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APPLICATION OF WOLFE & PUBLIC UTILITY COMMISSION OF
AIRPARK CIVIC CLUB, INC. TO & TEXAS

OBTAIN A WATER CERTIFICATE
OF CONVENIENCE AND
NECESSITY IN BRAZORIA COUNTY

Initial Brief due by July 20, 2018 by Joe Walker PE, Respondent

Overview

What should be evident by now is that Wolfe Airpark has been operating illegally since the mid to late eighties. The submitted evidence by both the Applicant and Respondent (myself) show an interaction with the original engineer, the Texas Department of Health (TDH), and the Texas Commission on Environmental Quality (TCEQ) that has gone on for decades with numerous attempts of the government agencies to inform the Applicant that they are in violation of various provisions of the applicable codes and that, importantly, THEY CANNOT DIRECTLY BILL FOR WATER USEAGE due to the lack of water meters that still do not exist at the subdivision. The continuous direct billing during this entire period has resulted in an ongoing lawsuit against the Applicant for almost eighteen years which is only now approaching trial. A main reason for the delay is the involvement of commercial interests on the North side of the subdivision who have no legal right to the use of the subdivision or its water system but is connected anyway. The commercial interests include the Applicant, John Heitz who is represented by

John Hampton who pretends to represent the Civic Association but is in extreme conflict of interest by also representing the commercial interests. John Heitz is an owner of one of the commercial lots on the North side of the subdivision which has been excluded from the subdivision by the legal description of the subdivision. If not for this lawsuit the application for a Certificate of Convenience and Necessity (CCN) which was demanded decades ago, would still not exist. As the referenced documents show, the Applicant has been instructed to secure a CCN for decades. In bad faith the Applicant has repeatedly failed to comply and has a history of simply ignoring the demands or falsifying data to the regulatory agency to “make them go away”.

The governing provisions of the design, operation, and upgrade of Texas public water systems is codified in the Texas Administrative Code (TAC). I presume the proceedings are governed by the same documents.

As Supplement 7 at the end of this brief clearly shows, only one of the original two well design for the subdivision was built leaving the ultimate capacity of the water system at 22 connections. The subdivision has 49 residential lots which led to the lawsuit against the original developer who abandoned the subdivision unfinished. The water system was originally designed exclusively for the residential lots. Since, at the time of the lawsuit in the early eighties, one well was sufficient for the then current residents, no damages were awarded. The Applicant is trying to convince the Administrative Court that this earlier lawsuit settled the issues of the current lawsuit even though the current lawsuit is about the operation of the Applicant by illegally directly billing for water usage (**the original developer never had anything to do with the operation of the water system**) and inclusion of property outside of the subdivision which had not occurred until the developer had left the property. A main reason for the need of the Applicant to exclude my testimony is the requirement by the TAC and THD that the water system must be designed, and if changed verified, by a Texas Profession Civil Engineer and since the

original submission which gives a capacity of 22 connections, I am the only qualified PE to review the current design and operation of the water system which does not meet the TAC requirements.

In order to follow the listed questions on the preliminary order, the following brief is responding to the Applicant's Direct Testimony as the order of his response generally follow that order. Due to the conflict between Mr. Heitz's written testimony, verbal testimony, and supplied facts, some additional documents of evidence have been added mostly at the end of the brief with additional inserts as appropriate.

Most of the information provided to the PUC is detailed in John Heitz's affidavit. He states that his "personal knowledge" began in 2009 and he owns lot **155 which is commercial property excluded by the legal description**. (1) His commercial property is illegally connected to the Wolfe Airpark residential water system and represents a severe conflict of interest in these proceedings. His first statement on page two states that he is familiar with "the history of Wolfe Airpark as it relates to this affidavit." (2) but his following statements would indicate the reverse is true. He states that "Under the ... authorities set forth below, the Civic Club has always charged system users a pro rata fee for their portion of expenses incurred in the maintenance and operation of the water system." Nothing could be farther from the truth. The Civic Club historically charged a flat fee of around thirty dollars a month in specific violation of directives of "no direct billing for water" by the various agencies for decades mainly due to the lack of water meters. (3) Billing for water was also **directly prohibited by the subdivision deed restrictions**

1 wolfe airpark legal description Supplement 8 at the end of this brief

2 Heitz affidavit, page 2

3 Respondents' Motion to Allow late Direct Testimony Exhibit 3. Also Supplemental No. 9

unless a “state approved water system” was installed(1). The lack of a CCN, water meters, and other various requirements of the TAC prohibit the use of the term “approved water system” without these requirements being met. (refer previous page)

The second paragraph states “The initial operation of the water system was approved by the appropriate regulatory authority ..., (TDH). The actual document that “approves” the water system at that time is the letter from the design engineer which only gives approval for 22 connections, no changes to the system, and no direct billing for water use. (1) ANY deviation from this design must be approved by a Texas Civil Engineer as detailed in Chapter 30.290 of the TAC which never happened. The Civic Club billed anyway and connected the system to various off property commercial interests until now the request for **approval for a CCN includes 42 connections with a future of 46 is vastly beyond the design limits of the water system of 22 connections.**

Page 2, “Operation and Regulatory History” states all the agencies who supposedly “regulate” the water system. In reality the operator of the water system is expected to, in good faith, follow the regulations by the various agencies, i.e. TAC and TCAQ. The requirement for a CCN, for example, was simply ignored as the requirement of no direct billing for water as the two conflict. There is no one from these agencies who “force” compliance because the agencies were given false information. There are only occasional inspections by qualified inspectors who are not Professional Civil Engineers, have little or no knowledge of the system design who check for basic items like the use of chlorine and water pressure which is only valid at the time of inspection. Reports that state “deficiencies” require the operator to correct.

1 Supplement 10, Wolfe Airpark deed restrictions Article VI, section 6

The fact that the reports in evidence show decades of ignoring these deficiencies (such as the lack of a CCN) show a severe history of non compliance. The lack of review by and Professional Engineer (1) is even worse as they are the only qualified individuals who understand the intent of the design and the implications of system changes such as the type which have occurred massively at Wolfe Airpark. The TCEQ inspections may generally compare the pump capacity as measured at the wellhead to the number of connections and venture an opinion as the capacity of the system. (2) Since the wellhead pressure varies over time, this method is approximate at best and does not include the effect of changes to the piping system taken into account by the design engineer. The evidence shows that a well test would indicate (on the day the well was tested) that a maximum of 33 connections could possibly be safely served which is still far less than the 46 connections requested by the applicant. **The current drops in water pressure indicate that the system is now significantly overloaded. (3)**

The second paragraph of page three indicates that "our ... filing has been determined to be administratively complete by the PUC." The PUC has accepted the statements submitted as true when they, in fact, are not.(2)

Paragraph 5 on page 3 states that I am the only person objecting to the operation of the water sytem. As a registered professional Civil Engineer in Texas, I am the only one in the subdivision I know of who is qualified to understand the water system and its deficiencies. Others may not have complained officially.

1 TAC 290 discussed later in detail in this brief

2 Supplement 1 TDH , measured well at 45 gpm

3 Direct testimony of Joe Walker PE as resident of Wolfe Airpark

Item No. 2, page 3 refers to the "... appropriate consent to provide water service within the entities' service boundaries?" The Civic Club is not a water supply corporation. Its legal existence is strictly limited to the legal description of Wolfe Airpark Subdivision (1)which specifically excludes the commercial lots (one owned by John Heitz) to the North and has no legal connection of any kind with the Holland Estates subdivision which is being served by the Wolfe Airpark subdivision water system(1). The owners of these properties cannot give the right to use the airpark's water system and a vote of 100% of the landowners of Wolfe Airpark would be required to allow an encumbrance outside of the legal description, which has not occurred. The 75% vote claimed by the Applicant is not legal and will be addressed by the District Court in the current lawsuit.

