the same right-of-way. We will review this design and make this final determination as soon as we begin finalizing our design.

I can only assume that the same request for ownership and maintenance is applicable for the River Trace Subdivision. If you have any questions about this, please call Scott directly. As you know, we have been working jointly on these 2 projects in order to obtain service to the Western Carolina treatment plant.

Please give me a call if you have any questions. Thanks for your help!

Sincerely,



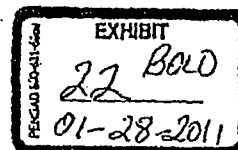
R.L. Fogleman, Jr., P.E.

FANT, REICHERT & FOGLEYMAN, INC.

RLF/alg

cc: Windsor Aughtry Company - Jay Alexander
Insite Group - Scott Bolo
Project File

CIVIL ENGINEERING SURVEYING LAND PLANNING

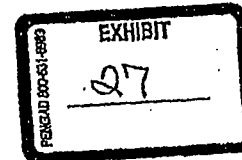


IIP_00111

WESTERN CAROLINA REGIONAL SEWER AUTHORITY

RESOLUTION

SEWER USE REGULATION



WHEREFORE Western Carolina Regional Sewer Authority has experienced a noticeable increase in the number of applications for sewer service involving privately owned pump stations and force mains within its service region; and,

WHEREFORE the multiplication of privately owned pump stations and force mains within WCRSA's service region complicates the administrative and enforcement burden on the Authority; and,

WHEREFORE WCRSA desires to leave the responsibility for the administration and maintenance of the satellite collector systems to the various sewer subdistricts, municipalities and counties which are authorized to provide retail sewer services within WCRSA's region so long as the policies of those respective entities do not impact WCRSA's operation and administration of the region's trunklines and wastewater treatment facilities; and,

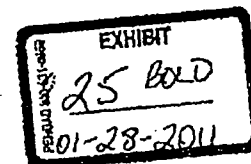
WHEREFORE WCRSA has as yet been unable to reach agreement with several of the satellite sewer systems within the service region on the eradication of excess infiltration and inflow from the sewer system and therefore desires to provide a uniform standard against which adequate progress on individual work plans can be measured;

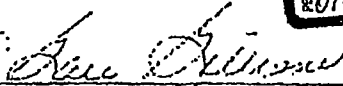
NOW THEREFORE BE IT RESOLVED by the Western Carolina Regional Sewer Authority Board that the attached amendments to the Sewer Use Regulation be enacted and codified appropriately within said Regulation. AND FURTHER that should any part of said amendment be found unenforceable by a Court of competent jurisdiction, that the remainder of the amendment shall retain its full force and effect.

The above Resolution, upon motion duly made, was passed and approved by the Board of Commissioners of the Western Carolina Regional Sewer Authority at their regular meeting held on May 5, 2008.

IT IS SO RESOLVED.


J.D. MARTIN, CHAIRMAN



ATTEST: 
GARY GILLIAM, SECRETARY/TREASURER


WITNESS

E1-D16
B 0000

Additions and Amendments to
Western Carolina Regional Sewer Authority
Sewer Use Regulations

1. Additions.

The following definitions are added to Section 1.2.

Collector Sewer - Any portion of a sewer system that connects to a WCRSA line.

Collector Sewer System - That system of gravity lines, force mains and pump stations within the lateral lines (collection line) that are owned, operated and maintained by a sub-district or another entity that carries wastewater stream to a connection at a WCRSA trunk line.

Trunk Line - A line owned, operated and maintained by WCRSA that transports the wastewater stream to a treatment plant.

Person - Shall mean any individual, partnership, venture, firm, company, association, joint stock company, trust estate, governmental entity, or any other legal entity or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

Public Utility - Any utility owned by a governmental entity.

Private Utility (PU) - Any utility owned or operated by a privately owned entity.

User - This definition shall include without limitation any consumer of residential, commercial or industrial services such as individual or associated homeowners, developers, public or private utilities, satellite systems, subdistricts, municipalities, or any permittee who directly or indirectly discharges, causes, or permits the discharge of wastewater to WCRSA.

Point of Connection - That point determined by WCRSA to be the site where a User, if authorized, may connect to a WCRSA trunk line.

The following provisions are added to Section 2.

1. WCRSA shall not accept a connection from any Collector Sewer System owned by more than one User. This requirement shall not apply to Collector Sewer Systems which are owned by multiple public entities.

B 0004

Service requests outside of the service area of a subdistrict or a municipal or county sewer subdistrict

2. For service requests outside of the service area of a subdistrict or a municipal or county sewer subdistrict, any Private Utility ("PU") desiring to connect a Collector Sewer System to a WCRSA trunk line shall make application to WCRSA and must enter into an agreement ("Agreement") with WCRSA whereby the PU covenants to restrict future conveyances of the Collector Sewer System as follows:

- a) The PU and its successors agree that any and all future conveyances of the Collector Sewer System are restricted and limited to conveyances to a single entity of the entire system of gravity lines, force mains and pump stations constituting a Collector Sewer System;
- b) WCRSA may seek injunctive relief to enforce the terms of the Agreement until such time that the Collector Sewer System in its entirety is owned by a public entity.

Further, the application to WCRSA will include an opinion from the PU's legal counsel that such PU is authorized to own and operate the Collector Sewer System and to enter into the contracts by which it gained ownership and control of the system.

Service request inside the service area of a subdistrict, municipality or county sewer subdistrict

3. All requests for service inside the service area of a subdistrict, municipality or county shall be under the direction and approval of a subdistrict, municipality or county. This provision allows the subdistrict, municipality or county to use a PU under contract. WCRSA shall consider such Collector Sewer System a part of that subdistrict, municipality or county's collector system.

The application for service to WCRSA shall be under the direction and approval of the subdistrict, municipality or county with a pledge to WCRSA that should the PU become insolvent, inoperable, or subject to any regulatory warning for unsafe or unsanitary operating conditions which is uncured for more than 30 days, then the subdistrict, municipality or county will assume ownership, operational and financial responsibility for the PU.

For any Collector Sewer System owned by a PU, WCRSA shall be provided with a copy of the contract by which such entity obtained control of the system. A term of that contract shall require ownership of the system shall be transferred to a public utility if the PU becomes insolvent, or the Collector Sewer System becomes inoperable or

B 0005

subject for 30 days to an uncured regulatory warning for unsafe or unsanitary operating conditions. The contract will include express provision giving WCRSA standing to bring an action to enforce the terms of the contract as a third-party beneficiary thereof.

The following provision is added to Section 4.1. Prohibited Discharges

(15) Wastewater which includes excessive infiltration and inflow which shall be defined as a flow which exceeds the applicable Babbitt equation for the pipe in question during a 10 year rain event. For purposes of this regulation, excessive wet weather flows for any 3 consecutive rain events above 1" shall be considered non-compliant. In the case of a conflict between this provision and any separate Agreement between WCRSA and a User regarding I/I, the terms of the Agreement shall be controlling.

0 0000

3-23-10
6769/1511
3-19

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO: 2009CP2307710

Harrison Partners Llc vs. Sewer Authority Western Carolina Regional

CHECK ONE:

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other:
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j) SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other:

IT IS ORDERED AND ADJUDGED:

☐ See attached order;

☐ Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter:

PRESIDING JUDGE -

This judgment was entered on the 19th day of March, 2010, and a copy mailed first class this 19th day of March, 2010, to attorneys of record or to parties (when appearing pro se) as follows:

Franklin H. Turner III Rogers Townsend &
Thomas PC P.O. Box 100200 Columbia, SC
29202

Rivers Samuel Stillwell Nelson Mullins Riley &
Scarborough, LLP P.O. Box 10084 Greenville,
SC 29603
Thomas W. Traxler Carter Smith Merriam
Rogers & Traxler P.O. Box 10828 Greenville, SC
29603

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CPFORM44M



STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Harrison Partners, LLC & Grant Estates, LLC,

Civil Action No. 2009-CP-23-7710

Plaintiffs,

vs.

Western Carolina Regional Sewer Authority, Raymond Orvin, Renewable Water Resources, Brian Bishop, JD Martin, Metro Sewer Subdistrict, Joe Thompson, and Mike Dickson,

Defendants.

ORDER

FILED
JAN 19 PM 12:28

This matter is before the Court on a Motion to Dismiss ("Motion") filed pursuant to Rules 12(b)(1) & (6), SCRPC. The following Defendants joined in the Motion: Renewable Water Sources (f/k/a Western Carolina Regional Sewer Authority), Ray Orvin ("Orvin"), Brian Bishop ("Bishop"), and J.D. Martin ("Martin") (treated collectively as "ReWa"). The Court conducted a hearing on the Motion on January 19, 2010.

Plaintiffs appeared for the hearing and were represented by Attorney Franklin Turner, III of Rogers, Townsend & Thomas, P.C. ReWa appeared and was represented by Attorneys Leo Hill, Rivers Stilwell, and Lane Davis of Nelson Mullins Riley & Scarborough, LLP. The remaining defendants (treated collectively as "Metro") appeared and were represented by Thomas W. Traxler of Carter Smith Merriam Rogers & Traxler, PA.

I. BACKGROUND

The following facts are not in dispute by the Parties:

ReWa is a public service district and subdivision of the State of South Carolina. (Compl. ¶ 3). ReWa maintains sewer treatment facilities and operates sewage collection facilities. (Compl. ¶ 13). This case involves private collector sewer systems ("PCS's"). (Compl. ¶ 14). Plaintiffs intended to operate a PCS on land purchased for residential development. (Compl. ¶¶ 11, 14). Plaintiffs sought approval to connect their PCS to the ReWa system of sewer lines. (Compl. ¶ 14). ReWa amended its regulations governing PCS's on or around June of 2008. (Compl. ¶ 49).

Plaintiffs have brought the instant action asserting that ReWa wrongfully denied them the ability to establish certain PCS's. Plaintiffs assert claims for: breach of contract, breach of contract accompanied by a fraudulent act, unjust enrichment, negligence, negligent misrepresentation, interference with contractual relations, civil conspiracy, declaratory judgment, writ of mandamus, and a violation of South Carolina Unfair Trade Practices Act.

Plaintiffs' claims all rely upon the premise that ReWa improperly denied its request to operate a PCS and to connect to the ReWa sewer system. During the hearing on this matter, ReWa provided evidence of a process by which an aggrieved person may appeal the denial of a PCS permit. Specifically, the ReWa Sewer Use Regulations provide a hearing and reexamination process for aggrieved individuals.

Once a final decision is rendered, the Regulations provide that "[a]ny party aggrieved by a final decision of ReWa, other than in an enforcement case, may appeal such decision to the Court of Common Pleas in the County in which ReWa is located under the same guidelines applied to State agencies which are set forth in S.C. Code Ann. § 1-23-380." Id.

Plaintiffs candidly admitted during the hearing that they did not engage in this administrative review process.

II. LEGAL STANDARD

Subject matter jurisdiction is a preliminary question that must be resolved before other matters before the Court. It is "necessary that the jurisdictional point must be decided before any of the other questions.... As has been said, 'This question meets us at the threshold.' If the Court had no jurisdiction, the other questions...are rendered academic." Federal Land Bank v. State Highway Dep't, 172 S.C. 207, 210 (S.C. 1934). Similarly, the timeliness or ripeness of a case, "is a threshold issue that implicates subject matter jurisdiction, and like standing, emphasizes the need for a concrete injury for a justiciable claim to be presented.' The concepts of subject matter jurisdiction and ripeness are often discussed simultaneously as they both involve threshold requirements...." Eagle Container Co., LLC v. County of Newberry, 366 S.C. 611, 633-634, 622 S.E.2d 733 (Ct. App. 2005) *overruled on other grounds* 379 S.C. 564, 666 S.E.2d 892 (2008).

The doctrine of exhaustion of administrative remedies generally is considered a rule of policy, convenience, and discretion, rather than one of law. Stinney v. Sumter School Dist. 17, 382 S.C. 352, 358, 675 S.E.2d 760, 763 (Ct. App. 2009). A court's determination "[w]hether administrative remedies must be exhausted is a matter within the circuit court's sound discretion..." Id. (citing Hyde v. S.C. Dept. of Mental Health, 314 S.C. 207, 208, 442 S.E.2d 582, 582-83 (1994)). Courts have consistently held that "[t]he general rule is that administrative remedies must be exhausted absent circumstances that support an exception to application of the general rule." Id. (citing Hyde, 314 S.C. at 208, 442 S.E.2d at 583). "When an adequate administrative remedy is available to determine a question of fact, one must seek the administrative remedy or be precluded from pursuing relief in the courts." Id.

III. LAW/ANALYSIS

Here, Plaintiffs have failed to exhaust their administrative remedies as required by law and the Regulations. Both parties candidly admit that Plaintiffs have not sought the administrative review of ReWa's determination. The ReWa Regulations provide a method by which Plaintiffs may appeal this determination. The Regulations provide under Section 2:

2. Hearings Any person whose permit is denied, or is granted subject to conditions he deems unacceptable, shall have the right to request an Adjudicatory Hearing under the procedures provided in Section 8 and the ReWa Enforcement Management Strategy.

As further set forth in the ReWa Regulations a person may appeal a denial of a permit to: (1) first, a hearing examiner, (2) secondly, to the Board of Commissioners of ReWa, and (3) upon a final decision, to the Court of Common Pleas. Plaintiffs, having failed to engage in this review process, have not exhausted their administrative remedies as required by law.

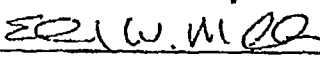
Here, ReWa, a subdivision of the State of South Carolina, has expressly incorporated the provisions of S.C. CODE ANN. § 1-23-380, which requires the exhaustion of administrative remedies prior to judicial review. This section, part of the Administrative Procedures Act, requires an individual "to exhaust[] all administrative remedies available" prior to seeking "judicial review." In violation of the Regulations and the Administrative Procedures Act (incorporated into the Regulations), Plaintiffs have failed to exhaust these administrative remedies prior to coming before the Court.

Where a party has failed to exhaust its administrative remedies, the party will be precluded from pursuing relief in the Court of Common Pleas. Stinney, 382 S.C. at 358, 675 S.E.2d at 763 ("one must seek the administrative remedy or be precluded from pursuing relief in the courts.") The Plaintiffs are, therefore, precluded from pursuing this action at this time.

IV. CONCLUSION

For the foregoing reasons, NOW, THEREFORE, IT IS HEREBY ORDERED, that Plaintiffs Claims against the ReWa Defendants be dismissed without prejudice pending Plaintiffs exhaustion of the administrative review process provided in the ReWa Regulations.

AND IT IS SO ORDERED.



Hon. Edward W. Miller
Circuit Court Judge, Thirteenth Judicial Circuit
Greenville County, South Carolina

Dated this, the 16 day of March, 2010

WESTERN CAROLINA REGIONAL SEWER AUTHORITY

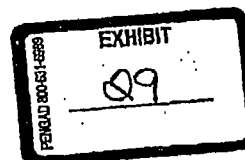
POLICY

Pursuant to its legislative and regulatory authority, including, but not limited to Act No. 916 of 1946, Section 1, it is the policy of WCRSA—

To operate and maintain collector systems inside WCRSA's authorized service area but outside of the service area of any county, municipality, or sewer sub-district, pursuant to contracts for the provision of sewer services. Such collector systems may include lateral lines, force mains or pump stations.

To enter into such contracts only upon the sole discretion of WCRSA and pursuant to such terms as may be mutually agreeable to the parties. Such terms shall include, however, that the expenses and liabilities for such services must be borne in whole by the persons enjoying the services.

To not invest any WCRSA capital costs into the construction of such collector systems. This proviso, however, shall in no way limit WCRSA's ability to construct and own trunk lines, force mains and pump stations providing regional service.



ggallagher@aw-land.com

From: Kevin Ross [kevin@ldsinc.net]
Sent: Wednesday, March 05, 2008 8:06 AM
To: ggallagher@aw-land.com
Subject: FW: FW: Grant Estates

This is from the manager at United Utilities, Mac Mitchell. You might want to email or call him. He wants you to sign something stating that you are responsible for maintaining his flow thru to the pump station during construction. His phone number is 1-803-796-9545. GEV. H

-----Original Message-----

From: Patrick Hinds [mailto:patrick@ldsinc.net]
Sent: Tuesday, March 04, 2008 4:45 PM
To: Kevin Ross
Subject: Fwd: FW: Grant Estates

----- Forwarded message -----

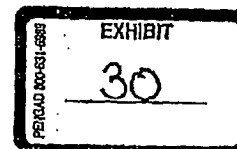
From: Mac Mitchell <MAMitchell@uiwater.com>
Date: Mar 4, 2008 4:41 PM
Subject: RE: FW: Grant Estates
To: Patrick Hinds <patrick@ldsinc.net>

Patrick,

Your client must agree to be responsible for maintaining any flow from the pump station during the construction. We will need assurance from WC that the section of forcemain to be abandoned can be left in place and United Utility Companies, Inc will not be responsible for any costs or problems associated with the construction.

Mac

From: Patrick Hinds [mailto:patrick@ldsinc.net]
Sent: Tuesday, March 04, 2008 4:33 PM
To: Mac Mitchell
Subject: Fwd: FW: Grant Estates



Mac - Attached is a email sent earlier today by Brian Bishop from Western Carolina. They are apparently waiting on United and Metro to give them direction. Metro is okay with everything and wishes to proceed. What exactly do you need from Western? I will try and facilitate this as well as I can - Patrick

Grant_00059

1/5/2008

----- Forwarded message -----

From: Jim Humphries <jim@ldsinc.net>
Date: Mar 4, 2008 4:23 PM
Subject: FW: Grant Estates
To: Patrick Hinds <PATRICK@ldsinc.net>

Thanks,

Jim Humphries

Land Design Services inc.
P.O. Box 432
Easley SC 29641
office: (864) 220-7051
fax: (864) 220-7055
email: jim@ldsinc.net

-----Original Message-----

From: Kevin Ross [mailto:kevin@ldsinc.net]
Sent: Tuesday, March 04, 2008 2:19 PM
To: Humphries Jim
Subject: FW: Grant Estates

-----Original Message-----

From: Brian Bishop [mailto:bbishop@wersa.org]
Sent: Tuesday, March 04, 2008 2:02 PM
To: 'Kevin Ross'
Cc: 'Joe Thompson (MSSD)'; ggallagher@aw-land.com
Subject: RE: Grant Estates

Kevin,

Has the right of way drawing you provided to me the other day been approved by Metropolitan Sewer? Are they ok with what is being proposed?

Have you received permission from United Utilities to abandon their force main? If so, please provide documentation.

Do you have any specifications that will be provided to the contractor explaining how this conversion from force main to gravity will be accomplished? Is United Utilities ok with the plan and how this may affect their pump station during the construction?

Grant_00060

3/5/2008

Will any of the construction impact our paved drive and if so the plans need to show how our paved drive will be repaired? Please note that the new gravity line can not be installed within the paved drive.

Has Metropolitan Sewer provide you with their O&M letter? If so please forward me a copy. We are currently working with Metropolitan Sewer regarding the pump station contract with Condor Environmental.

Please provide a copy of the Greenville county planning commission's preliminary approval letter for this subdivision.

The right of way will be signed in conjunction with WCRSA issuing our flow acceptance letter.

Brian Bishop
Engineering Supervisor
Western Carolina Sewer Authority
575 Mauldin Road
Greenville, SC 29607
tel: (864) 299-2624
fax: (864) 299-2725

-----Original Message-----

From: Kevin Ross [mailto:kevin@ldsinc.net]
Sent: Monday, March 03, 2008 3:33 PM
To: bbishop@wcrsa.org
Cc: ggallagher@aw-land.com
Subject: Grant Estates

This is an 8.5X11" sketch and the blanks on the easement agreement that I knew how to do.

Thanks,

Kevin Ross, P.E.
Land Design Services, Inc.
P.O. Box 432
Easley, SC 29641
Phone: (864) 220-7051
Fax: (864) 220-7055
kevin@ldsinc.net

Patrick Hinds
Land Design Services, Inc.
P.O. Box 432

Grant_00061

1/5/2008

Easley, SC 29641
864-220-7051 (Office)
864-220-7055 (Fax)

Patrick Hinds
Land Design Services, Inc.
PO Box 432
Easley, SC 29641
864-220-7051 (Office)
864-220-7055 (Fax)

Grant_00062

3/5/2008

ggallagher@aw-land.com

From: Brian Bishop [bbishop@wcrsa.org]
Sent: Tuesday, February 26, 2008 3:18 PM
To: ggallagher@aw-land.com
Cc: Steve Graef
Subject: RE: ROW Agreement for A&W Land

Attachments: Gravity.sewer.line.ROW.2.26.08.pdf



Gravity.sewer.lin
e.ROW.2.26.08...

✓ This is the ROW agreement that WCRSA and Metropolitan Sewer are agreeable too.
Your engineer will need to describe the right of way and provide a surveyed map.

Also note the additional insurance requirements.

Thanks,

Brian Bishop
Engineering Supervisor
Western Carolina Sewer Authority
575 Mauldin Road
Greenville, SC 29607
tel: (864) 299-2624
fax: (864) 299-2725

-----Original Message-----

From: ggallagher@aw-land.com [mailto:ggallagher@aw-land.com]
Sent: Monday, February 25, 2008 9:16 AM
To: bbishop@wcrsa.org
Subject: ROW Agreement for A&W Land

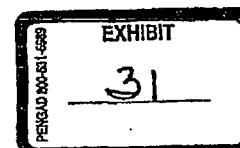
Brian,

Please help me resolve this ASAP.

Gregg Gallagher
V.P., Sales and Operations
A&W Land Acquisition & Development, LLC
230 Adley Way
Greenville, SC 29607
Phone 864.297.4344
Fax 864.297.4340
ggallagher@aw-land.com

-----Original Message-----

From: ggallagher@aw-land.com [mailto:ggallagher@aw-land.com]



Grant_00051

EXAMPLE FLOW ACCEPTANCE LETTER

Date

Name of District/City Representative
Name of District/City
Address

RE: Insert Name and Location of Subdivision/Project

Dear Mr/Mrs. _____:

Renewable Water Resources (ReWa) approves the (insert district/city) request to connect to ReWa's system as shown in (insert name of engineering firm) plans dated (insert date stamped on engineer's plans). ReWa has sufficient capacity to treat the (insert flow amount) gallons per day flow of wastewater from the (insert district/city) at our (insert name of plant and NPDES Permit Number) and hereby accepts this requested flow.

A "New Account Fee" is required for all residential and commercial sewer connections. The construction of all buildings associated with this project must be completed within 2-years. Please notify ReWa's engineering department prior the start of construction.

Sincerely,

J. Brian Bishop
Engineering Supervisor

Cc: (insert name of engineering firm)

k:\engineering\grm\sewer subdistricts\regulation\example_flow acceptance_letter2.doc



From: Scott Bolo
To: bbushon@wcrsa.org
Cc: "Ashley Hernandez"
Subject: Thanks for your message
Date: Wednesday, March 21, 2007 5:47:34 PM

Brian,

Thanks for your correspondence. Appreciate your taking the time to look over the plans.

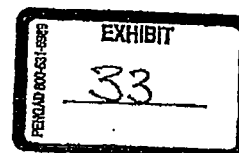
The Metro comments were integrated into the engineering drawings you are reviewing. So as far as comments from Metro and design we have been through this process. Hopefully the Metro review has the drawings where they are ready for your comments and corrections.

We are collecting the DOT encroachment permit and finalizing the WCRSA easement forms forwarded. These last two items should be complete soon. It has been a long process and we appreciate your help in working out the details.

Please do not hesitate to contact me if you need anything else from us in the interim.

Regards,

Scott T. Bolo PE
The InSite Group
111 Executive Center Drive #202
Columbia, SC 29210
Ph: 803/551-0006
www.InSiteUSA.net



B 0228

Scott Bolo

From: Scott Bolo (sbolo@insiteusa.net)
Sent: Tuesday, September 04, 2007 2:40 PM
To: 'Ashley Hornung'
Subject: FW: Rivertrace Subdivision

Here is the connection point they are proposing.. It is a total cluster fuck!

Scott T. Bolo PE
The InSite Group
111 Executive Center Drive #202
Columbia, SC 29210
Ph: 803/551-0006
www.InSiteUSA.net

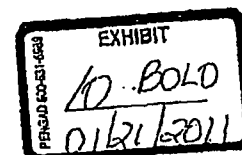
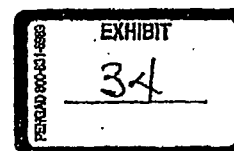
From: Brian Bishop (mailto:bbishop@wcrsa.org)
Sent: Tuesday, September 04, 2007 2:19 PM
To: 'Scott Bolo'
Cc: Steve Graef
Subject: Rivertrace Subdivision

Scott, the attached map shows the two possible locations that your development can connect in order to obtain sewer service. Running the force main through WCRSA's Treatment Plant property is currently not an option.

Therefore, please contact the property owners along Harrison Bridge Road or along Sullivan Road to obtain a right of way for your project.

Please coordinate your efforts with Metropolitan Sewer for connection options.

Brian Bishop
Engineering Supervisor
Western Carolina Sewer Authority
575 Mauldin Road
Greenville, SC 29607
tel: (864) 299-2624
fax: (864) 299-2725



IIP_00046

12/16/2009

From: Brian Bishop
To: "Limbaker, Skip"
Subject: RE: Rivertrace Development
Date: Friday, March 12, 2010 4:17:43 PM

It does, thanks



Brian Bishop, P.E.
Engineering Supervisor

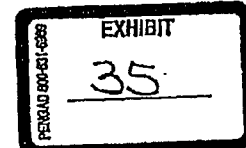
Phone 864.299.4020 x213
Fax 864.299.1958

581 Mainline Rd
Greenville, SC 29607
brianb@re-wa.org
www.renewable.org

CONFIDENTIALITY NOTICE: This e-mail communication and any attachments may contain confidential and privileged information for the use of the designated recipients. If you are not the intended recipient, (or authorized to receive for the recipient) you are hereby notified that you have received this communication in error and that any review, disclosure, dissemination, distribution or copying of it or its contents is prohibited. If you have received this communication in error, please destroy all copies of this communication and any attachments and contact the sender by reply e-mail.

-----Original Message-----

From: Limbaker, Skip [mailto:slimbaker@greenvillecounty.org]
Sent: Friday, March 12, 2010 4:10 PM
To: Brian Bishop
Cc: Owings, John; Gordon, Patricia
Subject: RE: Rivertrace Development



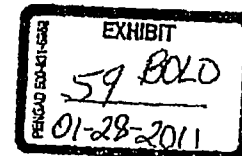
Brian,

Trish forwarded me your message b/c John Owings and I spoke to Scott Bolo about this project in the last few months. He told us that he was not proceeding with it and he was all but bankrupt and losing everyone he owned, his kids were suffering, etc. and so on.....

He did say he was in litigation with ReWa though. He wanted to know the standard operating procedures for developers to get sewer approvals etc, and we explained that we are just a clearinghouse and the developers work directly with the sewer providers so he'd have to contact you about it.

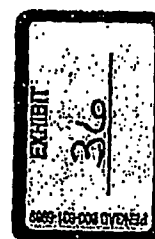
I hope this helps some and let us know if you need anything else.

Skip Limbaker, AICP
Principal Planner
Greenville County Planning Department
301 University Ridge, Suite 100
Greenville, SC 29601



B 0042

Rivers Trace





The InSite Group

111 Executive Center Drive #202
Columbia, South Carolina 29210
Phone (803) 551-0006
FAX: (803) 233-3628
www.InSiteUSA.net

HYDRAULIC CALCULATION SHEET

PROJECT: Rivertrace

PROJECT NO.: 064001

DATE: revised 5/14/2007

SYSTEM SCHEMATIC

STATIC 0 psi
RESIDUAL psi
FLOW gpm
BY Gravity Line
DATE
TIME
DESIGN HEAD HGL 480 ft
DURATION min.

SEE INCLUDED SHEET

Pipe Legend	
Existing Line	-----
Proposed Line	-----

Comments	LINE	Min. Flushing Flow	DESIGN FLOW (GPM)	PIPE DIA. (IN.)	C	LENGTH (FT)	HI (FT/100)	HI (FT)	TOTAL HI (FT)	ELEV (FT)	ELEV CHANGE (FT)	PUMP HEAD (FT)	PUM HEAD (PSI)
Bottom of Wetwell										675			
Rivertrace													
New Service Line	To Tie Point WCRSA	220	200	6	120	9412	0.440	41.372	41.37	689	14	55.37	
		220	200	6	110	9412	0.516	48.598	48.60	689	14	62.60	
New Service Line	To Tie Point WCRSA	220	250	6	120	9412	0.664	62.516	62.52	689	14	76.52	
		220	250	6	110	9412	0.780	73.434	73.43	689	14	87.43	
New Service Line	To Tie Point WCRSA	220	300	6	120	9412	0.931	87.594	87.59	689	14	101.59	
		220	300	6	110	9412	1.093	102.893	102.89	689	14	116.89	
New Service Line	To Tie Point WCRSA	220	350	6	120	9412	1.238	116.501	116.50	689	14	130.50	
		220	350	6	110	9412	1.454	136.848	136.85	689	14	150.85	

Assume a 20 percent engineering safety margin for pump performance.

PUMP MUST DELIVER

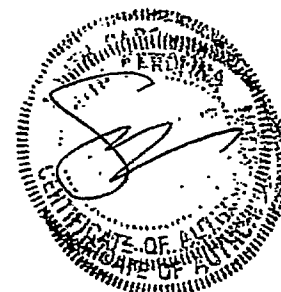
250 GPM at 96 ft of

Rivertrace Flow Check
GPD Standard 350
Number of Units 121
Total Flow (GPD) 42350
Peaking Factor 4.00
Peak Flow (GPD) 169400
Convert Peak to GPM 118
Back check 169400

FLOW RATE OF 450 GPM WORKS FOR ALL PUMPING REQUIREMENTS

250 GPM (user defined)
33 ft³/min.
6 Pipe Diameter (in) (user defined)
42.56 VELOCITY IN PIPE (ft/sec)

250 GPM Conservatively pumps 120 GPM Peak even with synchronization 2x pumping rate times peak.



The InSite Group
Program Management and Engineering Solutions

111 Executive Center Drive Suite 202 Columbia, SC 29210 Telephone: 803/551-0006 Fax: 803/233-3628

www.InSiteUSA.net

TRANSMITTAL

Date
5/14/2008

Western Carolina Regional Sewer Authority
561 Mauldin road
Greenville, SC 29607

Attention: Brian Bishop

Re: Rivertrace

We are sending you ☒ Attached ☐ Under separate cover via the following items:

☐ Prints ☐ Samples ☐ Specifications

☐ Copy of letter ☐ Change order ☐ Check

COPIES	DATE	Sheet No.	Description
1			Sewer Plans
1			Pump Station Calculations

THESE ARE TRANSMITTED as checked below:

☐ For your approval ☐ For your use ☒ As requested ☐ Resubmittal

REMARKS:

Please contact us concerning ROW for gravity line per Dr. Graef

SIGNED

Kenneth Best

Scott Eola

Exhibit 36
Oversized documents
submitted separately at
Pages 846-860

J Re

ReWa's Criteria

- Outside a retail service provider's boundary
- Developer would pay for obtaining service
- Existing customers would not subsidize this service
- ReWa pays incremental increase if larger pipes and pumps requested

J Re

Agreement Features

Reserve account developed to pay costs for

- Emergencies compliance actions
- CMCA requirements vandalism
- Share of future trunk sewer
- Pump station replacement
- Decommissioning
- Annual replenishment of above costs

J Re

Agreement Features

- Pump station force main and sewers meet ReWa standards
- Developer conveys sewer, pump station and force main ownership to ReWa
- Developer's responsibility migrates to MCA
- Developer absorbs 12 months of pro forma costs

J Re

One Time Costs to Recover

(Typical 100 Lot Subdivision)

- Inspection during construction \$ 3K
- Pump station replacement @ 20yr \$200K
- Share of future trunk sewer \$100K
- Pump station decommissioning \$ 15K

J Re

Agreement Features

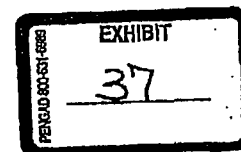
- Developer pays monthly to ReWa
- Lot deeds to have lien provision
- ReWa may transfer ownership to governmental subdivision in the future

J Re

Annual Costs to Recover

(Typical 100 Lot Subdivision)

- O&M for subdivision gravity sewer \$ 7K
- O&M for pump station force main \$ 28K



G 000023



Stephen P. Graef, PE, PhD
Technical Services Director
stoveg@re-wa.org
561 Mauldin Road • Greenville, SC 29607
(864) 299-4038 • Fax (864) 299-4003

February 13, 2009

Mr. Joe Clark
1531 Blanding St.
Columbia, SC 29201

Dear Joe,

I was disappointed to see Scott Bolo's email to the County Attorney stopping the de-annexation process for your proposed development below the Lower Reedy treatment plant. Since we had been exploring technical options that ReWa could accept, I went ahead and completed our work on 3 alternatives in case you were still interested in pursuing any one of them.

The alternatives differ primarily in the way in which the system which serves your property would interface with the Windsor Aughtry property. I defined the technical features for each and have projected the costs for each alternative. Each alternative has a different effect on the costs of eventually running a gravity sewer through the property, or the cost of re-building the pump station. Both of these costs are ones which ReWa would have to recover in order to be authorized to serve the collector system on a development outside of a sewer sub-district.

I ran all the numbers without discount to present value and assuming all of the costs would eventually be incurred. Neither of these is an absolute. Our experience is that the pump station would typically be re-built if it were still in place in 20 years. There is no way to know exactly when a gravity sewer might replace it instead. These are considerations which are not usually dealt with by ReWa and we have been working through them with some difficulty.

I anticipated we would be further discussing how and when to recover costs and the engineering details of each alternative. We could continue these discussions at your discretion. You can decide on de-annexation afterwards at your convenience. Since we are still proceeding with at least one de-annexation with the County however, please let us know if you would like to join that effort within the next 2 weeks.

