

Michael Laws
Harkers Island Sewer Company LLC
PO Box 370
Harkers Island, NC 28531

December, 5th, 2017

Alan Powell
Roberson, Hawthorne, & Reese PLLC
PO Box 1550
High Point, NC 27261

RE: Response to request for sewer service James Creek Subdivision

Dear Mr. Powell

I am in receipt of your request for public sewer service from Harkers Island Sewer Company LLC (HISCO).

The following describe HISCO's position regarding providing James Creek Subdivision with public sewer.

- 1) You have included a copy of the May 18th, 2011 Amended Application. I would direct your attention page 3, item 6 which states: "The Developer will cover all cost associated with extension and plant expansion." That statement is still true today.
- 2) See attached NCUC Rule R10-12 (c) which states that "An applicant for a sewer collection system extension to serve a new subdivision, tract housing project, industrial, or residential development, or organized service district shall be required to advance to the utility before construction is commenced the estimated reasonable cost of installation of such facilities, including the estimated reasonable cost associated with the installation of any reasonable and prudent amount of excess capacity, if, any, upon approval by the Commission. If additional facilities are required specifically to provide service exclusively for the service requested, the cost of such facilities may be included in the advance upon approval by the Commission.
- 3) See attached November 4th, 2014 letter from HISCO to Specials Assets Manager Lance Miller which states the cost related to serve James Creek Subdivision with public sewer was established and estimated during the process and made known to BNC officials. That cost related to serve James Creek Subdivision with public sewer was established and estimated during the entire process and made known to BNC officials.
- 4) This letter and all permits and some cancellation of permits due to HISCO's loss of control of the property were sent to your office on June 7th, 2016 which should have clarified the loss of capacity HISCO became subject to; due to the absence of a means for HISCO to maintain permits and a small portion of the property designated for the proposed WWTP.
- 5) A review of all applications by HISCO to NCUC after the loss of permits, and property attached to the permits within James Creek Subdivision show the overall capacity stated within those applications to be a reduction of 38,800 gallons per day.

The \$2,500 "Connection Fee" in which you referenced as implied adequate payment for sewer service has nothing to do with the cost to provide sewer service between the developer and the utility

company. The only exception to this is reflected in the fact that the utility which collects those fees from lot buyers, can re-imburse back the developer a part or all of the fees to offset a portion of the developer's cost described in the BNC, BLE Loan Modification dated February 24th, 2011.

The fact that James Creek Subdivision is within the service territory of HISCO does not in any case require the utility to serve at its own cost the sewer service until the system is constructed certified by the Utility's engineer and the completed system is approved to operate by NCDENR officials. HISCO acknowledges this was under way but was stopped completely by the foreclosure process which resulted in the lack of funding to needed to complete the system. Clearly this was addressed in the NCUC application again on pg. 3 item 6, where the funds were expected to come from.

HISCO can and will supply public service to the James Creek Subdivision when all reasonable cost estimated by its engineer and approved by NCUC are forwarded to the utility as required in NCUC R10-12(c).

HISCO has, and will continue to forward these estimates of public sewer service to any legitimate buyer for the James Creek Subdivision to allow for an accurate estimate of the sewer cost of James Creek Subdivision.

Sincerely,



Michael Laws, HISCO Manager.

Cc:

Bill Forman
Clark Wright
George Oliver



PO Box 370
Harkers Island, NC 28531
919-810-4929

November, 4th, 2014

Lance Miller
Special Assets Manager
1420 East Third Street
Charlotte, NC 28204

Re: James Creek Subdivision

Dear Mr. Miller:

In regards to the transfer of ownership of the James Creek Subdivision through foreclosure means the following limitations or "transfer back" to the fee simple ownership of certain property located in Phase 1 of recorded plat of James Creek Subdivision Phase One, PB 32 PG. 403 Carteret County NC Registry, further described as Lot 7 "Area Reserved For On-site Sewer Collection Station, containing 145,167sf 3.333 AC", is highly recommended for the following reasons;

If the current owner loses control of the site, permits, or right to build the WWTP through the foreclosure process, it cannot offer sewer service to the James Creek Subdivision through loses of capacity of said facility. This leaves the new Subdivision owner with no choice but to build its own WWTP facility at an estimated cost of \$950,000 based on Engineer's estimates in 2010. The proposed and recorded lot sizes prohibit the use of septic tanks, as well as unsuitable soils existing on the majority of the lots.

Therefore it is recommended that the site remain in the ownership and control of the current owner's Utility Company, along with dedication of sewer transmission lines already installed along existing roads be dedicated to the Utility Company.

The Utility Company would not be willing, or able to include any purchase price in this transaction since it cannot incur any debt per NCUC regulations.

In turn, the Utility Company is willing to maintain future capacity necessary to develop the 80 single family Subdivision as originally planned for the permits and site dedication.

Sincerely, .


Michael Laws, BLE Manager.

Michael Laws
PO Box 370
Harkers Island NC 28531



MRT-1 Rebuttal Exhibit D
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June 7th, 2016

Alan Powell
Roberson, Hawthorne, & Reese PLLC
PO Box 1550
High Point, NC 27261

Subject: Sewer infrastructure status
for James Creek Subdivision
Harkers Island NC

Dear Mr. Powell:

My current civil engineer Bill Forman informed me of your data request concerning the current infrastructure and permit status the James Creek Subdivision located on Harkers Island, NC. Bill was a partner in Bearing Point Consulting, a civil engineering in which he was a minor partner. The firm conducted the majority of the civil engineering work for BLE Development, at the time owner and developer of the project. In the later stages of the project Bearing Point Consulting went through a partner breakup and the majority partner retained the company along with all of the rights to the data, plans, and computer equipment. For this reason he cannot forward to you your requested data.

Fortunately, BLE Development was already in possession of the necessary permits and design work for the James Creek Subdivision. In fact the vast majority of the infrastructure had been installed, but to date not tested for leaks or finalized by the Engineer know as final project certification. The permitted waste water treatment facility within the subdivision was the key part in assuring James Creek Subdivision of future sewer service.

The foreclosure process in which you were involved required the two parties being Bank of NC and BLE Development to negotiate a means through which Harkers Island Sewer Company LLC could retain a portion of the property designated for the

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treatment facility, permits, and engineering data in order to assure sewer service for the property in the future whomever the owner.

A plea to that effect was sent to Lance Miller, Special Assets Manager and representative of BNC dated November 4th, 2014. a copy included in this data package. I myself had an extended conversation emphasizing to Lance about this very necessary exchange to retain the critical sewer service entitling James Creek Subdivision in the future. To date I have heard no response to my request.

You will find enclosed cancelation of the permits as well as NCDENR acknowledgement of area being removed for HISC's territory. In a July 9th request for information letter from Michael Leggett NCDENR agent you will find the statement from 2015 letter you will find the statement "Removal of the James Creek WWTF from HISCO control will result in the reduction in obligated flows", as a condition and statement for future capacity of HISCO.

If you or any representative of BNC desires additional information regarding the status of James Creek Subdivision infrastructure I'm willing to help with the evaluation with data I have in my possession. I have informed Bill Forman to send any conformation of facts or current status of James Creek Subdivision in which he can that does not violate has copy rights and separation mandate from his previous partner.

I'm also willing to negotiate future sewer service for James Creek Subdivision with BNC or its representatives. It is a fact that the loss of the James Creek WWTF permits has greatly hampered any means of serving James Creek Subdivision as HISC's capacity is designated for other projects within its current territories.

Sincerely,

Michael Laws

Cc: George Oliver- Oliver & Cheek 252-633-1930