The respondent requested the specific documents which would have given information on this subject and none of the requests for production by the respondent were answered. (2)

Item No. 4., page 4 of Mr. Heitz refers to the "financial, managerial, and technical capability to provide continuous and adequate water service? The statements regarding the "pro rata" billing are simply false and fall far beyond the Applicant's experience at the subdivision (3) but are all within my experience (5).

1 Supplement 8 Wolfe Airpark legal description

2 Request for production of documents by Respondent (Respondent received no requested documents)

3 Mr. Heitz arrived in 2009

4 Walker bought property in 1981 and moved to site in 1991

The deed restrictions provide for the maintenance of “all” equipment by the annual maintenance fees and prohibit billing directly for water which is direct conflict with what the civic club has actually done. This shifting of financial responsibility reduces the financial obligation of lot owners with multiple lots. The vast majority of the owners of multiple lots also happen to be the owners of the commercial lots that are connected to the water system, i.g, have a conflict of interest.(1) Of particular note are the recent “amendments to the deed restrictions” (2)(which are also contested in the litigation) that give the civic club the authority to charge for water. The obvious and only conceivable reason for this change is the fact that the deed restrictions for the past thirty years have prohibited the billing separately for water. The fact that hundreds of thousands of dollars have been improperly billed is a huge liability which is not noted in the financials submitted by the Applicant.

Paragraph 2 on page 5 gives John Heitz’s qualifications. He is an aircraft mechanic, not a registered professional civil engineer. (3) His statement under examination during the PUC hearing of being an “engineer” is false. The following of his statements on Item 4, page 5 are also false. The system did not operate during the long power outage of Hurricane Ike, the system does not provide adequate water now (4) in addition to various periods in the past. There are apparently no “talented consultants” in the Civic Club since the only one qualified is me and my “consultations to comply with the State requirements” have been ignored.

1 Refer to “encumbrances discussed in detail later in this brief.

2 Encumbrances require 100% of lot owners vote. No such vote happened.

3 Mr. Heitz is not listed with the Texas State Board of Professional Engineers roster

4 Joe Walker’s personal reports of low water pressure during times of high usage jibes with engineer’s report in Supplement 7 of capacity is limited to 22 connections.

Item 5. Page 5 asks about meeting State requirements. By having insufficient water pressure at all times, the system does not meet State requirements. By not having the current system design approved by a qualified engineer, the system does not meet State requirements. The Applicant stating that “it meets State requirements” does not mean that it does. The evidence proves otherwise.(1) The very example of the PUC’s engineer noting that water meters are required proves compliance with the rules has never occurred as does the decades of not having a CCN. The Civic Club directly billed for water.

Item 6. Page 6 “access to an adequate supply of water...” The Applicant replies with the depth of the water well that has NOTHING to do with the adequacy of the supply of water. The supply capacity is calculated by the design engineer to meet all required conditions or calculated by a well pressure/flow test to give a current “approximate” capacity. (2) The design capacity is 22 connections which as stated earlier is vastly lower than the Applicant’s requested 46 connections. Under questioning, Mr Heitz stated that the only repairs or changes to the system was the replacement of the well pump motor with the exact same motor as originally installed. Therefore, no changes from the original 22 connections is appropriate. Mr. Heitz does not mention the thousands of feet of piping that were added to accommodate the adjacent properties which requires a professional engineer’s approval for system recalculation.(3)

1 State’s report by Jolie Mathis Line 3, page 5, no meters are present but need to be.

2 Supplement 1 and 7 give examples. Design method vs pump capacity of 45 gpm

3 Refer to TAC engineer requirements later in this brief

Item 8, page 6 concerning the need for a CCN. Again, the civic club has no legal authority outside of the legal description of Wolfe Airpark. It is NOT a water service corporation. It is doubtful that the PUC has the legal authority to grant approval of the operation of the Wolfe Airpark's water system to areas outside the legal description boundaries. **To do so would allow the continued use of airpark property by non owners of the water system and increased liability to the actual lot owners at Wolfe Airpark for possible future liability claims.** The only area in need of a CCN is the legal description of Wolfe Airpark. (1)

Item 9, page 7 concerning "adequate" water service. The current system is inadequate by design (2), by well testing (2), and by ability to maintain required water pressure. (2) The current system needs the second well that was designed for the residential portion of the subdivision but never built if more than 22 connections are allowed.

Subsections i. and ii. page 8 Since the service has been neither continuous nor adequate, the granting of a CCN to the Applicant will only allow them the excuse that their system is adequate and the gross violations of the TAC need not be followed.

Subsections f. and g. concerning financial ability to meet obligations. The statement that the "water system has no debt" is deceptive as the water system is not independent from the civic association. The supplied financial statements (3) would indicate that the applicant is a water corporation independent of the civic association instead of a civic association operating its lot owners' public water supply.

1 All of the 49 lots to be serviced by the water system were in the Airport Residential section, Block I

2 Supplement 7 has been exceeded, Supplement 1 only shows capacity of 45 gpm

3 Supplement 2 give actual costs of water system for years that conflict with data supplied by Heirz

The legal expenses are not itemized nor are “special assessments” which the civic club has levied due to its inability to remain solvent otherwise (1). The Applicant now has, with the current connections, the design and cost requirement to provide another well which is not reflected on the supplied financial statements nor is the loss of income shown if the number of connections is reduced to the actual capacity of the lone current well. The financial evaluation of the state (Direct testimony of Emily Sears) is therefore invalid as the data supplied is incorrect.

Item 12 Response to Walker’s Objections states that the system has been operated under State requirements since its “inception”. I have been a lot owner since 1981 (2) and the false claim that the system has been properly operated from 1981 could not be made by someone who arrived in 2009. (3) The evidence of non-compliance is huge including the fact that a CCN has never existed. Billing in violation of the order that “no direct billing is allowed” is well documented. (4)

The first paragraph on page 11 is critical to understanding the degree of falsehoods the Applicant has supplied to the PUC and to those billed for water use. The last sentence “This report contradicts the allegation by Walker that the water system is not an approved water system. At no time has the water system ever been an “approved water system”. The next sentence states the deed restrictions (Supplement 10) only allow for the billing for water upon connection to a state approved water system. The next two paragraphs e. page 12 states “the term “state approved water system” is not a term of art and does not impose a regulatory structure of compliance to obtain a CCN.” Nothing could be farther from the truth.

1 letter from John Hampton to all lot owners requesting \$500.

2 Affidavit of Joe Walker PE

4 Supplement 9 Texas Department of Health

The section TAC 290.47 given by reference is a definition, not a commendation. The only part that deals with “recognition” is the ability to post a sign to that effect. The term “State approved water system” is defined in TAC 290.47 appendix A as systems meeting the requirements as listed. **The term “state approved water system” is both a legal and technical term commonly used in engineering (such as the requirements in the above referenced deed restrictions) to define EXACTLY the minimum requirements acceptable. The lot owners at Wolfe Airpark specifically could not be billed for water use unless connected to a “state approved water system”. The water system does not have two wells, a CCN, or other listed requirements and therefore has NEVER been a “state approved water system” which is specifically required to bill lot owners under the deed restriction. Since all maintenance is specifically covered by the annual assessments, no direct billing for water was required anyway.**

The prohibition from billing directly for water without water meters is a requirement of the TCEQ and the deed restrictions and has both to do with being a “state approved water system and TAC requirements” . Since the civic association has billed continuously without the existence of water meters, the system has never been in compliance with the TCEQ.