If you decide to remain in the Metro sub-district, we believe there are also several ways to accommodate these same concerns for future development on the Lower Reedy through public ownership of the system under ReWa's current Sewer Use Regulation. Please let me know which way you prefer to go.

Sincerely,

Stephen P. Graef, PE, PhD
Technical Services Director

Cc: Ray T. Orvin, Jr.

Western Carolina Regional Sewer Authority dba Renewable Water Resources



Condor_00130

Steve Graef

Offer to Alexander

From: Steve Graef
Sent: Friday, June 05, 2009 11:35 AM
To: Jay Alexander
Cc: Ray Orvin
Subject: FW: Riversway

*of options for
timing of escrow
costs*

Tracking: Recipient Delivery Read
Jay Alexander
Ray Orvin Delivered: 6/5/2009 11:35 AM Read: 6/5/2009 1:30 PM

Jay,

ReWa needs to recover costs to address the potential for needing to perform some future major rehab on the pump station. Attached are some options that allocate the costs besides the Plan A that was discussed initially. We recognize that some developments may be served by a gravity sewer before the need for major pump station replacement is needed. We would like to discuss how the replacement fund might be redistributed if it was not needed. We would also like to consider other options that would keep the New Account Fee for Trunk Sewers in tact yet still have funding for major rehabilitation if the pump station exceeds its useful life before the gravity sewer is in place

Thanks
Steve

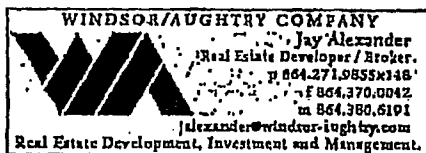
—Original Message—
From: Jay Alexander [mailto:jalexander@windsor-aughtry.com]
Sent: Wednesday, May 20, 2009 11:02 AM
To: 'Dr. Steve Graef'
Subject: Riversway

Dr. Graef,

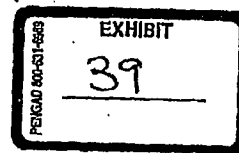
Thanks for taking time to meet last Friday. I apologize for having to move the time at the last minute and not having appropriate notes to leave with you. I have attached a summary of the thoughts I conveyed that would make an agreement more palatable on our part. Please let me know what you think when you have had a chance to discuss internally.

Thanks

Jay



1/28/2010



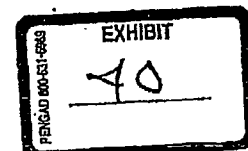
From: Steve Graef [steveg@re-wa.org]
Sent: Wednesday, July 29, 2009 3:27 PM
To: Joe Clark; sbolo@insiteusa.net
Cc: Ray Orvin
Subject: Wastewater Treatment Service for River Trace Development

Joe and Scott,

I understand you are going to be asking the ACOG tomorrow for permission to build and operate an on-site wastewater treatment facility to serve the proposed River Trace subdivision. I did not know if that meant you had definitely decided to put aside the various options for sewer service ReWa had discussed if the property was de-annexed from Metro. We are still ready to discuss those options if you do not obtain ACOG approval for your package plant.

Another option that ReWa could consider is to agree to an escrow procedure that was used on several development projects prior to ReWa's Sewer Use Ordinance modifications in 2008 and prior to your initial development submittal. There are several subdivisions that were built beyond existing trunk sewers where the developer was allowed to put in a temporary pump station but paid into escrow, his proportionate share for his capacity needs in a future trunk sewer. These developers then funded the construction, operation and maintenance of a pump station and force main for the period of time before the trunk sewer was constructed.

Based on this scenario, I have re-calculated the proportionate future trunk sewer escrow charge for your development at approximately \$92,000. This charge would apply whether or not you decided to remain within the Metro district. It is important for you to understand that such a trunk system escrow charge would have applied even if River Trace had been built prior to the enactment of ReWa's regulation regarding private pump stations.



G 000001

From: Steve Graef [steveg@re-wa.org]
Sent: Thursday, August 13, 2008 8:55 AM
To: sbolo@insiteusa.net
Cc: Joe Clark
Subject: Sewer Service for River Trace Development

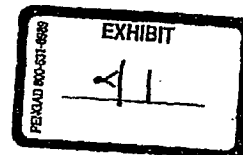
92000

Scott,

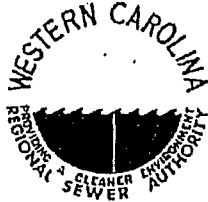
I am following up on the offer made at the ACOG appeal to look at your package plant proposal for the River Trace project. ReWa may consider a package plant as long as provisions are made for the later conversion of service to a gravity system. ReWa currently anticipates that a regional pump station will be installed not far below the River Trace subdivision well in advance of the construction of a full gravity line down to a new treatment plant on the Lower Reedy. It was on the basis of this assumption that we calculated the \$94,000 trunk system charge referenced in my last email. If it is less expensive to build, operate and replace a package plant than a pump station and force main, then ReWa is willing to look at that option with you. However, ReWa must also consider the cost to future homeowners who would be served by the regional pump station, including those living in River Trace at the time the gravity system comes on line. ReWa also has to protect the existing ratepayers across its entire service area from costs attributable to individual private developments. It would be unfair to ask existing ratepayers to subsidize the development costs for property which needs two different sewer systems within a matter of 15 or 20 years.

In addition to reviewing the engineering plans you referenced at the ACOG, we also need to know whether you plan to remain in the Metro system. ReWa will consider owning and operating the facility on an interim basis if necessary. Please let me hear from you at your convenience if you want to pursue this option.

Steve Graef



G 000003



Ray T. Orvin, Jr.
Executive Director
rorvin@wcrsa.org
561 Mauldin Road • Greenville, SC 29607
(864) 299-4012 • Fax (864) 299-4003

June 24, 2008

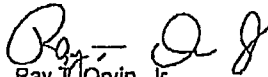
Mr. Scott T. Bolo, PE
The InSite Group
111 Executive Center Drive #202
Columbia, SC 29210

Dear Mr. Bolo,

Thank you for joining us at WCRSA's new administrative building on June 11. It is WCRSA's understanding that you have been unable to secure sewer service to your property from your sewer subdistrict under WCRSA's regulation regarding private collector systems. As you may be aware, WCRSA has recently adopted the attached policy relating to sewer service requests within its service area but outside the service area of any sewer subdistrict, county or municipality. Pursuant to WCRSA's new policy and your request for service, WCRSA is providing you this letter to indicate its present intention to serve your proposed development located at South Harrison Bridge Road, Tax Map #0576010101100, once the property lies outside of the sewer service area of any sewer subdistrict, county or municipality. This is contingent on the continuing availability of treatment plant capacity, final approval of engineering plans and specifications by WCRSA and any other necessary regulatory bodies, and the consummation of a contract for services in the form provided at the meeting. Please let us know if you have any feedback or questions on the draft contract.

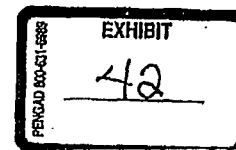
Pursuant to the statute by which WCRSA is allowed to offer these services, all construction costs are to be borne by the developer and all costs for operation and maintenance are to be paid by the beneficial users. We have attached a proposed schedule of cost for services hereto for your review and consideration. Some of these costs, such as electricity, can be paid directly by the homeowner's association at your discretion. Please bear in mind these scheduled fees do not include each homeowner's individual sewer charges that will be billed through the water company as with other WCRSA users.

Sincerely,


Ray T. Orvin, Jr.
Executive Director

Enclosures

cc: Rivers S. Stilwell, Esq.
Nelson Mullins Riley & Scarborough LLP



HP_00010

WESTERN CAROLINA REGIONAL SEWER AUTHORITY

POLICY

Pursuant to its legislative and regulatory authority, including, but not limited to Act No. 916 of 1946, Section 1, it is the policy of WCRSA—

To operate and maintain collector systems inside WCRSA's authorized service area but outside of the service area of any county, municipality, or sewer sub-district, pursuant to contracts for the provision of sewer services. Such collector systems may include lateral lines, force mains or pump stations.

To enter into such contracts only upon the sole discretion of WCRSA and pursuant to such terms as may be mutually agreeable to the parties. Such terms shall include, however, that the expenses and liabilities for such services must be borne in whole by the persons enjoying the services.

To not invest any WCRSA capital costs into the construction of such collector systems. This proviso, however, shall in no way limit WCRSA's ability to construct and own trunk lines, force mains and pump stations providing regional service.

HP_00011

Preliminary Draft for Discussion only - Subject to Change

[illegible]

Preliminary Draft for Discussion Only - Subject to Change

HP 00012

Preliminary Draft for Discussion Only - Subject to Change

Reserve Account.	
Purpose:	
For repair and replacement of the system, or any portion thereof and damage by accident, vandalism or other disaster. It is also for emergency repairs, compliance with Capacity, Management, Operations and Maintenance (CMOM) requirements with which WCLSA may have to comply, installation and upgrade of system components such as a Supervisory Control and Data Acquisition system (SCADA), maintenance to the Collection System, proportionate share of the future trunk sewer and closure of the PSFM.	
Funding Concept:	
Initial payment (upon execution of Agreement) = Proportionate Periodic Mechanical and Electrical Maintenance Annual Cost	= \$3200 for a sample development, Exhibit B
Payment upon transfer to WCLSA = Proportionate Periodic Mechanical and Electrical Maintenance Annual Cost + Annual Sinking Fund payment for future trunk sewer and decommissioning of PSFM	= \$3200 for a sample development, Exhibit B
Payment upon initial construction of each additional phase of the development = Proportionate share of the Annual Sinking Fund payment for future trunk sewer and decommissioning of PSFM	= \$4500 for 75 lots in sample development shown below in Annual Sinking Fund Payment example
Annual payment to the Reserve Account (after initial permit to operate) = Replacement of Reserve Account units expended in previous year + adjustment based on future inflation + Annual Sinking Fund payment adjusted for CPI	= \$3200 for sample development, Exhibit B + Proportionate share of \$4500 Annual Sinking Fund Payment for sample development + inflation and CPI adjustment
Sinking Fund for Proportionate Share of Future Trunk Sewer and Decommissioning of the Pump Station and Force Main	
The cost of recovering capital cost for trunk sewers and regional pump stations is \$400 per lot in 2008.	
The cost to construct a subdivision pump station to a trunk sewer, remove all mechanical and electrical components, fill the wet well and restore the site is \$15000 in 2008 dollars. The cost per lot is \$15000/number of lots. For a 75 lot subdivision the decommissioning cost would be \$200 per lot.	
Annual Sinking Fund Payment - example	
For a 75 lot subdivision	
Based upon showing a ten year period to accumulate the \$400 + \$200 (2008 \$ per lot)	
Annual Sinking Fund Payment	= \$45000/10 (2008 \$)
	= \$4500 adjusted for change in CPI
Example of Reserve Account Payment	
Cost of Constructing the Decommissioning Facilities	75
Annual Payment for Decommissioning Facilities	225
Annual Capital Cost for Trunk Sewer and Pump Station Per Lot	400
Total Trunk Sewer and Pump Station Cost for the Subdivision	30,000
Estimated Cost to Decommission the Pump Station	1,000
Total Facility Related Costs	31,000
Capital Cost for Trunk Sewer and Pump Station	30,000
Cost to Decommission the Pump Station	1,000
Total Costs to be Recovered in the Reserve Account	31,000
Number of Years of Service Life for the Facilities	10
Annual Reserve Account Payment	3,100
Annual Sinking Fund Payment	4,500
Annual Replacement for the Annual and Sinking Fund Costs	7,600
Annual Reserve Account Payment	3,100
Total (1) + (2)	10,700
Number of Lots	75
Annual Reserve Payment Per Lot	142.67
Annual Reserve Payment Per Lot	142.67

HP_00013

Preliminary Draft for Discussion Only - Subject to Change

Additions and Amendments to
Western Carolina Regional Sewer Authority
Sewer Use Regulations

1. Additions

The following definitions are added to Section 1.2.

Collector Sewer - Any portion of a sewer system that connects to a WCRSA line.

Collector Sewer System - That system of gravity lines, force mains and pump stations within the lateral lines (collection line) that are owned, operated and maintained by a sub-district or another entity that carries wastewater stream to a connection at a WCRSA trunk line.

Trunk Line - A line owned, operated and maintained by WCRSA that transports the wastewater stream to a treatment plant.

Person - Shall mean any individual, partnership, venture, firm, company, association, joint stock company, trust estate, governmental entity, or any other legal entity or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

Public Utility - Any utility owned by a governmental entity.

Private Utility (PU) - Any utility owned or operated by a privately owned entity.

User - This definition shall include without limitation any consumer of residential, commercial or industrial services such as individual or associated homeowners, developers, public or private utilities, satellite systems, subdistricts, municipalities, or any permittee who directly or indirectly discharges, causes, or permits the discharge of wastewater to WCRSA.

Point of Connection - That point determined by WCRSA to be the site where a User, if authorized, may connect to a WCRSA trunk line.

The following provisions are added to Section 2.

1. WCRSA shall not accept a connection from any Collector Sewer System owned by more than one User. This requirement shall not apply to Collector Sewer Systems which are owned by multiple public entities.

HP_00014

Service requests outside of the service area of a subdistrict or a municipal or county sewer subdistrict

2. For service requests outside of the service area of a subdistrict or a municipal or county sewer subdistrict, any Private Utility ("PU") desiring to connect a Collector Sewer System to a WCRSA trunk line shall make application to WCRSA and must enter into an agreement ("Agreement") with WCRSA whereby the PU covenants to restrict future conveyances of the Collector Sewer System as follows:

- a) The PU and its successors agree that any and all future conveyances of the Collector Sewer System are restricted and limited to conveyances to a single entity of the entire system of gravity lines, force mains and pump stations constituting a Collector Sewer System;
- b) WCRSA may seek injunctive relief to enforce the terms of the Agreement until such time that the Collector Sewer System in its entirety is owned by a public entity.

Further, the application to WCRSA will include an opinion from the PU's legal counsel that such PU is authorized to own and operate the Collector Sewer System and to enter into the contracts by which it gained ownership and control of the system.

Service request inside the service area of a subdistrict, municipality or county sewer subdistrict

3. All requests for service inside the service area of a subdistrict, municipality or county shall be under the direction and approval of a subdistrict, municipality or county. This provision allows the subdistrict, municipality or county to use a PU under contract. WCRSA shall consider such Collector Sewer System a part of that subdistrict, municipality or county's collector system.

The application for service to WCRSA shall be under the direction and approval of the subdistrict, municipality or county with a pledge to WCRSA that should the PU become insolvent, inoperable, or subject to any regulatory warning for unsafe or unsanitary operating conditions which is uncured for more than 30 days, then the subdistrict, municipality or county will assume ownership, operational and financial responsibility for the PU.

For any Collector Sewer System owned by a PU, WCRSA shall be provided with a copy of the contract by which such entity obtained control of the system. A term of that contract shall require ownership of the system shall be transferred to a public utility if the PU becomes insolvent, or the Collector Sewer System becomes inoperable or

HP_00015

subject for 30 days to an uncured regulatory warning for unsafe or unsanitary operating conditions. The contract will include express provision giving WCRSA standing to bring an action to enforce the terms of the contract as a third-party beneficiary thereto.

The following provision is added to Section 4.1. Prohibited Discharges

(15) Wastewater which includes excessive infiltration and inflow which shall be defined as a flow which exceeds the applicable Babbitt equation for the pipe in question during a 10 year rain event. For purposes of this regulation, excessive wet weather flows for any 3 consecutive rain events above 1" shall be considered non-compliant. In the case of a conflict between this provision and any separate Agreement between WCRSA and a User regarding I/I, the terms of the Agreement shall be controlling.

HP_00016

**Harrison Partners,
L.L.C**

vs.

**Renewable Water
Resources**

2011-CP-23-6482

**Record for Administrative
Appeal
VOLUME 3**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
Harrison Partners, L.L.C.,	)	Civil Action No. 2011-CP-23-6482
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Renewable Water Resources.	)	
	)	
Defendants.	)	
	)	

RECORD FOR ADMINISTRATIVE APPEAL

VOLUME III

CHILDS LAW FIRM, LLC

Robert C. Childs, III
 2100 Poinsett Hwy., Suite D
 Greenville, SC 29609
 (864) 242-9997
 Attorney for Harrison Partners, L.L.C.

NELSON MULLINS RILEY & SCARBOROUGH LLP

Rivers S. Stilwell
 Lane W. Davis
 104 South Main Street / Ninth Floor
 Post Office Box 10084 (29603-0084)
 Greenville, SC 29601
 (864) 250-2300
 Attorneys for Renewable Water Resources

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DEPOSITION OF WILLIAM J. ALEXANDER FROM THE RECORD ON APPEAL
ADMINISTRATIVE HERAING

WILLIAM ALEXANDER, IV

Page 1	Page 3
In re: Renewable Water Resources, Inc. Administrative Proceeding Concerning Harrison Partners, LLC DEPOSITION OF WILLIAM J. ALEXANDER IV DATE TAKEN: Thursday, March 17, 2011 TIME BEGAN: 1:00 p.m. TIME ENDED: 2:20 p.m. LOCATION: Nelson Mullins Riley & Scarborough 104 South Main Street, Suite 900 Greenville, South Carolina REPORTED BY: Elaine L. Grove-DeFreitas, RPR Gallagher Court Reporting 864-234-5744	INDEX Examination by Mr. Stilwell..... PAGE 4 Certificate..... 55 Exhibits: (No Exhibits Introduced) EXHIBIT 43
Page 2 APPEARANCES: EUGENE C. FULTON, JR., ESQUIRE 1492A Lake Murray Boulevard Columbia, South Carolina 29212 On Behalf of Harrison Partners RIVERS S. STILWELL, ESQUIRE Nelson Mullins Riley & Scarborough, LLP 104 South Main Street Suite 900 Greenville, South Carolina 29601 On Behalf of Renewable Water Resources, Inc. ALSO ATTENDING: Scott Holo and Stephen Graef STIPULATIONS: The within deposition was taken pursuant to the South Carolina Rules of Civil Procedure. WAIVER: Examination and reading of the deposition are waived by the witness and by the parties.	Page 4 1 WILLIAM J. ALEXANDER IV, having been duly sworn, 2 testified as follows: 3 EXAMINATION BY MR. STILWELL: 4 Q Jay, I want to ask you some questions today mostly 5 about Scott's project. 6 A Okay. 7 Q I know that your projects overlap, but I am going to 8 basically talk about his issues and not necessarily 9 yours. 10 A Okay. 11 Q Have you had your deposition taken before? 12 A Yes. 13 Q Okay. You know the drill. If we can just not speak 14 over the top of each other, which I don't think we 15 will, then we won't have a problem. And also if you 16 have any questions about the questions I ask, ask me 17 to fix it and I will do that. 18 A Okay. 19 Q Now, the first thing we talked about before, right 20 before we started, is are you going to be at the 21 hearing next week? 22 A From what I understand, yes. 23 Q All right. I just wanted to know if I was going to 24 be talking to you again or if it's just today. 25 A Yeah.

1 (Pages 1 to 4)

GALLAGHER COURT REPORTING

864-234-5744

gcr@charter.net

WILLIAM ALEXANDER, IV

Page 5	Page 7
1 Q I noticed I saw y'all at lunch together. Is that 2 the first time you had met Gene? 3 A Yes. 4 Q Is that the first time you had spoken to him? 5 A Yes. 6 Q Okay. Have you talked to Scott about his lawsuit 7 before today? 8 A Not specifically, but understanding that they are 9 moving forward with one. 10 Q Okay. When is the last time you had talked to 11 Scott? 12 A I don't recall a specific date. Probably -- well, 13 we spoke about three weeks ago, but it was about a 14 project in South America, not anything to do with 15 this lawsuit. 16 Q Are y'all working together on a project? 17 A No. 18 Q Okay. Was it an opportunity that he was presenting 19 to you? 20 A It was some work they were doing down there and just 21 thought we might have an interest, but we don't. 22 Q Okay. Who is "they," Scott's company, InSite, or 23 some other group? 24 A I don't know exactly who it is, but it's somebody he 25 represents.	1 about our conversations with Western Carolina prior 2 to our purchasing our property. And then the rest 3 of it was talking about my uncle living in Delaware, 4 where he used to live, and just general business. 5 Q What else did you talk about, about this particular 6 lawsuit? 7 A He just asked me questions about our, being 8 Windsor/Aughtry, role in pursuing the sewer prior to 9 our closing. 10 Q Okay. What did you talk about, about their project? 11 A Just generally where they were as far as the 12 lawsuit. There is a hearing, I guess, next Tuesday, 13 which I didn't really know until today, and that I 14 would be asked to come to that. And that they were 15 in the process of doing the depositions, who they 16 had deposed so far, Ernie, and that Gene McCall was 17 coming this afternoon. And not really any other 18 specifics. 19 Q Did he tell you anything about what the other 20 witnesses said in their depositions? 21 A No. 22 Q Okay. Do you remember anything Scott told you 23 today, at lunch, other than the part about South 24 America? 25 A Relating to --
Page 6	Page 8
1 Q Okay. Did you review any documents before we 2 started today? 3 A I went back in my file and just kind of looked at 4 the big picture of trying to recollect some of the 5 big dates. 6 Q The dates of -- 7 A Of what happened, because it has been going on for a 8 while. 9 Q I have got a bunch of documents here. I am not 10 planning on using a ton of them, but if you need a 11 date I can probably help you with the dates, just 12 for reference points. 13 A Okay. 14 Q I wouldn't swear to you the day is accurate, but if 15 you have a struggle with a date we will get through 16 that part. But I am not holding you to exact dates. 17 A Okay. 18 Q All right. So you didn't look at any documents from 19 Scott or Gene? 20 A No. 21 Q What did y'all talk about, generally, today then? 22 A He asked me the same thing you did, if I had ever 23 been in a deposition, just to make sure I knew the 24 format and how it would happen. He asked a few 25 questions about our project and what I recalled	1 Q This. 2 A -- this case? 3 Q Yes. 4 A Nothing specific other than what I have already told 5 you about who had been deposed so far and that the 6 lawsuit -- or that the hearing was next Tuesday. 7 Q Okay. And did you agree to come to the hearing next 8 Tuesday? I mean, you said that was the first time 9 you had heard about it. 10 A Yes. I guess I would be subpoenaed. 11 Q If you're going to ask me, there is no subpoena 12 power for this, but we can talk about that later. 13 A Okay. 14 Q Now, you said y'all had talked about y'all's 15 project, generally. And did y'all talk about your 16 more current negotiations with ReWa? 17 A No. 18 Q Have you talked to Scott about those? 19 A No. I told him that we had met. At lunch I just 20 mentioned that we had met. Scott did say that 21 somebody had made the comment, maybe in one of the 22 depositions, that there was an agreement, or 23 somebody understood maybe that we had an agreement 24 with ReWa, and I told him we did not. But we had 25 met a couple months ago and that was it.

2 (Pages 5 to 8)

GALLAGHER COURT REPORTING

864-234-5744

gcr@charter.net

WILLIAM ALEXANDER, IV

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1 Q Okay. What is going on with y'all's project right 2 now? I mean, it's not going forward right now, but 3 in terms of have y'all got any plans to develop the 4 property any time soon? 5 A No immediate plans. 6 Q Okay. Let's go back and kind of start 7 chronologically, start at the beginning instead of 8 starting at the end. I have seen emails from the 9 2006 time frame where you started to talk with ReWa 10 about the project. When did y'all start looking at 11 that property? 12 A We put it under contract about February 2006. And 13 it was simultaneously that we -- actually, I sent 14 Brian Bishop an email, or a letter basically 15 proposing what we were looking at. 16 Q I have seen that. I know what you're talking about. 17 Basically, y'all put it under contract, do you mean 18 you had an option on it? 19 A No. We had a contract. 20 Q You had it under contract to purchase? 21 A Right. 22 Q And then you closed on it after that? 23 A Closed on it about September of 2006. 24 Q And you got some kind of capacity letter from Brian, 25 that's what you're talking about?	1 believe Ed Mathis was at that meeting. And that 2 would have been around June, July of 2006. 3 Q Okay. So it was after that initial contact. 4 A Right. 5 Q Okay. At the time of that initial contact, when 6 Brian said you could have access to the property, 7 there wasn't any discussion of routing then, or is 8 that predating the routing discussion? 9 A No. What we did was we met with Brian. And again, 10 I believe that Ed Mathis was at that meeting, Chip 11 Fogleman was at the meeting. And at that meeting 12 Brian -- and Metro was at the meeting. Brian 13 suggested that we work with Scott Bolo's group 14 because they were looking at the same kind of 15 scenario, and also steered us to the flag lot that 16 Western Carolina owns on New Harrison Bridge Road, 17 and to utilize that route to come into the plant. 18 Q When was that meeting? That was after you had 19 already had the emails with Brian? 20 A That was in June -- I believe that was in July of 21 '06. 22 Q And I have seen the initial email exchanges with you 23 and Brian in February and March of '06. Had you met 24 with him during that time or was that all emails and 25 phone calls?
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1 A Not a capacity letter. We asked Brian -- the way to 2 get sewer to this property was via a lift station 3 and force main, and it would require an easement or 4 a force main on the lower Reedy plant property. Can 5 we do that? 6 He responded in a letter that they would look at our 7 project and assess it. I am just -- 8 Q I know the document you're talking about, but I 9 don't have it. 10 A And he responded, but it wasn't necessarily -- my 11 understanding is they won't give capacity letters 12 until you actually submit the permits. 13 Q Okay. And as far as access to ReWa property, what 14 was your understanding of where that would be, or 15 did you have an understanding of where it would be 16 then? 17 A We proposed going down the river from New Harrison 18 Bridge Road. 19 Q How is that proposal -- I have seen emails, but I 20 haven't seen anything about routing in that time 21 frame. Was that a meeting or an email or what? 22 A That would have been a meeting. And Chip Fogleman, 23 who is our engineer, proposed that to us, that that 24 would be the best route to use. So we proposed that 25 to -- I think we met with Brian Bishop, and I	1 A I believe, at that time, it was all emails and phone 2 calls. 3 Q Okay. And who was it that proposed the river route? 4 Was it at that same meeting? 5 A We proposed it. We brought that to the meeting 6 with -- I believe, in one of the emails, Brian asked 7 us to bring a proposed route. 8 Q And Ed Mathis is with Chip? I don't know who that 9 is. 10 A Is he with ReWa, with Western Carolina? 11 MR. GRAEF: Andre. 12 THE WITNESS: Andre Mathis. Sorry. 13 BY MR. STILWELL: 14 Q All right. Gotcha. And at that meeting did Chip 15 actually have a route drawn out, or was this all 16 conceptual at that time? 17 A It was all conceptual. 18 Q Okay. Tell me about the context of the other route 19 coming up. You said Brian suggested a route? 20 A Right. 21 Q Where did that come from? 22 A It came from Brian. And I don't know the thoughts 23 behind directing us there, but they directed us to 24 that route to come in on the flag lot there on 25 Harrison Bridge Road.

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1 Q And at that time you hadn't met with the InSite 2 people and Scott's group? 3 A At that time I don't believe we had. We were 4 directed by Brian to contact them and work together. 5 Q Okay. And what did y'all do with that route? I am 6 going to call that the flag lot route. What did 7 y'all do with that route? 8 A We started pursuing that. Scott Bolo's group were 9 pushing a little harder than we were. We didn't 10 have an imminent use at the time, but we did have 11 some interest in the property. 12 My understanding is Scott Bolo's group had a 13 contract to take down lots, so they were moving hot 14 and heavy with getting it developed and 15 infrastructure in place. So he took the lead, and 16 our engineers worked with him; they surveyed the 17 lot. I recall an email from Andre Mathis with 18 somewhat of a CAD drawing of the lower Reedy plant 19 that showed, just in blocks, where the buildings and 20 the treatment facilities were and where we needed to 21 tie in in the back of the plant. 22 Q Who showed you that? 23 A Brian sent an email, and he had, I believe, 24 attached -- had an attachment from Andre and said 25 here is where you need to tie in.	1 force mains, one that we would use, one that they 2 would use. Another option was to come in, tie 3 together, and just have a check valve there and 4 utilize one force main coming in. 5 Q And those were up the flag lot route? 6 A Right. 7 Q Was it ever settled which of those were going to be 8 done? 9 A We looked at tying the two in together, but I don't 10 think one was ever nailed down. I mean, engineers 11 kind of handled that, but I think it never 12 materialized before we were told, out of the blue, 13 you can't do this. 14 Q Okay. The discussion with Brian and Andre during 15 that June, July meeting, was somebody from Metro 16 there, did you say? 17 A I believe they were, because recalling the emails, I 18 think we were trying to coordinate several different 19 people to be there, and Metro was one. 20 Q Do you recall any reason why the flag lot route was 21 mentioned? How did it come up? What was the reason 22 for the flag lot instead of the river route? 23 A I don't know. I mean, we just took it that they 24 directed us there, and we were relying on them to 25 guide us as to the best way to do it.
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1 Q That showed the tie-in point? 2 A Right. 3 Q And that's more at like the top of the plant? 4 A Right. Furthest from New Harrison Bridge Road. 5 Q All right. Now, the river route was closer to your 6 property. Right? 7 A Yes. 8 Q Okay. When you met with Brian at that time, what 9 route was Scott's group looking at, do you know? 10 A I don't know. 11 Q Okay. Was the flag lot route basically equal 12 distance between your property and Scott's property? 13 A Probably, just going off of gut, you know, it was 14 somewhat in the middle. 15 Q Tell me about your interaction -- and I don't know 16 if it was you. I know you're not an engineer. 17 Right? 18 A Right. 19 Q The interaction between the two groups of figuring 20 out how the two properties could work together, and 21 I mean like engineeringwise, what was your 22 understanding of how the two force mains were going 23 to go together? 24 A They could come in -- there were two options that we 25 discussed. One was to dig the trench and lay two	1 Q Do you know whether Chip ever submitted plans that 2 would show those engineering solutions, like how 3 that was going to work and tie together and then run 4 together or run separately through the ReWa 5 property? 6 A He did submit some plans to us. Again, Scott Bolo's 7 group was pushing harder ahead. And both needed to 8 have applications before one could even start, so I 9 would assume that we did submit some type of 10 application. 11 Q Is that something Brian told you, y'all had to put 12 the final plans and specs together, like both had to 13 be in at the same time or coordinated somehow? 14 A Is that something that Brian required, are you 15 saying? 16 Q Yes. 17 A I don't know. 18 Q When you said Scott's group was pushing harder, 19 their development time frame was just different than 20 yours? 21 A Yeah. They had a deal. 22 Q Okay. And what was y'all's time frame? That's 23 something I never understood. Like what was your 24 conception of when you would develop the property? 25 A Of course, the timing was a little bit different;

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Page 17 1 probably within two years. Our objective was to go 2 ahead and get everything engineered but not put it 3 in. However, with the force main on the property it 4 didn't make sense for one group to put it in and 5 then for us to come back later and do something on 6 top of that, so we were going to participate in that 7 and then tie our part in later. 8 Q Was it your understanding that it was ReWa's 9 preference to have the force main piece on their 10 property just put in once? 11 A Yeah, that's my understanding, they would prefer 12 that. 13 Q Did you ever have a business arrangement of how you 14 were going to pay for the piece where the two mains 15 came together? 16 A We did have a cost sharing agreement. 17 Q Were y'all joint venturers together? 18 A No. 19 Q So you didn't have a partnership on any of that? 20 A (Witness shakes head). 21 Q Was it written down? 22 A It was an agreement. 23 Q How was that? It was an agreement written, reduced 24 to writing? 25 A Right. Yes.	Page 19 1 A I believe they were estimated, but never a hard 2 cost, that I recollect. 3 Q Who was in charge of engineering the piece of it 4 that was going to go through ReWa's property? 5 A I believe Scott was going to do that portion of it. 6 Q Have you ever seen those plans? 7 A No. That would probably have been something that 8 Chip would, because they were coordinating the 9 design between the two engineering firms. 10 Q Was Scott also responsible for surveying the piece 11 through ReWa's property? 12 A Yes. 13 Q Did you ever see the survey on it? 14 A Yes. 15 Q Where was that? 16 A Where was the survey? 17 Q Yes. 18 A Where was the paper or where was the survey? 19 Q Where was the survey? Which route was surveyed? 20 A It was the flag lot at that time. 21 Q And when was that done? 22 A I don't recall the specific date. 23 Q Were you involved in it yourself? Did you go out 24 there and walk the land? 25 A No.
Page 18 1 Q That's not something that I have seen. What did it 2 look like, a couple pages or something like that? 3 A Yes, just a couple pages. Just an agreement 4 contract for cost sharing of that portion that we 5 would do. 6 Q We sent out some subpoenas in this case, but I have 7 never seen all y'all's records. Do you have like a 8 file on this? I can't remember your development. 9 Is it New Harrison Bridge Road? 10 A Right, New Harrison Bridge Partners. 11 Q Do y'all have a New Harrison Bridge Partners file on 12 this? 13 A Yes. 14 Q Generally, what is the cost sharing arrangement? 15 Y'all split all the pieces after you join together? 16 A Basically, just sharing the cost of putting the pipe 17 down. 18 Q I mean, for instance, wherever y'all two were going 19 to join, everybody was going to carry their costs to 20 get there? 21 A Correct. 22 Q And then after that you were going to share it? 23 A Right, share it. 24 Q The cost numbers were never hung on that shared 25 part, were they?	Page 20 1 Q What did you hear about when that was, when that was 2 surveyed? What did you hear about how that route 3 looked? 4 A It could have some hair on it. But as far as trees 5 that are taken down, we weren't sure about if there 6 is any rock or anything out there. But nothing 7 specific that caused concern. 8 Q What did you hear about rock? Did you hear anything 9 about the topography? Do you remember any of that? 10 A I don't recall that. 11 Q Okay. Then how was the decision made to go to 12 another route? 13 A We met with Dr. Graef. We were asked to come to 14 meet with Dr. Graef and told that we were not 15 allowed to run a force main on Western Carolina 16 property, as we had been told we could. 17 Q When you mentioned that there was hair on it, who 18 did you get that information from, from Scott? 19 A I don't recall the specifics. We were having the 20 conversations and conversations with Chip Fogleman, 21 so it would have been possibly with Scott. 22 Q When was that? The meeting you mentioned with 23 Dr. Graef, when was that, do you recall? Was it in 24 '07 sometime? 25 A That was around September of '07.

