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April 27, 2012

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P. ANDREW SNEED
KELLY LOVE MANNING*
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RECEIVED
2012 MAY -1 PM 2:32
T.R.A. DOCKET ROOM

BEN W. KIZER
(1920-1996)

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VIA E-MAIL TRANSMISSION: sharla.dillon@etn.gov

and

FIRST CLASS MAIL

Sharla Dillon, Clerk
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

In Re: Petition of Laurel Hills Condominiums Property Owners Association for
a Certificate of Public Conveyance and Necessity
Docket No. 12-00030

Dear Ms. Dillon:

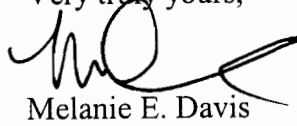
Please find attached hereto the Petition of Gary Haiser, et al, regarding the above-styled matter would I would appreciate you filing. I will be forwarding to you today by first class mail the original and four copies of this document along with our firm check in the amount of \$25.00 representing the filing fee.

Should you have any questions, please give me a call at the direct dial number above.

April 27, 2012

With kindest regards, I am

Very truly yours,

A handwritten signature in black ink, appearing to read 'ME Davis', with a long horizontal flourish extending to the right.

Melanie E. Davis

MED:ps

Enclosures

BEFORE THE
TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

In Re:

PETITION OF LAUREL HILLS
CONDOMINIUMS PROPERTY
OWNERS ASSOCIATION FOR
A CERTIFICATE OF PUBLIC
CONVEYANCE AND NECESSITY.

Docket No. 12-00030

PETITION OF GARY HAISER; JOHN MOORE; GERALD NUGENT; ROY PERRY;
JOHN PETERS; JOEL MATCHAK; ROBERT ADKINS; JOE GARNER;
TERRY COPE; ROBERT SCHWARTZ; ONUS WILLIAMS; GENE MANERS;
MICHAEL KRABOUSANOS; WENDELL BLAIR; LUKE DUNN; DAVID BREG;
KENT LATHAM; CORTEZ INVESTMENT GROUP, INC.; JIMMY DOUGLAS;
THOMAS BAUER; DONALD SANDLIN; JUDY SCALES PATTERSON; ISAAC
GAMBLE; RENEE TODD; RICHARD KNAPP; JOHN CHAMBERS; JOHN P.
PETERS REVOCABLE TRUST; AND CUMBERLAND POINT CONDOMINIUM
OWNERS ASSOCIATION TO INTERVENE IN DOCKET NO. 12-00030

Comes Gary Haiser and all individuals and entities listed above (herein
"Customers"), and, pursuant to T.C.A 65-2-107, 65-4-104, 65-4-115, 65-4-117 and
TRA Rules and Regulations 1220-1-2-08, move to intervene in this Docket No. 12-
00030 for the reasons set forth below:

1. Gary Haiser, et al, ("Customers") are all owners of property within
Renegade Resort in Cumberland County, Tennessee and are all current customers of
and receive water services from the Laurel Hills Condominiums Property Owners
Association. These Customers are all members of the Renegade Mountain
Community Club and collectively represent over ninety (90) percent of the total
living units served by the Laurel Hills Property Owners' Association water system.

The legal rights, duties, privileges, immunities or other legal interests of the Customers may be determined in these proceedings.

2. Renegade Mountain Community Club ("RMCC") is the designated master homeowners' association for all 1851 lots or living units in Renegade Resort. Laurel Hills Condominiums Property Owners Association and Cumberland Point Condominiums Property Owners Association are both homeowners' associations within Renegade Resort and are subordinate to the RMCC as recorded in the Covenants and Restrictions of Renegade Resort.

3. The Laurel Hills Condominiums Property Owners Association ("Laurel Hills") is a Tennessee not-for-profit, mutual benefit corporation located in Cumberland County, Tennessee that is the property owners' association for the Laurel Hills Timeshares located within Renegade Resort. Laurel Hills operates a private water system that supplies all customers within Renegade Resort, the overwhelming majority of whom are not members of Laurel Hills Condominiums Property Owners Association.

4. Individuals Phillip Guettler and Michael McClung are the current officers and directors of Moy Toy, LLC., which owns most of the non-platted land lying within Renegade Resort. These same individuals are also the current officers and directors of the Laurel Hills Condominiums Property Owners Association and are the former officers and directors of the Renegade Mountain Community Club, though the issue of who is and is not a director is at issue in litigation styled Gary Haiser and Joel Matchak, as Members of the Board of Directors of the Renegade Mountain Community Club, Inc.; the Renegade Mountain Community Club, Inc.; John Moore; and Gerald Nugent v. Michael McClung, Michael Haines, Phillip

Guettler, Joseph Wucher, and Moy Toy, LLC, Chancery Court for Cumberland County, Tennessee, Docket No. 2011-CH-508.