Upon direct request to the Texas Dept of Health (1) the document states clearly that the water system is not an “approved water system” but instead is a “Public Water Supply”. Definitions that require specific equipment are important. Please note areas in **bold**.

1 Supplement 6 Texas Dept of Health definition of “State approved water supply”

TAC 290.47 APPENDIX A

Requirements. Public water supply systems which achieve and maintain recognition must exceed the minimum acceptable standards of the commission in these sections.

(1) To attain recognition as a "Superior Public Water System", the following additional requirements must be met:

(A) Physical facilities shall comply with the requirements in these sections.

(B) There shall be a minimum of two licensed operators with additional operators required for larger systems.

(C) The system's microbiological record for the previous 24 months period shall indicate no violations (frequency, number or maximum contaminant level of the drinking water standards.

(D) The quality of the water shall comply with all primary water quality parameters listed in the drinking water standards.

(E) The chemical quality of the water shall comply with all secondary constituent levels listed in the drinking water standards.

(F) The system's operation shall comply with applicable state statutes and minimum acceptable operating practices set forth in §290.46 of this title (relating to Minimum Acceptable Operating Practices for Public Drinking Water Systems).

(G) The system's capacities shall meet or exceed minimum water system capacity requirements set forth in §290.45 of this title (relating to Minimum Water System Capacity Requirements).

(H) The **system shall have at least two wells**, two raw water pumps or a combination of these with enough capacity to provide average daily consumption with the largest well or pump out of service. This requirement shall also apply to treatment plant pumps necessary for operation in accordance with §290.42 of this title (relating to Water Treatment).

1 Letter from TDH defining "state approved water system

(I) The water system shall be well maintained and the facilities shall present a pleasing appearance to the public.

(2) To **attain recognition** as an "**Approved Public Water System**," all additional requirements listed under subsection (a)(1) of this section with exception of secondary constituents, subsection (a)(1)(E) of this section must be met. Public water systems which provide water quality that exceeds the secondary chemical standards may be excluded from this recognition program at the discretion of the executive director.

Signs. Systems which have met the requirements for recognition as a superior or approved system may erect signs denoting this honor.

Inspections. To receive or maintain recognition as a superior or approved water system, the system must be inspected and evaluated by commission personnel as to physical facilities, appearance and operation. Systems which fail to meet the above requirements in this section will be denied recognition or will have their recognition revoked. The signs shall be immediately removed on notice from the executive director.

Under verbal examination by John Hampton, great focus was placed on a particular TCEQ report that listed some of the defects in the operation of the system as “withdrawn”. Since none of the referenced violations have had any regulations changed, there was no answer to the question “Why were the objections removed?” The answer is found on the Applicant’s Supplemental Response ... Questions 1-10 where the TCEQ investigation report dated 4/22/2015, item 4) Additional Information. “Everyone who receives water from the system also receives an assessment from the Civic Club that covers all maintenance in the common areas, including upkeep of the water system. Connections don’t receive a separate water bill.” **The TCEQ withdrew the requirement for water meters because the contact (John Heitz) who met with TCEQ lied about not billing directly for water, which the civic club has always done. The only contact at that time was John Heitz which means he was the source of false information to the TCEQ. The requirement of water meters still exists and is included in the engineering report by the State by Jolie Mathis. The technical issues in this brief were missed by Ms. Mathis because she is not a Civil Engineer with experience in the design of water systems.**

Conclusions page 13 The basis of the conclusions is false. The cost of operation of the water system in the deed restrictions was specifically included in the annual civic association fees with provisions for extra fees if required. Billing for water without it being a “State approved Water System” is prohibited. The statement that “It is impossible to maintain and operate the water system unless the associated costs are paid.” is sheer nonsense as is the statement “ If the Civic Club cannot collect fees to operate and maintain the water system, it will not be able to provide water to the landowners.

In John Hertz's verbal testimony (lines 1-8, page 48) he states when asked about the capacity of the existing water well he says "... that is, in my opinion, a crystal ball question, and I have no answer for that." The question as to the capacity of the water system with one well is so basic as to indicate that Mr. Hertz has, in fact, no knowledge of the design requirements of water systems in general and none regarding the capacity of the single well to serve 46 connections. His statement conflicts so vastly with the information included in his direct testimony as to make it obvious that he did not write the document nor understand the nature of the "sworn testimony included therein." As stated earlier, the only design approval document states clearly that the system has a design capacity of 22 connections and, by a specific well test, a maximum possible 33 connections. His statements (lines 2 – 7, page 47) seconds earlier that the system "... what the PUC expects from us, that we are capable of supplying 50 taps at this time or connections at this time, and we know that ... should ever develop ... that we would have to make some improvements ..." This statement is so vastly wrong and shows such a lack of understanding of the design, operation, and status of the water system as to prove he has no understanding of the water system at all. There is no "50 taps capability". The maximum for this system is 49 with two wells and only one is installed.

Again, the design capacity for this system is 22 connections (letter from engineer) and a tested POSSIBLE 33 connections with the actual impact unknown and uncalculated. (letter well test) The 22 is based on the size and length of piping in the original design which did not include running long pipes to the

adjacent properties to the North and South of Wolfe Airpark. The 33 possible connections is a guess based on the water supplied at the wellhead only.()

Again, when asked about the legal ramifications of connections to adjacent subdivisions such as Holland Estates, Mr. Hertz states (line 22, page 33) “That is above my pay grade.” The documents submitted to the PUC state clearly that Wolfe Airpark has the authority to serve the requested areas when they clearly do not. Again, when questioned about the well test done by the state and submitted as evidence (well test letter) (lines 9-20, page 49) Mr. Heitz states “I disagree with that.” Mr. Heitz again shows no knowledge of the most basic of parameters which indicate how many connections the water system “might” be able to handle.

The above was followed by an objection by John Hampton that the test data had something to do with the previous lawsuit when, in reality, it has only to do with the operation of the water system. There was never any ruling in the previous lawsuit that the subdivision facilities were completed, only that he did not owe damages for their being incomplete. To counteract his obvious lack of knowledge, Mr. Heitz states that he is an engineer (line 13, page 45 and line 24, page 64) which he is not. His qualifications are listed on his direct testimony as an aircraft mechanic. It should be known that to be called an “engineer” in the state of Texas, you must have a license. Mr. Heitz is not listed on the state roster of engineers. I am. Even if he held a license at some point in the past he cannot legally call himself that now.

When asked if all the subscribers to the Wolfe Airpark water system are billed separately for water (line 13-, page 42 to line 11, page 43) Mr. Heitz stated in no uncertain terms that the **Civic Club has continuously billed for water for at least 20 years**. The documents submitted (no direct billing) state

clearly that billing for water was not allowed. This conflict is positive proof that the Civic Club has been in constant violation of the rules governing the operation of the water system and their potential liability for false billing.(1)

1 Supplement no. 1, Van Dusen letter changing 11 connections to 36

Mr. Heitz states (lines 2-19, page 51) that a “2015 November... TCEQ performed a comprehensive test on the well.” And that “Our well at that time met or exceeded regulatory restrictions.” A review of this document submitted with the Wolfe Airpark ... Supplemental Response shows that the required paperwork for testing, chlorine, and contamination were adequate and a pressure test at one of the residences showed 52 psi (at that time) which exceeds the requirement that 35 psi be maintained at all times (which was not tested). The report also states that the violation of a well calibration test had been corrected. What is significant is that the report did NOT compare the number of connections with the original design or a tested flow. **The only tests and evaluations on the report are stated on the report.** The tests for all pressure, chemicals, and contamination are only valid at the time of the test. The “Comprehensive” review does not investigate compliance with the TAC design and construction standards as that is the job of the design engineer who certifies these items to the State for both initial approval and approval of significant deviations from original construction. The only certification for this system is the original document which allows for 22 connections, i.e., Supplement 7 letter.