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1 Q When you heard that the flag lot route had some hair 2 on it, was that shortly before that meeting? 3 A I don't know. I don't know what the time frame was 4 between those two. 5 Q All right. Tell me what you recall of that meeting 6 with Dr. Graef. Was that the first time you met had 7 Dr. Graef? 8 A Yes. 9 Q And how did that meeting come about? 10 A We were asked to come there. I am not sure who 11 initiated the meeting from Western Carolina. It was 12 at Western Carolina's facility. And Chip Fogleman 13 came, I was there, Scott Bolo and a girl from his 14 office. And we were just simply told, very bluntly, 15 honestly, that we were not going to be allowed to 16 run any type of force main on Western Carolina 17 property. 18 Q Who was the girl you were talking about? 19 A Somebody that works with Scott. 20 Q From Scott's office. I can't remember her name. I 21 know who you're talking about. Who told you that, 22 Dr. Graef? 23 A Yes. 24 Q Prior to that meeting had anyone communicated to 25 you, either by email or orally, what the specifics	1 A Right. 2 Q And that was longer for you guys? 3 A Yes. 4 Q And I take it it was more expensive for you guys to 5 do it that way? 6 A Yes. 7 Q Did someone, your engineer or Scott, actually go 8 look at that tie-in point and do some work looking 9 at it? I am going to call it the Metro tie-in 10 point. 11 A Yes, they did. 12 Q And what happened with that route? 13 A I believe -- I recall there was going to have to be 14 an upgrade in Metro's line. So you had the expense 15 of the upgrade, in addition to the extended route. 16 Q So you had to run it longer, and Metro was going to 17 make you upsze to the line where it was going to 18 tie in? 19 A Correct. 20 Q How much was that upgrade cost, do you know, 21 generally? 22 A I don't recall. 23 Q If it was in the 200s, does that sound about right? 24 A I don't recall exactly what it was or even around 25 about what it was.
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1 of the flag lot route issues were? 2 A No. 3 Q Did anybody ever tell you -- you mentioned rock. 4 Did somebody mention to you rock problems with it? 5 A Potential rock problems, but I never heard any 6 specifics. 7 Q At that meeting, what do you recall Dr. Graef 8 saying? 9 A Basically, that we would not be able to run, I 10 recall, anywhere on Western Carolina property. It 11 was very blunt, kind of strange, because there was 12 no real reason or anything, just because we had been 13 going forward with this understanding that we were 14 going to be able to do this. And it was almost like 15 no. Period. No explanation. 16 Q Did they offer you another route? Were other routes 17 discussed shortly after that? 18 A Other routes were discussed, but materially 19 different in that they went completely up a 20 different road to get into a gravity line that Metro 21 owns. 22 Q Right. They went to a Metro line? 23 A Right. 24 Q And they basically went around the plant is what 25 they did?	1 Q And was that information communicated to you from 2 Metro or from Scott? 3 A Scott. And Chip Fogleman, our engineer, he was 4 working on that. 5 Q Who made the decision to reject that option? 6 A I don't know if it was -- I guess collectively, we, 7 together, said that that was not a viable option. 8 Q Who was in the collectively group? 9 A It would have been Scott, our group, with input from 10 our engineers. 11 Q Do you recall whether there were a couple different 12 versions of that tie-in point at the top? 13 A I think there were. We even looked at another route 14 going towards Griffin Park, but that was not 15 feasible at all. 16 Q Did you understand that route -- I don't have my 17 roads right, but if you're looking at a map of north 18 to south, there is a north to south road. And I 19 think the one you're talking about, the route going 20 to the top of the plant, did you understand that 21 that route, going right up the road, was something 22 that Scott had looked at initially for his project? 23 A Had looked at prior to? 24 Q Right. 25 A No.

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Page 25 1 Q I want to skip back to the meeting with Dr. Graef. 2 What did y'all say at that meeting? What did you 3 say at that meeting? 4 A I asked; "Well, what are we supposed to do?" And it 5 was almost a shrug of the shoulders of "I don't 6 know," almost like "That's your problem." Again, 7 very little information. Just you can't do this, 8 and that's the end of it. 9 I do recall I asked why, why can't we do this, and 10 it was indicated that it could interfere with the 11 plant's ability to expand. 12 Q Was it at that meeting that they suggested -- 13 somebody from ReWa suggested going to Metro to look 14 for other tie-in points? 15 A It may have been. 16 Q You don't recall? 17 A I don't recall. It was almost like a shock at the 18 meeting. We can't? 19 Q You had not been told, prior to that meeting, that 20 the flag lot route was not going to be acceptable? 21 A No. 22 Q Let me show you a document here. And I guess we 23 don't have to mark this, because it has already been 24 marked as Exhibit 9 from Scott Bolo's deposition. I 25 will just let you read it. I don't know why, but	Page 27 1 A Again, we were kind of in shock and just asking why, 2 and didn't get a lot of specific information from 3 Western Carolina, Dr. Graef, as to what are our 4 options. 5 Q Let's look at Brian's email. He mentions here, at 6 the bottom, a four-point different solution. Do you 7 see that? 8 A Uh-huh. 9 Q Now, I understand that you said, at that meeting, 10 that you were shocked by this. Do you think -- 11 based on this, are you saying that Scott was shocked 12 by what Dr. Graef said? 13 MR. FULTON: Object to the form of the question. 14 A I don't know what his reaction would have been. 15 Q Is it fair to say, based on this email, that he may 16 have known more than you did, when you came into 17 that meeting, about the flag lot route? 18 MR. FULTON: Object to the form of the question. 19 A He could have, but then he is an engineer and more 20 intimately involved with the project. 21 Q Okay. After y'all looked at the Metro tie-in point 22 above the plant and that was rejected, what is the 23 next route you looked at? 24 A I believe that we were offered the option that the 25 homeowners' association could own the lift station
Page 26 1 the emails on the back are like a year different. 2 It's a disconnected chain, so I am just going to ask 3 you questions about the first two. 4 A All right. 5 Q Have you ever seen this email before? 6 A No, not that I recall. 7 Q Okay. And I see it's sent from Brian to Scott. Are 8 you saying that Scott did not tell you about these 9 concerns that Brian had before that meeting with 10 Dr. Graef? 11 MR. FULTON: Object to the form of the question. 12 A So this was prior to our meeting with Dr. Graef. 13 Q Do you recall what date Dr. Graef's meeting was? 14 A Not specifically. I think it was in September. 15 Q Okay. And this is in August, so I don't know. 16 A Right. I know there was some discussion about the 17 lot, but again I didn't know specific details. 18 Q All right. What do you recall Scott saying at that 19 meeting about when Dr. Graef mentioned that flag lot 20 route was not going to work? 21 A Again, we were not given any option within Western 22 Carolina. It was more that we are not going to 23 allow a force main on our property. 24 Q Okay. And what do you recall Scott saying at that 25 meeting?	Page 28 1 and the force main, and that would have been down by 2 the river. 3 Q Okay. So there was a time where the project moved 4 to the river route? 5 A Right. 6 Q So ReWa came back and offered a route through their 7 property? 8 A Correct, on the river lot, but not with Condor. Not 9 in the spirit of the way it was originally 10 communicated to us that we could do prior to closing 11 on our property. 12 Q Which was what, that Condor would own the force main 13 and pump station? 14 A A public utility company such as Condor would have 15 to own it. 16 Q And the reason Condor, as you said, would have to 17 own it, is because the public company, Metro, had 18 refused to own it? 19 A I don't know that we ever asked them. I don't think 20 it's their policy that they own force mains and pump 21 stations. And it's fairly common that a private 22 utility company does own and maintain those. 23 Q How many of those have you worked with, yourself, 24 with Windsor/Aughtry? I don't even know how long 25 you have been there, but have you worked on other

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1 pump stations and force mains owned privately? 2 A I have not. 3 Q Why do you say it's fairly common that it works that 4 way? 5 A That was my understanding through our engineers, 6 when we talked with about them about how can we get 7 sewer to this property, a force main. 8 Q Are you aware of any other privately owned pump 9 stations or force mains that run through ReWa 10 property? 11 A Not personally. 12 Q Did anyone from ReWa tell you that this would have 13 been the only one that would have run through ReWa 14 property? 15 A Not that I recall. 16 Q Okay. Why did the river route not work? Why did it 17 not happen? 18 A The second time? 19 Q Right. 20 A DHEC would not allow a homeowners' association to 21 own and operate a lift station. 22 Q Where did you learn that? 23 A We were, I believe, submitting plans to utilize that 24 route. And when DHEC was contacted it was 25 communicated back, I believe through Scott, that	1 A I attended a board meeting. 2 Q Which board meeting was that? Is that the one after 3 the regulation? 4 A I believe it was November of '08, somewhere around 5 in there, and I believe they went to executive 6 committee to discuss it. 7 Q What was the discussion then? Oh, November of '08. 8 A Right. 9 Q Okay. That would be after the date of May '08 on 10 the regulation. Did you go to any of the board 11 meetings before the regulation was enacted? 12 A Okay. Maybe this was November of '07. I went to 13 one when it was first brought up and on the agenda; 14 however, it was discussed in an executive session, 15 so it was a moot point going to it. 16 Q You don't recall anything from that meeting? 17 A No. 18 Q And you didn't go to a public hearing on the 19 regulation? 20 A No. 21 Q Okay. What meetings do you recall otherwise? Like 22 were there meetings with ReWa in between there? 23 A There was a number of meetings with Ray Orvin and 24 all through the past five years. But to take those 25 from the time the regulation was set in place, what
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1 they would not allow a homeowners' association to 2 own that equipment. 3 Q This predated the new regulation. Right? 4 A I don't know the dates. 5 Q I am just going to hang a date for you. May '08 is 6 when the regulation was enacted. 7 A Okay. 8 Q And then this piece we were talking about, the river 9 route, do you recall that being in the fall, like 10 before the turn of '08? 11 A It probably was in the fall of '08, late '08. 12 Q Okay. And after the regulation was amended, was it 13 your understanding that under the regulation Condor 14 could own the whole thing, the collector system and 15 the force main? 16 A After the change by ReWa? 17 Q The regulatory change, yes. 18 A The regulatory change. Was it my understanding 19 Condor could own and operate? It was my 20 understanding they could not. 21 Q Where did you get that understanding? 22 A From ReWa or Western. 23 Q Let's start before the regulation now, before the 24 enactment of the regulation. Did you attend the 25 public hearings on the regulation?	1 kind of timeframe are you talking about? 2 Q I am talking about in that preregulation time frame. 3 For instance, I believe there was a meeting where 4 the homeowners' association option was discussed. 5 A Right. 6 Q And I can't remember if I was at that meeting or 7 not, but do you remember a meeting where y'all 8 talked about like the river route and the 9 homeowners? 10 A Yes. 11 Q What do you remember of that meeting? 12 A That that was an option. However, the ability for a 13 permit from DHEC, I believe when I discussed that 14 with our engineer, he almost, out of the gate, was 15 like, "They are not going to allow that." 16 Q Do you understand why that homeowners' association 17 option was on the table? Do you understand the law 18 behind it? 19 A No. 20 Q At that time before the regulation was enacted, was 21 it your understanding that it was still up in the 22 air whether these could be privately owned or not? 23 A Before the regulation was enacted? 24 Q Right. 25 A May of '08?

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Page 33 1 Q Right. 2 A Could private utility companies own and operate -- 3 Q Right. 4 A My understanding was they could not dump into a 5 Western Carolina line. 6 Q That's what the new regulation was going to say? 7 A Yes. And that was where it was going, so we 8 couldn't -- we were not allowed -- the feedback I 9 got, specifically how it was communicated I don't 10 recall, was from Western Carolina, "Condor or any 11 private utility company is not going to own and 12 operate and dump into our line." 13 Q Did you ever see the regulation in draft form? Like 14 before it was enacted, did you see various versions 15 of it? 16 A I believe we did get an email with the draft. 17 Q Do you recall, after the regulation was enacted, a 18 discussion, and I don't know where this happened, 19 between Metro, between Condor, about Condor owning 20 the whole thing, the collector system and pump 21 station and force main? 22 A What are you talking about as far as collector 23 system? 24 Q I am going to say this in my lay term. A collector 25 system like the part that runs in the streets of a	Page 35 1 Q Have any neighborhoods been built in the Metro 2 system since the economy tanked in '08? 3 A New? 4 Q Yes. 5 A I don't know. 6 Q Are you aware of any new neighborhoods being built 7 in '08, '09 or '10 in Greenville County? 8 A New neighborhoods, '08, '09, I don't know of any. 9 Q Okay. After the discussion of Metro owning the 10 whole thing did there come a point in time where 11 there was a discussion of ReWa owning the whole 12 thing? 13 A Yes. 14 Q What happened with that discussion? 15 A We were asked -- we were given the option of Western 16 Carolina, ReWa, owning the whole thing and having a 17 contract with them. Part of that was to -- we were 18 told we would have to deannex from Metro, which we 19 were told by Western Carolina we had to annex into 20 Metro originally. So before we went through that 21 process, we wanted to understand what the deal would 22 be. And we were given some preliminary numbers and 23 a contract as to what it would look like. 24 Q Who gave you those numbers? 25 A Dr. Graef raised them in some of the meetings we had
Page 34 1 neighborhood. 2 A Okay. 3 Q The part that under the first plan Metro was going 4 to own, that instead Condor would own the whole 5 thing; the part in the streets coming from houses, 6 the pump station and the force main, do you recall 7 that being discussed after the regulation was 8 enacted? 9 A I don't recall that. 10 Q Do you recall, after the regulation was enacted, a 11 point where there was a discussion of Metro owning 12 the whole thing? 13 A Yes. 14 Q What happened to that discussion? 15 A They, Metro, their indication to me was, and to our 16 group, that they had no way of collecting fees for 17 owning and operating a lift station. They collect 18 their fees through the ad valorem tax, and so it's 19 not their policy, or they are not set up to do it. 20 Q Have you learned, since the regulation was enacted, 21 that Metro has actually developed a fee for 22 operating pump stations? 23 A No. 24 Q You hadn't heard that? 25 A No.	Page 36 1 with them; primarily, Dr. Graef. 2 Q And the end of that process is like what you're 3 still working on now? 4 A Yes. 5 Q Okay. Tell me what happened with the discussion 6 regarding those numbers. Were they given 7 specifically to you or were they given to Scott or 8 to Ernie? Who do those numbers fit? 9 A I believe they were given to all of us. 10 Q And what do you recall about those numbers? 11 A They were a good bit higher than what our original 12 pro forma was for with our agreement. 13 Q I want to split those numbers into categories, like 14 operational numbers and what I am going to call 15 capital charges, which I will talk about a little 16 differently. And then reserve accounts, I guess, is 17 the other place. And which piece of those 18 numbers -- I want to get the specifics. Like on the 19 operating costs, which pieces were higher than what 20 you had expected? 21 A To drill down -- as to which ones were specifically 22 higher, I don't recall. I do recall that the entire 23 number, which is material at the end of the day, was 24 probably twice or more of what our anticipation was 25 under the original agreement we had.

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1 Q I am just going to focus on the operational costs, 2 like costs per year, and then I will just say 3 ballpark or something like 35,000 a year, 30 or 4 35,000 a year. 5 A Right. 6 Q I remember a meeting, and I guess you were there 7 because I was there, and a guy at the end of the 8 table said, "If you combine the Condor costs plus 9 the ad valorem taxes that Metro is going to charge 10 on the operational of the system, the ReWa numbers 11 are basically the same thing." Do you recall that 12 comment? 13 A I don't recall the specific comment. 14 Q Have you ever looked at that, whether if you added 15 the Metro and the Condor costs, how they compared to 16 the ReWa operational cost? 17 A Yes. 18 Q Are they about the same? 19 A No. They were more. With the Western Carolina 20 owning and operating, the operational number was 21 more. 22 Q Do you remember, basically, what the Condor number 23 was per month for the pump station in your 24 neighborhood? 25 A I believe we were somewhere around \$20 a month,	1 the waste water treatment through the water bill, 2 yes. 3 Q Okay. Let's talk about the other element, of the 4 fees that were put in to you by ReWa. There was 5 some kind of charge for rebuilding the system, if it 6 needed to be rebuilt in 20 years or something? 7 A Right. 8 Q Was that part of the Condor agreement too? 9 A Their agreement, they had a monetary figure in there 10 just for maintenance and rebuild and stuff. They 11 didn't identify a 20-year rebuild, so to speak. 12 Q The Condor agreement and the ReWa agreement, I am 13 going to generally describe these, they had an 14 element where like you put a year down, for like a 15 reserve against unpaid fees? 16 A Correct. 17 Q And then they had another part that was like a 18 capital reserve? 19 A Yes. 20 Q Now, the ReWa agreement had an additional piece for 21 a gravity line surcharge. Do you recall that? 22 A For a future gravity line? 23 Q Right. 24 A Yes. 25 Q And what was your understanding of what that future
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1 something like that. 2 Q \$20 a month per house? 3 A Per house, yes. 4 Q And do you have an understanding of what the Metro 5 costs were, the ad valorem costs? 6 A I don't recall what they specifically would have 7 been per lot. 8 Q But under the other regime, the homeowner would pay 9 homeowner dues to cover the Condor costs? 10 A Correct. 11 Q And then he paid taxes to Metro to cover that cost. 12 A Correct. 13 Q And then he would pay his sewer fees to ReWa through 14 his water bill. 15 A Correct. 16 Q So he would basically have three sewer systems. 17 A In which system, in the original? 18 Q In the original setup. 19 A In the original setup from when? 20 Q With Condor involved. 21 A So originally, when we projected our pro forma and 22 what all was going to happen, there would have been 23 the ad valorem tax because it was in Metro's 24 subdistrict, and then there would have been a Condor 25 component to that. And then there would have been	1 gravity line charge was? 2 A Was payment towards a future gravity line, if it's 3 ever run down the river or down in that basin. 4 Q Because these neighborhoods were both below the 5 water plant, I mean, waste water treatment plant on 6 the Reedy River. Right? 7 A Yes. 8 Q So is it your understanding if the future gravity 9 line went through there, that the pump station and 10 force main system would then be taken offline? 11 A Could be, yes. 12 Q Okay. And did you understand that under the system, 13 even when Condor was going to be operating it, that 14 there would still be a gravity line charge from 15 ReWa? 16 A No, it was not my understanding. 17 Q And so the first time you saw that gravity line 18 surcharge was after ReWa quoted the numbers to you? 19 A Yes. 20 Q Are you aware that other developments in Greenville 21 with pump stations and force mains, the developers 22 have paid those gravity line surcharges? 23 A No. 24 Q You haven't learned that since then? 25 A No.

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WILLIAM ALEXANDER, IV

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1 Q Is that something that your company has agreed to 2 pay under the terms of the new contract with ReWa? 3 I know it's not done yet, but conceptually? 4 A Conceptually, no. 5 Q What is your understanding of if that gravity line 6 were ever put in, who would pay for that line? 7 A I don't have an understanding of who would for 8 something in the future that's not planned and not 9 imminent. 10 Q Let's just say it happened in 20 years. Say we take 11 this imminent piece off. In 20 years, if the 12 gravity line were built because a new plant were 13 down there, you don't have an understanding of who 14 would build that gravity line through your 15 neighborhood? 16 A What type of line would it be? Would it be a trunk 17 line? 18 Q Gravity. 19 A A trunk line? 20 Q Right. 21 A I assume it would be Western Carolina. 22 Q If that gravity line were going through the 23 neighborhood -- I don't know what y'all were going 24 to call it, Rivers Way, Rivers Trace? 25 A Rivers Way.	1 gravity line for people to get to it. 2 Q Do you recall any specific meetings -- well, let me 3 go to the part -- at one point there was a board 4 meeting where grandfathering was discussed. What do 5 you remember about the discussion about whether 6 y'all's development would be grandfathered or not? 7 A Do I remember? 8 Q Yes. 9 A I recall going. I recall sitting there, Gene McCall 10 making some comments. I recall that it did go to 11 executive session to discuss -- there was some -- 12 out in the lobby, as we exited out of the lobby 13 there was some extracurricular activities and some 14 emotion out there. I think you were involved in 15 that. And I also recall you telling me, at a later 16 date, that you had recommended to the board that 17 they grandfather us in. But I don't remember any 18 specifics, because it went into executive session. 19 Q How did that meeting come about? Were you involved 20 in setting up that meeting? 21 A No, I was not involved. My recollection is that 22 Gene McCall maybe had requested -- made that request 23 of the board, to grandfather these groups in. 24 Q Did you have any direct discussions, running up to 25 that meeting, with Ray or Brian Bishop?
Page 42	Page 44
1 Q If the gravity line had gone through Rivers Way, 2 then it would have been a new sewer system for that 3 neighborhood? 4 A If the gravity line had gone through Rivers Way, 5 ours, would it have been a new sewer system? 6 Q Right. 7 A Potentially it could be, yes. 8 Q All right. And so would it be your understanding 9 that the cost of that system would be borne by all 10 the ReWa rate payers together? 11 A That, as well as additional expansion in that basin. 12 Q What do you mean by that last part? I don't 13 understand that. 14 A In other words, I wouldn't think they would build a 15 new sewer line based on a market study or something 16 if there is going to be new construction, new 17 business to ReWa of this. 18 Q I still kind of got lost. So the new people and the 19 old people, together, would pay for a second system 20 through Rivers Way? 21 A I guess what I am saying is I wouldn't think they 22 would build a new station, unless they were going to 23 have revenue from additional expansion, to pay for 24 that new facility, part of that new facility. Part 25 of that cost of that ability to treat the sewer is a	1 A Not with Brian Bishop, because I don't know that I 2 have had any discussion much with him since our 3 initial '07 -- we were meeting various times with 4 Ray, but I don't recall anything specifically 5 pertaining to that one board meeting. 6 Q You talked about the extra curriculars in the hall. 7 I definitely have my own recalls. What do you 8 recall of that? 9 A I was talking with someone from Charlotte that I had 10 just met that is involved with the same situation 11 with his sewer, Magna Development, I believe. And I 12 just remember Ernie with an expletive. And when I 13 asked what was going on or something, he was 14 offended, a comment that he had walked out and made. 15 Q There was an email that Scott sent one time and said 16 I chased you and him into the parking lot 17 aggressively. Did that ever happen? 18 A You didn't, no, not me. 19 Q The discussion you talked about where I told you 20 about grandfathering, what were we talking about? 21 A Just this case. And it was several months later and 22 it was sort of a -- I don't remember where it was, 23 but I just remember that that was interesting that 24 you had advised them to grandfather in and they 25 didn't do it.

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1 Q Was it after the lawsuit had already been filed? 2 A After which lawsuit? 3 Q The lawsuit that brings us all here today. 4 A I don't know that it was -- that you made that 5 comment? 6 Q Yes. 7 A I don't know. I honestly don't know when they filed 8 their lawsuit. 9 Q Do you recall that there were like seven or eight 10 parties, or maybe more, that requested to be 11 grandfathered at that board meeting in '08? 12 A Yes. 13 Q And was there a point in time where there was an 14 effort for all of y'all to join together in a 15 lawsuit? 16 A There was discussions of we all ought to get 17 together and come together as one, but nothing 18 really materialized specifically out of it from our 19 end. I can't speak for the other seven or eight or 20 six. 21 Q And I notice y'all are not in the lawsuit. How did 22 you reach your own particular decision about whether 23 to bring a lawsuit or not? 24 A That decision is not imminent yet as to whether we 25 will or will not. But our principal, Bo Aughtry,	1 Q Right. In this time frame in January of '08 were 2 y'all looking to let them run theirs and then y'all 3 run yours later? 4 A No. It would be at the same time. 5 Q Put two down at the same time? 6 A Right. 7 Q Why would you put two down at the same time instead 8 of using one? 9 A If we were going to have two in there, we would put 10 them down at the same time, just so one contractor 11 digs one ditch one time when he is out there. It's 12 just from an economic standpoint. 13 Q I know you're not an engineer, and I am not so we 14 may be butchering it. But if you were going to put 15 them down at the same time, why would you have two 16 separate ones? 17 A Because we would have to use one later if one pipe 18 didn't work. In other words, you have to engineer 19 the front end. And if that was not feasible and 20 there had to be two, that was the reason for going 21 ahead and putting two. 22 Q In this email, Brian says that he had not discussed 23 running two force mains. Do you recall whether that 24 came up in discussion of going up the river route, 25 two force mains or one, or what it would be?
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1 it's just not the avenue he chooses to take, even 2 when rightfully should or could. He tries to 3 diplomatically work things out. 4 Q Diplomatically is a pretty generous way to describe 5 it. 6 Let me look at some documents and decide if I am 7 going to mark them or not. 8 I want to show you an exhibit that has been marked 9 in Scott's deposition. This is, again, Exhibit 17 10 from Scott's deposition. Chip was your engineer? 11 A Uh-huh. 12 Q And this is in January of 2008. Does it appear that 13 they are talking about the river route in this 14 back-and-forth email? 15 A It doesn't specify, but I assume it is. It's about 16 the timing of the river route. 17 Q Chip says that he had been told that the easement 18 through the river route could be used for two 19 separate force mains. Is that something that you 20 were involved in? Do you remember that? 21 A I remember, even when we had the flag lot, in the 22 discussions, two alternatives were to run one and 23 engineer the beginning of that; or to run two, 24 because we looked at running one simultaneously, 25 even though it wouldn't be utilized.	1 A I don't know that -- I believe it was discussed, at 2 least with our engineers and with Bolo, as we were 3 just discussing the different possibilities, two 4 different scenarios were possible of running it. 5 Q Those discussions with Brian usually went through 6 Chip? 7 A Right. 8 Q Okay. Do you recall any specific discussions, 9 yourself, with Brian? 10 A Not since probably 2007, when we initially had the 11 emails back and forth. 12 Q You mean all the way back in 2006? 13 A Part of '08, yes, 2006. Before closing, yes. 14 Q Okay. And your communications after that were with 15 Dr. Graef, generally? 16 A Yes. 17 Q Do you recall when different scenarios were 18 discussed for serving the area, such as bigger pump 19 stations, joint pump stations and stuff? 20 A Yes. 21 Q And what was your impression of some of those 22 solutions? 23 A One was for us to gravity feed down the river, go 24 under the river to there, but I don't know that you 25 could even get -- or at least Chip, the feedback

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Page 49 1 that I got from those who would know, said that you 2 wouldn't be able to go under the river. And over 3 the river is tough to get a permit, to go over the 4 Reedy, particularly today. In other words, it 5 wasn't feasible. 6 Q Do you recall, did y'all have a contract with 7 Condor? 8 A No, we did not have a specific, ready-to-sign 9 contract. 10 Q Okay. Do you recall the business with Condor, like 11 the negotiations with Condor, whatever, were those 12 handled by you or by Chip? Or who handled those? 13 A Those were handled by me, just talking with Gene and 14 Sam, and here is what we are looking at doing, and 15 what were the rates and what would it look like? 16 And we had to have -- for some reason, it may have 17 been to submit, we had to have a letter, possibly to 18 obtain our permit to hang under the bridge. We had 19 to get a DOT permit. We had to have something from 20 Condor saying that they would accept this lift 21 station and force main and operate it. 22 Q Just to get the permit. 23 A Right. 24 Q Did you talk to any other possible private utility 25 companies other than Condor?	Page 51 1 serving y'all's neighborhood and not having a 2 connection with Scott's neighborhood? 3 A Were they? 4 Q Yes. Do you know? 5 A I don't know. 6 Q Okay. The current service that's being negotiated, 7 is it your understanding that's a river route 8 solution? 9 A Yes. 10 Q Okay. How would that work, generally? 11 A That would generally work. 12 Q It would just be a river route, coming from your 13 neighborhood across the bridge? And then I don't 14 know if you know this, but is it like a four-inch 15 force main up the river or do you know? 16 A I don't know the size of it up the river, but yeah. 17 Q Generally, between when the numbers were first 18 discussed and now, they are much smaller now as far 19 as the monetary costs? 20 A Yes. 21 Q So ReWa has been negotiating with you on and off for 22 the whole time? 23 A Yes. 24 Q How close are the numbers now? Don't tell me 25 anything about what you and your lawyer talked
Page 50 1 A United, we touched base with them. 2 Q How did you get to Condor? Was that from Metro? 3 A I believe that was from someone else in our office 4 that had worked with them before and worked with 5 lift stations. 6 Q Did y'all ever talk with United about whether they 7 would own the whole system, the collector system and 8 the whole thing after the regulation passed? 9 A No. 10 Q Have you done work with United before? 11 A No. 12 Q You don't know whether they did, in fact, own entire 13 systems, unitary systems? 14 A No. 15 MR. STILWELL: Let me talk with Dr. Graef for a minute, 16 and I think I am about finished. 17 THE WITNESS: Okay. 18 (Break In Proceedings) 19 BY MR. STILWELL: 20 Q On the river route, did Chip ever put in plans and 21 specs for the river route, do you know? 22 A I don't. I think he was headed in that direction, 23 but we got the nix from DHEC that that wasn't going 24 to be a viable solution. 25 Q Do you understand whatever he put in was just like	Page 52 1 about, but are they in the ballpark now? 2 A There are some -- they are closer, but there are 3 some issues that are not -- that won't work for us. 4 Q Do you recall Dr. Graef, when he worked with you on 5 those numbers, asking you for information of how 6 your numbers needed to work? 7 A Yes. 8 Q And was it apparent to you that he was asking for 9 those numbers in good faith? 10 A Yes. 11 Q Okay. And did Dr. Graef tell you at times that ReWa 12 had not done that before, as far as operating a pump 13 station, force main and collector system? 14 A Yes. 15 Q Now, to clarify, ReWa has pump stations and force 16 mains, but they had never charged anybody separately 17 for that? 18 A Okay. 19 Q Is that your understanding? 20 A Yes. 21 Q And so is it fair to say that ReWa was doing its 22 best to learn how that was supposed to work during 23 that process? 24 A Certainly seemed to be making some attempts, but the 25 results always seemed to come back still with some

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1 huge gaps in them. 2 Q What were the huge gaps, mostly on the capital 3 charge? 4 A The capital charges with the -- the capital charges 5 for the gravity line, and then the capital charges 6 for the maintenance operation of it. 7 Q When you say the capital charges for maintenance, 8 the cost to rebuild the wet well and all that stuff? 9 A Yes, and to take it out of commission. 10 Q Decommissioning costs. 11 A Several duplicating accounts there. 12 Q Okay. Are those numbers -- not the gravity line 13 charge. I take it you don't agree with it. But the 14 numbers for the capital charges, are those in line 15 now? Are they in the ballpark? 16 A With where we currently are talking? 17 Q Yes. 18 A They are out of line, because Western Carolina asked 19 that they be reset. So if it's \$60,000 -- 20 Q The replenishment. 21 A Correct. 22 Q Okay. That's probably something I will be talking 23 to your lawyer about, but was your understanding in 24 the Condor contract that there were maintenance 25 charges that Condor could pass directly to the	1 2 CERTIFICATE 3 4 I, the undersigned, Elaine L. Grove, RPR, 5 Notary Public, in and for the State of South Carolina, 6 do hereby certify that the foregoing deposition of 7 William J. Alexander IV was taken on the 17th day of 8 March 2011; 9 That the within deponent was sworn to tell the 10 truth, and that the foregoing is an accurate 11 transcription of the testimony taken under oath; 12 I further certify that I am neither counsel 13 nor solicitor to any of the parties in said suit, nor 14 interested in the event of the cause. 15 IN WITNESS WHEREOF, I have hereunto set my 16 hand and seal this 18th day of March 2011. 17 18 19 20 21 22 23 24 25 Elaine L. Grove-DeFraitas, RPR Notary Public for South Carolina My Commission Expires: 6-25-2020
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1 homeowners' association, outside of the monthly 2 charges? 3 A I don't recall that. I think that theirs were fixed 4 and their burden. Once that escrow was established, 5 nothing further was asked to be put into that. 6 Q And that's all I am distinguishing, as to whether 7 nothing further could be asked from the developer. 8 And I don't even know if you saw a Condor contract, 9 but is it your understanding the homeowners could be 10 assessed separately? 11 A I don't recall specifically. 12 MR. STILWELL: Okay. That's all the questions I have 13 got. 14 MR. FULTON: I don't have any questions. Thank you. 15 (DEPOSITION CONCLUDED AT 2:20 P.M.) 16 MR. FULTON: If I can get the transcript by next 17 Monday, that would be great. As long as you can 18 send it electronically so I can pull it up on my 19 computer. 20 THE COURT REPORTER: That's no problem. 21 22 23 24 25	

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ADMINISTRATIVE HEARING
April 21, 2011

1

In Re:
Renewable Water Resources, Inc.
Administrative Proceeding
Concerning Harrison Partners, LLC

COPY

ADMINISTRATIVE HEARING
VOLUME 3

DATE TAKEN: April 21, 2011
TIME BEGAN: 1:13 P.M.
TIME ENDED: 2:30 P.M.
LOCATION: Nelson, Mullins, Riley & Scarborough,
LLP
Poinsett Plaza, Suite 900
104 South Main Street
P. O. Box 10084
Greenville, South Carolina 29603

REPORTED BY: Sheila B. Smith, CVR-CM
GALLAGHER COURT REPORTING
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EXHIBIT

44

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ADMINISTRATIVE HEARING
April 21, 2011

2

APPEARANCES:

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.....On behalf of Harrison Partners

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ALSO ATTENDING: Ray T. Orvin

Scott Bolo

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John V. Boyette, Jr.

