

THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

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| ORIGINAL | |
| N.H.P.U.C. Case No. | DW 13-171 |
| Exhibit No. | 7 |
| Witness | Panel 1 |
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DW 13-171

IN RE EASTMAN SEWER COMPANY, INC

Sale of Assets and Liabilities to the VILLAGE DISTRICT OF EASTMAN

TESTIMONY OF GERALDINE LOGAN

MEMBER OF EASTMAN COMMUNITY ASSOCIATION

NOW COMES, GERALDINE LOGAN, Member of the Eastman Community Association,
and submits the following TESTIMONY:

Q. Why have ECA/ESC Officials repetitively communicated to ECA members that Eastman Sewer Company represents a “danger to the lake”?

A. A major component of the sale presentation of ESC to VDE has been a campaign that the sewer system is a “danger to the lake”. Coincidental with attempting to transition the ESC to the VDE has been an extended campaign by ECA to require septic system users to pump their systems every 3 years whether they used them or not and report to ECA. The reason presented was in order to “protect our lake”—and “a failure of a septic system has the potential to harm our lake”. These two campaigns lasting over two years were sufficient to strike fear into a majority of residents that the lake was under siege with no presentation of any material facts.

When I questioned Mr. Goldman in my interrogatory Set 3a 6-b “What specific information do you have that would substantiate this claim that there is a high probable risk to the lake? The answer was “We have no information that there is a “high probable risk to the lake” nor have we ever claimed there was such a risk.” However:

- a) Mr. Goldman stated on November 7, 2102 in a letter to the community that “The close proximity of the sewer system to our lake and the need to upgrade a 30+year-old system make this a community issue, not just a sewer-user issue.”
- b) On Jun 20, 2013 in a letter to the community Mr. Goldman stated “Many of the pipes which service the system are built around portions of the Lake and any system which services almost 40 % of the residents should be of great interest to all of the Members.
- c) Mr. Goldman further stated (via Mr. Harding) that “The point we were making to the community was the Village District has the managerial and technical expertise to safely and effectively operate the sewer system.”
- d) Mr. Goldman also stated that having the VDE run the Sewer Company would ensure that “the lake and owner property values would continue to be protected.”

That implies they are protected now which is contrary to his claims.

VDE Commissioners and officials in arguing these unsubstantiated claims that there is a risk to the lake do not demonstrate any VDE technical expertise.

To support the above statements I hereby adopt the Pre-Filed Testimony of 7/26/13 of Geraldine Logan and that Testimony’s Attachments and Exhibits of that date as part of this Testimony. I also hereby adopt the following Discovery Requests and Responses as part of this Testimony:

- a) Set #1--9/12/13 Geraldine Logan Requests/Responses Requests/Responses contained in

PUC Docket No. 13-171 DataRequestResponse_Set1_Part6.pp162-226

- b) Set #2--10/17/13 Geraldine Logan Requests/Responses Requests/Responses contained in PUC Docket No. 13-171 DataRequestResponse_ Set2 Part 1 of 2
- c) Set #3--12/3/13 Geraldine Logan Requests/Responses contained in PUC Docket No. 13-171 DataRequestResponse Set3 Part 1 of 3 (pp. 2-19),

Q. What ECA/ESC officials' erroneous information and misleading statements contributed to voters being misinformed at the VDE annual meeting?

A. In my interrogatory of 3b-8 I questioned whether misleading and possibly erroneous information presented to the community as part of the campaign to transfer ESC to VDE not once but multiple times, while at the same time refusing to let sewer users meet on their own or respond to a survey, may have lead to their winning the vote. Some of the things stated at private ECA Forums and other meetings to advocate for ESC joining the VDE and subsequently without supporting information include:

- a) "Preliminary support by State agencies" *—this statement has no meaning. It does not equal a letter from an agency which merely outlines the "process"—there is no mention of support.*
- b) "The opinion of VDE's lawyer sought and obtained"—*the letter you supplied from (Jay Boynton) was not the lawyer for VDE, Bernie Waugh is.*
- c) "The most significant new project is in response to the NHDES directive that the sewer system meet new, more stringent golf course spray irrigation requirements...The limit for spray irrigation was <30mg/L until 2011. It was then changed to <10mg/L. Our pond and disinfection system cannot meet this new requirement." *--This "inadvertent" error was*

repeated at least 3 times and not corrected until after the March vote at the April ESC meeting (5 months later) in minutes which are not widely read by the community since their minutes have only been on line since December of 2012.

- d) “A separate municipality would have only 107 eligible voters”—this is not true, 107 properties in this case equals 180 voters.*
- e) “An advantage of a municipal district is that it provides the option of raising revenue from property taxes, as an alternative to user fees.”—This is only true if it is a separate district or if all users are the same, which is not the proposed model. This was not explained to the community.*

In my Discovery Request/Response of 3b-10-- In answer to why the Sewer Company has not been maintained due to a lack of funds, Mr. Goldman stated “I have never maintained that the community does not have the funds to maintain the sewer system.”