When asked if the properties to the North being serviced by the water system are legally able to receive water (line 21-25, page 51 and lines 1-18, page 53) Mr. Heitz says the verbiage is vague and repeatedly uses the word “exempt”. The deed restrictions presented as evidence by the Applicant, at the end of the document give the legal description of Wolfe Airpark which states

“Wolf Airpark Subdivision of a 99.091 acre tract of land ... recorded in volume 16, at Page ... of Plat records

LESS AND EXCEPT

Lots 153, 154, 155, 156, and 157 of said Wolfe Airpark Subdivision"

Mr. Heitz owns part of the Less and Except lots and the word exempt is not used. The conflict of interest is obvious and this item is in current litigation as is the addition of the lots by (he claims) 75% of the lot owners. His statement that 100% of the lot owners do not need to approve an encumbrance of this type is false. (lines 14-18, page 53) The deed restrictions actually state on page 2, Section 4:

"Encumbrances. Except as to the Civic Club's right to grant easements for utilities and similar or related purposes, the common areas and facilities may not be alienated, released, transferred, conveyed, hypothecated, or otherwise encumbered without the approval of all the owners and all holders of first mortgage liens on Lots."

Mr. Heitz is making false statements concerning the actions of the Civic Club and the content of the deed restrictions. Neither the applicant nor the PUC has the right to encumber the facilities of the subdivision to parties outside the subdivision without a 100% vote of the lot owners which can never happen since I am a lot owner and I would not knowingly further endanger the residents by overloading a currently overloaded water system.

When asked if Holland Estates residences are required to follow the deed restrictions of Wolfe Airpark (line 9-12, page 59) Mr. Heitz replied "No". Again, the potential and actual liabilities of water system use beyond the ownership and legal authority of the Civic Club should be obvious.

When asked if the water system always served the same areas (line 3, page 75) Mr. Heitz stated "It has never changed to my knowledge". Mr. Heitz is wrong and has no personal knowledge of the growth of usage over the time period before he was present. To assume that the overloaded system was

overloaded at the beginning or even near the beginning is wrong. It is not known at what time the system exceeded the design limit of 22 connections, but for sure, Mr. Heitz doesn't know either but it was years after the system went online. The TDH letter to Scott Van Dusen proves otherwise.

(Supplement 1) When asked if the developer, Frank Wolf, originally lived in Holland Estates after platting the subdivision, Mr. Heitz answered "Yes, that is correct." (line 17, page 75) when Frank Wolfe did not in fact live there. Mr. Heitz answers questions with what sounds like the best answer when he in fact has no knowledge of what occurred before he arrived. His testimony is false as I was Frank Wolfe's next door neighbor. Evidence concerning the North Commercial property (lots 153 – 157) is provided as supplement 8 and shows that these lots were never intended to be part of Wolfe Airpark Subdivision. Much of Mr. Heitz's testimony and affidavit clearly appear to be perjury. In addition, the presentation by John Hampton to the court verbally is either perjury or he simply doesn't understand anything of how the TCEQ operates. Beginning in his statements (line 4, pages 17 thru page 18, line 20) he references the same November 2015 TCEQ inspection report previously referenced (page 13 of this brief which states ... "Everyone who receives water from the system also receives an assessment from the Civic Club that covers all maintenance in the common areas, including upkeep of the water system. Connections don't receive a separate water bill." **The TCEQ withdrew the requirement for water meters because the contact (John Heitz) who met with TCEQ lied about not billing directly for water, which the civic club has always done.** **THE OBJECTIONS BY THE TCEQ WERE WITHDRAWN BECAUSE JOHN HEITZ LIED TO THE STATE ABOUT HAVING NO SEPARATE WATER BILLS.**

Mr. Hampton falsely stated that the documents claiming 22 connections maximum by design did not exist (line 7, page 18 of verbal testimony) appears to be perjury since I acquired the document from the Civic Club. (copy included in supplement 7 to this brief). Again, Mr. Hamton goes into infinite detail as to why my complaints, testimony, and exhibits should be excluded from consideration by the court due to the loss of the 1984 lawsuit against Frank Wolfe for not completing the subdivision (lines 21-25, page 18

and lines 1-10, page 19) **while he is in possession of the deposition taken of Frank Wolfe 3/17/ 2006 because the Civic Club's attorney was present.** Obviously, 2006 is far past the 1984 lawsuit and he asserts in all ways that he knows nothing of the operation of the water system which is the basis of the current lawsuit; the basis of which should be evident to the court now from the evidence submitted to date. I have included excerpts of Mr. Wolfe's deposition as supplement 3. If Mr. Heitz and Mr. Hampton truly do not have the documentation they claim I have not provided, they are falsifying the fact that they have the records that prove the proper operation of the water system. The documents prove that it never has been operated in accordance with State requirements and the Civic Club has lied to every inspector concerning the direct payment of water fees and the requirement to install water meters if they do which includes the necessity of procuring a CCN.

The magnitude of false statements in the Application for CCN is so vast as to indicate a criminal prosecution investigation is indicated. **30 TAC 70.4 which states "(a) A private individual with information demonstrating possible violations of law within the commission's jurisdiction should notify the executive director (ED). The ED may initiate an administrative enforcement action or he/she may refer to the appropriate prosecuting authority a civil or criminal enforcement action."** I am referring this matter to the Honorable Judges with the humble request that, since an administrative action has already occurred, they pursue this matter as if I have reported as the private individual described in 30 TAC 70.4, and if this action is not appropriate for these proceedings, please refer me to the proper channels. The falsification of financial data appears to be the most grievous. Annual Civic Club budgets provided by the Civic Club's attorney are provided as supplements. An estimated average of only \$25 for 35 connections would generate over \$10,000/year in revenue. I have heard that the current billings are \$35/month residence and \$15/month hanger. The original billings were \$30/month/connection with no prorated to any cost. Compare this amount with the budgeted and actual annual water system cost from treasurer reports provided by past Civic Club boards.(documents

provided at end of this brief as supplement 2). 1998 \$732.38, 1999 \$3,258.36 (includes the one time cost of a new pump motor), 2000 (Amount not broken out), 2006 \$500. Compare these amounts to the 2015 TCEQ investigation report (Wolfe Airpark Civic Club ... Supplemental Response to Commission Staff's First Request ..., Page 11, item 4) by TCEQ dated 5/15/2015 which stated **"Additional Information: The system has 14 residential and 18 non-residential connections serve air hangers at the park. Everyone who receives water from the system also receives an assessment from the Civic Club that covers all maintenance in the common areas, including upkeep of the water system. Connections don't receive a separate water bill."** Connections have always received a separate water bill as verbal testimony by John Heitz states (Page 42, lines 9-22) The above is positive proof that the documents submitted to the TCEQ have falsified information by John Heitz up to and past 2015, as are his financial submittals, and his historical representations of the history of water payments being "pro rata". Supplement 1, at the end of this brief states clearly that the Civic Club falsely claimed to the TCEQ 11 connections up to 11/21/05 when a TCEQ inspection, requested by me, uncovered the falsehoods and found 36 connections were being billed (some hangers with water connections were not being billed). The State instructed the Civic Club to obtain a CCN, etc. in their closure remarks. The Civic Club never complied which is proof of long term non-compliance up to 2005. The previously described document provided by Mr. Heitz showing the 2015 inspection by TCEQ proves falsification of "pro rata" billing during the period where he was the only contact.