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1 (JOHN V. BOYETTE, JR. DULY SWORN)

2 EXAMINATION BY MR. STILWELL:

3 Q. John, we're going to finish the -- you're the next
4 witness in our Hearing that we did last month.

5 A. Uh-huh.

6 Q. So I'm going to ask you some questions ultimately
7 for the benefit of Mr. Glenn, who's not here.
8 I've never actually done it this way in the
9 absence of the Hearing Officer, but I'm just going
10 to ask you questions and then we'll try to make a
11 good record to send on up. Okay?

12 A. Okay.

13 Q. I'm going to start with just some general
14 background. I don't even know if you'd ever had
15 a chance to meet Mr. Glenn, but I just want to
16 tell him a little bit about your background. Are
17 you from Greenville?

18 A. I grew up in Spartanburg County and been in
19 Greenville since 1968.

20 Q. I understood you went to Clemson?

21 A. I did.

22 Q. And you were an engineering major there?

23 A. Civil engineering major.

24 Q. Played football there, too?

25 A. I did.

1 Q. I've always wanted to ask you this and never had.
2 I wanted to know which coach you played for when
3 you --

4 A. For Howard, yeah.

5 Q. Old school.

6 A. Yeah, that's right.

7 Q. Tell me about your professional background. I
8 know you had an engineering firm here in
9 Greenville.

10 A. Well, basically when I got out of Clemson, I went
11 to work at the Charleston Naval Shipyard for about
12 three and a half years. And then I joined a
13 company here called Piedmont Engineering and
14 Architects at that time and stayed with them
15 basically -- with the exception of about a two-
16 year period of time, stayed with them from 1968
17 till 1999. And I became president and CEO of
18 that company in -- president in 1983, and CEO in
19 about the late eighties, '90 or something of that
20 nature.

21 Q. What kind of engineering work did Piedmont do?

22 A. We did a variety of things. We focused primarily
23 in three areas. One had to do with environmental
24 work, water, wastewater facilities. We did a lot
25 of land development work, different types of land

1 development from residential to commercial. We
2 did a lot of industrial facilities. And later on
3 in the nineties, we did a lot of transportation
4 work with DOTs and things of that nature.

5 Q. When you first started working with ReWa, you were
6 still with Piedmont?

7 A. No. You mean when I was a commissioner for --

8 Q. Right, when you became a commissioner.

9 A. No. No. I actually was with a firm here called
10 Design Strategies at the time.

11 Q. You all sold Piedmont?

12 A. We sold our business in 1996. I stayed on -- we
13 sold it to a company called Geraghty and Miller
14 which was owned by a Dutch company, Hydavay
15 (phonetic), which is since Arcadis. And I stayed
16 on for three years as the president of Arcadis
17 U.S., from '96 to '99.

18 Q. And I want to -- so when you joined the Board at
19 ReWa, it was what year?

20 A. Well, this is my eighth year, so maybe 2003.

21 Q. And I understand now you're working for Clemson
22 University at I-Car?

23 A. I am. I'm working at Clemson University.

24 Q. How long have you been doing that?

25 A. Since December of 2004.

1 Q. I know we had mentioned before that you said you
2 had done some actual sewer engineering work.
3 That was more like when you were younger in your
4 career?

5 A. I was involved in the construction aspects from
6 sewer from -- I never did any specific design work
7 myself, but was involved in the management of some
8 of those projects in the field.

9 Q. And I think you said you joined the ReWa Board in
10 about '03?

11 A. Right.

12 Q. And you've been actually the president of the
13 Board once or twice before?

14 A. Been chairman of the Board for four years, one
15 term of two and then off and then another term of
16 two.

17 Q. And I guess during that time, also you've been the
18 ~~chair of one or more of their committees, like the~~
19 O&P chair at different times.

20 A. I chaired the O&P committee, chaired the sewer
21 advisory committee, and I'm sure was heavily
22 involved in the strategic planning.

23 Q. The sewer advisory committee is the one that
24 involves the other subdistricts?

25 A. That's correct.

1 Q. So it's like a joint committee of different
2 entities?

3 A. Yeah. Well -- yeah, that's right.

4 Q. I want to go forward to these projects
5 specifically.

6 A. Okay.

7 Q. And we're probably coming up about 2007. I don't
8 know if you recall exactly, but do you think you
9 were the chairman in 2007?

10 A. Yes.

11 Q. What is your first recall of these projects that
12 we've been talking about in this Hearing, the ones
13 that are below the Reedy projects, below Reedy
14 plant?

15 A. I don't know exactly the time. I know that during
16 that period of time, Ray had mentioned to us that
17 there were a couple of projects that were out of
18 our boundaries and were being considered for
19 service. I don't have any specific time frame or
20 specific recollection of when all that came up.

21 Q. And you mentioned out of the boundaries. I knew
22 that these were below the sewer plant. They were
23 in our service area?

24 A. They were, yeah.

25 Q. Was there any sewer down there in that area?

1 A. No.

2 Q. What is the first thing you remember, not like
3 specifically the date, but what's the first thing
4 you remember Ray mentioning to you about these
5 projects?

6 A. I'm not sure. I just remember that he mentioned
7 those projects to us and mentioned the fact that
8 -- he had mentioned the fact that one of these
9 projects or both of them wanted to run a sewer
10 line through our treatment plant site. And that's
11 highly unusual for us to do, to -- and -- in fact,
12 I don't know that we've ever done that before.

13 Q. The line we talked about in great detail earlier
14 --

15 A. Right.

16 Q. -- that line was a force main coming through?

17 A. That's correct. That's correct.

18 Q. What is highly unusual about that, just that it
19 was on your property or what was it that was
20 unusual about it?

21 A. Well, I don't know that we've ever had a private
22 developer build a tie-in coming across our
23 treatment plant site. And they would have to have
24 a right-of-way and all that sort of stuff, so --

25 Q. I think we asked Dr. Graef this, but do you even

1 know whether any of our subdistricts or
2 municipalities, have they ever even put
3 infrastructure across our property?

4 A. I don't -- not to my knowledge.

5 Q. Where was your understanding that these were going
6 to tie in, like they were going to go through our
7 property and tie to Metro or they were going to
8 direct connect to us?

9 A. I don't remember, to be honest with you.

10 Q. And we had talked about -- you know, one of these
11 developments we're here for is Mr. Bolo's project
12 and the other, was it your understanding that was
13 the Windsor/Aughtry guys?

14 A. Yes.

15 Q. Did you have any general understanding of how
16 those two were supposed to go together at that
17 time when they were first introduced to you?

18 A. No. No.

19 Q. The details about like where it was going to go
20 and exactly what it was going to be and stuff,
21 that was something that was at the staff level?

22 A. It was. I mean we would have expected the staff
23 to work all that out as opposed to us getting
24 involved in it.

25 Q. You mentioned easements and right-of-ways. Is

- 1 that something that the Board does inside the
2 organization?
- 3 A. Yes. The Board would have to approve any easement
4 or any right-of-way across any of our property
5 that we owned.
- 6 Q. At the time it came to you, did it have any
7 specific route associated with it? Like when Ray
8 brought it to you, did he say, "We're going to
9 bring it right through here," or was it just
10 basically to advise you, "This is a request we
11 have"?
- 12 A. It's a request, yes.
- 13 Q. Did you ever have any hands-on details with what
14 the route -- we spent a lot of time talking about
15 it with the other witnesses.
- 16 A. No.
- 17 Q. The route is not your job exactly?
- 18 A. No, no details at all about the route.
- 19 Q. You mentioned that it was going to be a private
20 line. Did that cause you some concerns. that it
21 was a private line coming across ReWa property?
- 22 A. Yeah. Yes. I mean any -- you know, basically
23 having a private entity owning a sewer system is
24 a -- is something that we're concerned about.
- 25 Q. Tell me more about that. why is private ownership

1 a concern of the Board's?
2 A. Well, first of all, you know, DHEC strongly
3 recommends and it's a part of their guidelines
4 and preference is that it be owned by public
5 entities or municipalities or special purpose
6 districts, but anyway be a public body with the
7 sewer system. We've had -- many, many years ago
8 in Greenville County, there were -- development
9 used to take place where subdivisions were allowed
10 to put in package treatment plants, that those
11 package treatment plants were either owned by a
12 developer or operated by a developer or a third
13 party. And I mean the -- and, gosh, 15-20 years
14 ago, there was a huge effort and a lot of money
15 being spent by Western Carolina Regional Sewer
16 Authority at that time to take all these package
17 treatment plants out of service because of not
18 being maintained properly, having a detrimental
19 effect on the environment, not keeping up -- or
20 not having the ability to keep up with technology
21 and screamed with regulations and so forth coming
22 from DHEC. And I mean a case in point to all that
23 is what happened on Paris Mountain, obviously,
24 and with that package plant that was owned by a
25 developer up there that just absolutely was not

1 being maintained and had very detrimental effects
2 to the environment. And DHEC came in and took it
3 over and basically requested that we take that
4 over and upgrade that plant and maintain it. And
5 --

6 Q. When you said requested, that's something that we
7 had talked about before, like when DHEC comes to
8 you and makes a request. How is that -- I take it
9 that's not like a real -- it's not a discretionary
10 type request in your --

11 A. Well, I mean we're -- when it comes to treatment
12 facilities, we're kind of the game in town, you
13 know. And basically they -- all the permits that
14 we have, we have with DHEC. And so I mean even
15 though it was a request, it really was a request
16 that we just didn't turn our back on.

17 Q. And I know what you just talked about was the
18 private ownership of treatment plants.

19 A. Right.

20 Q. These developments were just force mains and pump
21 stations. Is that your understanding?

22 A. Right.

23 Q. Did those also cause you some concerns with the
24 private ownership aspect?

25 A. Well, certainly. The problem with dual ownership

1 on sewage collection systems is -- particularly in
2 this particular instance and other entities is the
3 fact that the private entity has contracts with
4 homeowners associations to maintain and operate
5 treatment facility -- I mean pump stations and
6 force mains. And while if you look at that over
7 the long term and look at basically over a 20-year
8 period or 25-year period, neighborhoods have a
9 tendency -- some have a tendency to go down.
10 They'll maintain the same level of home ownership
11 and nobody is absolutely 100 percent obligated to
12 pay homeowners dues. And if homeowners
13 associations go out of business or can't collect
14 the proper money, then these things don't get
15 maintained properly and they create problems.
16 And have to be replaced at some point down the
17 road, you know. Pump stations don't last forever.
18 They need to be reworked, and it's not a very
19 stable environment for -- to protect the
20 environment, if you will. It's not a very stable
21 way to do things, to protect the environment in
22 the long term and also to protect the customer
23 base.
24 Q. You mentioned the replacement of a pump station.
25 That's if in like two decades it was still

1 operating. Tell me about when if a gravity system
2 comes through, takes it out. How does that work
3 if you have private ownership involved in the
4 system?

5 A. Well, basically what we do -- I mean there's a
6 gravity charge, gravity line charge such that the
7 developers and the homeowners are asked to pay a
8 certain amount for a gravity charge such that when
9 that gravity line comes in, all that stuff kind of
10 goes away. The pump station goes away. The force
11 main goes away, ties into a gravity line, and at
12 some point in time those gravity lines have to go
13 in or you wind up with pump stations all over the
14 place, and that's not a very workable situation.

15 Q. But we had talked before that there actually are
16 examples inside the ReWa system now where like a
17 subdistrict owns the collector system and then a
18 private entity owns the pump station and force
19 main. Is that true?

20 A. I think that's true, yes.

21 Q. Why did it become an issue in 2007 if we already
22 had some of them in the system anyway?

23 A. Well, all of a sudden we had just a whole host of
24 these things coming up at one time. And
25 basically, you know, again, with all of them that

1 were in place and then a whole host of them coming
2 up at one time, the Board really felt like that a
3 policy needed to be established and we needed to
4 change the way we were doing things to prohibit us
5 from getting into a situation that we were -- that
6 we found ourselves in a number of years ago with
7 these treatment plants. And so basically the
8 Board looked at this thing and what -- our role
9 here is to look after what's in the best interest
10 of the environment and what's in the best interest
11 of all of our rate payers. And so from looking at
12 it in the best interest of the environment, it
13 clearly is much better for a public agency to own
14 these facilities than it is for a private entity
15 to own the facilities because private entities
16 don't last forever.

17 Q. I'm going to mark this just to hang a date on what
18 we're talking about.

19 A. Okay.

20 (OFF THE RECORD)

21 (EXHIBIT NUMBER 1 MARKED; ATTACHED)

22 EXAMINATION RESUMED BY MR. STILWELL:

23 Q. John, I just handed you the minutes from the
24 November 5, 2007 Board Commissioners meeting. And
25 I handed you this to -- on the second page there,

1 it talks about a Proposal on Pump Station Force
2 Main Policy Procedure?

3 A. Right.

4 Q. Does that refresh your recollection about the time
5 when all of this kind of came up?

6 A. Yeah. Yeah, obviously it was in November of 2007.

7 Q. So you all asked the staff to develop, prepare
8 regulation to define a policy of ownership of pump
9 stations and force mains to bring back in
10 December?

11 A. That's correct.

12 Q. And at that time, did Rewa have a policy on pump
13 stations and private pump stations and force
14 mains; do you know?

15 A. Not to my knowledge.

16 Q. If you turn to the previous page, the first page,
17 it talks about negotiations with developers.

18 "Committee recommends that" -- this is the
19 committee coming out of O&P probably you think?

20 A. Yeah. It's operation and planning committee.

21 Q. This says, "Committee recommends that
22 authorization be given to executive director,"
23 which is Ray, "to enter into direct negotiations
24 on development with representatives from InSite,"
25 which is Mr. Bolo's group, "and Windsor/Aughtry

1 Company"?

2 A. Right.

3 Q. What was that talking about?

4 A. It talks about -- basically it is to try to
5 arrive at some agreement with them, negotiate some
6 agreement with them that would provide service for
7 them for their developments.

8 Q. And there's been an argument this regulation that
9 we reference on the second page was basically an
10 attempt to kill these developments. Is that what
11 was in the Board's mind?

12 A. Absolutely not.

13 Q. Let's talk about how the regulation, how we got to
14 the regulation.

15 A. Okay.

16 Q. This is November when it comes up. Did you all
17 actually -- I guess the draft did come about in
18 December, of the regulation?

19 A. I think that's correct. It came about in December
20 and it went out for a public hearing, but I --

21 Q. That's where I was going.

22 A. Yeah, I think that's correct. It was presented in
23 December and then it was put out for public
24 comment. And I think that --

25 Q. I think we figured out the first one was probably

1 in January. Does that sound about right, the
2 first public hearing?

3 A. That sounds right. That sounds right, yeah.

4 Q. And of course where I was leading with that is you
5 think you all had a second public hearing, too?

6 A. I think we did because I think we made some
7 changes, and we had a public hearing. We had --
8 we made some changes, and I think it went back out
9 again for comments.

10 Q. Who was at the public hearing; do you remember?
11 Gene and, I don't know, Kelly. Do you know her?
12 She was there?

13 A. The first public hearing I think I remember the
14 people that spoke was Gene McCall, Mike Stansell,
15 Kelly Tucker. I believe those were the three
16 that --

17 Q. So the second two you said, those were the
18 executive directors of other sewer subdistricts?

19 A. Gantt. Mike Stansell is the executive director
20 of Gantt Subdistrict, and Kelly Tucker was the
21 executive director of Taylors Subdistrict.

22 Q. So other than the comments that came in at the
23 public hearings, were there comments that were
24 received from other subdistricts in different
25 meetings? Like who all had their hands in making

1 the regulation?

2 A. Well, I know that Ray Orvin met with -- had
3 several meetings with the subdistricts with regard
4 to this regulation and met with them I don't know
5 how many times. But I know he met with them on
6 different occasions to try to get their input into
7 the regulation.

8 Q. How about meetings with Metro? Was there
9 discussions with Metro directly about how this
10 regulation was going to work out, I mean if you
11 know?

12 A. I don't know. I mean I -- all I know is that Ray
13 met with the districts. Whether he -- and I'm
14 assuming -- I would assume that Metro was involved
15 in that, but I don't remember any specific -- I
16 mean I wasn't a part of any of those meetings, so
17 it's hard for me to --

18 Q. In the second meeting, the second public hearing
19 was after some changes had been done on the reg,
20 on the draft?

21 A. I think that's correct.

22 Q. Do you remember what any of those specific changes
23 were on the regulation?

24 A. No. I'd have to go back and look at the draft if
25 you want to know the truth about it, look at the

1 different drafts.

2 Q. It's probably not important today, it's just that
3 it ended up taking from January until about May to
4 get it enacted?

5 A. Right.

6 Q. I'm going to hand you a copy of the regulation.
7 I think it's already an exhibit, so I don't know
8 if we need to mark it again, just for that
9 reference.

10 (OFF THE RECORD)

11 EXAMINATION RESUMED BY MR. STILWELL:

12 Q. What I was referring to, John, is it's just like
13 there at the bottom it says May, 2008 of that
14 first page. Does that refresh your recollection
15 about when the regulation was enacted?

16 A. Yes. Uh-huh.

17 Q. Let's just look at the -- we've looked at this
18 regulation a couple times with the other
19 witnesses. I just want to look at generally like
20 -- the pages aren't really actually numbered, but
21 paragraph 2 in that third page I believe.

22 A. Okay. Yeah, I've got it.

23 Q. Paragraph 2 talks about service requests outside
24 the service area of a subdistrict.

25 A. Right.

1 Q. Is it your understanding that outside the service
2 area of a subdistrict -- like if these were
3 outside Metro, that Condor could have owned the
4 whole system?

5 A. Yes, they could have.

6 Q. Now, let's turn to paragraph 3 because I
7 understand at that time these developments were
8 actually inside Metro. They had been annexed into
9 it, so paragraph 3 deals with service inside the
10 service area?

11 A. Right.

12 Q. Is it your understanding that inside the service
13 area, under this regulation, Condor still could
14 own the whole system?

15 A. Yes.

16 Q. And if we look at the second paragraph of
17 paragraph 3 --

18 A. Uh-huh.

19 Q. -- it looks like the difference between if it's
20 inside or outside a service district if Metro -- I
21 mean if Condor owns it is that basically -- and
22 I'm just kind of paraphrasing, that Metro would
23 have to back up Condor if they owned it inside of
24 Metro?

25 MR. FULTON: Object to leading.

1 WITNESS ANSWERS:

2 A. Basically what it says here is that should the
3 private utility become insolvent or they fail to
4 maintain this properly and that there are unsafe
5 or unsanitary conditions, that the municipality or
6 county of the subdistrict will assume ownership,
7 operational, and financial responsibility for the
8 private utility on that pump station.

9 EXAMINATION RESUMED BY MR. STILWELL:

10 Q. What was the intent with that section right there?

11 A. Well, the intent of that section is real simple.
12 I mean it's real simple because, you know, as I
13 say, if I have a private utility that's
14 maintaining a pump station and that private
15 utility goes out of business, or if it's a private
16 utility that just happens to be set up as an LLC
17 to manage that one particular pump station and
18 the homeowners default or if instead of selling a
19 hundred houses, they only sell 20 and they don't
20 have enough income to take care and operate that
21 pump station, then somebody's got to be
22 responsible for maintaining it. I mean somebody
23 has to maintain the pump stations, whether you got
24 one house tied on or whether you have a hundred.
25 And the only entity that's left to do that is the

1 public utility that's in that district.

2 Q. And so this is saying that between the public
3 utilities, ReWa would be --

4 A. That's right.

5 Q. -- the subdistrict or the municipality?

6 A. Absolutely. I mean we -- you know, because the
7 responsibility for the retail side of this
8 business rests with the subdistrict and not with
9 ReWa.

10 Q. Looking at that regulation the way it allows two
11 different ways in which Condor could own the whole
12 thing, can you answer the question of why these
13 developments did not go forward after this
14 regulation was passed?

15 MR. FULTON: Objection; calls for speculation.

16 WITNESS ANSWERS:

17 A. I have no idea why they didn't go forward. We
18 felt like -- I for one felt -- I can't speak for
19 the whole Board, but I for one felt like this
20 regulation offered enough flexibility to be able
21 to get negotiations worked out such that these
22 things could be done. So --

23 MR. STILWELL: (Speaking to Mr. Bolo): Can you restrain
24 yourself while we finish this? Can you?

25 MR. BOLO: I don't think I have to say anything. I just

1 --

2 MR. STILWELL: If you wouldn't say anything, we'd be a
3 lot better off.

4 MR. BOLO: I've just heard so many people lie straight
5 through their teeth.

6 MR. STILWELL: Can you just stop talking while the man
7 is testifying, Scott?

8 EXAMINATION RESUMED BY MR. STILWELL:

9 Q. John, I understand there came a point in time
10 where ReWa offered to own these systems
11 themselves?

12 A. Yes.

13 Q. That didn't seem to be like something that was in
14 this regulation. Where did that come from?

15 A. Well, I'm trying to think. We -- our enabling
16 legislation does not allow us to own systems
17 within other jurisdictional boundaries. That is
18 to say we -- our legislation doesn't allow us --
19 at that time it didn't allow us to own a collector
20 system in a subdivision, for example.

21 Q. You mean like in Metro, in a subdistrict?

22 A. Right, in Metro or in the City of Greenville or in
23 Taylors or any of these other subdistricts.

24 Q. If they were out of those subdistricts, that's
25 something that --

1 A. If they were out of those subdistricts, we had the
2 ability to do that until such time as that
3 particular development was brought within a
4 subdistrict.

5 Q. It's my understanding that ReWa doesn't own any
6 collector systems, period, does it?

7 A. Not to my knowledge.

8 Q. So this would have been --

9 A. And this is a very isolated case; kind of got in
10 under the wire.

11 Q. How did it come about that ReWa made this offer to
12 those developers to own it themselves? Let me
13 come back at it another way.

14 A. I'm not sure that I know.

15 Q. We'll come back to it chronologically. The first
16 thing I want to ask, though, was this some kind of
17 business opportunity that ReWa, that we wanted to
18 get into the pump station business?

19 A. No, absolutely no.

20 Q. Why do you say that?

21 A. Well, basically, you know, here again, our overall
22 mission in life is not to own collector systems
23 and pump stations. You know, that's what the
24 subdistricts are set up to do. We're not set up
25 to do that. We have pump stations there within

1 our own system and basically, you know, I mean a
2 pump station is part of the collector system, just
3 like the gravity lines are.

4 Q. I want to come back to that question and how we
5 ended up offering owning it ourselves.

6 A. Yeah.

7 Q. Do you remember a point in time where the
8 developers came in and asked to be grandfathered
9 at a Board meeting?

10 A. Yes.

11 Q. Was that about like in November of '08? Does that
12 generally sound right?

13 A. I think that's about right.

14 Q. What do you remember about the request that they
15 made?

16 A. I just remember that we were descended upon by
17 about I don't know how many people. The room was
18 really full. And I don't -- I don't even recall
19 who all was there, to be honest with you and what
20 developments they were representing. But they
21 banded together to ask us if we could grandfather
22 in their projects.

23 Q. What did the Board consider they were asking to
24 have grandfathered?

25 A. Well, we didn't know, other than the fact that

1 they had these developments that they wanted done
2 and that we would grandfather the developments.
3 But there was nothing specifically that I recall
4 at that meeting that -- I mean there were no
5 plans, no specs, no -- I mean I didn't see any of
6 that stuff at all.

7 Q. Do you know who they were, who the developers were
8 exactly? I mean I know you don't know the --

9 A. Well, obviously I know that Mr. Bolo was there and
10 I know that Gene McCall was there.

11 Q. Both of them spoke at the Board meeting?

12 A. I believe that's correct.

13 Q. Did the Board decide to grandfather them?

14 A. No. We had an executive session. All that was
15 talked about in detail about that and, you know,
16 there was no support within the executive session
17 to do that, and so we ended the executive session
18 and no action was taken.

19 Q. I don't have a copy here, but there was an exhibit
20 marked which was a letter. At that time, J. D.
21 was the chair of the Board?

22 A. Yeah, that's correct.

23 Q. And there was a letter sent in December to the
24 developers saying Rewa will take the system?

25 A. Right.

- 1 Q. And we looked at them yesterday. I don't have
2 one, but it was December 4th?
- 3 A. I think it was December of that year, yes.
- 4 Q. Was there a Board meeting in December before that
5 letter went out?
- 6 A. Yes.
- 7 Q. I know you weren't involved in all the details
8 like --
- 9 A. Right.
- 10 Q. -- Dr. Graef and Ray was involved in after that
11 offer was made. But what's your understanding of
12 what happened to offer of Rewa running the system?
13 Where did that end up?
- 14 A. I don't -- I really don't know. I know we made
15 that offer and it kind of went away for a while,
16 if I remember correctly. I don't remember a whole
17 lot of discussion -- and I'd have to check the
18 minutes, but I don't remember anything coming up
19 about that.
- 20 Q. And did negotiations -- I know you know something
21 about there were negotiations even going on now
22 with the other developer, the Windsor/Aughtry
23 guys?
- 24 A. Right.
- 25 Q. What's your understanding of where those are?

1 A. We -- which Board meeting was it? It's been three
2 months ago I guess at least. We -- the Board
3 asked the executive director to negotiate with
4 Windsor/Aughtry to get an agreement in place to --
5 for his particular project and there was a draft
6 agreement that was presented that we looked at and
7 we approved and asked Ray to go forward with
8 getting that agreement executed.

9 Q. If that development goes ahead, is it your
10 understanding that that force main is actually
11 going to build up what we call the river route?

12 A. Well, I'm not exactly sure, to be honest with you.
13 I don't -- I think it was coming up the river, but
14 I don't -- you know, I hadn't seen any plans and
15 specs and stuff, so I can't speak specifically
16 about that.

17 Q. This is my last question. Is it your
18 understanding that ReWa said no to these
19 developers' request for service to these
20 properties?

21 A. I don't think we ever said no. I think what we
22 said was we had the capacity in an early letter we
23 sent out and said we had capacity. I think what
24 we said was, here are the terms with which you
25 have to deal with in order to get service from us.

1 And so here's -- you know, but I don't think we
2 ever said no.

3 Q. Okay. I think Mr. Fulton will have some questions
4 for you.

5 A. Okay.

6 EXAMINATION BY MR. FULTON:

7 Q. Mr. Boyette, is it customary for ReWa to enforce
8 its regulations before they go into effect, any
9 kind of regulations?

10 A. No.

11 Q. Wouldn't it be improper to enforce regulations
12 before they go into effect?

13 A. No. If -- you couldn't enforce a regulation if it
14 wasn't in effect.

15 Q. Isn't it true in this case that's exactly what
16 ReWa did?

17 A. No.

18 Q. You're denying that?

19 A. Right.

20 Q. If I told you that Mr. Bishop testified earlier in
21 this Hearing -- and these regulations went into
22 effect I think we've just discussed a while ago in
23 May of 2008; is that correct?

24 A. That's -- yes.

25 Q. And Mr. Bishop testified earlier in this Hearing

1 that he was given specific instructions.

2 MR. STILWELL: Objection. He's pitting witnesses;
3 improper question.

4 EXAMINATION RESUMED BY MR. FULTON:

5 Q. If I told you that Mr. Bishop testified that he
6 was told specifically by Mr. Orvin or other of his
7 superiors in late '07 not to approve anything,
8 would you change your mind about whether or not
9 ReWa enforced these regulations before they were
10 in effect?

11 A. No, I wouldn't change my mind about that. I think
12 that --

13 Q. If he was told not to approve anything, doesn't
14 that essentially -- that's essentially putting
15 these into effect months before they're enacted;
16 isn't that true?

17 MR. STILWELL: Same objection.

18 WITNESS ANSWERS:

19 A. I don't have any idea what he was told.

20 EXAMINATION RESUMED BY MR. FULTON:

21 Q. But if he was, wasn't that essentially doing it?

22 A. I don't think he was told that.

23 Q. So you disagree with Mr. Bishop?

24 MR. STILWELL: Same objection. It's completely
25 improper.

1 EXAMINATION RESUMED BY MR. FULTON:

2 Q. You've already made it clear you don't think he
3 was told that. But I'm asking you, if indeed he
4 was, wouldn't that have been enforcing this months
5 before it got put into effect?

6 A. No, it would not have been enforcing that. There
7 could have been a number of other reasons why.

8 Q. Let me ask you this. You've testified before
9 that at a certain point in time, Rewa offered to
10 provide the service to the Harrison Partners
11 group. Isn't it true that that was more than a
12 year after it became clear that you weren't going
13 to allow them to file their original business plan
14 that the prices were even presented to them?

15 A. I don't have a clue about their business plan. I
16 have no idea -- I don't -- I've never seen their
17 business plan. In fact, I have no business
18 looking at their business plan.

19 Q. Well, let me ask it in a different way because I
20 don't think I asked that very carefully. We just
21 talked about these regulations not even going into
22 effect until May of 2008.

23 A. Right.

24 Q. And I asked you some questions about Mr. Bishop --
25 even though Mr. Stilwell objected, I asked you

1 questions about Mr. Bishop even putting those
2 regulations into effect effectively even in late
3 '07. Isn't it true that it wasn't until almost
4 into 2009 that ReWa even presented any prices for
5 its service?

6 A. I don't know. I don't have a time frame for when
7 the prices were submitted or any of that stuff.

8 Q. Do you think it might have been 2008?

9 A. I told you I don't know.

10 Q. I'm just going to go down my list here with the
11 notes I made. There's no question that you were
12 asked by several developments that were kind of in
13 the pipeline for approval at the time to be
14 grandfathered in after this regulation was passed,
15 right?

16 A. We were asked, what, November 2008, I guess?

17 Q. 2007 I think.

18 MR. STILWELL: It's 2008.

19 EXAMINATION RESUMED BY MR. FULTON:

20 Q. Excuse me, 2008, that's right. You were asked by
21 these developments to be grandfathered in and not
22 be subject to the new regulations; isn't that
23 correct?

24 A. That's correct.

25 Q. And you testified that you were asked that by I

1 think Mr. McCall and Mr. Bolo and maybe some
2 others. And then you said then you went into
3 executive session to discuss it?

4 A. Right.

5 Q. What was discussed at that executive session?
6 What were the pros and cons discussed and the
7 ultimate reasons used to deny that grandfathering?

8 A. I don't really recall the details of the
9 discussion in the executive committee meeting. I
10 --

11 Q. Well, why would the grandfathering -- why was the
12 grandfathering denied?

13 A. Because there was nothing to approve. There were
14 no -- there was nothing to approve.

15 Q. Are you saying that you might have considered
16 allowing the grandfathering if you had more data?

17 A. Probably not. Probably not.

18 Q. Then why did you deny it?

19 A. Because, as I stated earlier, we felt like -- and
20 I felt like, and I still feel like that it is a
21 tremendous mistake for Western Carolina -- or for
22 ReWa to allow proliferation in subdivisions being
23 developed with dual ownership between collector
24 systems and pump stations and force mains and it's
25 not in the best interest of the environment and

1 it's not in the best interest of the general
2 public, so that's why I personally said no. Okay?
3 I can't speak for the other eight Board members,
4 so --

5 Q. And most importantly, there's no reason to let
6 other people make the money when ReWa can make it;
7 isn't that true?

8 A. Us making money off of pump stations and force
9 mains has got nothing to do with this issue.

10 Q. Well, isn't it true that you yourself stated as
11 far back as early '07 that -- something along the
12 lines of, "why should we let them make the money
13 when we," meaning ReWa, "can make the money?"
14 Didn't you say that?

15 A. I absolutely never made that statement.

16 Q. You're denying having said that?

17 A. Absolutely. '

18 MR. STILWELL: That's funny, isn't it, Scott?

19 MR. BOLO: It'd be funny if you weren't nodding your
20 head in which way to answer the question for him.

21 MR. STILWELL: You mean as you're over there smirking
22 like a child when we're trying to do a court
23 proceeding?

24 MR. BOLO: Oh, no. I don't think that's right. Plus,
25 this meeting was in '07. Mr. Stilwell gave you

1 the wrong date earlier. It was in '07.

2 EXAMINATION RESUMED BY MR. FULTON:

3 Q. Well, we talked about two different November
4 meetings, one in '07 and one in '08. And I
5 believe that you testified that it was in the
6 November '08 meeting that there was the question
7 for grandfathering, correct?

8 A. I think that's correct. I don't --

9 Q. And it was the November of '07 meeting which is
10 when you're talking about the idea to make this
11 change first came up; isn't that right?

12 A. That's -- is that the minutes from that meeting?

13 Q. Yes. This is the --

14 A. Do you mind if I look at that?

15 Q. Sure. The '07 meeting is when you first discussed
16 --

17 (Side conference between Mr. Fulton and Mr. Bolo.)

18 WITNESS CONTINUES:

19 A. In the November meeting, the committee recommended
20 to the board that the staff prepare a regulation
21 to define that policy, that's correct.

22 EXAMINATION RESUMED BY MR. FULTON:

23 Q. Right. But didn't we also read on here that the
24 executive director was instructed to enter into
25 some discussions with InSite and Windsor/Aughtry?

1 A. That's correct.

2 Q. And that was -- so they were asking early on about
3 being grandfathered around this -- at least at
4 this point in time, '07?

5 A. I don't have any idea. You know, I mean I don't
6 have any idea about them asking Ray for
7 grandfathering. I wouldn't -- you know, you need
8 to understand I'm a commissioner. Okay? I don't
9 get involved in all the detailed negotiations and
10 all that sort of stuff. Okay? That's for the
11 staff to do, and we expect them to do that. So,
12 you know, I don't -- I've never been in a
13 negotiation period with this gentleman over here.
14 I've never been in a negotiation period with any
15 of these other developers with respect to tying
16 into these particular systems up until we were
17 asked to sit down with Mr. Aughtry a few months
18 ago. But other than that, I've never been in a --

19 Q. So you're more at the policy level?

20 A. That's exactly right.

21 Q. Let me just ask you a few policy questions. Okay?

22 A. Sure.

23 Q. And I believe you testified earlier, just a few
24 minutes ago, that you never specifically yourself
25 saw the business plans that these different

1 developments had put together?

2 A. Right.

3 Q. But you do understand that when a group like
4 Harrison Partners or any other developer sits down
5 and makes plans to develop a property, they put it
6 together based upon a projected business plan?