5. On February 3, 2012, in the Chancery Court of Cumberland County (Docket No. 212-CH-513), certain of the Customers filed a legal complaint (Certificate of Public Conveyance and Necessity, hereinafter "CCN", Petition, Exhibit 4), against Laurel Hills, Michael McClung and Phillip Guettler averring, among other bad acts, that Laurel Hills was, in fact, required to be regulated by the Tennessee Regulatory Authority but was not so regulated. Only after the February 28, 2012 Order Granting a Temporary Injunction (CCN Petition, Exhibit 6), signed by Chancellor Thurman, ordered among other things that Laurel Hills present itself to the TRA for potential oversight within twenty (20) days, did Laurel Hills finally file a Petition for a Certificate of Public Conveyance and Necessity with the TRA. This legal action is currently proceeding.

6. Prior to 2000, the water system serving Renegade Mountain was owned and operated by the Renegade Mountain Community Club. In 2000, the water system was reportedly conveyed or sold to Renegade Resort LLC, then subsequently to Moy Toy, LLC, and finally to Laurel Hills. As permitted by the Tennessee Non Profit Corporation Act, many unsuccessful attempts were made to access and review the corporate records to verify if these transactions and/or conveyances were ever documented or approved by the respective memberships. One such request, dated October 14, 2011 is attached as Exhibit 1. While it remains questionable that the water system was ever legally conveyed, it remains a fact that the series of owners failed to comply with the requirement to apply for and obtain a CCN for the water system for a period exceeding twelve (12) years.

7. Crab Orchard Utility District is the authorized utility responsible for providing water service to all communities that border and surround Renegade Mountain. Laurel Hills currently purchases already treated water from Crab Orchard Utility District, pumps it up the mountain (elevation 2650') via two (2) alternating pumps located at the bottom of the mountain and then distributes the water back down the mountain through a series of pipes for consumption by its approximate 120 living units. Crab Orchard Utility District is currently willing to discuss the purchase and operation of the Laurel Hills water system if approached.

8. In review of the Petition of Laurel Hills Condominiums Property Owners' Association for a Certificate of Public Conveyance and Necessity, dated April 10, 2012, the Customers noted multiple errors and omissions in the facts as presented by the Petitioner.

9. One of these errors is the statement: "Most of the customers of Laurel Hills have not paid their water bills for water service in full since June of 2011" (CCN Petition, para 10). Laurel Hills did raise the monthly water rate for all customers in June 2011 from a flat, un-metered rate of twenty-five (25) dollars to a flat, un-metered rate of eighty-six (86) dollars and forty (40) cents without any prior notice and without identifying any specific factors warranting the increase; many customers began to seek legal remedies against Laurel Hills to set aside the unprecedented water rate increases. The Petitioner further omitted the fact that Darrell McQueen, an agent of Laurel Hills, on or about July 3, 2011, negotiated a 2011 (June to December) monthly flat, un-metered rate of forty-three dollars and twenty cents (\$43.20) per month for all customers, which was paid by the overwhelming majority of customers. A copy of Darrell McQueen's Affidavit is attached as Exhibit 2. In October 2011, Laurel Hills attempted to set aside this

agreement and collect all additional monies from all customers retroactive to June 2011 (October 31, 2011 Letter attached as Exhibit 3)

10. Laurel Hills operated the water system and sold water to customers that did not meet the water system and water quality requirements as promulgated by the Tennessee Department of Environment and Conservation (TDEC) from the time of purchasing the water system through December 2011. Water quality notice is attached as Exhibit 4.

11. Another misstatement in the CCN is: "The water system operated by Laurel Hills is not metered." (CCN Petition, para 11). It is noted that there are currently several meters installed and operating within the present water system. The officers and directors of Laurel Hills, in providing due diligence for their members, knew, or should have known and considered the absence of meters, valves, etc. and other stated deficiencies of the water system prior to the time of purchase. Laurel Hills' plan, described in the December 30, 2011 customer notice (CCN Petition, Exhibit 3), to terminate water service to all customers' because Laurel Hills' failed to perform their due diligence with respect to missing meters and valves, constitutes gross mismanagement of a private utility and total disregard for the customers dependent upon them for water.

12. The CCN Petition further omitted that Director Michael McClung, in January 2012, representing Laurel Hills, which owed in excess of Eight Thousand (\$8,000) Dollars in overdue water fees to the Crab Orchard Utility District (now in excess of Fourteen Thousand (\$14,000) Dollars), approached the Crab Orchard Utility District Manager and asked that the Crab Orchard Utility District voluntarily shut off the flow of water to the Laurel Hills pump station for nonpayment which request was quickly denied by the Crab Orchard Utility District.

13. The CCN Petition further omitted that Director Michael McClung, on January 19, 2012, and representing Laurel Hills, knowingly and with intent, made a request to the Volunteer Electric Cooperative (VEC) to disconnect the electric meter at the Laurel Hills, Mullinix Drive pump house, on Friday, January 20, 2012, "as late in the day as possible". Volunteer Electric officials, recognizing its lawful obligations and the impact to the health and safety of the 120 living units served by Laurel Hills, asked John Moore, President of the RMCC to take control of the electric meter. Mr. Moore, in order to avoid a total shutdown of the water system on a Friday afternoon, did reluctantly accept the responsibility at 3:00 pm on January 20, 2012.