In addition, his statements that the commercial property to the North, part of which he owns, has always been connected to the water system and has always paid its water bills is totally refuted by Supplement 3. Final Judgment Cause No. 89C0462 in the District Court of Brazoria County Wolfe Airpark Civic Club, Inc. vs Robert L. Wagstaff DBA K&W Aviation where the commercial property was forever

forbidden to use or allow others to use Wolfe Airpark facilities including the water system due to never paying any funds for the use of anything including the runway. (Refer to supplemental attachment for copy of the final judgement, signed copy on file.) In addition, John Heitz falsely testified that the commercial property was always a part of the airpark and always had use of the airpark and used the original developer as evidence to this fact. The truth is that the legal description states the following: (copy supplied as supplemental 8 at end of brief).

Frank Wolfe, line 1-12, page 120 Supplement 3

“Q. Okay, In this letter is specifically says that the Texas Department of Health understands that there is no direct charge for the water and that the subdivision has a potential of 49 connections. Is that correct?

A. I’m not so sure.

Q. You’re not sure that that’s what the letter says?

A. I’m not so sure that there was no direct charge for the water. They may have understood that, but I don’t recall – well, at one time there was no charge at all for the water. But then later on, once the civic club took hold, then they started charging.

This deposition of the original developer is positive proof that the current lawsuit against the civic club, had nothing to do with the original deceptive trade suit against the developer since he wasn’t involved in the civic club charging illegally for water. The false statements and desperation of John Hampton in removing my testimony from the proceedings is to prevent the truth of their deception being known to the PUC. The deception is further revealed by Supplement 5 which is a letter to the civic club from the well operator revealing that the civic club has habitually been allowing the water system to operate without chlorine in the water for disinfection. The letter is hard to read but states the following:

“I want to bring this change to your attention because in my experience over the past years your facility does not routinely have a chlorine residual nor has there been bleach in the container to maintain a chlorine residual. As the system operator I add chlorine to your system on my monthly visits to ensure proper disinfection; however **please note that this is a temporary fix and only lasts for a short period.** The change in the TCBQ requirements is to assure that the chlorine residual at these facilities remains constant. Also note that the change to weekly monitoring is not currently included in my contract with your facility.”

This letter dated 12/14/2003 shows that the Civic Club was well aware that the water system is not properly disinfected and poses a health hazard to the public and has been for years which again proves the Civic Club is falsifying the history of water system operation.

Supplement No. 6 is a copy of the letter from the Texas Department of Health giving the formal definition of a "State Approved Water System" (as I have already submitted) and stating in plain English that "Wolfe Airpark does not meet these standards but is recognized as a "Public Drinking Water Supply". It also states that at 50 gpm the maximum number of connections is 33.

The letter clearly shows that Mr. Hampton's discussion about the meaning of "State Approved Water System" is clearly false and is intended to deceive the court.

Supplement 6 is a letter from the Texas Department of Health clearly explaining that the reason "no direct charge for water" is required is that, otherwise, water meters must be installed. Mr. Hampton's discussion repeatedly claiming that there is no requirement for water meters is false because the Civic Club has always charged directly for water in violation of State Regulations. Mr. Hampton on lines 7 page 18 through line 21, page 20 goes in great detail about the State changing its rules, retracting its objections, the lack of need for water meters, etc. in an obvious effort to conflate the facts that the Civic has been in non-compliance continuously and has lied to the State inspectors repeatedly to satisfy them enough to allow continued service. Let me explain it clearly. The rules have not changed. If you don't charge for water then you don't need water meters. If you don't charge for water, you don't need a CCN because a CCN requires a fee structure for charging customers. Wolfe Airpark has always charged for water in violation of both the deed restrictions and the State Regulations. It therefore has always been required to have water meters and a CCN, which it never has done. It has no meters now. Mr. Hampton also pretends that there is no evidence to support the statements I have made when virtually all the documents I have supplied originally were sent to the Civic Club and I have provided them back to the Civic Club in my submission in response to document request from Mr. Hampton. His degree of bad faith in matters concerning these proceedings is vast.

Supplement 7 is a repeat copy of the Engineer's letter certifying the design capacity to the State for a maximum of 22 connections(second paragraph) that was submitted as Exhibit 1 in my direct testimony but is claimed by Mr. Hampton to not exist.(Verbal line 9-20 page 18) The 22 connection limit by design is still in effect but may actually now be too high due the thousands of feet of pipe installed by the Civic Club to areas not in the original design. The conflict between the 22 connection limit and the requested 46 connections (42 at this time) is clear indication that the second water well that was never built is now required or the number of connections need to be reduced. There is no conflict with the TCEQ.

The original standardized design requirements for water systems are provided in the 30 TAC 290.39

General Provisions as follows:

(d) Submission of plans.

(1) Plans, specifications, and related documents will not be considered unless they have been prepared under the direction of a licensed professional engineer. All engineering documents must have engineering seals, signatures, and dates affixed in accordance with the rules of the Texas Board of Professional Engineers.

(2) Detailed plans must be submitted for examination at least 30 days prior to the time that approval, comments or recommendations are desired. From this, it is not to be inferred that final action will be forthcoming within the time mentioned.

(3) The limits of approval are as follows.

(A) The commission's public drinking water program furnishes consultation services as a reviewing body only, and its licensed professional engineers may neither act as design engineers nor furnish detailed estimates.

(B) The commission's public drinking water program does not examine plans and specifications in regard to the structural features of design, such as strength of concrete or adequacy of reinforcing. Only the features covered by this subchapter will be reviewed.

(C) The consulting engineer and/or owner must provide surveillance adequate to assure that facilities will be constructed according to approved plans and must notify the executive director in writing upon completion of all work. Planning materials shall be submitted to the Texas Commission on Environmental Quality, Water Supply Division, MC 159, P.O. Box 13087, Austin, Texas 78711-3087.

(e) Submission of planning material. In general, the planning material submitted shall conform to the following requirements.

(1) Engineering reports are required for new water systems and all surface water treatment plants. **Engineering reports are also required when design or capacity deficiencies are**

identified in an existing system. The engineering report shall include, at least, coverage of the following items:

- (A) statement of the problem or problems;**
- (B) present and future areas to be served, with population data;**
- (C) the source, with quantity and quality of water available;**
- (D) present and estimated future maximum and minimum water quantity demands;**
- (E) description of proposed site and surroundings for the water works facilities;**
- (F) type of treatment, equipment, and capacity of facilities;**
- (G) basic design data, including pumping capacities, water storage and flexibility of system operation under normal and emergency conditions; and**
- (H) the adequacy of the facilities with regard to delivery capacity and pressure throughout the system.**

(2) All plans and drawings submitted may be printed on any of the various papers which give distinct lines. All prints must be clear, legible and assembled to facilitate review.

(A) The relative location of all facilities which are pertinent to the specific project shall be shown.

(B) The location of all abandoned or inactive wells within 1/4-mile of a proposed well site shall be shown or reported.

(C) If staged construction is anticipated, the overall plan shall be presented, even though a portion of the construction may be deferred.

(D) A general map or plan of the municipality, water district, or area to be served shall accompany each proposal for a new water supply system.