7 A. I'm sure they do.

8 Q. And you understand that -- and I guess you came to
9 understand after the proposed change was talked
10 about and then after these guys came to the public
11 hearings and begged for grandfathering and asked
12 for some help, you came to understand that this
13 change was going to put a big crimp, if I can use
14 that word, in their business plans because of the
15 changes that the new regulations required, right?
16 I mean you understood that, right?

17 A. Listen, I don't make decisions as a commissioner
18 based on anybody's business plans other than
19 Renewable Water Resources and what's in the best
20 interest of the environment and what's in the best
21 interest of our customer base. Whether or not Mr.
22 Bolo is successful with his project financially
23 has absolutely nothing to do with my decision
24 making process.

25 Q. ReWa just doesn't care, does it?

1 A. It's not our focus. Our focus is -- we have an
2 obligation to protect the environment. We have an
3 obligation to protect our customer base and have
4 those people obtain sewage service, sewage
5 treatment service as fairly as we can; and we have
6 permits by DHEC. We've got to meet those permits
7 and that's our focus. You know, my focus about
8 whether a developer can go into an area that
9 doesn't have sewer service and get a development
10 in place, I don't spend time worrying about that.
11 I mean I know that sounds callous and I know that
12 sounds hard, and it probably sounds like I'm a
13 real jerk, but you know what, my role here is to
14 protect our Authority and to protect the
15 environment and protect the citizens of Greenville
16 County and our service district.

17 Q. So for these six or seven projects that were,
18 quote, "In the pipeline," for approval, when the
19 regulation -- the change in regulations came into
20 effect, the fact that it was not only detrimental,
21 but disastrous to the business plan just didn't
22 matter at all to ReWa?

23 A. It didn't enter -- it certainly did not enter into
24 our decision making process as to what we did or
25 what we did not do.

1 Q. And despite the fact that what they had originally
2 submitted for approval was consistent with the
3 regulations at that time and the practices that
4 had been done, isn't it safe to say that the
5 change in regulations really were unforeseen and
6 unforeseeable by then?

7 A. Yeah. My understanding is that when we first got
8 this information, before that, between -- I mean
9 there was an extended period of time that -- I
10 mean it seems like that the first indication that
11 this project was in the pipeline from the time
12 that happened until the regulation was put in
13 place, I mean it was over a year, wasn't it, or 18
14 months or 24 months or some long period of time in
15 there?

16 Q. Right. But this change happened, and by Brian
17 Bishop's own testimony, he was told to stop
18 approving things long before the regulation went
19 into effect.

20 A. Well, I can't speak to that. I don't know what
21 Mr. Bishop was told.

22 Q. I guess my question is really, isn't it true that
23 when these six or seven folks entered into what
24 we've been calling in the Hearing the pipeline,
25 the approval pipeline, and they found themselves

1 in the pipeline at the time of this regulation
2 change, which changed their whole business plan
3 and made it for some impossible to continue under
4 the new pricing, isn't it true that there's no way
5 that these folks, at the time of first making
6 application, could have foreseen that ReWa was
7 going to change its policy and change the way it
8 had been allowing things for years?

9 MR. STILWELL: I object to the question. It's not even
10 a question, it's just testimony.

11 MR. FULTON: Well, I said, "Isn't it true."

12 MR. BOLO: You can't shake your head what answer you
13 want him to give, Rivers.

14 MR. STILWELL: I object about Mr. Bolo's completely
15 fabricating that I'm nodding my head to indicate
16 the answers of the commissioner, and is again
17 exhibiting his consistent childishness with this
18 proceeding.

19 EXAMINATION RESUMED BY MR. FULTON:

20 Q. Wouldn't you say that's true, Mr. Boyette?

21 A. Let me say one other -- I'm going to say it one
22 more time. Then I will -- although we're there
23 and we really hope that economic development
24 continues in Greenville County and our service
25 district because it's good for everybody, but in

1 us making decisions, okay, with regards to the
2 environment, to our obligation to DHEC and the
3 EPA, and with our obligations to the citizens --
4 our rate payers, the profitability of an
5 individual development or developers or
6 developments does not enter into the picture of
7 the decision making process of what we do, not
8 from my perspective. You may not get the same
9 answer from the rest of the commissioners, but
10 that's my position. And, you know, I mean you've
11 asked me that -- I've answered that now about
12 three or four different times.

13 Q. And your opinion is ReWa just doesn't care about
14 that?

15 A. You want me to say that again?

16 Q. Yeah.

17 A. You want me to answer that the way I answered it
18 again? I'll just ask the court reporter to
19 duplicate that answer.

20 Q. Let me ask you this question. Did you -- I think
21 you said -- maybe you didn't say this, and so let
22 me ask you this. Did you ever become aware or see
23 the actual figures that were finally presented by
24 ReWa to the Harrison Partners and some of the
25 other groups for providing service?

1 A. No.

2 Q. Did you become aware of the fact that it was a lot
3 higher than their original business plan?

4 A. I doubt that seriously, but I don't know what
5 their business plan was and I don't know what the
6 numbers were. So I can't comment on that.

7 Q. Why do you doubt it then? You just said you can't
8 comment, but why do you doubt it?

9 A. Well, because the costs for maintaining a system
10 and putting in enough money to replace it and all
11 those types of things, you know, there again -- I
12 don't know. I don't have any idea what their
13 arrangements were with anybody else related to
14 that pump station.

15 Q. So your testimony is you don't know that it was a
16 lot higher?

17 A. I do not know that it was a lot higher.

18 Q. But you can't deny it was, because you don't know?

19 A. I don't know.

20 Q. Bear with me a minute. (Reviewing documents.)
21 You were at the public hearings that we talked
22 about in -- I guess that would have been early
23 '08?

24 A. Yes.

25 Q. Tell me some of the reasons that were given by

1 these developers to the Board about the effect
2 that these change in regulations would have and
3 why ReWa should not adopt them, or why they should
4 grandfather them, just as best you recall?

5 MR. STILWELL: I'd just object to the --

6 WITNESS ANSWERS:

7 A. I don't remember any developers being present at
8 the public hearing in early '08.

9 EXAMINATION RESUMED BY MR. FULTON:

10 Q. Or anybody who spoke at the public hearing.
11 Didn't you say Gene McCall?

12 A. Yeah.

13 Q. What did Gene -- what were his comments and
14 objections to this change or --

15 A. I don't know. It had more to do with legal
16 comments than anything else. I don't remember
17 his testimony, or his -- I do remember that the
18 subdistricts were concerned about it because they
19 didn't have any money to do it. But I don't
20 remember exactly everything that Gene McCall told
21 us at that -- you know, at that -- was it the
22 January '08 meeting?

23 Q. Isn't it true that, in fact, Mr. McCall submitted
24 a typewritten list of things to the Board?

25 A. It could be true. You know, I don't -- there

1 again --

2 Q. Let me ask you to just take a look at -- and I
3 only have one copy. Let Rivers see it first. And
4 I want you to take a look at this exhibit to see
5 if that refreshes your recollection about whether
6 those are some of the points that Mr. McCall made?
7 And then we'll mark that as Boyette 2 I guess.

8 A. (Reviewing document.) There again, I'm not
9 denying he said all this. I just don't recall it,
10 to be honest with you.

11 Q. But does it -- do you remember him submitting that
12 to the Board, the written thing?

13 A. There again, I don't remember. I do not remember
14 him submitting -- I'm not -- I wouldn't -- I'm not
15 surprised that he would have, but I don't
16 remember.

17 Q. You're not denying that he did?

18 A. No, I'm not denying it.

19 MR. FULTON: We'll mark this as Boyette 2.

20 (EXHIBIT NUMBER 2 MARKED; ATTACHED)

21 EXAMINATION RESUMED BY MR. FULTON:

22 Q. Do you agree with the fact that ReWa doesn't have
23 the right to require a subdistrict to guarantee or
24 backstop a private utility, as you've testified to
25 before, in this paragraph here in number 3?

- 1 A. we don't have a right for them to do that. We do
2 have a right to be able to say whether we're going
3 to accept anybody's waste or not based on certain
4 conditions.
- 5 Q. So you're saying you don't have the right to make
6 them do that, but they can't take the waste
7 anywhere else except you, right? You said you're
8 the only game in town.
- 9 A. That's right.
- 10 Q. So in essence, by requiring them to backstop or
11 guarantee the private utility, you are requiring
12 that of them, aren't you, or they can't have sewer
13 service?
- 14 A. Here's what -- no, no, that's not correct because
15 if you read that -- if you read the regulation
16 there, it gives the ability for the subdistrict
17 itself to do that. Okay?
- 18 Q. To backstop a private utility --
- 19 A. No.
- 20 Q. -- or to run the whole thing?
- 21 A. To run the whole thing.
- 22 Q. Got it.
- 23 A. It gives the private utility to own the whole
24 deal, right.
- 25 Q. But only if Metro backstops it?

1 A. Exactly.

2 Q. Now you understand that Metro never would agree to
3 backstop the Harrison Brothers project, right?

4 A. No. I have no idea what Metro has agreed to do or
5 has not agreed to do with respect to this
6 development.

7 Q. But you don't have any way to disagree with that?

8 A. No.

9 Q. Do you understand how the enactment of these new
10 regulations in May of '08 interfered with
11 contractual relationships that some of the
12 developers had with Condor and other -- and
13 possibly others?

14 A. I have no idea. I have no idea what contractual
15 relationships they had.

16 Q. You don't have any idea about what those contracts
17 were?

18 A. No, sir.

19 Q. You don't remember Mr. McCall telling you that he
20 had a contract to handle the pump stations and the
21 force main?

22 A. He may have, but I don't remember that.

23 Q. Well, if Rewa, you or other folks at Rewa
24 understood that that contract was in place, isn't
25 it true that this change in policy interfered with

1 their ability to complete that contract?

2 A. No. No..

3 Q. It wouldn't?

4 A. No. I mean Metro could have stepped up to the
5 plate and agreed to take it over if, in fact,
6 those guys went under.

7 Q. If they still couldn't -- you still wouldn't let
8 it be set up under the original business plan,
9 which is Metro to handle the feeder system, Condor
10 to be in the middle running it up to Rewa?

11 A. That's right. We don't want two people in the
12 business.

13 Q. Right. So if the contract called for that, then
14 these regulations would have interfered with that
15 contract, right?

16 A. There again, I don't know. I mean I don't --

17 Q. I'm just saying if it did.

18 A. I'm just telling you I don't know. Okay? I can't
19 make that assessment without having to -- been
20 involved in the review of all that stuff. I have
21 no idea.

22 Q. Have you had any subdistricts since this
23 regulation went into effect agree to backstop or
24 completely indemnify any private utility? Have
25 any of them been willing to do it that you know

1 of?

2 A. I really don't know.

3 Q. Isn't it true that none of them have been willing
4 to do that?

5 A. I told you I don't know, and I don't know --
6 personally, I don't know of any developments that
7 have taken place with the economy that we've had.

8 Q. You talked a little bit about -- when I asked you
9 about the pricing being significantly more, you
10 said you just didn't know --

11 A. Right.

12 Q. -- the ReWa numbers?

13 A. Right.

14 Q. You made some comments that had to do with the
15 cost of in the future having to replace the plant
16 or go into a gravity line. The truth of the
17 matter is you don't really know -- even if you
18 were to enter into that agreement now, you don't
19 know if or when that would even happen, right? It
20 may not ever happen so to collect money for it now
21 may be collecting money for something that never
22 happens?

23 A. What do you mean never would happen? What would
24 never happen?

25 Q. Possibly tying into a gravity line later. That

1 may never happen, right?

2 A. Well, maybe, but it might. You know, there's
3 always that possibility. If we look down -- if
4 you had said 30 years ago -- you know, nobody can
5 predict the future ten or 15 or 20 years from now.

6 Q. Right. But you have to admit there's a
7 possibility that it may never happen?

8 A. Although it might be slim, a very slim possibility
9 that it wouldn't happen.

10 Q. You denied earlier making the statement along the
11 lines of, "Why should we let other people make the
12 money when ReWa can make the money." If you
13 didn't make the statement, did anybody in ReWa --
14 who in ReWa did make that statement?

15 A. I have no idea.

16 Q. Was it ever discussed, either in executive
17 session, or just informally with the executive
18 director or anybody --

19 A. No, not me.

20 Q. -- that, "This is a chance for ReWa to make this
21 money instead of letting private folks do it"?

22 A. No.

23 Q. Not ever?

24 A. Not by me. I can't -- we've got a nine-member
25 Board. Okay? I can't speak for the other nine

1 members and what they said to Mr. Orvin. I can
2 just tell you that I have never spoken to Mr.
3 Orvin about us getting in the pump station
4 business in order to make money.

5 Q. What about just general discussions among the
6 Board, either in executive session or otherwise?

7 A. No. No.

8 Q. Your testimony is that that issue, the prospect of
9 the fact that ReWa could make this money instead
10 of the private folks, was never discussed among
11 the Board in your presence?

12 A. Not to -- no, it was not. To -- you're putting
13 it in the context to say was it discussed as
14 something that we would want to do, you know, to
15 make money. And the answer to that question is
16 no.

17 Q. So what aspect of it was discussed? Was it
18 discussed that, "Well, if we put this change into
19 effect, that would be an opportunity for us" --

20 A. No.

21 Q. -- "to start running these things"?

22 A. No. No.

23 Q. Is it your testimony that ReWa didn't want to
24 start running the pump stations?

25 A. No. We do not want to start running the pump

1 stations.

2 Q. Who do you want to run them?

3 A. I want the subdistricts to run them. They're the
4 ones -- look, let me explain something to you.

5 This is just my opinion. Okay? We have 17
6 subdistricts here in our service district, some
7 of which own pump stations and some of which don't
8 want to own pump stations. Okay? We've never had
9 any issue with any of the municipalities, the City
10 of Greenville, City of Travelers Rest, City of
11 Mauldin, Simpsonville, on and on and on about
12 owning pump stations. They have a responsibility
13 to provide sewer systems in their service district
14 like we have a responsibility to treat waste.
15 Okay?

16 Q. Do they have obligation to just gravity systems?

17 A. No.

18 Q. Pump also?

19 A. No. They do not have an obligation just to pump.
20 They have an obligation to provide a system.

21 Okay? Now, to think that somebody can provide a
22 sewer system that doesn't have pump stations in it
23 is a little bit ridiculous. Okay? Any system
24 that I've ever been associated with or know
25 anything about or have ever read anything about,

1 somewhere along the line there are pump stations.

2 You would agree to that?

3 Q. Just because of geography.

4 A. Just because of the topography and the geography,
5 exactly right. So basically my opinion is it's up
6 to the subdistricts themselves to provide pump
7 stations that support their collector systems that
8 tie into our trunk systems. Okay? That's where
9 the responsibility lies. It doesn't lie with us.
10 We don't want to get into the retail business. We
11 don't want to get into the pump station business.
12 We want to be in the treatment business, the trunk
13 line business, and we will operate our pump
14 stations that are in our systems because that's
15 what we're here to do. We're in the sewer
16 business, okay, just like they're in the sewer
17 business. And they need to -- that's a
18 responsibility that they have as well. Okay?
19 And so over the long term, unless that happens,
20 it's our opinion -- my opinion that that is
21 detrimental to the environment over the long haul
22 and will create issues and problems, and our
23 responsibility here is not to allow that to
24 happen. Okay?

25 Q. And you mentioned a specific instance with a

1 treatment system that kind of went bad years ago,
2 right? Wasn't there a private treatment system
3 you mentioned?

4 A. Yeah, that's correct.

5 Q. Isn't it true, though -- I'm not talking about
6 treatment systems, I'm just talking about pump
7 station and force main. Isn't it true that for
8 many years, there have been allowances of private
9 contractors to run that part of the system here in
10 Greenville?

11 A. I don't know that firsthand. All I can tell you
12 is I have no firsthand knowledge of any contracts
13 that Metro has with any particular private entity
14 or Taylors has with private entities. I have been
15 told that. I have been told that, but I have no
16 firsthand knowledge of that. Okay?

17 Q. Let me ask you this then. It's your
18 understanding, though, that that part of it has
19 been handled by private companies?

20 A. That's correct.

21 Q. And before this change, the May '08 change?

22 A. That's correct.

23 Q. It's been done for years. Now, not including the
24 problems that you talked about with the treatment
25 system, that one that you mentioned. And I forget

1 --

2 A. Paris Mountain.

3 Q. Yeah, Paris Mountain.

4 A. Okay.

5 Q. Are you aware of any catastrophic failures or
6 problems with the privately-owned pump stations
7 and force mains that have ever happened?

8 A. No.

9 Q. In fact, there have been none, have there?

10 A. I don't know.

11 Q. But you're not aware of any?

12 A. I'm not aware of any.

13 Q. Okay. Those are all the questions I have.

14 (OFF THE RECORD)

15 REEXAMINATION BY MR. STILWELL:

16 Q. John, I just want to ask you one clean-up
17 question.

18 A. Okay.

19 Q. Gene was talking to you about the executive
20 session and whether you all took any actions in
21 that session. The part about -- it was my
22 understanding you all did not actually act during
23 that executive session?

24 A. We did not, that's right. We just -- there was no
25 visible support. We ended the session. We went

1 out and no action was taken.

2 Q. That's all I've got.

3 MR. FULTON: We might have some re-cross. We'll step
4 out.

5 (BREAK; OFF THE RECORD)

6 REEXAMINATION BY MR. FULTON:

7 Q. Mr. Boyette, I asked you before about if you
8 remembered any of the executive session
9 discussions about whether or not to grandfather
10 these folks. And did you take a vote in executive
11 session --

12 A. No.

13 Q. -- to grandfather them?

14 A. No, sir.

15 Q. So was it ever officially decided not to
16 grandfather them by the Board?

17 A. No action was taken after that. There was no
18 support in that meeting to do that, and so
19 therefore no action was taken.

20 Q. Were there votes about it?

21 A. No.

22 Q. Never had any votes about whether to grandfather
23 any of the people in the pipeline?

24 A. Not to my knowledge, no.

25 Q. Well, let me ask you this question.

1 A. If so, the minutes would reflect that if I'm in
2 error about that.

3 Q. But you don't recall any votes about that?

4 A. No.

5 Q. You don't recall -- do you recall anybody in the
6 Board expressing support for, "Hey, we should
7 grandfather these guys"?

8 A. No.

9 Q. Not a single person?

10 A. Huh-uh.

11 Q. Do you remember having a meeting in '08 with Kelly
12 Tucker? Is he the executive director at --

13 MR. STILWELL: She.

14 WITNESS ANSWERS:

15 A. She was the director of Taylors.

16 REEXAMINATION RESUMED BY MR. FULTON:

17 Q. Taylors?

18 A. Yeah.

19 Q. Don't you remember telling her that -- this would
20 have been in '08, that it was Rewa's intention to
21 own any and all pumping stations?

22 A. I've never had that conversation with Kelly
23 Tucker.

24 Q. You don't remember saying that to her?

25 A. No, sir. I can tell you right now I did not say

1 that to her.

2 Q. All right. Thank you. That's all I have.

3 A. Thank you.

4 (ADMINISTRATIVE HEARING [4/21/11] CONCLUDED AT 2:29

5 P.M.)

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CERTIFICATE

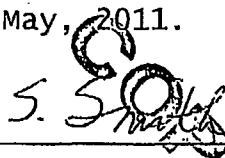
I, the undersigned, Sheila B. Smith, CVR-CM,
Notary Public in and for the State of South Carolina,
do hereby certify that the foregoing Administrative
Hearing was taken on April 21, 2011;

That the within witnesses were sworn to tell the
truth, and that the foregoing is an accurate
transcription of the testimony taken under oath;

That all exhibits entered herein are attached
hereto (if requested by counsel) and made a part of
this Administrative Hearing.

I further certify that I am neither counsel nor
solicitor to any of the parties in said suit, nor
interested in the event of the cause.

In witness whereof, I have hereunto set my hand
and seal this 5th day of May, 2011.



Sheila B. Smith, CVR-CM
Notary Public for South Carolina
My Commission Expires: 3/9/2014

MINUTES
WESTERN CAROLINA REGIONAL SEWER AUTHORITY
BOARD OF COMMISSIONERS MEETING
HITACHI FACILITY
575 MAULDIN ROAD
MONDAY, NOVEMBER 5, 2007
6:10 P.M.

Minutes of the Western Carolina Regional Sewer Authority Board of Commissioners meeting held Monday, November 5, 2007 at 6:10 p.m. at the Hitachi Facility.

Commissioners present: Board Chairman John Boyette, and Secretary/Treasurer Jimmy Martin; Commissioners: Billy "Butch" Merritt, Willie Whittaker, George Fletcher, and Mike Bishop.

Commissioners absent: Ralph Hendricks, J. D. Martin, and Gary Gilliam.

Staff present: Ray Orvin, Steve Graef, Randy Boyette, Brian Bishop, Pam Carnes, Derrick Mattison, Barbara Wilson, Cathy Caldwell, Kevin James, William Armes, Ann Sims, Beverly Gunter, and Sue Bryant. Others in attendance: Debbie Nelson of Debbie Nelson and Associates; Rivers Stillwell of Nelson Mullins; Ashley Hornung of the Insite Group; Jay Alexander of Windsor/Aughtry Co.; Pat Holland, Charles Bristow, David Davis, and Rodney Turner of Ethox Chemicals, Richard Heusel of KM Fabrics; Joe Pons of Roy Metal Finishing; Dragan Jovanovic and Jim Young of Henkel Corporation; and Carl Cartwright and Mike Bayman of KS Gleitlager USA, Inc.

Chairman John Boyette presented the 2006 Pollution Prevention Award to Carl Cartwright and Mike Bayman of KS Gleitlager USA, Inc. Certificates of Achievement were also presented to the following industries: Ethox Chemicals, Henkel Corporation, KM Fabrics, and Roy Metal Finishing.

An operations report was received on the Pelham Facility by Ann Sims.

Randy Boyette gave a presentation entitled, "The Marietta Success Story" to the Board.

Minutes of the October 1, 2007 Board of Commissioners meeting were ratified and approved.

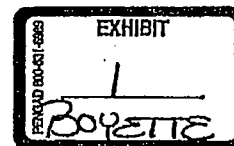
Minutes of the October 1, 2007 Operations and Planning Committee meeting were ratified and approved.

Minutes of the October 1, 2007 Administration and Finance Committee meeting were ratified and approved.

A report was given on the Operations and Planning Committee meeting held Monday, November 5, 2007, and the following committee recommendations were made:

Negotiations with Developers

Committee recommends that authorization be given to the Executive Director to enter into direct negotiations on development with representatives from the Insite Group, and the Windsor/Aughtry Company.



MINUTES
WESTERN CAROLINA REGIONAL SEWER AUTHORITY
BOARD OF COMMISSIONERS MEETING
HITACHI FACILITY
MONDAY, NOVEMBER 5, 2007
PAGE TWO

Proposal on Pump Station Force Main Policy Procedure

Committee recommends Board authorize staff to develop/prepare a regulation to define the policy on ownership of pump stations and force mains to present at the December, 2007 Board meeting for a public comment period.

A report was given on the Administration and Finance Committee meeting held Monday, November 5, 2007, and the following committee recommendations were made:

WCRSA Billing:

Board approved Committee's recommendation to hold a workshop for the full Board to discuss and review Black & Veatch's study on the Greenville Water System's billing procedure on November 19, 2007. The Board will be polled to select a time.

Elliott Davis, LLC will be here at the December Board of Commissioners meeting.

Debbie Nelson & Associates will also update the Board on the rebranding of the Authority.

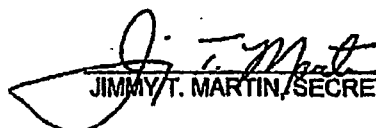
Commissioner Merritt thanked all the staff for their hard work during the Anderson County's Teachers' workshop.

At 7:00 p.m., Commissioner Fletcher moved that the Board go into Executive Session to discuss a personnel matter. At 7:30 p.m., Executive Session closed. There was no action as a result of Executive Session.

There being no further business, the meeting adjourned at 7:35 p.m.

APPROVED:


JOHN V. BOYETTE, JR., CHAIRMAN


JIMMY T. MARTIN, SECRETARY/TREASURER

January 10, 2008

Condor Environmental, LLC submits the following comments on
the Proposed Additions and Amendments
to the WCRSA Sewer Use Regulation – December 2007

Section 1.2 Additions

- Collector Sewer and Collector Sewer System – These definitions are not consistent with common terms used by professional wastewater organizations [See *Gravity Sanitary Sewer Design and Construction Manual, Second Ed.*, ASCE and WEF 2007]. They should be revised to be consistent with those used in the wastewater industry.
- User – This improperly includes “private utilities, satellite systems and subdistricts, and municipalities” as users. These entities do not generate sewage themselves, but only transport sewage to WCRSA; they should be removed from this definition.

Section 2 Additions

- 1. - The requirement for a Privately Owned Utility (“PU”) to submit “under oath, adequate financial information to assure WCRSA” is improper and exceeds WCRSA’s authority. DHEC has preempted this field by DHEC Reg. 61-9.600. Likewise the requirement that the PU “demonstrate to WCRSA that it has the ability, knowledge and qualifications to operate the Collector Sewer System and must provide WCRSA annual work plans” is preempted by DHEC. Therefore this section should be deleted.
- 1.- WCRSA does not have the authority to make private utilities meet different requirements than public utilities. This amounts to intentional interference by WCRSA with Condor Environmental’s contractual relationships and anticipated contractual relationships and violates the Equal Protection clause of the Constitution. Therefore this section should be deleted.
- 2. - If WCRSA decides it does not want to take a gravity sewer line or pump station, among properly qualified public and private entities, WCRSA does not have the authority to designate which entities will be allowed and which entities will be excluded from acceptance. DHEC makes the determination of who is qualified and acceptable; DHEC preempts this field from WCRSA. Additionally, this amounts to interference with a contractual relationship. Therefore this section should be deleted.
- 2.- WCRSA has no right to force a municipality or subdistrict to back-stop a private utility nor does WCRSA have a right to make these public entities indemnify WCRSA from damages and costs. Municipalities and subdistricts are equal public entities to WCRSA. Therefore this section should be deleted.



- 3. -- WCRSA has no right to require a separate agreement regarding the ownership of the system if and when a public entity is willing to assume responsibility for the system. This amounts to interference with a contractual relationship and is an invalid attempt to end run the 5th Amendment of the Constitution which prohibits taking without just compensation. Therefore this section should be deleted.
- 4. - WCRSA stating that it will not accept a connection from any system owned by more than one user amounts to interference with a contractual relationship. If, for example, as has happened on numerous instances, a subdistrict contracts with a developer to accept ownership of the gravity sewer lines in a new subdivision and a private utility contracts with that same developer to accept ownership of the pump station and force main for that new subdivision, this new regulation would prohibit this logical and practical arrangement. The wastewater WCRSA receives would be the same, no matter whether one or two entities own the whole or separate parts. WCRSA has no right to impose this requirement when DHEC has regularly approved this approach. DHEC has preempted the field. Therefore this section should be deleted.

Section 4 Addition

15. -- The strict use of the Babbitt equation to define excessive infiltration and inflow ("I/I") is not appropriate. The Babbitt equation should only be used as a reference point to begin investigation as to whether excessive I/I is occurring. Additionally, WCRSA is misrepresenting the 2003 Performance Committee Note. The 2003 committee approved using the Babbitt equation to look at 2 year rain events, not 10 year rain events. Using "excessive wet weather flows for any 3 consecutive 1" rainfall events" is not consistent with either a 2 yr or 10 rainfall event. The intensity of rainfall events can vary greatly and cause significantly different responses in a sewer system. Determining whether excessive I/I is present is not a simple or black and white determination; it is closer to an art than a science. The regulation should be revised to properly reflect the 2003 Committee conclusion, i.e., that the use of the Babbitt equation should be for a 2 year rain event and that the equation should be used as indicator of excessive I/I, not a conclusive determination.
- The requirement that WCRSA is adding for "Any public entity, subdistrict, developer, homeowners association or other private owner," who contract with a private utility for maintenance and operation of a lateral system, "assume all responsibility and liability for the lateral system" is void as interference with a contractual relationship. Additionally, WCRSA has no right to impose such a requirement on a subdistrict which is an equal public entity with respect to WCRSA. Therefore this section should be deleted.

This requirement is clearly designed to remove the incentive and essentially bar any developer or subdistrict from contracting with a private utility, by requiring that the developer or subdistrict to retain "all responsibility and liability." These are two of the main reasons to

contract with a utility, to transfer the responsibility and liability to that private utility. DHEC has regularly approved transfer of ownership of wastewater systems to private utilities. DHEC will acknowledge that it would prefer a public utility own such a system, but readily accepts and approves of ownership by private utilities. DHEC would much rather have a private utility responsible, versus a developer or homeowners association. By meeting DHEC Reg. 61-9.600, the private utility has demonstrated that the private utility is a viable, capable and responsible entity. WCRSA has no right to require anything additional in this field preempted by DHEC. Therefore this section should be deleted.

Exhibit 45
Oversized document
submitted separately at
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STATE OF SOUTH CAROLINA	)	Renewable Water Resources
	)	Administrative Hearing
COUNTY OF GREENVILLE	)	
Harrison Partners, LLC	)	
	)	
Petitioner,	)	
vs.	)	<u>CLOSING ARGUMENT</u>
Renewable Water Resources,	)	
	)	
Respondent.	)	

Renewable Water Resources respectfully submits the following written closing argument:

I. INTRODUCTION

Petitioner Harrison Partners, LLC ("HP") disavows responsibility for its many mistakes. "It is [indeed] a painful thing to look at your own trouble and know that you yourself and no one else has made it."¹ Sophocles' quote sums up this dispute's evidence and underlying psychology—a need by HP to foist blame upon everyone else for its engineer's mistakes. Unfortunately HP's unfounded blame-casting has ensnared ReWa in this dispute.

Beginning in the Spring/Summer of 2006, HP purchased land in southern Greenville County below ReWa's Lower Reedy Wastewater Treatment Plant. HP bought the property, although it knew no public sewer service was available in the basin embracing the land and although it knew no public sewer service could be offered until public providers had reviewed and approved finalized engineering plans and issued a flow acceptance letter (treated interchangeably as "Flow Acceptance Permit"). HP planned to build a residential neighborhood on the property which it later dubbed Rivertrace.

¹ Sophocles, *Ajax*, c. 450.

HP hired the Insite Group, LLC from Columbia, South Carolina to provide engineering services on the project. Specifically, HP hired Scott Bolo, P.E. ("Bolo") as Rivertrace's head engineer. Bolo was simultaneously one of HP's shareholders. Although Bolo testified he had significant experience in sewer related engineering projects, the evidence suggests he had very limited experience with the permitting of Upstate South Carolina sewer projects. Bolo proposed to pump sewer "uphill" with a pump station, force main, and through ReWa's Lower Reedy Wastewater Treatment Plant. According to HP, the replacement of the uphill system by a permanent gravity system in future years would be ReWa and the affected homeowners' problem. The developers of the individual neighborhoods with the uphill systems would be long gone by that point.

II. RECITATION OF TESTIMONY AND EXHIBITS

Sewering the Rivertrace project presented a slew of obstacles.² First, HP bought the land knowing no public sewer service was available. No engineering study had previously been performed of the basin embracing HP's land. And, population densities in the basin did not yet justify studying how to sewer the area for basin-wide planning purposes. HP was essentially trying to extend the sewer system out of order in order to reap the benefits of cheaper unsewered land. The costs of later installing the permanent gravity systems in the area were something HP refused to acknowledge as a legitimate concern of the public entities left to provide the collection, trunkline, and treatment services in the basin.

² Interestingly, HP was not the first developer who approached ReWa about developing the land where Rivertrace was proposed to be located. Prior to HP's purchasing the Rivertrace property, approximately five different prospective purchasers contacted Bishop about sewer service on the subject property. (Bishop, v.2, pp. 159-160.) After analyzing the difficulty of sewerage the project, all such developers decided not to purchase the land. (Bishop, v. 2, p. 160, ll.20-23)("Q. After they spoke with you about the difficulty in obtaining sewer service, you never heard from them again? A. No. That's correct.")

Second, HP's project required a force main and pump station since it was located below the Lower Reedy Plant. While HP's land was located in Metro's subdistrict, Metro declined to own and maintain the required force main and pump station. As a result, HP proposed that a private utility named Condor Environmental, LLC ("Condor") would own and maintain the force main and pump station while Metro would own the collector lines. Metro's and Condor's lines would then discharge into ReWa trunk lines and travel to ReWa's Lower Reedy Treatment Plant.

Third, HP collaborated on the sewer line project with another entity named the Windsor Aughttry Company on its proposed development nearby dubbed Riversway. Essentially, the two developers sought to build their own collector systems and then, at some point, interconnect their lines. The developers' plans differed over time but, at one point, they sought to have two privately owned pump stations and force mains which would "manifold into one line." (Bishop, v. 1, p. 184, ll. 4-7 (Never approved a site involving two pump stations wanting to manifold into one line); Orvin, v.2, p. 103, ll. 13-22 (Questions existed about the manifold.); McCall, v. 1, p. 39:1-8)(Manifolds atypical in Upstate South Carolina.) In his ten years at ReWa, Bishop had never approved a project with comparable engineering, even though he has processed thousands of projects. (Bishop, v. 1, p. 184, ll. 4-7, p. 229, ll. 13-17.)