14. Laurel Hills and its officers and directors, by seeking to is connect the supplied water flow and the electric power supplied to the water system's pumps, without prior notice, effectively abandoned the water system, caused the system to become inoperable, and abandoned their contractual responsibility to provide water service to its customers. For a period of time the abandoned water system was operating with water paid for and provided by Crab Orchard Utility District, electric service paid for by the Renegade Mountain CC and was under no discernable control on a day to day basis by Laurel Hills or its agents.

15. The CCN Petition further omitted that on February 1, 2012, Director Phillip Guettler, acting on behalf of Laurel Hills, turned off the water, without proper notice, to 87 living units who remained without water for a period of five days, even though Chancellor Thurman signed a Temporary Restraining Order (TRO) on February 3, 2012 to reconnect the water (CCN Petition, Exhibit 5). Further, in the process of turning off the water to 87 living units, Director Phillip

Guettler attempted to sabotage the water valve by packing its housing shut with sand and asphalt (Exhibit 5).

16. Laurel Hills shut down and abandoned the water system on Friday, January 20, 2012, and again shut down the majority of the system on February 1, 2012 without giving its customers the proper sixty (60) day notice as required by the Federal Drinking Water Act and T.C.A. 68-221-711(9). Sherwin Smith's (Tennessee Department of Environment and Conservation) Affidavit, showing insufficient notice, is attached as Exhibit 6. The incessant planning and determination to terminate or abandon water service without proper notice constitutes gross mismanagement of a private utility and total disregard for its customers that depend on the utility for life sustaining water service. It is noted that since June 2011, Laurel Hills, its directors and officers, have never met, or agreed to meet with its customers to discuss or resolve any issue.

17. "As a result of the enactment of Public Chapter 430...Laurel Hills became a public utility...on the effective date of Public Chapter 430, June 6, 2011." (CCN Petition, para 16). Public Chapter 430 (HB 166/SB 247) enacted two changes concerning: 1) 501c(4) organizations operating wastewater facilities and 2) exemption of cooperative nonprofit organizations, neither of which seemingly have any relevance to Laurel Hills current situation. (See Ex. 7). The officers and directors of Laurel Hills, in providing due diligence for their members, knew, or should have known that, by providing water to customers outside the scope of Laurel Hills membership, was a regulated activity and did not qualify for exemption under T.C.A. 65-4-101-6(B)(i). As such, it is averred that Laurel Hills operated an unregulated and unauthorized private utility from purchase through the date of their Petition, April 10, 2012.

18. The Laurel Hills' 2011 calendar year Federal Tax return, attached to the CCN Petition as Exhibit 8, reflects the combined and collective revenues/expenses of the Laurel Hills timeshares and the Laurel Hills water system. Costs applicable to determining rates and tariffs should be based solely on those costs associated with the water system; if combined costs are considered, they should be prorated as allocated. It is noted that although Laurel Hills claims nonprofit status, it filed a corporate (for profit) tax return in 2011.

19. "Laurel Hills believes that the flat monthly rate of \$86.40 per residential unit is a just and reasonable rate." (CCN Petition, para 18). The Customers vehemently disagree with this statement. As early as June 30, 2011, and several times hence, Laurel Hills has indicated its proposed \$86.40 rate was "confirmed by a CPA firm who works for other Tennessee water utilities." (October 31, 2011 Letter attached as Exhibit 3). Although repeated verbal and written requests were made to review this referenced accounting document, no document has been forthcoming, nor was this critical document included as an exhibit to Laurel Hills Petition.

20. The Customers oppose the Laurel Hills' request for TRA approval to charge all customers \$86.40 per month during the TRA proceedings. The current rate now being paid per month of \$43.20 should be maintained during the TRA proceedings for several reasons: 1) The current customer base has accepted this temporary rate and Laurel Hills enjoys near 100% compliance with payments; 2) Chancellor Ronald Thurman, Chancery Court of Cumberland County, a duly recognized court of law, has reviewed the evidence presented and issued a Temporary Order (CCN Petition, Exhibit 6) to continue payments to Laurel Hills at a rate of \$43.20 per month; no new evidence is presented since Chancellor

Thurman's decision to confirm a significantly higher monthly rate; and the customers secured a previous arbitrated rate of \$43.20 per month from an agent of Laurel Hills in July 2011 (Exhibit 2).

21. The Customers have reviewed the proposed Schedule of Rates, Terms and Conditions for Water Service (CCN Petition, Exhibit 9), herein "Schedule", proposed by Laurel Hills and notes many areas of concern and incompatibility with TRA Rule 1220-4-3.

22. Laurel Hills lists its address in the Schedule as 17 Laurel Mountain Drive, Crab Orchard, Tennessee. This structure is a vacant timeshare property, and while it may be technically classified as an "office", there are no markings to designate it as the Laurel Hills office, the office is not staffed, has no posted or available operating hours and has no mail delivery. In addition, a listing of contact persons and numbers were not submitted as required nor available for review. Laurel Hills has no assigned telephone number to call for complaints, service or emergencies; no emergency numbers are published for water outages or main breaks. Laurel Hills' single source of contact is an email address where many documented emails have been addressed without a single reply.