As a Registered Texas Professional Engineer I have hereby reported design deficiencies as stated above that require a licensed Engineer to Address. The falsification of the submitted documents by the Applicant and his attorney, and the long term violation of the TAC requirements for the operation of this water system require that the above TAC 290.35 requirements be met. The submittals by John Heitz and John Hampton are incompetent at best and dangerous to the public well being. The above TAC provisions are specifically written to prevent the type of applications under review on this case from occurring. Please note supplement 7 by Charles B. Walker PE is an example of how the system is supposed to work and why 22 connections is the design limit. Once that limit has been exceeded another engineer report is required to re-examine the system from a professional engineers prospective

to properly design whatever modifications or assess new connection limits as appropriate. I have detailed the requirement here and in item 6, page 3 of my Direct Testimony.

SUMMARY OF BRIEF

1. Most of the financial and history data submitted by the Applicant has been falsified.
2. Deliberate misrepresentation of the facts surrounding the history and operation of the water system have been supplied to the Court by the applicant.
3. The design limit of 22 connections has been far exceeded.
4. The TCEQ estimates of a 33 connection capability are still inadequate due to newer long pressure lines being installed which were not anticipated in the original design.
5. The current system is experiencing pressure dropouts in mornings where water usage is high.
6. Requests for a CCN to cover adjacent areas to Wolf Airpark have no legal basis due to the 100% vote requirement for encumbrance of property in the deed restrictions. This subject is under litigation.
7. A legal referral is appropriate due to falsification of documentation to the State, perjury, and long term public endangerment.
8. The system has a long history of under chlorination which has allowed biological contamination to exist in the system with regular “dumps” of dark biological contamination.
9. The Applicant and his attorney have extreme conflicts of interest by representing the Civic Association and adjacent commercial property who are illegally using Civic Club facilities and are excluded from the legal description of the subdivision.
10. Due to the problems listed above, the water system has been in litigation continuously for the past 18 years and is still being contested primarily due to falsely billing directly for water with no water meters in violation of State regulations.

11. The Applicant and his attorney are not competent in the meaning of the TAC regulations.
12. The Applicant has falsely claimed to be an engineer which is prohibited by Texas Law.
13. The degree of conflict between the Applicants's written and verbal testimony clearly indicate that the Applicant did not write nor understand what was written in his sworn Affidavit.

Recommendations

The PUC should reject the application and have it resubmitted by a Texas Professional Engineer as required in TAC 290.35.

Alternately, the PUC should approve only connections in the Wolfe Airpark residential area with the requirement to add water meters if the Civic Club continues to bill directly for water. If hanger lots are allowed to have water they should only be allowed within the legal description of Wolfe Airpark and have the same requirement for water meters. All financial data should be resubmitted and verified as legitimate. Any connections greater than 22 should require the use of a professional Engineer qualified to design water systems. The PUC should review this case for criminal referral. The residents of Holland Estates should be notified that they may have to get another water source.

TCEQ Complaint Report

01/10/2006
8:07:13AM

EXHIBIT

Incident No: 68737
Media Type: Water
Start Date: November 21 05
Received Date: 11/21/2005
Method : PHONE

Staff Member: BAPRICE
Status: Closed
Status Date: 01/09/2006
Priority: Within 60 Calendar Days

Regulated Entity: Wolfe Air Park
RN101230720

Address:
Brazoria County
Physical Location: Wolf Lane
KEY MAP 654T

Responsible Party: Wolfe Air Park
Address: 1015 Wolfe Air Park, Manvel, TX 77578
Work Phone: (281)226-6483

Title: President

Number Complaining: 1
Frequency: Current
Alleged Source: Wolfe Air Park

Program Group: Public Water
System/Supply
Nature: Wss
Effect: General

Initial Problem:

Complainant claims that the system is falsifying connection information to the agency. Complainant also claims that the water supply corporation is not a legal entity.

Additional Comments:

Mr. Barry Price met with the complainant on December 1, 2005 at 9:30 AM. The complainant showed Mr. Price the well site and told Mr. Price that he felt that the home owners association officers were elected by people who were not legally eligible to vote in the election. Therefore the Water Supply Corporation that they set up was not legal.

Mr. Price told the complainant that the issue of the home owners association vote was not a matter for the TCEQ. If he felt there was election fraud, he needed to contact the appropriate state agency. Mr. Price counted the number of connections and it appears there are 16 connections in the subdivision and 8 connections at the air craft hangers at the end of the run way, plus 5 homes connected to the system off site.

An owner of one of the hangers told the investigator that he paid Wolfe Air Park for water service. One of the off site home owners told the investigator that the five home at the front of the park paid Wolfe Air Park for their water service.

The last investigation of the system shows on 11/02/2005 the system claimed 11 connections being served.

Mr. Van Dusen, an officer with Wolfe Air Park WSC, send an email on 12/7/05 to Mr. Price in response to a request to clarify the number of connections being served by the system. Mr. Van Dusen stated in the email that the system has 36 connections being billed, 19 connections are residences and 17 are only air craft hangers.

Mr. Price than requested an copy of the system distribution map. Mr. Van Dusen provided Mr. Price with a copy of the map, it was received on 12/27/05. Mr. Price than Called Mr. Jeff Brennan, the system operator, and made an appointment to meet with him on 1/6/06 at the system to check the well rating.

01/10/2006
8:07:13AM

Mr. Price met with Mr. Brennan at 9:30 AM on 1/6/06 at the well site of Wolfe Air Park. Mr. Price checked the well flow and at that time found the well producing 45 GPM. The 45 GPM meets the requirement of 1 GPM per air craft hanger and 1.5 GPM per regular connection.

The system does not individually meter the connections and does not have a CCN. Now that the water supply corporation has more than 15 connections it will have to have a CCN, individual meters at all service connections, and an approved rate structure for the payment of water service.

A notice of violation will be sent to the water supply corporation for these issues.

Closure Comments:

The system does not individually meter the connections and does not have a CCN. Now that the water supply corporation was more than 15 connection it will have to have a CCN, will have to individually meter all service connections, and have an approved rate structure for the payment of water service.

A notice of violation will be sent to the water supply corporation for these issues and a compliance shedule will be set for these issues.

Investigation #: 451666

CCN Certificate of Convenience
and Necessity

kw

**WAPCC
2006 BUDGET PROJECTION**

1. Routine Mowing & Ant Control	\$9000.00
2. Water System Maintenance	\$500.00
3. Runway & Gate Maintenance	\$1000.00
4. Main Road Maintenance	\$1500.00
5. County Taxes & State Fees	\$2400.00
6. Garbage Service	\$1716.00
7. Electricity	\$800.00
8. Postage & Stationary	\$100.00
9. Liability Insurance	\$2750.00
10. Miscellaneous Maintenance	\$750.00

TOTAL	\$21516.00 *
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- Does not include Projected Legal Fees.