Moreover, 2 projects meant twice the headache on an already difficult project: 2 developers, 2 sets of engineers, 2 sets of plans, twice the routing problems, twice as many engineering issues, different sets of right of ways, twice the likelihood of delays, and negotiating two sets of agreements between the public and private parties participating in the

sewer service. To make matters worse, Windsor Aughtry was no less than a year behind HP in relation to the timing of its project. (Bishop, v.2, p. 184, ll. 23-25; p. 185, ll. 1-2.)³

Fourth, unlike any other project, HP proposed to build its force main across ReWa's property. (Bishop, v.2, p. 184, ll. 14-16; Boyette Depo., p. 9, ll. 11-13)("And that's highly unusual for us to, to—and—in fact, I don't know that we've ever done that before.") Addressing the mechanics of obtaining easements across ReWa's treatment plant posed a set of obstacles never encountered before. Historically, ReWa had never before allowed a party to have an easement across treatment plant property. (Bishop, v.2, p. 184, ll. 14-16; Boyette Depo., p. 9, ll. 11-13.) Notwithstanding the same, ReWa told HP that it would consider the request, depending on where the line crossed its land and subject to meeting project requirements for obtaining sewer service.

The peculiarities of the project led to HP pursuing various (yet never finalized) routes and options over a several year period. The facts surrounding each route/option are as follows:

A. The Routes:

• **Route 1—The Flag Lot Route: 3/16/06 to 8/29/07 (17 Month Delay):**

HP first met with ReWa staff sometime in early 2006. (*Compare*, Exhibit 13 (First E-mail from Bolo dated 3/16/06 *with* Bishop, v. 2, p. 165, ll. 1-4) (Unaware of any prior e-mails).) It was during this timeframe that the first route was proposed. In highly unusual fashion, and as noted *supra*, HP's proposed route crossed through ReWa's Lower Reedy

³ While Scott Bolo ("Bolo"), HP's chief engineer, testified that HP's project was not complicated, it appears that Insite Group actively advertises the project as "technically challenging." (*Compare* Bolo, v.1, p. 239, ll. 20-21 ("Q. Was this a technically challenging project? A. No, it wasn't") *with* Exhibit 16 ("The extended off-site routing and tie-ins made this project technically challenging."); *see also* Attached Requests for Admission, #8 (HP failed to respond to request for admission #8 stating: "The Rivers Trace project was technically challenging.") Discussed more fully *infra*, this is yet another example of Bolo's lack of credibility as a witness.

Wastewater Treatment Plant.⁴ While HP had no right to cross ReWa land, and while ReWa had an absolute right to deny the route outright, ReWa informed HP it would consider allowing HP to cross ReWa land with a force main.⁵ Prior to this time, no party had ever requested to cross ReWa plant property. (Bishop, v. 2, p. 167, ll. 23-24; p. 168, ll. 1-3)(Board approval required in part "because we've never had a request like that before" and because a formal right of way would be required.) Orvin, v. 2, p. 32, ll. 4-6) ("Q. Have you ever had a private pump force main go across your plant property? A. No. This was very unique to us.")

In e-mail correspondence dated March 16, 2006, entered into evidence as Exhibit 13, Brian Bishop ("Bishop"), ReWa's Engineering Supervisor, cautioned: "Please keep in mind Western Carolina has not made a determination regarding right of way access [for the Flag Lot Route] through our treatment plant property. I would recommend that you provide us with a potential force main route for our review before you finalize your design." (Exhibit 13, ¶2 (emphasis added); Bolo, v.1, p. 208, ll. 8-15.) According to Bishop's testimony, his purpose in requesting the proposed route early in the process was "two-fold": (1) Bishop "needed to see exactly where the route was going to be"; and (2) "I was really trying to help them out in a way to say, "Look, don't spend a lot of money on this until we determine whether this is really the route that's going to be approved." (Bishop, v.2, p. 166, ll. 2-12.) As discussed *infra*, Bolo ignored Bishop's advice. Bolo, in fact, failed to identify the potential force main route until seventeen months later and proceeded with substantial engineering work in the interim.

⁴ Bishop testified the idea was first proposed in a joint meeting with HP members. (Bishop, v.2, p. 167, ll. 9-13.)

⁵ HP's initial route has become known as the "Flag Lot" route referring to various properties adjacent to the ReWa property. (Bishop, v. 2, p.164, ll. 4-5)(As of March 16, 2006, "[w]e are talking about—I think it's been referred to as the flag lot route.")

In the same correspondence, Bishop confirmed capacity in ReWa's Lower Reedy Sewer Treatment Plant. (Exhibit 13.) Confirmation of plant capacity is the first step in pursuing a Flow Acceptance Permit since if no capacity exists in the treatment plant, all other conditions to service prove irrelevant. (Bishop, v.2, p. 161, ll. 20-24)(Confirming as first step in the process.)⁶ Bishop then generally outlined the preliminary steps Bolo would need to complete before ReWa would consider issuing a Flow Acceptance Permit. (Exhibit 13.) Such steps included:

- Obtaining a right of way from ReWa;
- Designing the sewer lines and pump station to meet both the specifications of ReWa and the Metropolitan Sewer Subdistrict ("Metro");
- Reaching "an agreement between all parties...[defining] ownership/operation of the pump station and force main."⁷

(Id. at ¶3; see also Bolo, v.1, p. 211, ll. 1-20 (agreeing that Bishop informed him of additional requirements for Flow Acceptance Permit on 3/16/06).) Finally, Bishop noted ReWa's "willingness to serve this project is contingent upon the property owner complying with all requirements/standards of Western Carolina, Metropolitan Sewer and the Greenville County Planning Commission." (Exhibit 13.)⁸

A lull of activity on the project then apparently ensued for approximately 11 months. E-mail correspondence from Bishop dated February 9, 2007, and entered into evidence as Exhibit 14, reflects Bishop again informing HP: "As part of the permit application, we need

⁶ During the administrative hearing, ReWa introduced a sample Flow Acceptance Letter, which is the last step in the process. (Compare Exhibit 13 with Exhibit 32.)

⁷ Bishop testified that such an agreement could be called a "sustainability agreement." (Bishop, v. 2, p. 169, ll. 3-9.) It would be, at this stage, that a gravity surcharge would be discussed. (Bishop, v.2, p. 169, ll. 10-13.)

⁸ Bishop testified that requirements for ReWa, Metropolitan, and Greenville County were distinct. (Bishop, v.2, p. 170, ll. 2.) All filings required by each agency must be made to "each one of these agencies." (Bishop, v.2, p. 170, ll. 15-16; see also Orvin, v. 2, p. 18, ll. 1-12 (Metro reviews for Metro, ReWa reviews for ReWa.)

the survey map and description for the portion of the force main which will be located on our property." (Exhibit 14, ¶2 (emphasis added)); (Bishop, v.2, p. 174, ll. 8-17) (Sent e-mail because ReWa still had not received any of the requested materials and "needed the plans to be able to look at to see whether we could approve [Flag Lot Route] or not.") Bishop's testimony emphasized the extreme importance of the force main's route on ReWa's property. (Bishop, v.2, p. 179, ll. 2-16; p. 180, ll. 1-25; p. 181, ll. 1.) The proposed line could impact service to a huge number of ReWa customers served by the sixty million dollar, Lower Reedy Treatment Plant. (Bishop, v.2, p. 179, ll. 2-16.)

By this point in time (February 9, 2007), HP had decided to construct the proposed sewer infrastructure with Windsor Aughtry (for the Riversway development) causing Bishop to note again: "[W]e will need the final plans and profiles for both subdivisions and the force main route along with the flow request in order to provide you with the flow acceptance letter. This also needs to be submitted to Metro Sewer for their approval and O&M letter." (Exhibit 14 at ¶3 (emphasis added).) Bishop testified he thereafter never received the final Flag Lot Route, nor did he ever receive fully designed force main plans. (Bishop, v.2, p. 174, ll. 18-25; p. 175, ll. 1.)

Knowing full well that HP had submitted none of the information required by ReWa for a flow acceptance letter, a mere three days after receiving Bishop's February 9, 2007 e-mail correspondence, Bolo wrote (in Exhibit 15) to Bishop and asked, "Could you please send me a willingness to serve letter for this project as it is a requirement for the DHEC permits?" Surprised by the question, on February 14, 2007, Bishop predictably responded yet again: "I cannot send the flow acceptance letter until we have the final plans for both subdivisions and the force main route along with working out the easement agreement." (Exhibit 15); (Bishop,

v.2, p. 181, ll. 15-22.)⁹ Contrary to Bolo's testimony, Bishop confirmed he asked for the materials because HP had not sent them. (Bishop, v. 2, p. 174: 8-17.) Bolo answered, "Ok thanks. Edward is putting the easements together. We can finalize our subdivision and forward to your attention." (Exhibit 15.) Unsurprisingly, this never occurred. (Bishop, v.2, p. 174, ll. 18-25; p. 175, ll. 1; McCall, v. 1, p. 74:8-10 (Never saw final plans for HP; McCall, v. 1, p. 78-1-4 (Never saw a survey).)¹⁰

Later the same day (on February 14, 2007), Bishop again wrote to Bolo noting the remainder of what HP needed to submit to ReWa for review. (See Bishop, v. 2, 183, ll. 1-25)(Discussing correspondence and its intent). Those items included:

1. \$220 review fee for each subdivision
2. Request for flow—not to exceed 2-year build out
3. Stamped plans
4. I will also need a statement that the pump stations are designed to meet WCRSA's minimum requirements.

(Exhibit 17.) Bishop then noted, "Please be patient with the approval process since these projects are not typical." (Exhibit 17.) Notwithstanding Bishop's instructions to Bolo to submit the required information to ReWa, over and over again, in ever-shifting testimony,

⁹ With respect to the issue relating to the Flag Lot Route plans, Bolo lacks all credibility. Bolo testified that he submitted surveyed plans for the Flag Lot Route to ReWa, although no such survey was ever received. (Bolo, v.1 p. 262-264). When asked to produce the fully surveyed line at his deposition, Bolo produced a blank CD. Despite months of requests from ReWa, three days before the hearing, Bolo electronically produced a simple line drawing which even Gene McCall from Condor (HP's consultant) testified did not constitute a surveyed line. (McCall, v. 1, p. 83, ll. 11-16 ("Well that's not a survey, no.") McCall testified that he never saw a survey for any route. (McCall, v. 1, p. 78: 1-4.) Of note, HP had never supplied ReWa with the simple line drawing during the application process. Bolo then testified under oath contained imbedded data. (Bolo, v. 1, p.264, ll.1-4.) When after the hearing ReWa's engineers examined the electronic submission for the imbedded data testified to by Bolo, no electronic data was found on the same. In accompaniment to this Closing Brief, ReWa is submitting the electronic file sent to ReWa by Bolo to the hearing officer for further examination.

¹⁰ Notwithstanding multiple pieces of correspondence from Bishop asking for the proposed force main route, in dizzying circularity, Bolo testified at the hearing that he did not submit the requested proposed route because he was waiting for Bishop to approve the route even before Bolo identified the route. (Bolo, p. 253, ll. 17-20)("Q. March 21, 2007 reflects that you hadn't sent in the easement application yet. A. Well, maybe because you all hadn't approved the route..."; Bolo, v. 1, p. 271, ll. 2-4 ("Well, why would you complete an encroachment permit application for a route that was not approved?") In this regard, Bolo's testimony is reminiscent of Abbott and Costello's "Who's on First" skit.

Bolo would now have the hearing officer believe HP satisfied all of the requirements by submitting the information to Metro, materials he notably cannot actually provide and has not put into evidence. (*Compare* Bolo, v. 1, 219: 4-6) ("the entire time we were submitting to Metropolitan, and then ReWa would be copied on what we were submitting to Metropolitan with Bolo, v. 1, p. 232, ll.12-19 ("ReWa doesn't have any finalized plans, sir. Do you realize that? A. But Metro does.") In truth, ReWa never received finalized plans and HP has never produced what it claims to have sent to Metro.

On March 21, 2007, in an e-mail, Bolo wrote to Bishop and noted HP was still "finalizing the WCRSA easement forms forwarded." (Exhibit 18.) Yet, Bolo still had not provided ReWa with "a final survey engineered route" and still had not supplied ReWa with the engineering plans for the force main across ReWa's property. (Bishop, v.2, p. 186, ll. 18-22; *see also* McCall, v. 1, p. 74:8-10 (Never saw final plans for pump station or force main).) Over a year after Bishop first told HP not to proceed until he received final approval of the proposed route, Bolo still had not done so and continued to proceed with the project without supplying the information required by ReWa to proceed. (Bishop, v.2, p. 187, ll. 10-11; *see also* Attached Requests for Admissions #6 (HP failed to respond to request for admission #6 stating: "HP never completed surveys of the Flag Lot Route."))

On July 3, 2007, Bolo's assistant, Ashley Hornung, once again wrote to Bishop about obtaining approval to cross ReWa's property. (*See* Exhibit 19.) Hornung's e-mail reflects that, as of this date, HP still had not surveyed the proposed route and supplied the same to ReWa. In fact, Hornung asks Bishop whether she can send un-surveyed copies of the proposed route as appearing on HP's "engineering sheets." (Exhibit 19.) At this point, ReWa still does not have the basic information requested from HP concerning the Flag Lot route.

(Bishop, v.2, p. 187, ll. 22-24)("Q. Had you received the proposed route as of this date? A. No.") Bishop told Hornung the surveys were required to approve the route and specify a recordable legal description in the easement, if approved. (Bishop, p. 191, ll. 9-20.)

HP, in fact, never identified the proposed route across ReWa's property until August of 2007, nearly eighteen months after the first meeting on the project. (Bishop, v. 2, p. 189, ll. 20-25); Orvin, v. 2, p. 41, ll. 5-8)(Route identified to Bishop in August 2007 timeframe because, "he'd come to me in August about that.") Even then, HP never submitted an easement application or the required surveys. (Bishop, p. 177, ll. 4-18; McCall, v. 1, p. 74, ll. 20-24 (No application for ReWa encroachment since no final plans.) HP similarly failed to submit engineering plans for the force main proposed to cross ReWa's land, let alone finalized plans for the Flag Lot Route. (Bishop, p. 174, ll. 18-25; p. 175, l. 1.) ; McCall, v. 1, p. 74-8-10 (Does not recall final plans for pump or force main.)

On August 29, 2007, Mike Deaton (a conspicuously absent corroborating witness if Bolo's testimony had been true), an Insite Group employee, finally walked the proposed route with Bishop. (Exhibit 20.)¹¹ According to Bishop, it became immediately apparent to both Bishop and Deaton the route was not viable. (Exhibit 20; Bishop, p. 196, ll. 1-25.) Bishop immediately informed Bolo of the problems. (Bishop, p. 197, ll. 2-7 (sent e-mail to Bolo about problems either the same day or following morning.) The problems included:

¹¹ Notably, Bishop set the meeting within only a few days of when he was contacted by Deaton about assisting HP in completing a survey. (Bishop, p. 192, ll. 14-23.) In bizarre testimony, Bolo testified that Bishop met Deaton to clear the property. (Bolo, v. 2, p. 267, ll. 2-25) ("He was going out to the site on August 29, 2007 to construct a line, to clear the right-of-way and go in.") Bolo was not at the meeting. The testimony also does not make a lot of sense since the vast majority of the flag lot route, outside of ReWa's fenced plant property, runs through a shared driveway and would require no clearing whatsoever. (Bishop, p. 193, ll. 24-25; p. 194, ll. 1-4.) At this time (or ever), no easement application had been received from ReWa and, thus, not approved by ReWa's Board. (Bishop, p. 174, ll. 4-18.) Bishop testified he would never have allowed land to be cleared in the absence of route approval and executed easement. (Bishop, p. 193, ll. 2-9) ("Q. That never happened, did it? A. No, it did not happen."); (See also Bishop, p. 194, ll. 5-10.)

- 2/3 of the route was "heavily forested";
- One particular section dropped 20+ feet and then rose 30+ feet;
- There was no room to re-route "the force main to decrease the elevation";
- Construction would be "very expensive";
- "An access road would have to be built";
- "The force main would be laid very deep";
- "A significant number of trees would have to be removed";
- "A high potential for rock" existed";
- The route would interfere with new security measures and a new fiber optic cable;
- Condor's ownership of the force main would interfere with the new security measures; and
- ReWa was not receptive to "having trees removed or having the potential for rock blasting at the site."

(Exhibit 20; Bishop, v. 2, p. 196, ll. 1-25; *see also* Orvin, v. 2, pp. 22-23 (discussing operational problems facing ReWa relative to proposed flag lot route once eventually disclosed by HP.)¹² Within five (5) hours of receiving Bishop's e-mail, Bolo responded: "I read your notes and can understand what you are saying about the route." (Exhibit 20) Now, Bolo contends he did not really mean what he wrote—he was just being "diplomatic." (Bolo, v.1, p. 272, ll. 9-18.)

Tellingly, Bolo would not answer even the most basic questions about the Flag Lot. He transparently deflected his responses to some other point of time occurring months and years later. But Bolo was not confused. He intentionally confused his responses and purposefully conflated what occurred on different routes. To answer the questions candidly would mean Bolo had to admit the entire delay for the first 18 months of HP's project occurred exclusively at his own hand.

The Flag Lot Route can be summarized as follows:

¹² Interestingly, during the deposition of Jay Alexander, an employee of Windsor Aughtry, Alexander testified that Bolo never informed him of Bishop's concerns with the Flag Lot route. This could very well explain why Bolo now attempts to blame ReWa for the delay. That is to say, Bolo knows ReWa informed him, at the project's start, to confirm the proposed route before completing substantial engineering work. Bolo's failure to do so created the problems HP and Windsor Aughtry encountered in August of 2007.

- In March of 2006, Bishop informed Bolo to shore up the forced main route on ReWa's property before he begins engineering design. (Bishop, v.1, p. 197, ll. 8-11.)
- Bolo ignores Bishop and HP does not contact him about the route for eighteen months. (Bishop, v.1, p. 197, ll. 12-15.)
- Once HP actually contacts Bishop about the route, Bishop walks the route within only a few days. (Bishop, v.1, p. 197, ll. 12-15.)
- After Bishop walks the route with Deaton, he communicates problems with the route to Bolo within 24 hours. (Bishop, v.1, p. 197, ll. 16-19.)
- The problems with the route could have been detected as early as March of 2006, had Bolo followed Bishop's advice and supplied the requested information. (Bishop, v.1, p. 197, ll. 22-25.)
- Bolo's unwillingness to supply the proposed route to Bishop caused a delay in the project for the first 18 months.¹³

Notwithstanding all of the evidence, and unwilling to accept any personal responsibility, Bolo blames ReWa for his own self-inflicted delays.

• **Route 2—The Bishop Proposal: 8/27/07 to 11/26/07 (3 Month Delay):**

Bishop did not leave HP without recourse. In the same e-mail dated August 27th, 2007, Bishop informed Bolo of an alternate solution.¹⁴ (Exhibit 20.) Bishop wrote:

With that said, I would propose the following:

1. Have the Riversway subdivision pump to your site using the right of way you recently purchased.
2. Install a pump station sufficient to pump your site flow along with the Riversway flows.
3. Run your force main up Harrison Bridge road to Metropolitan's gravity sewer.

¹³ Gene McCall testified the average length of the project would be three to six months. (McCall, v. 1, p. 35, ll. 10-17.) While ReWa believes such an estimate is too short for a project of this complexity, if taken as true, by McCall's own testimony, Bolo delayed HP's project somewhere in the range of 3 to 6 times as long as it should have lasted by failing to supply the route information, survey, and design plans requested by ReWa beginning in March of 2006.

¹⁴ This has become known in the litigation as the "Bishop Proposal."

4. All that would be needed to install the force main is a DOT encroachment which would not cost. Additionally there is sufficient room to install the force main and would be much easier, quicker and less expensive even if you had to upgrade Metro's existing gravity line.

(Exhibit 20.) Bolo testified he loved the proposed route. *Compare* Bolo, v. 1, p. 276, ll. 14-18 with Bolo Depo., p. 195, ll. 13-16 ("We loved [this route]. It was actually totally in line with what we had discussed earlier today about—we kind of thought that that was what made sense..." (Bolo Depo., p. 195, ll.13-16.) But, in his correspondence to another Insite Group employee, he wrote: "Here is the connection point they are proposing...It is a total cluster fuck!" (Exhibit 35.) Bolo never articulated such concerns to Bishop.

Bolo, by contrast, testified the Bishop Proposal constituted a viable engineering solution. (Bolo, v. 1, p. 276, ll. 19-21)("Engineering wise, it was [viable]") Indeed, Bolo pursued the Bishop Proposal and even sent ReWa a proposed sketch of the new route. (Exhibit 7.) But, according to Bolo, Metro queered the route. (Bolo, v. 1, p. 276, ll. 17-18)("Metropolitan wouldn't allow us to use their easement."); *see also* Attached Requests for Admissions, #9 (HP failed to respond to Request for Admission #9 stating, "The Bishop Proposal would have worked if HP could have had access to existing right of ways owned by the Metropolitan Sewer Subdistrict.") Bolo also implausibly testified, at this point in time, Mike Dickson, the Executive Director at Metro, informed him about his discussions with ReWa about amending the Sewer Use Regulation. (Bolo, v. 1, p. 280, ll. 1-12.) Unfortunate to Bolo's credibility, however, ReWa's Board did not even begin considering the Sewer Use Regulation's amendment until late November or early December 2007, roughly sixty to ninety days *after* this point in time. (See Orvin, v. 2, p. 53, ll. 21-24.) By then, the parties had already begun evaluating the River Route, discussed below.

After impeachment with his deposition testimony, Bolo eventually admitted HP's project collaborator, Windsor Aughtry, objected to the Bishop Proposal because of increased costs. (Bolo, v. 1, p. 292, ll. 2-6.); *see also* Attached Requests for Admissions, #7 (HP failed to respond to Request for Admission #7 stating, "The owners of the Riversway development objected to the Bishop Proposal due to cost reasons.") Windsor Aughtry's representative, Jay Alexander, testified both parties objected to the costs of the Bishop Proposal. (Alexander Depo., p. 24, ll. 5-10.) Yet, neither party could actually testify what the costs of the Bishop Proposal actually were. (Alexander Depo., p. 23, ll. 24-25.) HP, in the end, abandoned the Bishop Proposal for reasons not altogether clear. What is clear is ReWa presented a viable alternative and HP abandoned the proposal for reasons unrelated to ReWa.

- **Route 3—The River Route: 11/26/07 to date (Indefinite Delay--Never Finalized):**

After abandoning the Bishop proposal, during early October of 2007, HP once again approached ReWa about how to obtain sewer service. (*See, e.g.*, Exhibit 21 (September 30, 2007 e-mail, "I talked to my partners at Windsor Aughtry and was told they were not willing to accept the longer route...be back in touch soon.") ReWa again sat down with HP and, over the next few weeks, mapped out another alternative route. The new route allowed HP to cross ReWa's Lower Reedy Plant property. This particular route followed the river on ReWa's property.¹⁵ (Exhibit 22) ("As I understand it we are coming up the river now.") And, as with the Flag Lot Route, the issuance of a Flow Acceptance Permit was: subject to both Metro's and ReWa's final approval of the engineering plans, subject to HP filing an application to obtain right of ways, subject to HP obtaining an executed agreement by all parties for the

¹⁵ This route has become known in the litigation as the "River Route."

ownership of the force mains and pump station, and subject to HP otherwise obtaining a Flow Acceptance Permit.

Even though ReWa told HP that it could cross its property along the river, just like the Flag Lot Route, HP never filed an application for a right of way over ReWa's land. The documentary evidence wholly contradicts Bolo's testimony regarding the River Route. According to Bolo, HP never submitted easement applications because ReWa would not approve the route. (Bolo, v. 1, p. 271, ll. 2-4; McCall, v. 1, p. 74-20-24 (No application for encroachment because plans were not finalized.) However, e-mail correspondence from Ashley Hornung, Bolo's assistant, dated January 9, 2008 states:

I have attached the proposed route through your properties...Please let me know if this layout is ok so I can get an easement document wrote up and signed by you all. I will then also have to get an encroachment application signed by you to go through the property I suppose.

(Exhibit 23 (emphasis added).) Two days later, on January 11, 2008, Bishop responded, "The route in general looks to be ok." (Exhibit 24.) Yet, HP never submitted easement applications to ReWa, even after Bishop's confirmation of the layout.

HP likewise never submitted final engineering plans for the River Route. (Bishop, v. 1, pp. 223-225.) HP never obtained an agreement from all parties involved concerning the ownership and maintenance of the pump station and force main. (Bishop, v. 1, pp. 223-25.) HP consequently never obtained a Flow Acceptance Permit for the River Route.¹⁶

Significant delays hampered the River Route for two reasons. First, in January of 2008, Riversway and Rivertrace revealed for the first time that they intended to build two force mains across ReWa's property instead of one. Bishop replied: "No one has indicated to me

¹⁶ The importance of these facts, as discussed below, relates to the incompleteness of HP's application throughout the process.

that there would be two force mains. This has never been discussed." (Exhibit 25.) According to Gene McCall, HP's engineering consultant, the possible need for the second force main resulted because delays placed Windsor Aughtry substantially behind HP from an overall engineering standpoint. (McCall, v. 1, p. 35, 10-17; *see also* Bishop, v. 2, p. 184, ll. 23-25)(Windsor Aughtry up to a year behind) And, as discussed below, this design issue was never resolved by HP and Windsor Aughtry, which was the *real* reason Bolo never applied for an easement from ReWa. (See Exhibit 26) ("[W]e are not sure at this time if we will be using a combined force main from Harrison Bridge Road to the Western Carolina site or 2 separate force mains in the same right of way."); Bishop, v. 2, p. 222, ll. 12-25 (recalling the project never resolved the joint or single force main issue and never re-approached ReWa seeking approval one way or another.) Importantly, ReWa could not issue a Flow Acceptance Permit, even if it were so inclined, until final plans were submitted and a right of way across ReWa land had been executed, neither of which could occur until the issue of force main design resolved.

Second, the River Route was delayed because Metro (not ReWa) raised concerns about Bolo's engineering calculations. (Bishop, v. 2, p. 219, ll. 22-25; p. 220, ll. 1-7); *See also* Attached Requests for Admissions, #10 (HP failed to respond to Request for Admission #10 stating: "Metro expressed concerns about the engineering calculations completed by the InSite Group in relation to the River Route.") Metro (perhaps rightfully so) objected to Bolo's engineering proposal citing concerns that the river basin was too flat and could not be served by a small diameter pipe. Metro's objections caused delays in the Spring of 2008, having nothing to do with ReWa. At one point, Metro even instructed HP to stop working until they heard back from Metro.

HP never finalized its plans for the River Route and correspondingly never submitted final plans for the route to ReWa's Lower Reedy Treatment Plant. In fact, as noted above, the correspondence dated April 14, 2008 reflects that HP and Windsor Aughttry still had not even decided basic plans regarding the design of the force main HP sought to build on ReWa's property. (Exhibit 26.) The April 14, 2008 correspondence further confirms the incomplete nature of the plans by noting, "We will review this design and make this final determination as soon as we begin finalizing our design." (Id.) On May 5, 2008, ReWa amended its Sewer Use Regulation in relation to privately-owned pump stations. (Exhibit 3.) At this time, and at no time thereafter, did HP submit finalized engineering plans for the River Route (or any route).¹⁷

At the time of the regulatory amendment in May of 2008 (the point of time for which HP claims it possessed vested rights), HP had not: obtained executed right of ways, had not finalized an agreement for the ownership of the force mains and pump station, had not submitted finalized plans, and had not obtained a Flow Acceptance Permit. (See Bishop, v. 2, pp. 223-225; see also Attached Requests for Admissions (HP never responded to Requests for Admissions ##14, 15, and 18 stating HP never received a flow acceptance letter and never obtained an executed right of way from ReWa.) Indeed, HP never submitted any of these materials, even though Bishop informed Bolo all were required as early as March of 2006.

- Routes/Options 4 & 5:

¹⁷ During the hearing Bolo jumped up during the cross-examination of Bishop claiming that certain file materials in the ReWa file constituted a missing engineering profile from the proposed River Route force main. When Bishop reviewed the profile, however, it was dated July of 2006. (Bishop, v. 1, p. 261, ll. 7-13.) As discussed above, the River Route was not even discussed until November of 2007. It appears the engineering profile is from the subdivision's force mains, not the force main sought on ReWa property, but again, ReWa is not entirely sure what it is because it is unlabeled and has no point of reference to anything allowing ReWa to evaluate it. (Bishop, v. 1, p. 263, ll. 2-11.) Thus, it appears this is yet attempt by Bolo to bootstrap documents to where they have no apparent application. Even if the materials were what Bolo said they were, which they are not, it stretches any notion of credibility that a head engineer would testify under oath that such materials constitute the final plans and drawings a public service provider would need to provide a Flow Acceptance Permit.

The amendment to the Sewer Use Regulation did not prohibit Condor from owning the pump station and force main as long as Condor owned the collector system as well. (See Exhibit 3; McCall, v. 1, p. 104, ll. 7-10 (Condor could have owned whole system inside of Metro but Metro would not let it happen); *see also* Attached Requests for Admission #11 (Unanswered Request of Admission stating: "Condor Environmental, LLC could own both the pump station and collector system under the May 5, 2008 amendment to the Sewer Use Regulation.") In such scenario, Condor would have to reach a final agreement with Metro wherein it secured Metro's agreement that Metro would backstop the project if Condor could no longer own and maintain the infrastructure (i.e., death, receivership, insolvency, bankruptcy). (Exhibit 3.) According to Bolo, Condor agreed to own the pump station, force main, and collector system. (Attached Requests for Admissions #12) (HP failed to respond to Request for Admission #12 stating, "Condor agreed to own both the pump station and collector system to satisfy the May 5, 2008 amendment to the Sewer Use Regulation.") Metro, however, would not consent to Condor's ownership of the collector system. (Attached Requests for Admissions #13)(HP failed to respond to Request for Admission #13 stating, "Metro objected to Condor's ownership of HP's collector system."); *see also* McCall, v. 1, p. 104, ll. 7-10 (Metro would not let it happen)) For this reason, Option 4 was never seriously pursued by HP through no fault of ReWa.

Option 5 mirrors Option 4, except that it addresses the possibility that Condor could own the collector system, force main, and pump station, if HP deannexed from Metro's subdistrict. If HP were outside of the Metro subdistrict, Metro would no longer have to "backstop" the Condor system under the ReWa amended regulation. Condor, under this scenario, would have to reach an agreement with ReWa, but ReWa would have worked to

reach such an agreement. HP never pursued Option 5 whatsoever. (Attached Requests for Admissions #16) (HP failed to respond to Request for Admission #16 stating, "HP and Condor never pursued the option of Condor's ownership of the pump station and collector system outside of Metro's Subdistrict.")

- Options 6 and 7:

After enacting the amendment to the Sewer Use Regulation, HP contended it could no longer complete its project. ReWa then did something it had never done before. ReWa informed HP that if it deannexed from Metro's Subdistrict, it would agree to own the pump station, force main and collector system. (Orvin, v. 2, p.66, ll. 14-24; p. 67, ll. 1-13)(Offered to be the backstop if they de-annexed and Metro agreed.)

While ReWa had no desire to accept this responsibility, it once again tried to accommodate HP's project.¹⁸ But to be clear, ReWa explained to HP that it had no experience calculating maintenance and operations costs and would need to work with HP to calculate the same in a fair manner. HP never deannexed from Metro because, according to Bolo, ReWa never explained why it could not provide services within Metro's subdistrict. (Attached Requests for Admissions #16) (HP failed to respond to Request for Admission #16 stating, "HP never deannexed from Metro.") The evidence from this time period demonstrates Bolo's contention, in this regard, as simply untrue.

- Option 8:

¹⁸ In relation to these issues, it is important to remember ReWa's role in providing sewer service. ReWa is a regional sewer authority. As such, it is very rare for ReWa to agree to own collector systems, force mains, and pump stations intended to accommodate a developer. ReWa owns no collector systems. Owning such assets detracts from ReWa's primary role as a treatment provider and creates administrative and operational headaches. ReWa's offer, in this regard, reflects ReWa's genuine efforts to aid HP in obtaining sewer service.

One final option presented by HP, but abandoned, related to the use of a package plant on the Rivertrace property. HP inquired whether ReWa would agree to a package plant. ReWa agreed. Indeed, ReWa even offered to own the package plant, if it proved cost-effective as an alternative. HP never pursued this alternative.

B. Scott Bolo's Testimony Lacked Credibility.

As the sole owner for HP who appeared to testify, Bolo's testimony suffered from serious credibility deficits. To ReWa, it appears relatively obvious why the documentary evidence coincides with and confirms the testimony of ReWa's witnesses while contradicting almost all of Bolo's sworn testimony. Some of the many examples are set out below:

- **Bolo denied ever receiving an encroachment permit application form from Bishop.** (Bolo, v. 1, p. 214, ll. 12-14 ("I deny that I received it."))

But see, Bishop, v. 2, p. 178, ll. 10-11 ("Q. Did you send it to him? A. I did.")

See also, Exhibit 18 (E-mail from Bolo to Bishop, "We are...finalizing the WCRSA easement forms forwarded.")

- **Bolo testified he was design complete in mid 2007.** (Bolo, v. 1, p. 218, ll. 15-16.)

But see, McCall, v. 1, p. 74, ll. 8-10, p. 78, ll. 1-4 (Never saw final plans for HP or survey.)

See also, Bishop, v. 1, p. 223-225 (No finalized plans, easement applications, governmental agreement ever submitted to ReWa).

HP similarly has not introduced into evidence the finalized application materials required by ReWa.

- **Bolo testified he prepared final engineering plans for all collector systems and all force mains.** (Bolo, v. 1, p. 130, ll. 9-16.)

But see, McCall, v. 1, p. 74, ll. 8-10, p. 78, ll. 1-4 (Never saw final plans for HP or survey.)

See also, Bishop, v. 1, p. 223-225 (No finalized plans, easement applications, governmental agreement ever submitted to ReWa).

HP similarly has not introduced into evidence the finalized application materials required by ReWa.

- Condor environmental filed the encroachment permits with ReWa. (Bolo, v. 1, p. 225: 19-22)("Q. Condor environmental filed the encroachment permits? A. They signed and filed them as we were directed by Brian Bishop.")

But see (McCall, v. 1, p. 74, ll. 20-24 (No application for encroachments filed by Condor with ReWa because no final plans for pump station or force main.)

See also (Bolo, v. 1, 227: 21-24) (When asked by the hearing officer, Bolo then testified ReWa wouldn't let Condor file the encroachment permit application.)