23. The Schedule of Rates, Terms and Conditions for Water Service is not in compliance with TRA Rule 1220-4-3-05 (ii) making adjustments for wastage of water and (iii) minimum number of days allowed for payment before service is disconnected for non-payment. In addition, a copy of the proposed customer contract was not submitted, nor available for review.

24. The Schedule does not contain general meter procedures or a Tariff Schedule for those living units currently possessing a meter. No plan is set forth to address future meter installations to meet the requirements of TRA Rule 1220-4-3-

06 (3) with respect to Cumberland Point Condominiums (combined billing). There is no meter installation requirement during water line reconstruction. There is no meter installation requirements for new construction.

25. The Schedule does not set forth an adopted and established water pressure goal as required by TRA Rule 1220-4-3-41(3). Further, the Schedule disavows Laurel Hills responsibility to provide a minimum water pressure of twenty-five (25) psig as required by TRA Rule 1220-4-3-41(1) under any conditions; the referenced Rule allowing only four (4) acceptable conditions for failure to maintain minimum water pressure. In addition, the Schedule includes a false general disclaimer for failure of Laurel Hills to provide adequate water pressure.

26. The Schedule disavows Laurel Hills responsibility to notify any customer, under any conditions of any type of interruption in water service. TRA Rule 1220-4-3-42 (3) clearly provides for the notification of customers prior to any planned or scheduled outages of water service. In addition, the Schedule includes a false general disclaimer for failure of Laurel Hills to provide adequate notification of customers under any circumstances or conditions.

27. Additional errors and omissions of the Schedule are listed at Exhibit 7.

28. The Schedule of Rates, Terms and Conditions for Water Service provided by the Laurel Hills, and as currently written, is not in general or specific compliance with TRA Rule 1220-4-3, fails to list, describe or even consider any of Laurel Hills responsibilities to its customers and fails to list, describe or even consider any of its customer's rights or recourses with respect to water quality and continuity of service; in totality it is a one-sided document drafted with the intent to set forth, in writing, as little as possible to secure a CCN.

29. In contradiction to the Good Engineering Requirements of TRA Rule 1220-4-3-25, Laurel Hills, to save repair costs, disconnected a two hundred and fifty thousand (250,000) gallon water storage tank from the revised water system design, thereby circumventing the requirement to maintain a twenty-four (24) emergency storage capability for drinking water within the Laurel Hills water system. The current approved water system design cannot maintain the pressure or interruption requirements as required by TRA Rule 1220-4-3-41 and 1220-4-3-42 respectively, without the use of a water storage device. The quality of water does not meet the requirements of TRA Rule 1220-4-3-40. Further, the system does not meet the Standards of Construction as outlined in TRA Rule 1220-4-3-26, specifically with reference to Depths of Mains, Dead Ends and Segmentation of the System. These issues are addressed to TDEC and all other interested parties, in a letter dated April 23, 2012 and attached as Exhibit 9.

30. The Schedule states "The Company's water system is not designed to provide water for public fire protection." Prior to Laurel Hills removal of the water tower from the water system design, the public water distribution system did have sufficient pressure and storage capabilities to provide adequate, pressurized fire hydrants for fire protection. Water customers who purchased property in Renegade Resort and obtained property insurance, did so based on knowledge of their proximity to a system of working fire hydrants. Based solely on the absence of properly pressurized, working hydrants, the cost of property insurance will increase by hundreds of dollars for every one of the 120 living units within Renegade Resort as each is moved from fire department classification code six (6) to classification code nine (9). Laurel Hills' current hydrants, if not approved for fire protection, are

required to be taken out of service, marked and proper notification delivered in accordance with the Safe Drinking Water Act and TDEC Rule 1200-5-1-17(18).

31. The capacity of the Laurel Hills water system should be considered when determining any rate structure. The system currently serves approximately 120 living units and 1176 additional building lots through approximately seven (7) miles of established water mains. Eighty-four (84) of the 120 living units are served by a single connection. The only water system cost associated with adding additional customers is the incidental cost of installing a service line to the new customer. The capacity of the water system should be verified (the capacity was reported to be approximately 800 homes prior to the removal of the water tank from the system's design).. Any rate determination should be based on the current customer count, but also based on the overall capacity of the system and the ease and low cost of adding additional customers, thus ensuring Laurel Hills has a vested interest in seeking out and adding new customers.

32. Just by virtue of its elevation, geography and aging condition alone, the Renegade Resort water system will be a challenge to operate and maintain now and in the future, even for a technically competent and experienced management team. Since its inception in May 2011, Laurel Hills, and its directors and officers, have illegally operated an unregulated and unauthorized private utility, have attempted to abandon or shut down the water system twice, have demonstrated an inability to provide technically adequate and acceptable solutions to the problems at hand, have failed to employ efficient or industry acceptable management practices, have failed to work with, or earn the trust of even one customer, have put forth the absolute minimum effort required to operate a utility, and above all else, have failed in the basic premise of a utility to deliver an uninterrupted supply of quality

drinking water to its customers. In short, Laurel Hills has failed to act as a responsible utility. Crab Orchard Utility District, who has expressed interest in discussing water service to Renegade Resort, currently has the necessary resources, technical experience and proven management capabilities to plan, upgrade, operate and maintain the current Renegade Mountain water system, now and into the future.