Projected Income From Assessments	\$21,187.00 **
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** Does not include income from litigation collections of Account arrearages

SJS / Treasurer WAPCC

Jan. 16, 2006

Exhibit "DD"

WAP Categories for 1998

Well					
1276	14-Feb-98	Alameda Water Well		\$53.88	
1324	24-Nov-98	Alameda Water Well		<u>\$678.50</u>	
					\$732.38
Legal					
1319	6-Nov-98	Charles Kinsey		\$177.92	
1308	18-Sep-98	Filing Liens		<u>\$144.00</u>	
					\$321.92
Taxis & Roads					
1316	15-Oct-98	Hill Sand		\$1,580.55	\$1,580.55
Runway					
1318	3-Nov-98	Larry Lynch	Fertilizer	\$457.95	\$457.95
Mowing					
1281	14-Mar-98	Pruetts	Mowing	\$160.00	
1286	7-Apr-98	Pruetts	Mowing	\$160.00	
1289	17-Apr-98	Pruetts	Mowing	\$120.00	
1292	5/??/98	Pruetts	Mowing	\$540.00	
1296	8-Jun-98	Pruetts	Mowing	\$120.00	
1298	3-Jul-98	Pruetts	Mowing	\$185.00	
1301	18-Jul-98	Pruetts	Mowing	\$120.00	
1306	24-Aug-98	Pruetts	Mowing	\$160.00	
1312	4-Oct-98	Pruetts	Mowing	\$240.00	
1320	5-Nov-98	Pruetts	Mowing	\$120.00	
1325	1-Dec-98	Pruetts	Mowing	\$120.00	
1327	12-Dec-98	Pruetts	Mowing	<u>\$62.45</u>	
					\$2,107.45

WAP Categories for 1999

Well					
1335	17-Jan-99	Scott Van Dusen	Water Well Materials	\$503.00	
1343	20-Feb-99	Scott Van Dusen	O'day Water Well	\$789.71	
1359	22-Oct-99	Alameda Water Well		<u>\$3,258.36</u>	
					\$4,551.07
Mowing					
1338	24-Jan-99	Pruett Mowing Service		\$120.00	
1346	2-Mar-99	Pruett Mowing Service		\$185.00	
1348	25-Mar-99	Pruett Mowing Service		\$185.00	
1351	12-Apr-99	Pruett Mowing Service		\$185.00	
1354	5-May-99	Pruett Mowing Service		\$510.00	
1360	29-May-99	Pruett Mowing Service		\$145.00	
1368	19-Aug-99	Pruett Mowing Service		\$120.00	
1371	17-Sep-99	Dough McGraw		\$400.00	
1374	11-Sep-99	Pruett Mowing Service		\$280.00	
1376	20-Sep-99	Chad Thuman		\$1,560.00	
1379	16-Oct-99	Dough McGraw		<u>\$100.00</u>	
					\$3,790.00

1/22/02

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Runway				
1345	22-Feb-99	Rick Norris	Runway Fertilizer	\$255.00
1366	4-Aug-99	Gibson Feed	Liquid Fertilizer	\$250.00
1370	14-Sep-99	Gibson Feed	Liquid Fertilizer	\$250.00
1380	16-Oct-02	Rick Norris	Runway Fertilizer	\$255.00
1381	19-Oct-99	Rick Norris	Runway Seeding	<u>\$125.00</u>
				\$1,135.00
Taxiway/Road				
1378	11-Oct-99	Joe Narranjo	Road Material	\$850.00
1386	23-Nov-99	Joe Narranjo	Road Material/Well Matr'l	<u>\$170.00</u>
				\$1,020.00
Unknown				
1372	11-Sep-99	Scott Van Dusen	Maint and Supplies	\$532.00
1387	23-Nov-99	Ronnie Cane		<u>\$250.00</u>
				\$782.00
Gate				
1384	15-Nov-99	Scott Van Dusen	Partial Payment for Gate	\$500.00
				\$500.00
Runway				
1355	6-May-99	Schafani	Lights	\$78.66
				\$78.66

WAP Categories for 2000

Unknown				
1424	25-Apr-00	AAR Dist		\$57.27
1429	15-May-00			\$142.13
1469	27-Dec-00			<u>\$189.08</u>
				\$388.48
Gate				
1402	20-Jan-00	Consolidated Machine		\$750.00
				\$750.00
Mowing/ Unknown Other				
1404	29-Jan-00	Scott Van Dusen		\$106.00
1407	25-Feb-00	Kens Tractor Service		\$217.00
1409	6-Mar-00	Kens Tractor Service		\$137.50
1414	18-Mar-00	Scott Van Dusen		\$886.00
1415	24-Mar-00	Kens Tractor Service		\$150.00
1416	29-Mar-00	Fireman Enterprise		\$250.00
1418	8-Apr-00	Fireman Enterprise		\$73.71
1420	17-Apr-00	Dough McGraw		\$150.00
1421	17-Apr-00	Fireman Enterprise		\$400.00
1422	25-Apr-00	Kens Tractor Service		\$150.00
1423	25-Apr-00	Fireman Enterprise		\$128.00
1425	29-Apr-00	Kens Tractor Service		\$150.00
1426	29-Apr-00	Fireman Enterprise		\$50.00
1428	8-May-00	Fireman Enterprise		\$504.00
1430	15-May-00	Kens Tractor Service		\$150.00
1433	19-May-00	Fireman Enterprise		\$1,310.00

1434	27-May-00	Fireman Enterprise		\$150.00	
1435	12-Jun-00	Fireman Enterprise		\$895.00	
1438	19-Jun-00	Fireman Enterprise		\$1,000.00	
1440	1-Jun-00	Fireman Enterprise		\$400.00	
1441	17-Jul-00	Fireman Enterprise		\$875.00	
1445	25-Jul-00	Fireman Enterprise		\$1,150.00	
1446	8-Aug-00	Fireman Enterprise		\$842.00	
1447	24-Aug-00	Fireman Enterprise		\$875.00	
1449	25-Sep-00	Fireman Enterprise		\$1,100.00	
1451	30-Sep-00	Fireman Enterprise		\$160.00	
1453	12-Oct-00	Fireman Enterprise		\$411.00	
1459	17-Nov-00	Fireman Enterprise		\$216.00	
1464	8-Dec-00	Fireman Enterprise		\$1,010.00	
1465	17-Oct-00	Fireman Enterprise		\$815.00	
1465	8-Dec-00	Fireman Enterprise		<u>\$400.00</u>	
					\$15,111.21
Unknown					
1406	1-Feb-00	Way Aero		\$162.15	
1413	14-Mar-00	Public Space	Airport Supplies	<u>\$307.03</u>	
					\$469.18
Runway					
1408	16-Mar-00	Rick Norris	Fertilizer	\$255.00	
1452	5-Oct-00	Rick Norris	Fertilizer	\$255.00	
1457	9-Nov-00	Rick Norris	Fertilizer	<u>\$125.00</u>	
					\$635.00
Water Well					
1398	3-Jan-00	Ronnie Cane	Plumber	\$550.00	
1400	20-Jan-00	Scott Van Dusen	Water Well Repair	\$602.31	
1401	20-Jan-00	Ronnie Cane	Plumber Water Well	<u>\$565.00</u>	
					\$1,717.31

WAP Categories for 2001

Water Well					
1473	23-Jan-01	Partners Electric Serv	? Water Well Pole ?	\$1,399.76	
1535	22-Oct-01	Alameda Water Well Service		<u>\$35.86</u>	
					\$1,435.62
Mowing					
1471	3-Jan-01	Fireman Enterprise		\$150.00	
1477	22-Feb-01	Fireman Enterprise		\$277.00	
1479	27-Feb-01	Fireman Enterprise		\$150.00	
1480	8-Mar-01	Fireman Enterprise		\$400.00	
1482	21-Mar-01	Fireman Enterprise		\$275.00	
1487	30-Mar-01	Fireman Enterprise		\$123.50	
1488	9-Apr-01	Fireman Enterprise		\$665.25	
1490	20-Apr-01	Fireman Enterprise		\$1,025.00	
1492	25-Apr-01	Fireman Enterprise		\$965.00	
1498	22-May-01	Fireman Enterprise		\$640.00	
1500	24-May-01	Fireman Enterprise		\$175.00	
1503	11-Jun-01	Fireman Enterprise		\$240.00	
1505	2-Jul-01	Fireman Enterprise		\$425.00	
1508	5-Jul-01	Fireman Enterprise		\$125.00	