See also, Bishop, v. 1, p. 223-225 (No finalized plans, easement applications, governmental agreement ever submitted to ReWa).

- Bolo testified he spoke to Attorney Stilwell about encroachment applications in February of 2007 concerning the River Route (discussed above). (Bolo, v. 1, p. 216, ll. 14-25.)

But see Exhibit 22 (Reflecting the River Route not pursued until late November 2007—Bolo noting, "As I understand it, we are coming up the river now.")

See also, (Bolo, v. 1, 220, ll. 12-13) (Recanting when he realized documents undermined testimony, "I don't really remember when we met with Mr. Stilwell.")

- Bolo testified he had submitted final plans for both subdivisions and a force main route to ReWa as of February 14, 2007. (Bolo, v. 1, 235: 10-18.)

But see Exhibit 15 (Bishop continue to ask for final plans and force main route in February 14, 2007.)

See also, McCall, v. 1, p. 74, ll. 20-24 (No application for encroachments filed by Condor with ReWa because no final plans for pump station or force main.)

See also, Bishop, v. 1, p. 223-225 (No finalized plans, easement applications, governmental agreement ever submitted to ReWa).

Bolo's testimony is replete with factually inaccurate testimony regarding HP's project. Indeed, Bolo's cross-examination and Bishop's direct examination intentionally track the exact same chronology and substantially the same exhibits. ReWa invites the hearing officer to compare and contrast the consistency of the witnesses' respective testimony. Bolo's testimony lacks all credibility.

III. JURISDICTIONAL AUTHORITY

HP argues ReWa should have granted it a Flow Acceptance Permit but did not, or alternatively, should have grandfathered HP's permit application. Two classes of prospective

sewer customers require approval directly from ReWa in order to discharge into ReWa's sewer infrastructure. Pursuant to ReWa Sewer Use Regulation §2.2, entitled "Permits Required," any entity "planning to discharge wastewater in excess of 1,000 gallons per day, or planning a direct connection to ReWa sewer...must be [] approved by ReWa." (ReWa Sewer Use Reg. §2.2.)¹⁹ HP's proposed system would both discharge in excess of 1,000 gallons per day and, under some iterations of HP's ever-changing plans, directly connect to ReWa's system.

Section 6.1(2) of ReWa's Sewer Use Regulation establishes an administrative process, which must be exhausted in relation to challenged actions concerning permits. Pursuant to §6.1(2), entitled "Wastewater Discharge Permit or a General Permit," "Any person whose permit is denied, or is granted subject to conditions he deems unacceptable, shall have the right to request an Adjudicatory Hearing..." (ReWa Reg. §6.1(2).) "Requests for an Adjudicatory Hearing" must be served "on ReWa within fifteen days following any final administrative decision by ReWa on an application, permit...or licensing matter..." (ReWa Sewer Use Reg. §8, Attachment C, ¶9.)

"After a determination is made by the hearing examiner in any case other than an enforcement proceeding, any party may apply to ReWa for a review of the determination of the hearing examiner prior to a final decision in the matter by ReWa." (ReWa Reg. §6.1.2.) Such application must thereafter be submitted within "15 days of receipt of the determination stating specifically the grounds of objection to such a determination." (*Id.*) "Any party aggrieved by a final decision of ReWa, other than in an enforcement case, may appeal such decision to the Court of Common Pleas...under the same guidelines applied to State agencies which are set forth in S.C. Code §1-23-380." (*Id.*) Accordingly, the ReWa hearing officer

¹⁹ Industrial Users also require permits. The general permitting process and challenges thereto are generally treated the same under ReWa's Sewer Use Regulation.

possesses jurisdiction to hear the instant dispute as HP contends it should have been issued a Flow Acceptance Permit but did not receive one, or alternatively, should have had different standards applied to its Flow Acceptance Permit application.

IV. LAW/ANALYSIS

HP's un-pled demands for relief should be denied for the following reasons:

A. HP's Failure to follow the Administrative Procedures Under ReWa's Sewer Use Regulation Bars the Re-opening of ReWa's Deliberative Process.

HP failed to commence the administrative review process in the manner prescribed by ReWa's Sewer Use Regulation. Under ReWa's Sewer Use Regulation, HP was required, but did not, formally request an Adjudicatory Hearing within "fifteen days following any final administrative decision by ReWa on an application, permit, certificate or other licensing matter, or on a violation." (See ReWa Sewer Use Reg., Attach. C, ¶ 9.)²⁰ HP similarly failed to serve the initial pleading "by which an Adjudicatory Hearing may be commenced," as also required by ReWa's Sewer Use Regulation. (Id.)²¹ Both the initial written request and initial pleading are now three years past due. HP's failure to abide by the Sewer Use Regulation, in this regard, proves fatal to its belated oral "petitions" for administrative relief.

No plausible dispute exists concerning HP's failure to request an adjudicatory hearing or serve an initial pleading. This is true for three reasons. First is the obvious: HP has not,

²⁰ Under the Sewer Use Regulation, such request must "include the name of the requestor, his interest and the names of parties which he represents, the reasons for the request, the major issues which are proposed to be contested at the hearing, and a statement by the requestor agreeing to be subject to examination and cross-examination and to make any employee or consultant of such requestor, available for examination and cross-examination." (ReWa Sewer Use Reg., Attach. C, ¶ 9.)

²¹ ReWa's Sewer Use Regulation outlines seven categories of information which must be contained in an initial pleading. (Id.) Because HP never filed an initial pleading, none of the information required to commence the administrative process was supplied to HP, even though the issue arose on several occasions during the discovery phase. Notably, HP never even attempted to file a belated pleading.

nor could it ever, supply the hearing officer (or ReWa) with the required written request for hearing or initial pleading. No such documents exist.

Second, during his sworn testimony, Scott Bolo, testifying on behalf of HP, conceded he did not know of any written request ever made under ReWa's Sewer Use Regulation. Bolo testified:

Let me just nip this in the bud and say—or to the ReWa and say, I don't know of any written request that was made. I was not the attorney. And I will stipulate that I don't know if he requested it in writing or not from ReWa.

(Bolo, v.1, p. 182, ll. 10-14.) Similarly, Bolo later conceded he had no knowledge of HP's filing of an initial pleading in the administrative proceeding. (Bolo, v.1, p. 192, ll. 11-12) ("Well, we can't file something we don't know exists."); *Id.* at 193, ll. 1-3)("Q.

Harrison Partners did not file an initial pleading to commence this administrative process, did it? A. I don't know that. I mean maybe Shaun or Ryan did. I am not the attorney.") Indeed, notwithstanding Bolo's evasive answers, he knew full well no written request nor initial pleading had ever been provided to ReWa, as further evidenced by HP's continued failure to provide the same.²² As such, HP impermissibly asks the hearing officer to invoke jurisdiction under ReWa's Sewer Use Regulation to grant relief but failed to follow any of the steps required to allow the hearing officer to grant such relief.

Third, ReWa served written requests for admissions on HP relating to its failure to abide by the Sewer Use Regulation but HP never answered. (*See Attached Requests for Admission.*) The pertinent requests are as follows:

- Request #1: "HP did not file an initial pleading as outlined in ReWa's Sewer Use Regulation, Attachment C, ¶9(A) through (G)."

²² Further lending to Bolo's lack of credibility, ReWa notes the issues of no written request for a hearing and no initial pleading existed were also raised during Bolo's deposition several months before the administrative hearing.

- Request #2: "HP never sent a letter to ReWa as outlined in ReWa's Sewer Use Regulation Attachment C, p. 5, ¶9."

(Id.) Under South Carolina law, HP's failure to respond to ReWa's requests for admissions deems such facts as conclusively determined. Scott v. Greenville Housing Authority, 353 S.C. 639, 579 S.E.2d 151 (Ct. App. 2003) ("South Carolina has long had the discovery rule that failure to respond to requests for admissions renders any matter listed in the request conclusively admitted for trial.") Accordingly, as a threshold matter, ReWa asks the Hearing Officer to find HP lost its ability to challenge ReWa's decisions relating to HP's application for a Flow Acceptance Permit due to Petitioner's failure to follow the administrative procedures set forth in the Sewer Use Regulation.²³

The above analysis accords with South Carolina law. The South Carolina Supreme Court's decision in Triska v. Department of Health and Environmental Control examined the disposition of untimely administrative requests such as the one *sub judice*. Triska v. Dep't of Health & Envtl. Control, 292 S.C. 190, 355 S.E.2d 531 (1987) (Citing Wingate v. S.C. Highway Dept., 276 S.C. 39, 39, 274 S.E.2d 917 (1981) (driver who allowed thirty day window to seek a hearing lapse deprived the circuit court of jurisdiction to hear matter).²⁴ Relevant here, the Triska Court held that even if a "contested case" existed under the facts presented, which it did not, DHEC Regulation 61-72 required a request for an adjudicatory hearing to be made within fifteen days following any administrative decision by the department on an application, permit, certificate or other licensing matter constituting a contested case.

²³ HP's failure in this regard begs the obvious question of how Petitioner expects the hearing officer to grant relief, for which HP never petitioned.

²⁴ In Triska, an applicant applied to the South Carolina Department of Health and Environmental Control ("DHEC") for a 401 water quality certification. DHEC subsequently revoked the certification. The Supreme Court first examined whether DHEC had the authority to review, suspend, and revoke a 401 certification after it had been granted by the agency and the appeals period expired. The Triska Court ruled DHEC lacked the authority to proceed in the above-noted fashion finding the certification procedure did not constitute a "contested case" requiring an adjudicatory hearing. Id. at 195-197.

The Court held a challenge to the final decision, raised two and one-half years after the final decision was made, could not be upset by an adjudicatory hearing. Id. at 197-198.

Just like Triska, the instant case presents an administrative challenge where the Petitioner failed to file a timely request for an adjudicatory hearing for over two and a half years.²⁵ In fact, here, HP failed to file the required written request or pleading for over three years (and counting).²⁶ Just like in Triska, then, ReWa's decision-making cannot be reopened since HP never served a written demand for an administrative hearing and never filed a pleading.

HP's failure to follow the regulatory procedure required by the Sewer Use Regulation substantially prejudices ReWa. HP's failure to file the required initial pleading provided ReWa with no notice of the exact administrative relief HP sought before the hearing began. (See Stillwell Opening, p. 18, ll. 19-21)(Lack of pleading caused problems framing issues.) ReWa had to conduct administrative discovery without the benefit of specifically knowing what theories of relief HP intended to pursue relative to the subject permitting process. HP's failure to file an initial pleading forced ReWa to litigate against a moving target with ever-shifting theories of relief. And, the failure to file an initial pleading potentially prejudices ReWa's appellate rights. ReWa's Sewer Use Regulation specifically disallows such tactics. Accordingly, the adjudicatory officer should refuse HP relief that it never prayed to obtain.

²⁵ When the hearing officer considers the amount of time that has lapsed, HP's failure to abide by the Sewer Use Regulation becomes even starker. ReWa adopted the Amendment to the Sewer Use Regulation on May 5, 2008. Further consideration of the Regulation's application to HP occurred at a ReWa hearing in November of 2008. ²⁵ The Greenville County Court of Common Pleas ruled HP did not exhaust its administrative remedies in March of 2010. Even after that ruling, issued over 17 months ago, HP still failed to abide by the administrative procedure prescribed by ReWa's Sewer Use Regulation. (Exhibit 20.)

²⁶ Indeed, ReWa patterned its hearing procedure after the DHEC regulations noted above providing for the same fifteen day window to request an adjudicatory hearing. See ReWa Sewer Use Reg., Attach. C., ¶ 9; S.C. Ann. § 6-11-285 (E) ("The hearing procedure required under the provisions of this section [Special Purpose or Public Service Districts Generally] must be in accordance, as practicably possible, with that procedure as prescribed by Regulation 61-72 of the Department of Health and Environmental Control."). As was the case in Triska, HP allowed more than three years to lapse and still failed to follow the regulatory process.

HP's conduct has ignored ReWa's statutory authority and the administrative process on the whole. Created by statute, ReWa has the authority expressly conferred or impliedly necessary for it to perform its statutory duties.²⁷ See S.C. Coastal Conservation League v. South Carolina Dep't of Health & Envtl., 363 S.C. 67, 74 610 S.E.2d 482 (2005). Consequently, ReWa must promulgate rules and regulations in order to carry out its functions. Id.; see also S.C. Code Ann. § 6-11-1210 (declaring that the "General Assembly has from time to time created and established special purpose or public service districts throughout the State of South Carolina for the purpose, *inter alia*, of providing for the establishing of appropriate facilities for the collection disposal or the treatment of sewage" and has vested the power to adopt, enforce, and make regulations accordingly). As authorized by the General Assembly, such regulations have the force of law. See Goodman v. City of Columbia, 318 S.C. 488, 490, 458 S.E.2d 531 (1995). Yet, HP simply disregarded the same and presently seeks to end-run ReWa administrative procedures in an effort to revive its long-abandoned opportunity to challenge ReWa's decision-making. See Bennett v. South Carolina Dept. of Corrections, 305 S.C. 310, 312, 408 S.E.2d 230 (1991) ("Here, the Employee did not prevail before the Grievance Committee, and by not appealing their decision, abandoned his only opportunity to gain a favorable ruling on the issues involving his termination."). Accordingly, ReWa asks the hearing officer to adjudge HP's claims for administrative relief as both untimely and improper. See generally Burnett v. South Carolina State Highway Dept., 252 S.C. 568, 167 S.E.2d 571 (1969) (Court of Common Pleas did not have the authority to extend the time for landowner to appeal from a decision of the Board of condemnation after landowner failed to serve a written

²⁷ The Legislature created ReWa, formally known as the Greater Greenville Sewer District, the Greenville County Sewer Authority, and the Western Carolina Regional Sewer Authority, in 1925 via act 362. Act No. 102 was passed in 2009 and changed the name of the Western Carolina Regional Sewer Authority to Renewable Water Resources.

notice and grounds of appeal within twenty days after the receipt of the resolution as required).²⁸

B. HP Failed to Identify Any Statutory or Regulatory Provision Violated by ReWa.

Scatter-shot best describes HP's allegations concerning what ReWa did "wrong." While HP asks the hearing officer to find ReWa's decisions, "were improper under its own regulations and South Carolina law," to date, HP has failed to articulate how ReWa violated any provision of law. (Fulton Opening, p. 17, ll. 20-23.) HP cites no statute. HP cites no regulation. Therefore, HP correspondingly cites no conduct violating any statute or regulation.

HP raised such nebulous contentions, for the first time, on the first day of the administrative hearing. Such unsupported allegations highlight the impropriety of HP's failure to file a pleading in this proceeding, as ReWa *still* does not know what statutory or regulatory provisions HP contends ReWa violated, even after the hearing's conclusion. HP can cite none because no violations occurred. HP has, therefore, failed to discharge its burden in this regard. Accordingly, the hearing officer should find no evidence supports HP's alleged violations ReWa's regulations or South Carolina law.

HP has likewise cast sideways aspersions as to the validity of the Amended Sewer Use Regulation without identifying a single infirmity.²⁹ The testimony introduced by ReWa supported a reasonable and rationale approach to amending the Sewer Use Regulation. ReWa presented the testimony (via deposition by agreement) of Commission (or Board) member,

²⁸ Nothing could be more telling about HP's disregard for ReWa's regulations than the lawsuit it recently re-filed. Notwithstanding an order from the Greenville County Circuit Court directing HP to exhaust its administrative remedies, HP re-filed the exact lawsuit on March 21, 2011, the day before the administrative hearing even began.

²⁹ Although testimony was elicited purporting to quote Boyette as stating that ReWa should make money off of private pump stations, Boyette emphatically denied ever saying the same. (Boyette, p. 36, ll. 15-16) ("I absolutely never made that statement." Q. "You're denying having said that?" A. "Absolutely.") Boyette further testified, "We don't want to get into the retail business. We don't want to get into the pump station business. We want to be in the treatment business, the trunk line business, and we will operate our pump stations that are in our systems because that's what we're here to do." (Boyette, p. 54, ll. 10-15.)

John Boyette ("Boyette"). Boyette testified the Commission became aware of problems associated with the private ownership of pump stations in November of 2007, when such pump stations began to proliferate. (Boyette Depo., p. 15, ll.21-25; p.16, ll. 1-16.) According to Boyette, ReWa's Board viewed unchecked private ownership of pump stations as presenting long-term viability risks, environmental risks, and, ultimately, a risk to development. (*Id.* at 14-15.) Specific concerns also related to the fact that private entities do not last forever. (*Id.*)

ReWa's Board examined the issue and held public hearings on the content of proposed amendments to the Sewer Use Regulation. Indeed, the proposed amendment went for public comment in January of 2008. (Boyette Depo., pp. 18, l. 25; p. 19, ll. 1-3). And, the Executive Director met with subdistricts. (Boyette Depo., p. 20, ll. 2-17.) Ultimately, ReWa amended its Sewer Use Regulation in a way designed to allow the continued use of privately owned pump stations, so long as a public entity agreed to backstop such ownership in the event problems arose. (Exhibit 3.) In amending its regulation, ReWa clearly acted within the authority conferred upon it by its enabling legislation. Moreover, Petitioner has never alleged otherwise. Accordingly, ReWa's May 5, 2008 amendment to its Sewer Use Regulation was both appropriate and authorized by law. And the hearing officer should so find.

C. HP Failed to Submit a Complete Permit Application Thereby Vesting No Rights.

Petitioner's claims both hinge *and* fail upon an unstated theory of vested rights. According to HP, ReWa should have grandfathered its project under the Amendment to the Sewer Use Regulation, altogether allowing HP to escape the effect of the Sewer Use Regulation's May 5, 2008 Amendment. (Fulton, p. 11, ll. 8-12)("[T]hose of us who have proceeded under one set of rules should be allowed to proceed under those rules and be, if nothing else, grandfathered in to the old policy which would allow us to proceed under our

plan...") Stated differently, HP contends it had a legal right to be grandfathered under ReWa's Sewer Use Regulation before its amendment. Yet, no legal basis exists for such a request since an incomplete permit application, as a matter of law, fails to vest the rights of a would-be permittee.

It is axiomatic that without a complete permit application, a putative permittee's rights do not vest, since it would be impossible to determine *what* rights vested.³⁰ (See Bishop, v. 2, p. 225, ll. 5-25, p. 226, ll. 1)(ReWa had insufficient information from HP to know what it was grandfathering.) As the leading municipal law treatise notes:

[A]n application for a permit made before a zoning ordinance becomes effective gives in itself no right to a use excluded by the ordinance. Indeed, generally speaking, no preliminary proceedings to the obtaining of a permit give rise to any vested right to pursue a use in a zoned district.

8 McQuillin Mun. Corp. § 25:179.24 (3d ed.). This analysis applies here thereby foreclosing HP's vesting claims.

HP never submitted a finalized permit application and, therefore, had no vested rights prior to ReWa's May 5, 2008 amendment to the Sewer Use Regulation. As discussed *supra* at length, the hearing evidence shows HP:

- Never submitted a finalized set of engineering plans for any proposed route;
- Never even applied for the necessary right of ways across ReWa's Plant property;
- Never executed an agreement with public utilities about the ownership of the proposed private pump station and force mains.

³⁰ The point is driven home by the facts of this case. Subsequent to the enactment of the Amended Sewer Regulation, ReWa held a meeting to address "grandfathering" requests. Requests came "out of the woodwork." People and projects ReWa never even heard of were requesting grandfathering status. (Orvin, v. 2, p. 75, ll. 14-16)(Requests were made in relation to projects "I'd never heard of before.") For this reason, applications would have to be, at the very least, complete so the contours of the rights "vested" could be determined.

(Bishop, v. 2, p. 223, ll. 14-25, p. 224, ll. 1-25)(HP never submitted: finalized engineering plans for any proposed route, applications for right of way from ReWa, and never executed final agreement among service providers.) Dating back to March of 2006, ReWa informed HP of these prerequisites to obtaining a Flow Acceptance Permit at the onset of the process. (See Exhibits 13, 14, 15, & 17; Bishop, p. 224, ll. 15-19.). As a consequence, HP's failure to submit a complete application, as a matter of law, fails to vest any rights to obtain a Flow Acceptance Permit prior to the Sewer Use Regulation's amendment.

The decision of In re Ross substantially mirrors the facts of the instant case and confirms ReWa's analysis. See In re Ross, 151 Vt. 54, 557 A.2d 490 (1989). In Ross, Raymond Ross ("Ross"), a land developer, filed a permit application with the environmental commission ("Commission") for the town of Dover, Vermont. Simultaneously, Dover was considering amendments to its "town plan."³¹ The Commission deemed Ross's application as incomplete requiring its deferral. Ross appealed the deferral to the state environmental board. During the appeal, the town amended its plan.

Like HP, Ross contended, unsuccessfully, he had a vested right to have his application considered under the town plan in effect when he first submitted his application, rather than under the amended town plan. The state board found Ross had not completed his application and the amended town plan would govern further review. On appeal, the Supreme Court of Vermont found Ross did not have a vested right to review under the former plan as he failed to present a complete application. Id. at 57-58.

Similarly, in City of Aspen v. Marshall, 912 P.2d 56 (Colo. 1996), Ronnie Marshall ("Marshall"), a landowner in the City of Aspen, initially sought review in the trial court of the

³¹ The town of Dover did not have a zoning plan but had an overall "town plan" governing development densities.

city planning and zoning commission's denial of her building permit for a hot tub and deck built before Marshall received appropriate construction approvals. Marshall thereafter did not complete the permit application process before Aspen adopted a new environmental ordinance restricting development in Marshall's neighborhood. The Colorado Supreme Court ruled Marshall failed to obtain vested rights subjecting her project to Aspen's new ordinance because her permit application was incomplete before the ordinance's enactment. Id. at 60-61 (Citing McQuillin, The Law of Municipal Corporations § 25:155 (3d ed. 1991).)

The South Carolina Court of Appeals in Friarsgate, Inc. v. Town of Irmo likewise accords with ReWa's analysis. Friarsgate, Inc. v. Town of Irmo, 290 S.C. 266, 349 S.E.2d 891 (Ct. App. 1986). In Friarsgate, a real estate developer sought to enjoin Irmo from enforcing a new zoning ordinance relating to its property. In 1978 or 1979, the real estate developer (Friarsgate) began preparations to build a condominium project on a tract of land in the Town of Irmo. The proposed development consisted of fourteen buildings and one hundred eight units. Preparation consisted of completing market research, conducting financial studies, developing drainage, grading, landscaping, sewer and water distribution plans, and platting the tract. Friarsgate also obtained building permits for one building containing five units on March 21, 1980 and thereafter began constructing the foundation of the building. Id. at 268.

Less than a month after construction began, on April 15, 1980, Irmo enacted a comprehensive zoning ordinance prohibiting use Friarsgate's tract for condominiums. The Friarsgate Court examined whether the developer had acquired a vested right to build the entire condominium project although building permits only existed for five of the units before the zoning change. Id. at 268-269. The Friarsgate Court ruled the developer had not acquired

vested rights for all fourteen buildings because it had not obtained permits for all fourteen buildings before Irmo's enactment of the ordinance. Id. at 272. The developer's failure to obtain building permits for the entire project foreclosed the vesting of rights to build the entire project.

Here, HP failed to complete its Flow Acceptance Permit application before ReWa amended its Sewer Use Regulation on May 5, 2008. Notably, the testimony uniformly showed ReWa's personnel were instructed to continue working with HP to finalize its permit application through the date of the Regulation's amendment. (Bishop, p. 227, ll. 12-16)(Never instructed to stop work); (Orvin, v. 2, p. 80, ll. 1-8)(Instructed to continue working with HP "to get all of their paperwork in" and then let Board decide how to handle pump station.) Notwithstanding the same, HP failed to complete any of the required tasks to obtain a Flow Acceptance Permit before May 5, 2008. Without a complete application and finalized plans, ReWa had nothing before it to confer grandfathered status and HP failed to obtain any vested rights to demand the same.

D. ReWa's Enabling Act and the Statute of Frauds Foreclose HP's Claims.

HP's claims fail for yet another glaring reason. Here's why: to find HP was legally entitled to build one of the proposed routes (i.e., obtained vested rights to do so), the hearing officer also must find ReWa's Commission had a legal obligation to cast votes conveying a right of way across ReWa's Lower Reedy Treatment Plant Property. Regardless of what route HP relies upon, the (incomplete) permit applications pursued by HP necessitated the construction of a force main across ReWa's treatment plant. (Bolo, v. 1, p. 205, ll. 1-4)("You're kidding, right? Well, we have to go through the plant to get to the tie-in-point, so we'd have to have an easement no matter which way we went.") However, until ReWa's

Commission formally voted to convey such property rights, and until the written conveyance of the same actually occurred, no binding legal obligation could arise entitling HP to build a force main across its treatment plant.

1. Only ReWa's Commission Could Convey Property Rights to HP.

ReWa's enabling act is clear: *only its Commission* acting corporately and in public session possesses the authority to convey property rights owned by ReWa to a third-party.³² (See South Carolina Act 362 (1925)(as amended in 1926 by Act 784 (ReWa's "Commission shall have power to...hold and sell such real estate and easements as they deem necessary.")(See also Orvin, v. 2, p.49, ll. 16-19)("It would have had to have gone to the Board. They're the only people who can give that easement across that property and approve it."); Boyette Depo., p.11, ll. 3-5) ("Board would have to approve any easement or any right-of-way across any of our property that we owned.") HP does not dispute ReWa's Board had the sole authority to approve the right of way to HP. HP similarly does not dispute ReWa's Board never executed such right of ways. (Attached Requests for Admissions #18 (HP failed to respond to Request #18 stating, "HP never obtained an executed right of way, easement, or encroachment permit from ReWa allowing HP to cross ReWa's property.") And HP never introduced evidence to the contrary. Moreover, HP concedes it never even applied for such right of ways to allow ReWa's Commission to vote on the same. As a matter of law, ReWa's Commission retained, and continues to retain, the sole legal authority as whether to convey property interests owned by the public entity. No vote ever occurred. No rights vested.

³² Such statutory restriction has its underpinnings in protecting the public good. Consider, for example, the following extreme hypothetical. ReWa owns a \$60 Million Dollar Treatment Plant. Unknown to anyone else at ReWa, a staff engineer executes a contract selling the Plant for \$10 dollars. Such transaction is clearly unenforceable because only ReWa's Commission possesses the legal authority to convey property interests owned by the public entity.

2. Only Written Conveyances of Property Rights Could Bind ReWa.

HP's contentions similarly fail under the statute of frauds. Pursuant to S.C. Ann. § 32-3-10(4) an action to charge any person upon "any contract or sale of lands, tenements or hereditaments or any interest in or concerning them" must be in writing and signed by the party to be charged. Id. An easement, as a transfer of an interest in another's land, falls within the provisions of the Statute of Frauds under S.C. Ann. § 32-3-10(4) and therefore, must be in writing. Trammell v. Trammell, 11 Rich. 471, 45 S.C.L. 471 (S.C. App. L.), 1858 WL 3687, *2 (S.C. App. L. 1858) (regarding the right to erect a mill on the land of another and noting that a claim for an easement must be founded upon a grant by deed or writing). Thus, until HP obtained from ReWa's Commission a written property conveyance allowing access to its treatment plant property, HP cannot claim a "vested right" to build across ReWa's property.³³

E. HP Similarly Cannot Invoke the Doctrine of Equitable Estoppel to Claim an Entitlement to Cross ReWa's Property.

While HP has yet to identify the basis of its claimed "vested" right to cross ReWa's property, ReWa anticipates HP will, in vain, attempt to invoke the doctrine of equitable estoppel. But South Carolina law is clear: the doctrine of estoppel requires the party invoking the doctrine to "lack knowledge of the truth as to the facts and circumstances upon which the claim of estoppel is predicated." Berkeley Electric Co-Op., Inc. v. Town of Mount Pleasant, 308 S.C. 205, 417 S.E.2d 579 (1992) (citing Lewis v. City of North Myrtle Beach, 297 S.C. 170, 375 S.E.2d 327 (Ct. App. 1988)). Here, by operation of law, HP knew only ReWa's Board possessed the authority to authorize conveyance of a property interest owned by the public entity and could only do so in writing.

³³ Notably, HP's lack of all the easements required for the project would also make its application incomplete.

South Carolina law charges HP with knowledge of both ReWa's Enabling Act and the Statute of Frauds. LaBruce v. City of North Charleston, 268 S.C. 465, 234 S.E.2d 866 (1977) ("Citizens are charged with knowledge of existing law. Accordingly, cognizance of city ordinances is presumed."); Horry County v. City of Myrtle Beach, 288 S.C. 412, 414, 343 S.E.2d 36 (Ct. App. 1986) (no right to rely on leases contrary to statute as knowledge of law imputed).³⁴ In turn, such knowledge defeats any claim of justifiable reliance on the part of HP—another required element of equitable estoppel. See Quail Hill, LLC v. County of Richland, 387 S.C. 223, 239, 692 S.E.2d 499 (2010) (relying on county staff representations unjustified because developer had the "means of knowledge" to determine the correct zoning classification and could not justifiably rely on information solely provided by staff members). In short, estoppel does not lie "where a government official or employee with limited authority erroneously provides advice beyond the scope of his authority" or in "contradiction of statute." See Morgan v. South Carolina Budget & Control Bd., 377 S.C. 313, 319, 659 S.E.2d 263 (Ct. App. 2008).

The case of Berkeley Electric Cooperative, Inc. v. Town of Mount Pleasant supports ReWa's analysis in this regard. Berkeley Electric Co-Op, Inc. v. Town of Mount Pleasant, 308 S.C. 205, 219, 417 S.E.2d 579 (1992). In Berkeley, the Town of Mount Pleasant ("Mount Pleasant") granted the Berkeley Electric Co-Op, Inc. ("Berkeley") an electric franchise in 1982. However, Mount Pleasant only conducted one reading of the franchise ordinance, not two as required by statute. Berkeley thereafter relied on the franchise for over

³⁴ Throughout the trial, Bolo also attempted to claim that he did not know about administrative procedures and protocols set forth in ReWa's Sewer Use Regulation, which, at all material times, was available *in toto* online. Overlooking the peculiarity associated with the head engineer on a development project not reviewing the Sewer Use Regulation of the treatment provider from whom permits were being sought, which, if true, may have created many of the problems in the first instance, Bolo is nonetheless charged with the knowledge of the regulation as a matter of law. Thus, his many protestations of not knowing when or how to pursue administrative relief ring hollow.

six years. Notwithstanding the same, the South Carolina Supreme Court held Berkeley could not rely on the doctrine of equitable estoppel to save the defective statutory grant.

"Restrictions on municipal power are created to protect citizens" and HP is not excused by its ignorance of such restrictions as it is charged with their knowledge. Id. Pertinent here, the Berkeley Court confirmed:

Berkeley is not excused by its unawareness that Mount Pleasant's act was in contravention of statute. Berkeley is charged with knowledge that Mount Pleasant's power to grant franchises was limited...[t]hus Berkeley's reliance on the validity of the 1982 agreement was not reasonably justified.

Id. Accordingly, HP cannot invoke the doctrine of equitable estoppel to claim a grandfathered or "vested right" to build across ReWa's land, as only ReWa's Commission possessed the power to grant such rights and did not. This flaw proves fatal to all of HP's claims for relief.

F. Even if HP Had Submitted a Completed Application, the Pending Ordinance Doctrine Bars Petitioner's Requested Relief.

Petitioner's claim fails for yet another reason. Even if Petitioner had submitted a completed application for a Flow Acceptance Permit, which it clearly had not, ReWa had a legal right to reject HP's application under South Carolina's pending ordinance doctrine. South Carolina adopted the pending ordinance doctrine in the decision of Sherman v. Reavis, 273 S.C. 542, 257 S.E.2d 735 (1979). The doctrine provides a basis for a municipal corporation to deny a permit affecting land use "when such use is repugnant to a pending and later enacted zoning ordinance." Id. at 545, 257 S.E.2d at 737. An ordinance is considered "legally pending when the governing body has resolved to consider a particular" legislative scheme and "has advertised to the public its intention" to conduct public hearings on the same. Id. at 546, 257 S.E.2d at 738; *see also* Stratos v. Town of Ravenel, 297 S.C. 309, 376 S.E.2d 783 (Ct. App. 1989) ("The South Carolina Supreme Court has also approved the 'pending

ordinance doctrine" as a basis to refuse or deny a permit when permit application seeks a "proposed use...repugnant to a pending and later enacted" law.).³⁵ Thus, even if HP could otherwise substantiate its claims, the pending ordinance doctrine bars the relief requested.

Here, the entirety of HP's case centers (or appears to center as ReWa really does not know) on what it cites as the holding-up of "approvals" on a privately-owned pump station. (See, e.g., Orvin, v. 2, p. 80, ll. 18-20)("Q. So even before it was enacted, you were told, and you did, hold up on approvals? A. On the pump station.") Even ignoring the fact HP's application was otherwise incomplete, ReWa had a legal right to refuse HP's application using a privately-owned pump station once it resolved to change the existing Sewer Use Regulation. The testimony was undisputed that ReWa's Board learned of the problems relating to the proliferation of privately owned pump stations in late November or early December of 2007 and resolved, at that time, to address the same. (Orvin, v. 2, p. 53, ll. 21-24.) ReWa conducted publicly noticed hearings on the proposed changes to the Sewer Use Regulation in January and April of 2008.³⁶ ReWa thereafter adopted the Amended Sewer Use Regulation in May of 2008. Accordingly, the facts *sub judice* satisfy the pending ordinance doctrine and thereby warrant the outright denial of the relief sought by HP.

³⁵ The facts of the Stratos decision further demonstrate the unavailability of the relief sought by HP in this case. The developer in Stratos bought the property in question in order to build a mobile home park. Other mobile homes existed near the property purchased by developer. The Town of Ravenel thereafter imposed a moratorium on new mobile home parks for a period of two years while considering what new ordinances to enact. Once the ordinances were enacted, the developer could no longer use the property for a mobile home park.