PREMISES CONSIDERED, Petitioners, Gary Haiser, et al, ("Customers") pray for the following relief:

1. That the Tennessee Regulatory Authority (TRA) grant its Petition to Intervene in Docket 12-00030.
2. That, throughout these TRA proceedings, no Laurel Hills' customer's water service be disconnected without the express permission of the TRA.
3. That the TRA deny the Laurel Hills Condominiums Property Owners' Association Petition for a Certificate of Public Conveyance and Necessity as drafted.
4. That in the event the TRA grants the Petition of Laurel Hills Condominiums Property Owners' Association for a Certificate of Public Conveyance and Necessity that the TRA consider imposition of additional oversight controls to ensure the proper and ethical management of Laurel Hills.
5. That the current monthly, flat rate of \$43.20 per customer, per month, imposed previously by judicial order, and paid to Laurel Hills for water service, remain in effect throughout these TRA proceedings.
6. That the TRA impose appropriate penalties upon Laurel Hills which did illegally operate a private utility within the State of Tennessee.

7. That the TRA reinstate the water storage tower as part of the water system's design to ensure continuity of water delivery, pressure and fire protection.

8. That Laurel Hills' complete financial documentation be made available to all parties for review and analysis prior to any rate determination by the TRA.

9. That Laurel Hills submit a Schedule of Rates, Terms and Conditions for Water Service that is compliant with TRA Rule 1220-4-3 and that same be made available to all parties for review and analysis prior to any issuance of a CCN by the TRA.

10. That the TRA require Laurel Hills provide a meter installation plan and timetable for all customers as part of its Petition for a CCN.

11. For such other and general relief that the Customers may show themselves to be entitled to

Respectfully submitted this 27 day of April, 2012

GARY HAISER, ET AL:

By Counsel:

A handwritten signature in black ink, appearing to read 'Melanie E. Davis', is written over a horizontal line.

MELANIE E. DAVIS,
Tennessee Bar No. 017947
Kizer & Black Attorneys, PLLC
329 Cates Street
Maryville, Tennessee 37801
Telephone: (865) 980-1625

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing **PETITION OF GARY HAISER; ET AL, TO INTERVENE IN DOCKET NO. 12-0030** has been served upon the following:

David Foster, Chief-Utilities Division
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Jean Stone, General Counsel
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Cynthia Kinser
Consumer Advocate Division
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Benjamin A. Gastel, Esq
Branstetter, Stranch and Jennings, PLLC
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Nashville, TN 37201-1631

by mailing a true and accurate copy via U.S. Mail, postage prepaid, this the 27th day of April, 2012

Kizer & Black Attorneys, PLLC:

By: _____

Melanie E. Davis

KIZER & BLACK, ATTORNEYS, PLLC

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P. ANDREW SNEED

ELIZABETH MAXEY HACKWORTH*

KELLY LOVE MANNING**

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(1920-1996)

October 14, 2011

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Daniel J. Moore, Attorney
Woolf, McClane, Bright, Allen & Carpenter
900 S. Gay Street, Suite 900
P. O. Box 900
Knoxville, Tennessee 37901-0900

VIA FACSIMILE TRANSMISSION
(215-1001)

Re: Renegade Mountain

Dear Mr. Moore:

Please be advised that I represent Gerald Nugent and John and Barbara Moore who are members in the Renegade Mountain Community Club. I understand that you represent Mike McClung who claims to be President of the Renegade Mountain Community Club ("Club" or "Corporation"). If this is incorrect, please advise and I will send this request to him directly. Though my clients do not recognize Mr. McClung as the proper President of the Club since he claims to be the Club President, they hereby ask to inspect and copy records of the corporation as set forth in T.C.A. §48-66-101 et seq.

On behalf of my clients, we would like to review and copy:

1. The corporation's charter or restated charter and all amendments to it currently in effect.
2. The corporation's by-laws or restated by-laws and all amendments to them currently in effect.
3. Resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members.
4. The minutes of meetings of members and records of all actions approved for the past



IN THE CHANCERY COURT OF CUMBERLAND COUNTY, TENNESSEE

GARY HAISER; JOHN MOORE;
GERALD NUGENT; ROY PERRY;
JOHN PETERS AND JOEL MATCHAK

Plaintiffs

vs.

NO. 2012-CH-513

LAUREL HILLS CONDOMINIUMS
PROPERTY OWNERS ASSOCIATION INC;
MICHAEL MCCLUNG AND PHILLIP
GUETTLER INDIVIDUALLY AND AS
DIRECTORS OF THE LAUREL
HILLS CONDOMINIUMS
PROPERTY OWNERS ASSOCIATION INC.