However in response to my Discovery Request/Response of 3a-6 he stated “The rate case expenditures in 2008-2009....and these expenses, combined with a significant increase in the operator’s contract...limited ESC’s ability to spend funds on tasks outside necessary system operation and maintenance....The VDE intends to continue the cleaning and inspection of the mains if the Joint Petition is approved by the PUC.” So VDE can raise the money but ECA can not? Recently ECA built the South Cove Center for around \$5 million and is currently preparing to revamp a 15 year old Golf Center for +/- \$3 million. It also spent over \$4 million on the Golf Course in the past 10 years.

In a Jan 4, 2013 (EXHIBIT #1) letter to the community –“Mr. Goldman closed by suggesting that

this is a community issue, not just a sewer problem. He stated that in the event of a disaster with the sewer system under the current structure, the ECA, as the parent company, would have the ultimate responsibility. In the proposed new structure, the VDE would have that responsibility. However, this is effectively the same thing... the majority of the property owners of Eastman are also the voters of the VDE.”

- a) No, this is not the same thing. By putting the ESC into the VDE, ECA gets the loan off its books and is then able to borrow more money for its building projects. This way, community residents can be billed through the VDE for projects that used to be under ECA and the ECA can then bill more for other projects. Overall much greater costs to Eastman owners keep increasing by the deception of 2 legal entities generating the bills, ECA can claim that its costs “have not increased that much”.
- b) VDE is sworn to separate costs between water and sewer and their respective users, who are not the same however, Mr. Goldman and the VDE Commissioners have suggested that VDE has access to the entire community for sewer upgrades through Precinct Taxes. ECA owns that responsibility and should not be allowed to get that off its plate.
- c) The VDE voters may unnecessarily increase sewer user charges by investing in unnecessary sewage treatment facilities. For example, there is a pending proposal to increase treatment capacity by 30% when the existing treatment system is operating at only <50% capacity.

Q. Do you think the ESC has complied with PUC Order # 24.368 (9/24/2004)?

A. No, they have not. Not only have they not submitted an annual report or any report, they have not requested to be released from the Order with any explanation as to why. In Responses to Geraldine Logan Set 2a, 2a-6 10/17/13 (which I hereby adopt as part of this Testimony) there shows

no consistent effort to address the problem but rather excuses why it was not done. Then they had the audacity to confront the community with the sewer being a danger to the lake because they had not addressed PUC Order #24.368.

Q. How has the ECA Board tried to silence community members on this and other matters?

A. I have attached one of Mr. Goldman's previous communications mailed to the Eastman Sewer users and other ECA members on April 18, 2013 (EXHIBIT #3) entitled "...Now You Know the Rest of the Story". Like the September 27 and August 14 these letters target unnamed Eastman members' civil liberties and the expression of their civil rights. Consider the following statements contained in Mr. Goldman's April 18, 2013 letter to community members:

- Paragraph #2, Sentence #1-- "Although together we have made considerable progress at Eastman in recent years there continues to be a small group of dissenters who oppose virtually every initiative to improve our community"

Comment-- the word "dissenter" was popularized by Joseph Stalin etc.. see

Wikipedia: definition of "dissenter"

- Paragraph #4, Sentence #1:"There are several ways to respond to the types of irresponsible material contained in the anonymous letters and many postings that appear on the listserv"

Comment: The statement presents NO substantiation to the phrase "irresponsible material contained in the anonymous letters and many postings that appear on the listserv", but is just represented as an absolute truth from the ECA Board President. The Board President is empowered by the ECA Board according to Article 3 Item F to provide "overall leadership for the Eastman Community Association, the Board

and ECA management. “Additionally the President shall be the official spokesperson for the Board.”

- Paragraph #4, Sentence #4: “There are some reasons to pursue this course but it also provides opportunity for further mischief by the perpetrators.”

Comment: "Mischief by the perpetrators." This is an accusation directed at unnamed ECA members. Under what power and authority does the Board President of a 501(c)4 (the Eastman Community) enabled to target ECA members in such an accusatory way?

- Paragraph #5, Sentence #3—“Find a statement or number that appears in a letter, report or other document and then surround it with innuendo or mis-statements wrapped in a cocoon of venom.”

Comment: Why is this individual enabled by the Declaration of Covenants and Restrictions of the Eastman community, by the laws of the state of New Hampshire and by the federal government to communicate and accuse people in this manner? Community governance members will claim that in the Eastman Covenants the Council President has the authority to remove someone from the Board upon a two thirds vote of the Council. In reality the total collaboration of the Council President (who “can” initiate the removal) with the Board President and all the inappropriate actions that have occurred would indicate that that clause in the Declaration of Covenants is not worth the paper it is printed on.