³⁶ HP has made some suggestion that every potentially impacted developer should have been furnished individualized notice of the public hearings about the amendments to the Sewer Use Regulation. (Orvin, v. 2, p. 82, ll. 1-18)(Inquiring whether ReWa furnished individual notice to developers potentially impacted.) However, the South Carolina Court of Appeals has rejected such arguments as unsupported by law. See, e.g., Stratos v. Town of Ravenel, 297 S.C. 309, 376 S.E.2d 783 (Ct. App. 1989)(Noting no legal authority supported developer's contention it was entitled to personal notice of publicly noticed hearing.) To find otherwise would place public entities in the untenable position of having to comb through its constituency and analyze, on a case-by-case basis, who might be impacted by proposed legislative changes. This is simply not the law, nor could it be.

CONCLUSION

For the reasons set forth above, ReWa asks the hearing officer to adopt the findings set forth in ReWa's proposed order.

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July 22, 2011

STATE OF SOUTH CAROLINA	)	Renewable Water Resources
	)	Administrative Hearing
COUNTY OF GREENVILLE	)	
Harrison Partners, LLC	)	
	)	
Petitioner,	)	
vs.	)	REWA'S SECOND REQUESTS TO
	)	ADMIT TO HARRISON PARTNERS, LLC
Renewable Water Resources,	)	
	)	
Defendant.	)	

Pursuant to Rules 26 and 36 of the South Carolina Rules of Civil Procedure, Renewable Water Resources ("ReWa"), by and through its undersigned counsel, hereby propounds the following Second Requests to Admit to Harrison Partners, LLC ("HP"). HP is directed to answer each and every one of these Requests for Admission within thirty (30) days of the date set forth below pursuant to S.C. Code §19-1-60.

1. HP did not file an initial pleading as outlined in ReWa's Sewer Use Regulation, Attachment C, ¶ 9(A) through (G).
2. HP never sent a letter to ReWa as outlined in ReWa's Sewer Use Regulation, Attachment C, p. 5, ¶ 9.
3. Scott Bolo produced a blank CD at his deposition (Depo. Ex. 26) which he testified contained surveys of the Flag Lot Route.
4. Since Bolo's deposition, HP has not supplied a copy of the surveys Bolo testified were on Bolo Depo. Ex. 26.
5. HP does not possess the surveys Mr. Bolo represented were on Bolo Depo. Ex. 26.
6. HP never completed surveys of the Flag Lot Route.

7. The owners of the Riversway development objected to the Bishop Proposal due to cost reasons.
8. The RiversTrace project was technically challenging.
9. The Bishop Proposal would have worked if HP could have had access to existing right of ways owned by the Metropolitan Sewer Subdistrict ("Metro").
10. Metro expressed concerns about the engineering calculations completed by the InSite Group in relation to the River Route.
11. Condor Environmental, LLC ("Condor") could own both the pump station and collector system under the May 5, 2008 amendment to the Sewer Use Regulation.
12. Condor agreed to own both the pump station and collector system to satisfy the May 5, 2008 amendment to the Sewer Use Regulation.
13. Metro objected to Condor's ownership of HP's collector system.
14. ReWa did not issue a flow acceptance letter to HP before May 5, 2008.
15. ReWa never issued a flow acceptance letter to HP.
16. HP never deannexed from Metro.
17. HP and Condor never pursued the option of Condor's ownership of the pump station and collector system outside of Metro's Subdistrict.
18. HP never obtained an executed right of way, easement, or encroachment permit from ReWa allowing HP to cross ReWa's property.

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, 2011

CERTIFICATE OF SERVICE

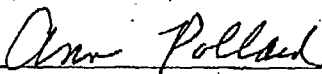
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins
Riley & Scarborough LLP, attorneys for Renewable Water Resources, do hereby certify that I
have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by
mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

REWA'S SECOND REQUESTS TO ADMIT TO HARRISON
PARTNERS

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Mar-3, 2011



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RENEWABLE WATER RESOURCES

SEWER USE REGULATION

Effective June 6, 1984
As Amended September 13, 2010

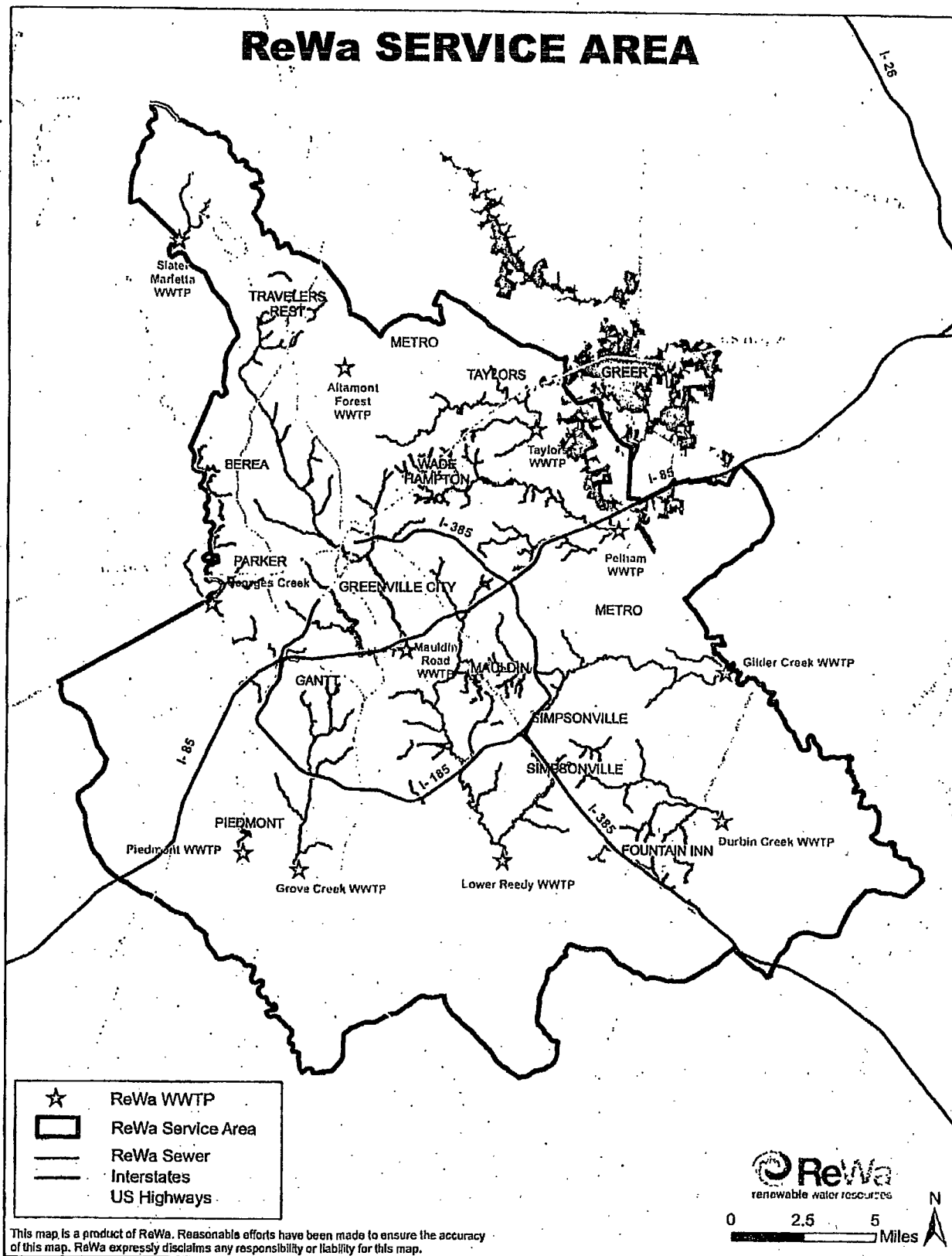


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RENEWABLE WATER RESOURCES

SEWER USE REGULATION

SECTION 1 - INTRODUCTION

Section 1.1 - Purpose and Policy

The Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) and subsequent amendments, including the Water Quality Act of 1987 (P.L. 100-4) together with the South Carolina Pollution Control Act and other State and Federal regulations have resulted in an unprecedented program dedicated to cleaning and safeguarding the Nation's waters. To comply with these requirements, Renewable Water Resources (ReWa) has made and will continue to make substantial progress in controlling water pollution through the operation of its wastewater treatment facilities.

This Regulation sets forth uniform requirements for discharges to the POTW and enables ReWa to comply with all applicable State and Federal laws and the Pretreatment Regulations (40 CFR 403 and SC R61-9 Section 403). The objectives of this Regulation are: (1) to prevent discharges to the POTW which will interfere with the operation of the POTW or contaminate the resulting sludge; (2) to prevent discharges to the POTW which will pass through the system, inadequately treated, into receiving waters or the atmosphere; (3) to improve the opportunity to recycle and reclaim wastewaters and sludge; (4) to protect ReWa personnel and the general public; (5) to promote economic growth, including residential and industrial development; and (6) to provide for equitable distribution of the cost of the wastewater disposal system. This Regulation provides for the regulation of discharges to the POTW through the issuance of permits, authorizes enforcement of limitations and requirements, authorizes monitoring activities, compliance and enforcement activities, requires user reporting, establishes administrative review procedures, and provides for the setting of fees for the equitable distribution of expenditures. This Regulation shall apply to ReWa and to persons who are, by permit or agreement with ReWa, users of the POTW. Except as otherwise provided herein, the Director shall administer the provisions of this Regulation.

Section 1.2 - Definitions

Unless the context indicates otherwise, the terms and phrases used in this Regulation shall have the following meaning:

Act shall mean the Federal Water Pollution Control Act and Amendments (33 U.S.C §1251 *et seq.*) and the requirements of the South Carolina Pollution Control Act [S.C. Code Ann. §48-1-10 *et. Seq.* (1976 as amended)]

ReWa shall mean Renewable Water Resources

Authorized or Duly Authorized Representative of User shall mean:

1. If the User is a corporation:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or a general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
3. If the User is a Federal, State, or local governmental entity: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
4. The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to ReWa.

Best Management Practices or BMPs shall mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 4.1 and 4.2. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Billable Biochemical Oxygen Demand shall mean the discharge in pounds of BOD calculated using the billable flow and concentration of BOD in the wastewater in excess of 250 mg/l or as otherwise might be changed and shown on Exhibit "B".

Billable Chemical Oxygen Demand shall mean the discharge in pounds of COD calculated using the billable flow and concentration of COD in the wastewater in excess of three times the BOD concentration, or as otherwise might be changed and shown on Exhibit "B".

Billable Flow shall mean recorded water usage as determined by the appropriate water utility, plus measured water from wells and other sources, times ReWa's approved percentage factor for

wastewater entering the wastewater disposal system. Alternatively, Users may have their billable flow determined by continuously measuring their discharge in a manner approved by ReWa.

Billable Total Kjeldahl Nitrogen shall mean the discharge in pounds of TKN calculated using the billable flow and concentration of TKN in the wastewater in excess of 40 mg/l, or as otherwise might be changed and shown on Exhibit "B".

Billable Total Suspended Solids shall mean the discharge in pounds of TSS calculated using the billable flow and concentration of TSS in the wastewater in excess of 250 mg/l, or as otherwise might be changed and shown on Exhibit "B".

Billable Total Phosphorus shall mean the discharge in pounds of total phosphorus calculated using the billable flow and concentration of total phosphorus in the wastewater in excess of 7 mg/l, or as otherwise might be changed and shown on Exhibit "B".

Biochemical Oxygen Demand shall mean the quantity of oxygen, expressed in milligrams per liter, utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20°C.

Building Drain shall mean that part of the lowest horizontal piping of a drainage system which receives wastewater and is located inside the walls of a building and conveys the wastewater to the building sewer, which begins five feet outside the building wall.

Building Sewer shall mean the extension from the building drain to the sanitary sewer or other discharge location.

Categorical Pretreatment Standard or Categorical Standard shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471 and SC R61-9 Appendix C.

Categorical Industrial User shall mean An Industrial User subject to a categorical Pretreatment Standard or Categorical Standard.

Chemical Oxygen Demand shall mean the total amount of oxygen required to oxidize the organic matter in a waste as prescribed in 40 CFR 136 or equivalent methods approved by EPA.

Collector Sewer shall mean any portion of a sewer system that connects to a ReWa line.

Collector Sewer System shall mean that system of gravity lines, force mains and pump stations within the lateral lines (collection line) that are owned, operated and maintained by a subdistrict or another entity that carries a wastewater stream to a connection at a ReWa trunk line.

Color shall mean the water value obtained by the ADMI colorimetric method as approved in 40 CFR 136 or equivalent methods approved by EPA.

Cooling Water shall mean the water used for air conditioning, refrigeration, or other cooling applications.

Daily Average shall mean the arithmetic average of all effluent samples for a pollutant collected during a calendar month.

Daily Average Limit means the average allowable discharge limit of a pollutant during a calendar month. Where a Daily Average Limit is expressed in units of mass, the daily average discharge is determined from the total mass of all daily discharges measured during a calendar month divided by the number of measurements taken that month. Where a Daily Average Limit is expressed in terms of a concentration, the daily average discharge is the arithmetic average of the pollutant concentrations from all measurements taken that month.

Daily Maximum shall mean the arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily Maximum Limit means the maximum allowable discharge limit of a pollutant during a calendar day. Where a Daily Maximum Limit is expressed in units of mass, the daily maximum discharge is determined from the total mass discharged over the course of the day. Where Daily Maximum Limit is expressed in terms of a concentration, the daily maximum discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Direct Discharge shall mean the discharge of wastewater directly to the waters of the State.

Director shall mean the Executive Director or his duly authorized representative, designated by ReWa to manage the activities and responsibilities of ReWa.

Environmental Protection Agency shall mean the United States Environmental Protection Agency or, where appropriate, the Administrator or other duly authorized official of the EPA.

Existing Source shall mean any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Floatable Oil shall mean oil, fat or grease in a physical state such that it will separate by gravity from wastewater.

Garbage shall mean the animal or vegetable wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the commercial handling, storage, and sale of produce.

Grab Sample shall mean a sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Headworks Loading Analysis shall mean an evaluation of the capability of the POTW to receive pollutants performed in accordance with SCDHEC and EPA regulations.

Holding Tank Waste shall mean any wastewater from holding tanks such as vessels, chemical toilets, camper trailers, septic tanks, and vacuum pump tank trucks.

Indirect Discharge shall mean the discharge of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act to the POTW.

Industrial User shall mean a source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402 of the Act.

Infiltration shall mean the extraneous groundwater entering the wastewater disposal system through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls.

Inflow shall mean the surface water entering the wastewater disposal system from such sources as, but not limited to: roof leaders; cellar, yard and area drains; foundation drains; unpolluted cooling water discharges; drains from springs and swampy areas; manhole covers; cross connections from storm sewers and/or combined sewers; catch basins; storm waters; surface runoff; street wash waters, or drainage.

Instantaneous Limit shall mean the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference shall mean the inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirements of the POTW's NPDES Permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, or any criteria, guidelines, or regulation developed pursuant to the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Local Limitation shall mean a more stringent local standard imposed by SCDHEC or ReWa.

Low Volume Discharger shall mean any Industrial User of the POTW who (1) is not subject to National Categorical Pretreatment Standards; (2) discharges an average of less than 25,000 gallons per day of process wastewater to the POTW; (3) discharges less than 5% of any design or treatment capacity of the POTW; (4) is not found by ReWa, SCDHEC, or EPA to have a reasonable potential for adversely affecting, either singly or in combination with other discharges, on the wastewater disposal system, the quality of sludge, the system's effluent quality, the receiving stream, or air emissions generated by the system under current flow and wastewater characteristics, (5) has a reasonable potential to become a Significant Industrial User with an increase in process wastewater flow, changes in the wastewater characteristics, or changes in Local, State, or Federal regulations.

Medical Waste shall mean isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

Monthly Average Limit shall mean the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

National Categorical Pretreatment Standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act which applies to a specific category of Industrial Users.

National Pollutant Discharge Elimination System Permit shall mean a permit issued for discharge to the navigable waters of the United States.

Natural Outlet shall mean any outlet into a watercourse, pond, ditch, lake, or other surface water or groundwater.

New Source shall mean:

1. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered
2. Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or c. above but otherwise alters, replaces, or adds to existing process or production equipment.
3. Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

- a. Begun, or caused to begin, as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncontact Cooling Water shall mean water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

North American Industrial Classification System (NAICS) shall mean a classification pursuant to the current edition of the North American Industrial Classification System Manual.

Operation and Maintenance Costs shall mean all costs, direct and indirect, not including debt service and capital related expenditures, but inclusive of expenditures attributable to administration, monitoring, inspections, reviewing applications, maintenance of equipment, and treatment and collection of wastewater, necessary to assure adequate wastewater collection and treatment on a continuing basis which conforms to applicable regulations and assures optimal long-term facility management.

Pass Through shall mean a discharge which exits the POTW into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of ReWa's NPDES permit (including an increase in the magnitude or duration of a violation).

Person shall mean any individual, partnership, venture, firm, company, association, joint stock company, trust estate, governmental entity, or any other legal entity or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

pH shall mean the term used to express the intensity of the acid or base condition of a solution as prescribed in 40 CFR 136, or equivalent methods approved by EPA.

Point of Connection shall mean that point determined by ReWa to be the site where a User, if authorized, may connect to a ReWa trunk line.

Pollutant shall mean any dredged spoil, solid waste, incinerator residue, sewage, garbage, sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, commercial, agricultural waste, or other pollutant including the characteristics of wastewater (i.e. pH, temperature, TSS, turbidity,

color, BOD, COD, toxicity, odor) as may be defined by EPA or SCDHEC Regulations, discharged into water.

Pollution shall mean the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

Pretreatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging such pollutants to the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes of other means, except as prohibited by 40 CFR 403.6(d) and SC R61-9 Section 403.6(e).

Pretreatment Requirements shall mean any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

Pretreatment Standards or Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

Private Sewer shall mean a sewer which is not owned by ReWa or a Subdistrict.

Private Utility (PU) shall mean any utility owned or operated by a privately owned entity.

Public Sewer shall mean a sewer which is owned and controlled by ReWa or a Subdistrict and is separate from and does not include sewers owned by other governmental units.

Public Utility shall mean any utility owned by a governmental entity.

Publicly Owned Treatment Works (POTW) shall mean treatment works as defined by Section 212 of the Act, which is owned by ReWa or a Subdistrict. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant, but does not include pipes, storm sewers or other conveyances not connected to a facility providing treatment.

Qualified Laboratory shall mean laboratories currently certified by the State to perform wastewater analyses.

Satellite Sewer System shall mean a sewer system that is owned or operated by a person that discharges to the ReWa system. Satellite sewer systems depend on ReWa for final wastewater treatment and discharge and include systems approved under SC R.61-9 Section 505.8.

Shall is mandatory and requires compliance: **May** is permissive.

Significant Industrial User shall mean any Industrial User of the POTW who (1) is subject to National Categorical Pretreatment Standards; (2) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW; (3) discharges more than five percent or more of any design or treatment capacity of the POTW; or (4) is found by ReWa, SCDHEC, or EPA

to have a reasonable potential for adversely affecting, either singly or in combination with other discharges, on the wastewater disposal system, the quality of sludge, the system's effluent quality, the receiving stream, or air emissions generated by the system or for violating any pretreatment standard or requirement.

Significant Noncompliance shall mean chronic violations of wastewater discharge limits, defined here as those in which 66% or more of measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including Daily Maximum Limit, Daily Average Limit, or Instantaneous Limit; Technical Review Criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including Daily Maximum Limit, Daily Average Limit, or Instantaneous Limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3 and SC R61.9 Section 403.3 (Daily Maximum, Daily Average, Instantaneous Limit, or narrative standard, that ReWa believes has caused, alone or in combination with other discharges, interference or pass through including endangering the health of ReWa personnel or the general public); any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in ReWa's exercise of its emergency authority to halt or prevent such a discharge; failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance; failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules; failure to accurately report noncompliance; and any other violation or group of violations which ReWa determines will adversely affect the operation or implementation of the local pretreatment program.

Slug Discharge shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 4.1 Prohibited Discharges of this ordinance or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

Standard Industrial Classification (SIC) Code shall mean a classification pursuant to the current edition of the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

Standard Methods shall mean the laboratory procedures set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, prepared and published jointly by the American Public Health Association, American Water Works Association, and Water Environment Federation or any other procedures recognized by the SCDHEC and EPA.

State shall mean the State of South Carolina.

Storm Sewer shall mean a sewer that carries only storm water, surface runoff, street wash, and drainage, and to which wastewater is not intentionally admitted.

Storm Water shall mean any flow occurring during or following any form of natural precipitation and resulting there from.

Subdistrict shall mean 1) a sewer Subdistrict or municipality with a geographical area within the boundaries of ReWa, having a separate governing Board with responsibilities for ownership and maintenance of sanitary sewers, but which is subject to regulation by ReWa as to sewer use, and 2) any governmental unit that is a party to an intergovernmental contract under which ReWa is to provide wastewater treatment or facilities.

Suspended Solids shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory methods as prescribed by 40 CFR 136, or equivalent methods approved by EPA, and referenced as non-filterable residue.

Total Ammonia Nitrogen shall mean the sum of inorganic nitrogen content of a wastewater as prescribed in 40 CFR 136, or equivalent methods approved by EPA.

Total Kjeldahl Nitrogen shall mean the sum of organic nitrogen and ammonia nitrogen content of a wastewater as prescribed in 40 CFR 136, or equivalent methods approved by EPA.

Total Phosphorus shall mean the sum of the dissolved and suspended organic and inorganic phosphorus content of wastewater as prescribed in 40 CFR 136, or equivalent methods approved by EPA.

Toxic Pollutant or Substances shall mean any substances whether gaseous, liquid, or solid, which when discharged to the POTW in sufficient quantities, may tend to interfere with any wastewater treatment process, or to constitute a hazard to the environment or recreation in the receiving waters of the effluent from the POTW. These substances include, but are not limited to, those 126 pollutants or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provisions of 307 (33 U.S.C. 1317) of the Act, or other acts.

Trunk Line shall mean a line owned, operated, and maintained by ReWa that transports the wastewater stream to a treatment plant.

Unpolluted Water shall mean water of sufficient quality that it would not be in violation of Federal or State water quality standards if such water were discharged to waters of the State.

User shall include without limitation any consumer of residential, commercial or industrial services such as individual or associated homeowners, developers, public or private utilities, satellite systems, Subdistricts, municipalities, or any permittee who directly or indirectly discharges, causes or permits the discharge of wastewater to ReWa.

User Charge System shall mean the system of charges levied on Users for the operation and maintenance costs of the wastewater disposal system.

Wastewater shall mean the combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, including cooling water, holding tank waste, and infiltration/inflow.

1. **Sanitary Wastewater** shall mean the combination of liquid and water carried wastes discharged from toilet and other sanitary plumbing facilities.
2. **Industrial Wastewater** shall mean a combination of liquid and water carried wastes discharged from any industrial establishment and resulting from any trade or process carried on in that establishment and shall include the wastes from pretreatment facilities and cooling water.

Wastewater Disposal System shall mean the land, structures, equipment and processes owned and controlled by ReWa or a Subdistrict (unless specified otherwise) required to collect, transport, and treat wastewater and to dispose of the effluent and accumulated residual solids.

Waters of the State shall mean all streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

Section 1.3 - Abbreviations

The following abbreviations shall have the designated meanings:

BMP	- Best Management Practice
BOD	-Biochemical Oxygen Demand
CFR	-Code of Federal Regulations
CIU	-Categorical Industrial User
COD	-Chemical Oxygen Demand
CWA	-Clean Water Act
SCDHEC	-South Carolina Department of Health and Environmental Control
EPA	-Environmental Protection Agency
gpd	-Gallons Per Day
mg/l	-Milligrams Per Liter
NAICS	-North American Industry Classification System
NPDES	-National Pollutant Discharge Elimination System
POTW	-Publicly Owned Treatment Works
RCRA	-Resource Conservation and Recovery Act
SC R61-9	SC DHEC Water Pollution Control Permits: R61-9
SIC	-Standard Industrial Classification
SIU	- Significant Industrial User
SWDA	-Solid Waste Disposal Act
TKN	-Total Kjeldahl Nitrogen
TSS	-Total Suspended Solids
USC	-United States Code
ReWa-	-Renewable Water Resources

SECTION 2 - USE OF PUBLIC SEWERS

Section 2.1 – Collector Sewer System

1. ReWa shall not accept a connection from any Collector Sewer System owned by more than one User. This requirement shall not apply to Collector Sewer Systems which are owned by multiple public entities.
2. Service requests outside of the service area of a Subdistrict or a municipal or county sewer subdistrict

For service requests outside of the service area of a Subdistrict or a municipal or county sewer subdistrict, any Private Utility ("PU") desiring to connect a Collector Sewer System to a ReWa trunk line shall make application to ReWa and must enter into an agreement ("Agreement") with ReWa whereby the PU covenants to restrict future conveyances of the Collector Sewer System as follows:

- a. The PU and its successors agree that any and all future conveyances of the Collector Sewer System are restricted and limited to conveyances to a single entity of the entire system of gravity lines, force mains and pump stations constituting a Collector Sewer System;
- b. ReWa may seek injunctive relief to enforce the terms of the Agreement until such time that the Collector Sewer System in its entirety is owned by a public entity.

Further, the application to ReWa will include an opinion from the PU's legal counsel that such PU is authorized to own and operate the Collector Sewer System and to enter into the contracts by which it gained ownership and control of the system.

3. Service requests inside the service area of a Subdistrict, municipality or county sewer subdistrict

All requests for service inside the service area of a Subdistrict, municipality or county shall be under the direction and approval of a Subdistrict, municipality or county. This provision allows the subdistrict, municipality or county to use a PU under contract. ReWa shall consider such Collector Sewer System a part of the Subdistrict, municipality or county's collector system.

The application for service to ReWa shall be under the direction and approval of the Subdistrict, municipality or county with a pledge to ReWa that shall the PU become insolvent, inoperable, or subject to any regulatory warning for an unsafe or unsanitary operating condition which is uncured for more that 30 days, then the Subdistrict, municipality or county will assume ownership, operational and financial responsibility for the PU.

For any Collector Sewer System owned by a PU, ReWa shall be provided with a copy of the contract by which such entity obtained control of the system. A term of that contract shall require ownership of the system shall be transferred to a public utility if the PU becomes insolvent, or the Collector Sewer System becomes inoperable or subject for 30 days to an uncured regulatory warning for an unsafe or unsanitary operating condition. The contract will include express provision giving ReWa standing to bring an action to enforce the terms of the contract as a third-party beneficiary thereto.

Section 2.2 - Permits Required

Prior to connection to the Wastewater Disposal System, the applicant shall obtain approval from the appropriate Subdistrict. Application shall be made in writing on forms provided by the Subdistrict. When an applicant is planning to discharge wastewater in excess of 1,000 gallons per day, or planning a direct connection to ReWa sewer, the application must be also approved by ReWa. All new industries discharging industrial wastewater shall complete the application and obtain approval to connect and use the sewer facilities, regardless of the volume of discharge. All currently permitted Industrial Users shall apply for renewal of their permit by completing an Industrial Discharge Permit Application and submitting it to the Director at least 180 days prior to expiration of the current permit. The Industrial Discharge Permit Application shall be provided by the Director. Facilities to be deeded to and accepted by ReWa or a Subdistrict shall be completed, construction requirements for engineering standards or regulations shall be met, and be inspected and approved by the appropriate Subdistrict representative and ReWa representative, City or County Codes Department, and SCDHEC. New Industrial Users shall also complete an industrial discharge application provided by the Director.

Section 2.3 - Responsibility for Costs

All costs and expense incident to the installation and connection of building sewers shall be borne by the Owner.

Section 2.4 - Use of Public Sewers Required

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property in areas under the jurisdiction of ReWa any human or animal excrement, garbage, or objectionable waste. It shall be unlawful to discharge to any natural outlet in areas under the jurisdiction of ReWa any wastewater, except where suitable treatment has been provided in accordance with subsequent provisions of this Regulation and with regulations of SCDHEC. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater. The Owner of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, abutting on any street, alley, or right-of-way in which there is a public sanitary sewer, is hereby required at the expense of the Owner to install suitable toilet facilities therein, and to connect such facilities directly with the public sewer in accordance with the provisions of this Regulation, within 90 days after date of official notice to do so, provided that said public sewer is within three hundred feet of the property line. Under unusual or specific circumstances, the Director may waive this provision.

Section 2.5 - Sewer Material

All sewers, including building sewers, to be connected with or to discharge to the wastewater disposal system shall be constructed of one of the following:

1. Vitrified clay pipe complying with ASTM C200 and with compression type, flexible joint conforming to ASTM C425.
2. Ductile iron pipe with a mechanical or push-on joint as described in ANSI A21.11.
3. ABS (acrylonitrile - butadiene - styrene) pipe and fittings conforming to ASTM D2661.
4. PVC (polyvinyl chloride) pipe and fittings conforming to minimum requirements of ASTM D3034, heavy wall, joint quality to conform with ASTM C425.
5. Other materials specifically approved in writing by the Director.

Section 2.6 - Certain Connections Prohibited

1. Connection Not Allowed To Sewer

No Person shall make any connection of appurtenances that convey unpolluted waters including roof downspouts, exterior foundation drains, area drains, or other sources of inflow, infiltration, or other unpolluted waters to a building sewer or building drain which in turn is connected, directly or indirectly, to a sanitary sewer.

2. Connection Not Allowed To Storm Sewers

No Person shall make any connection or discharge of sanitary wastewater into a storm sewer under the jurisdiction of ReWa.

Section 2.7 - Multiple Connections Through One-Building Sewer

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no sanitary sewer is available nor can be constructed to the rear building through an adjoining alley, court, yard or driveway. The building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

Section 2.8 - Use of Old Building Sewers

Old building sewers may be used in connection with new buildings only when they are found, upon examination and testing by ReWa or the Subdistrict, to meet all requirements of this Regulation.

Section 2.9 - Compliance with Other Regulations

The size, slope, alignment, materials of construction, excavating methods, pipe placement, jointing, testing and backfilling shall all conform to the building code, plumbing code and all other regulations of ReWa, the County or Subdistrict. In cases of conflict and in absence of other provisions, materials and procedures set forth in ASCE-WPCF Manual of Practice No. 9 shall govern. All joints of the building sewer shall be tight and waterproof. The Director shall establish an infiltration rate for building sewers based upon the overall permissible infiltration for each plant and sewer system. One of two tests may be used: Infiltration shall not exceed 200 gallons/mile/inch/diameter/day, or the building sewer shall pass a low pressure air test as specified in ASTM C828. The Director reserves the right to determine which testing procedure shall be used for a given installation.

Section 2.10 - Connection of Building Sewer to Public Sewer

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by a means approved by ReWa or the applicable Subdistrict and discharged to the building sewer. The connection of the building sewer into the public sewer shall conform to the requirements of applicable building and plumbing codes and other applicable rules and regulations of ReWa or the Subdistrict. All such connections shall be made gastight and watertight. Any connection to a public sewer shall be made at an existing manhole or one built for that connection at the expense of the User. Any deviation from the prescribed procedures and materials must be approved by the Director and the applicable Subdistrict before installation.

1. Direct Connections:

Direct connections to a ReWa trunkline by a residential, commercial or industrial User will be allowed in ReWa's discretion upon the request and consent of the subdistrict or municipality within whose territory the proposed connection will fall. Direct connections will be allowed only under the condition that the respective subdistrict or municipality requesting service agrees that the directly connecting User will be a user or customer of the municipality or subdistrict on an equal footing with any user or customer within the municipality or subdistrict who is connected to a municipal or subdistrict collector system intervening between the service lateral and the ReWa trunkline. The connection shall be subject to the engineering approval of ReWa and the installation of the connection per the approved plans shall be inspected and verified by the applicable municipality or subdistrict in the same manner as a connection to their own collector system.

The municipality or subdistrict shall be allowed access to ReWa manholes to which direct connections are made for purposes of inspecting or maintaining the direct connections. For those connections which were made to a trunkline rather than a manhole, the municipality or subdistrict can access a ReWa manhole and trunkline for the same purposes after providing notice to ReWa of the necessary work.

For requests for a direct connection outside the service area of a municipality or subdistrict, the subdistrict or municipality in whose drainage basin the proposed connection will likely fall must first approve the connection pursuant to South Carolina Act No. 688 of 1969.

2. Existing:

Existing direct connections to ReWa trunklines shall be continued subject to the conditions stated above unless within one year from the enactment of this regulation, the municipality or subdistrict within which they are found requests that the connections be removed.

Section 2.11 - Supervision of Building Sewer Construction

The applicant for the building sewer permit shall notify ReWa or the applicable Subdistrict when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of ReWa or the applicable Subdistrict. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to ReWa. Construction shall comply with the provisions of PL 91-596, the Occupational Health and Safety Act of 1970.

Section 2.12 - Special Pretreatment Devices

Grease interceptors, oil separators and grit interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of liquid wastes containing floatable oil in excessive amounts, sand, or other harmful ingredients; except that such devices shall not be required for private living quarters or dwelling units. All devices shall be of a type and capacity approved by the Director, and shall be located as to be readily and easily accessible for cleaning and inspection. Where installed, all grease interceptors, oil separators and grit interceptors shall be maintained by the Owner at his expense in continuously efficient operation at all times. In maintenance of these devices, the Owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the State, Subdistrict, County, or the Director. Any removal and hauling of collected materials shall be performed according to applicable State, Federal, and Local regulations.

Section 2.13 - General Guidance

The ReWa approval of plans and specifications for expansion or modification to treatment works shall be generally based on the Recommended Standards for Sewage Works (commonly referred to as "Ten States Standards"), and these Standards are recommended for use by any entity developing facilities for connection to the wastewater disposal system.

Section 2.14 - Connection Constitutes Consent

Connection to the ReWa's system shall constitute consent and agreement by the User to be bound by and to abide with all of ReWa's rules and regulations.