Defendants

FILED
Date 2-14 2012 8:30 PM
Entered: _____
SUE TOLETT, CLERK OF COURT
Cumberland County, Tennessee
by LS

AFFIDAVIT OF DARRELL MCQUEEN

STATE OF TENNESSEE)
COUNTY OF CUMBERLAND)

I, DARRELL MCQUEEN, after being duly sworn, hereby make oath of my own personal knowledge

as follows:

I am a resident of Cumberland Point Condominiums in Renegade Resort, Cumberland County and a Laurel Hills Condominiums POA water system (Laurel Hills) customer. Since the water supply line (pump station to the top of the mountain) and the pump station froze and burst in December 2008, I have spent 30 to 40 hours every week in the planning and construction of the water system/line improvements. A major portion of these 30-40 hours per week was the physical labor involved in the repair and maintenance of the water system. It should be noted that during this period, my time, transportation, gas and other miscellaneous expenses were provided at no cost to the previous owners of the water system or to Laurel Hills. In June 2011, Laurel Hills mailed new water bills to all customers which indicated a large rate increase in the



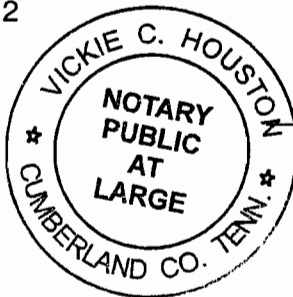
June/July 2011 rate (\$86.40 per month) from the previous May 2011 water rate of \$25.00 per month. Michael McClung, a Director with Laurel Hills, and I had a major disagreement over this large increase to the \$86.40 water rate. As a result of this disagreement, Michael McClung agreed that all water customers could pay a water rate of \$43.20 per month through December 2011, when he would look at and review the expenses going forward. He also stated that at the end of December 2011 he would have a Certified Public Accountant prepare a rate study and that the 2012 rate would be set in accordance with the that study. The secretary for the Laurel Hills water system, Laura Juarez and I contacted most of the water customers and advised them of the 2011 \$43.20 per month water rate.

FURTHER, AFFIANT SAITH NOT.



DARRELL MCQUEEN

Subscribed and sworn to before me
This 13TH day of February, 2012





Notary Public

My Commission Expires:
5-2-12

LAUREL HILLS CONDOMINIUMS
PROPERTY OWNERS ASSOCIATION

P.O. BOX 288
CRAB ORCHARD, TN 37723

OCTOBER 31, 2011

OUR MONTHLY RATE OF \$86.40 HAS BEEN CONFIRMED BY A CPA FIRM WHO
WORKS FOR OTHER TENNESSEE WATER UTILITIES.

PLEASE, IF YOU ASKED FOR A HARDSHIP ALLOWANCE WHILE WE WAITED
FOR THIS INFORMATION YOU MUST "CATCH-UP" YOUR PAYMENTS BY
NOVEMBER 30, 2011.

THIS POA OWNED WATER DISTRIBUTION DEPENDS ON NEIGHBORS WORKING
RESPONSIBLY TO CONSERVE WATER AND PAY YOUR BILLS.

IT'S THE AVAILABILITY OF WATER WE PRESERVE UNTIL WE HAVE MORE
SUBSCRIBERS.

THANK YOU.

laurelhillscondoass@gmail.com



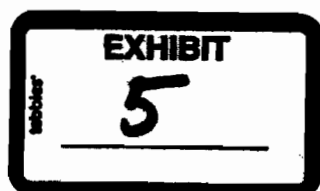
EXHIBIT

4

04/23/2012



02/06/2012



IN THE CHANCERY COURT FOR CUMBERLAND COUNTY, TENNESSEE

GARY HAISER; JOHN MOORE;
GERALD NUGENT; ROY PERRY;
JOHN PETERS AND JOEL MATCHAK

Plaintiffs

vs.

NO. 2012-CH-513

LAUREL HILLS CONDOMINIUMS
PROPERTY OWNERS ASSOCIATION INC.;
MICHAEL MCCLUNG AND PHILLIP
GUETTLER INDIVIDUALLY AND AS
DIRECTORS OF THE LAUREL HILLS
CONDOMINIUMS PROPERTY OWNERS
ASSOCIATION INC.

Date 2-14

2012

9:14

G+

Defendants

AFFIDAVIT OF SHERWIN SMITH

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

I, SHERWIN SMITH, after being duly sworn, hereby make oath of my own
personal knowledge as follows:

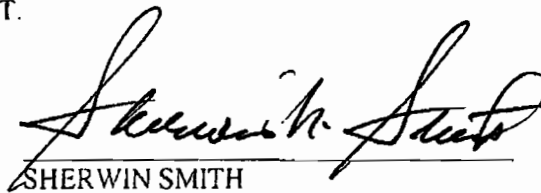
1. I am over eighteen years of age and have personal knowledge of the matters
contained herein.
2. I am an Environmental Program Manager employed by the Division of Water
Supply of the Tennessee Department of Environment and Conservation
("TDEC"). As such, my job duties include, but are not limited to, oversight and
supervision of all Division Field Offices as well as management of the Division's



Enforcement Program. I am custodian of enforcement records for the Division of Water Supply.

3. According to TDEC's records, the first official correspondence from Laurel Hills Condominiums Property Owners Association regarding turning off water to a portion of their public water system was received by TDEC by e-mail on January 23, 2012.

