Anna Robertus

From: Michael Heringer

Sent: Thursday, June 13, 2013 3:54 PM

To: Seth Cunningham; Kelly Anderson

Cc: Anna Robertus

Subject: FW: partial motion response to Defendants opposing oral summary and table of authorities

Please see this filing.

From: Daniel OConnell [mailto:dko@mac.com] Sent: Thursday, June 13, 2013 3:30 PM

To: Nancy MacCracken **Cc:** Michael Heringer

Subject: partial motion response to Defendants opposing oral summary and table of authorities

Daniel & Valery O'Connell –PRO SE P.O. Box 77 Emigrant, Mt. 59027 406-577-6339

MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY

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Daniel K. O'Connell & Valery A. O'Connell
& on behalf of themselves as members of
Glastonbury Landowners Association.

Cause No. DV-12-220

Plaintiff(s),

V.

PARTIAL

RESPONSE TO DEFENDANTS

FOR LEAVE OPPOSING

ORAL HEARING DOCS

Board of Directors

Defendant(s)

Defendant(s)
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'laintiffs & GLA members-Daniel and Valery O'Connell, do hereby submit this partial motion response via email in order to expedite Courts decision. Defendants motion opposing oral summary and table of authorities. MRCivP, RULE12(h)(2)(C), required defendants "to state a legal defense" to such claims "at trial." Defendants failed to raise any such objections at trial to the Plaintiffs table of Authorities and Oral arguments regarding the issue below.

In fact Plaintiffs table of authorities was submitted to Defendants and the Court at the beginning of the hearing without objection. Which means that Defendants failed to properly object against the table of authorities that included state statute §35-2-414. Which means the Defendants can not now oppose such oral arguments that cited this statue many times.

Also, this state statue was allowed under the rules of evidence to rebut Defendants argument raised for the first time that said their clients, the GLA has "unlimited powers and authorities." This false statement is contrary to the table of authorities and this statute below that requires that all duties and authorities given to Minnick can not be shared duties and authorities, but "the directors must be relieved from the duties and responsibilities to that extent." This argument raised several times by Plaintiffs at the summary oral hearing was never opposed by Defendants. Thus Defendants improperly raise such new defense after the oral hearing in an attempt to reargue their oral hearing pleadings.

- 35-2-414. Requirement for and duties of board. (1) Each corporation must have a board of directors.
- (2) Except as provided in this chapter or subsection (3), all corporate powers are exercised by or under the authority of the board, and the affairs of the corporation managed under the direction of its board.
- (3) The articles may authorize a person or persons to exercise some or all of the powers that would otherwise be exercised by a board. To the extent authorized, a person authorized under this subsection has the duties and responsibilities of the directors and the directors must be relieved from the duties and responsibilities to that extent.

DATED this 13th day of June, 2013. By Daniel and Valery O'Connell

Certificate of

Service

A true and correct copy of forgoing document(s) were sent to the following parties via email on this same day to:

Brown Law Firm GLA Attorney: Mr. Heringer mheringer@brownlawfirm.com

By____