FURTHER, AFFIANT SAITH NOT.

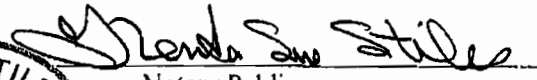

SHERWIN SMITH

Subscribed and sworn to before me
this 13 day of February, 2012.

My Commission Expires:

12-22-2013




Notary Public



State of Tennessee
PUBLIC CHAPTER NO. 430

HOUSE BILL NO. 166

By Representative Sargent

Substituted for: Senate Bill No. 247

By Senator Johnson

AN ACT to amend Tennessee Code Annotated, Title 65, Chapter 4, relative to regulation of certain utilities by the Tennessee regulatory authority.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 65-4-101, is amended by adding the following language as a new subdivision (9):

(9) "Public utility" does not mean any nonprofit corporation, as defined in 501(c)(4) of the Internal Revenue Code, which owns and operates a wastewater system primarily for the use of the members of the corporation and which has received a written statement of exemption from regulation as a public utility from the Tennessee regulatory authority prior to January 1, 2009.

SECTION 2. Tennessee Code Annotated, Section 65-4-101(6)(E), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(E) Any cooperative organization not organized or doing business for profit, cooperative association not organized or doing business for profit, or cooperative corporation not organized or doing business for profit. For purposes of this subdivision (6)(E), "cooperative" shall mean only those nonprofit cooperative entities organized under or otherwise subject to § 65-25-201 et seq. ("Rural Electric and Community Services Cooperative Act") or § 65-29-101 et seq. ("Telephone Cooperative Act").

SECTION 3. This act shall take effect upon becoming law, the public welfare requiring it.



HOUSE BILL NO. 166

PASSED: May 21, 2011


BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 6 day of June 2011


BILL HASLAM, GOVERNOR

PETITION OF GARY HAISER; JOHN MOORE; GERALD
NUGENT, ET AL TO INTERVENE IN DOCKET NO. 12-00030

This information and analysis is provided in addition to any errors and omissions identified as part in the Petition to Intervene.

General: (Meters)

There are no rules and regulations promulgated for currently installed meters or future meter installations including, but not limited to, meter testing standards, accuracy requirements, "as found" tests, sealing, repairing, replacing, maintenance, storing, installation, registration and other routine testing. These rules and regulations need to be identified now so that they are reviewed and accepted as customers are changed from a flat water rate to a metered system.

Section (Water Service Connections and Applications for Service)

2. Does not comply with the exceptions listed in TRA Rule 1220-4-3-22, specifically subparagraph (c).
4. Should the property owner make application and continually pay for water service as the responsible party, their decision to rent or lease their property and who occupies it and when is immaterial information to Laurel Hills. The Lessor/Renter information should only be required when they are the responsible party making application.
4. Statement contains no set and reasonable timeframe for a new customer to apply for service, nor does it establish a reasonable and set time required to review and approve an application, and to establish/reestablish water service.

Section (Billing and Payment)

2. States no exception for mailing date errors made by Laurel Hills (April 2012 water invoices were mailed on April 11th, received on April 14th and due on April 15th).
2. The 15 day grace period to pay current charges, reflected in Laurel Hills' current invoices, is insufficient in that it does not allow for mail delivery time to and from the customer; thirty (30) days is the utility industry norm (see above example).
3. The 15 day grace period reflected by Laurel Hills' current invoices, before interest and penalties start to accrue, is insufficient in that it does not allow for even the slightest delay in payment; thirty (30) days is the utility industry norm (see above example).
4. Statement fails to take into consideration mistaken and late mailings caused by Laurel Hills (utility) or any allowances made as a result of such actions.
4. The statement indirectly indicates that billing may not be necessary to obligate the customer. Given possible interest charges and other charges, especially in metering situations, a reasonable person (customer) would not be able to calculate their obligated charges without an invoice.



Section (Discontinuance of Service)

General: No notification timeframes or methods of notification are set or identified prior to a discontinuance action taking place.

1(a). Statement does not identify a timeframe or total amount in arrears to trigger a discontinuance action. As written, a customer's water may be discontinued on the 16th of the any month, as little as one day after the initial bill was due. The utility industry standard is 60-90 days (see above example).

1(b). Statement is vague and excessive in that it does not identify the difference between major and minor violations; it does not allow for arbitration or resolution of disagreements; and again, does not set forth a timeframe before discontinuance to allow time for a customer to react.

1(c). Statement is vague and excessive in that it does not identify any specific TDEC regulations for which discontinuance is required. As written, a violation of TDEC's erosion rules and regulations could result in a customer's water being disconnected; again, it does not allow for arbitration or resolution of disagreements; and again, it does not set a timeframe before discontinuance to allow time for a customer to react.

1(d). Statement is vague and excessive in that it does not identify the difference between major and minor violations; it does not allow for arbitration or resolution of disagreements; and again, does not set a timeframe before discontinuance to allow time for a customer to react. It is noted that this document is not currently published, nor has it been reviewed for content.

3. No minimum timeframe is established between satisfaction of all requirements and the actual reconnection of a customer's water supply.

4. Statement is dependent upon the changes and language of items 1(a) through 1(d) above.

Section (General Conditions of Service):

1. This statement should apply to new construction connections only as the easements associated with past installations were already established and accepted by Laurel Hills predecessors and were know or should have been know at the time of purchasing the water system.

4. Statement is vague in that it does not allow for small or planned leakage (prevent freezing) or define leakage in terms of psi or gallons over time; no time limit is established for the repairs to be concluded once the customer is notified of an actual or potential leakage situation.

Section (Public Contact):

The contact information provided is not in compliance with TRA Rule 1220-3-4-05(d).

4-23-12 PETITION TO INTERVENE EXHIBIT 9 PAGE 1 OF 2

Renegade Mountain Community Club
848 Livingston Road
Suite 101, #55
Crossville, Tennessee 38555
931-484-2354

April 23, 2012

Laurel Hills Condominium POA
C/O Michael McClung
17 Laurel Hills Drive
Crab Orchard, TN 37723

Re: Renegade Mountain Water Issues Meeting

Sir/Madam:

For decades the Renegade Mountain Water System has had quality and design issues that were/are concerning to the various owners, State officials and mountain residents. For various reasons, every group has pursued their own unilateral actions to resolve their individual concerns including water terminations, legal complaints, enforcement actions, etc., and yet it all still continues today. As president of the HOA, my proposal is simple...we assemble the smartest minds from all parties concerned and rationally explore the problems and potential solutions. We don't need lawyers and press people we need smart people committed to resolving problems. Please plan on attending as you or the agency's input is absolutely essential for success.

MEETING DATE: May 15, 2012 beginning at 4:30 pm (CDT)

SCHEDULE:

4:30 – 5:00	Mingle, Greet and Eat (light dinner served)
5:00 – 5:30	Tour of Water System
5:30 – 6:45	Meeting (see attendee list)
6:45 – 7:00	Move to Crab Orchard City Hall
7:00 – 7:45	Open Discussion with Renegade Residents
7:45 – 8:00	What's Next discussion

ATTENDEES:

<u>AGENCY</u>	<u>REQUESTED ATTENDEE</u>	<u>AREA OF EXPERTISE</u>
State Rep	Cameron Sexton	Politics/State Assist
CC Mayor	Kenneth Carey Jr.	Politics/Assistance
CO Mayor	Emmett Sherrill	Politics/Assist/Annex
CO Utly Distr	Everett Bolin	Water Supplier/History
Laurel Hills	Michael McClung	Owners
	Darrell McQueen	Resident Eng (Infrastructure)
	Gerald Williams	Cert Water Operator
TDEC (State)	Sherwin Smith	System Design
TDEC (Reg)	Johnny Walker	System Design/History
TRA (State)	Pending	Regulatory
Atty Gen	Pending	Consumer Advocate/Affairs
Fire Marshall	Pending	Fire Protection Water
RMCC	John Moore (Chair)	Representing Residents



WHERE:

MEETING: 95 Hickory Trail, Crab Orchard, TN 37723
(Renegade Mountain; John Moore's Residence)
(Older GPS units won't work; call for directions)

OPEN DISCUSSION: Crab Orchard City Hall
338 Hebbetsburg Road
Crab Orchard, TN 37723

AGENDA: (Proposed, items added as received)

1. Mingle, Greet and Eat (optional, no agenda)
2. Water System Tour: Many decision makers have approved critical concepts but were never here to see our unique mountain designed water system
3. Introduction (Participants introduce themselves; offer basic statement of concerns)
4. Profit: A private water system must make a reasonable profit while delivering quality and continuous water to its customers.
5. System Design/Redesign: System redesigned/approved 1-1-12; water tower removed from design; problems continue.
6. Outages: 7 outages have occurred in three months, 4 more averted by using the water tower water for supply.
7. Quality: Residue routinely occurs, bacteria occasionally occurs, no one drinks the tap water; one and two stage filters employed, 180 day filter lasts 30 days. No confidence.
8. Fire Protection: Removal of water tower from system removes fire protection; Fire protection class moves from 6-9; hundreds of dollars per year increase for each property.
9. Complaints: Know system established to complain, report issues to owner/State.
10. Others: Call or email agenda items to 931-484-2354 or zooskeeper@frontiernet.net.

Conclusion: It hasn't been attempted before, it might not work, but then again it just might. We are all well aware that any of the attendees, if they look long enough, can find a perfectly plausible reason why they can't attend on May 15th; busy, distance, pending legal action, can't comment, can't advise, or just doesn't want to get involved. We also all know that everyone can make it happen if they so chose. I believe that leaders, paid or not, get involved, solve the hard issues and deliver common sense to complex problems...and this situation meets that test. Please strongly consider attending as your input and ideas may make the difference. Please feel free to bring some other smart staff people along that have creative ideas. Please RSVP whether or not you can attend and who you are bringing so we can prepare in advance.

Thank you in advance for your consideration of this request, and hope to see you soon.

Regards,

John Moore
President, RMCC