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1508	5-Jul-01	Fireman Enterprise		\$125.00	
1509	10-Jul-01	Fireman Enterprise		\$350.00	
1511	17-Jul-01	Fireman Enterprise		\$160.00	
1512	20-Jul-01	Fireman Enterprise		\$175.00	
1515	30-Jul-01	Fireman Enterprise		\$250.00	
1516	2-Aug-01	Fireman Enterprise		\$575.00	
1517	8-Aug-01	Fireman Enterprise		\$1,695.00	
1518	22-Aug-01	Fireman Enterprise		\$699.18	
1524	17-Sep-01	Fireman Enterprise		\$275.00	
1530	2-Oct-01	Fireman Enterprise		\$1,407.00	
1536	22-Oct-01	Fireman Enterprise		\$480.00	
1550	8-Jan-02	Fireman Enterprise		<u>\$1,292.00</u>	
					\$12,993.93
Airport Drainage ?					
1493	25-Apr-01	Harcon	? Pipe ?	\$2,400.55	\$2,400.55
Gate					
1484	21-Mar-01	HL&P	Pole for Gate	\$1,025.00	
1494	2-May-01	Houston Fence		\$2,745.00	
1504	21-Jun-01	Houston Fence		<u>\$149.96</u>	
					\$3,919.96
Legal					
1475	8-Feb-01	Novelli, Harvey & Huzimel	Attomeys	\$1,000.00	
1495	9-May-01	Novelli, Harvey & Huzimel	Attomeys	\$3,000.00	
1523	17-Sep-01	Novelli, Harvey & Huzimel	Attomeys	\$392.00	
1542	12-Dec-01	Novelli, Harvey & Huzimel	Attomeys	<u>\$300.00</u>	
					\$4,692.00
Runway					
1478	22-Feb-01	Rick Norris	Runway Fertilizer	\$255.00	
1528	2-Oct-01	Rick Norris	Runway Fertilizer	\$255.00	
1543	17-Dec-01	Rick Norris	Runway Fertilizer	<u>\$125.00</u>	
					\$635.00

<p style="text-align: right;">118</p> <p>1 A. No.</p> <p>2 Q. Do you know if Wolfe Airpark, Incorporated, the</p> <p>3 original corporation that was owned by you, has ever</p> <p>4 transferred Lot 59, Block 2, Lots 48, 53, 55, 58, 62, 63</p> <p>5 and 141 of Block 2 of Wolfe Airpark?</p> <p>6 A. I couldn't remember that many. There was 153</p> <p>7 lots.</p> <p>8 Q. Well, would you agree with me that if those</p> <p>9 lots were never legally transferred and to this day have</p> <p>10 yet to be legally transferred that the original Wolfe</p> <p>11 Airpark, Incorporated, still owned those lots?</p> <p>12 MR. AXELRAD: Objection; form.</p> <p>13 A. You're asking me legal questions, and I don't</p> <p>14 know the answers to them.</p> <p>15 (Exhibit 26 was marked.)</p> <p>16 BY MS. RICHARDSON:</p> <p>17 Q. I'll hand you what's been marked as</p> <p>18 Exhibit No. 26.</p> <p>19 MS. RICHARDSON: Somewhere here I may</p> <p>20 have a copy of this, but it's -- let me show that to</p> <p>21 you. I don't have it right here.</p> <p>22 BY MS. RICHARDSON:</p> <p>23 Q. I hand you what's been marked as</p> <p>24 Exhibit No. 26, and does that appear to be articles of</p> <p>25 incorporation of another Wolfe Airpark, Inc., that was</p>	<p style="text-align: right;">120</p> <p>1 Q. Okay. In this letter it specifically says that</p> <p>2 the Texas Department of Health understands that there is</p> <p>3 no direct charge for the water and that the subdivision</p> <p>4 has a potential of 49 connections. Is that correct?</p> <p>5 A. I'm not so sure.</p> <p>6 Q. You're not sure that that's what the letter</p> <p>7 says?</p> <p>8 A. I'm not so sure that there was no direct charge</p> <p>9 for the water. They may have understood that, but I</p> <p>10 don't recall -- well, at one time there was no charge at</p> <p>11 all for the water. But then later on, once the civic</p> <p>12 club took hold, then they started charging.</p> <p>13 Q. Okay. And certainly from what is indicated</p> <p>14 here from the Texas Department of Health is you're not</p> <p>15 supposed to charge for water unless the system has</p> <p>16 individual meters?</p> <p>17 MR. KINSEY: Objection as to the form.</p> <p>18 It calls for a conclusion.</p> <p>19 MR. AXELRAD: And I'm objecting too.</p> <p>20 A. I never heard that.</p> <p>21 BY MS. RICHARDSON:</p> <p>22 Q. Do you recall receiving this letter?</p> <p>23 A. No.</p> <p>24 Q. Are you saying that this is the first time</p> <p>25 you've seen this letter?</p>
<p style="text-align: right;">119</p> <p>1 filed with the Secretary of State in April of 1998?</p> <p>2 MR. AXELRAD: Objection to the form of</p> <p>3 the question.</p> <p>4 A. I see something here about a thousand shares.</p> <p>5 It appears to be another Wolfe Airpark.</p> <p>6 BY MS. RICHARDSON:</p> <p>7 Q. Okay. Did you have anything to do with this</p> <p>8 corporation?</p> <p>9 A. Nothing.</p> <p>10 Q. Okay.</p> <p>11 MR. CLEMENTS: Kim, can you hold on for a</p> <p>12 minute?</p> <p>13 (Exhibit 27 was marked.)</p> <p>14 BY MS. RICHARDSON:</p> <p>15 Q. I'm going to hand you what's been marked as</p> <p>16 Exhibit No. 27 and ask if you recall receiving this</p> <p>17 document?</p> <p>18 MR. AXELRAD: 57?</p> <p>19 MR. KINSEY: 27.</p> <p>20 MR. AXELRAD: Yeah, 27. All right.</p> <p>21 A. Well, this seems to be where we were attempting</p> <p>22 to comply with State rules regarding water for the</p> <p>23 subdivision. I notice they got 49 connections. And</p> <p>24 that's what I remember about it.</p> <p>25 BY MS. RICHARDSON:</p>	<p style="text-align: right;">121</p> <p>1 A. No, I'm not saying that. I just can't recall</p> <p>2 that far back.</p> <p>3 Q. Do you recall in your installation of the</p> <p>4 system and your dealing with the State of Texas and</p> <p>5 attempting to get some sort of approval of the system</p> <p>6 that in fact you had to have individual meters in order</p> <p>7 to charge customers for the water?</p> <p>8 A. This is the first time I ever heard of a meter</p> <p>9 on anything.</p> <p>10 Q. You've never had any discussions with anyone,</p> <p>11 either the civic club members, anyone in the State of</p> <p>12 Texas, anyone with the City of Manvel -- you never had</p> <p>13 any discussions about individual metering?</p> <p>14 A. I don't recall anything about a meter at all.</p> <p>15 Q. So then you would have to say that you just</p> <p>16 never received this letter, that is --</p> <p>17 A. I wouldn't say that either.</p> <p>18 Q. Well, if you had received this letter --</p> <p>19 A. But --</p> <p>20 Q. -- you would have heard about meters, wouldn't</p> <p>21 you?</p> <p>22 A. Yes, I would have if I had received the</p> <p>23 letter --</p> <p>24 Q. Well, Mr. Wolfe --</p> <p>25 A. -- I guess.</p>

31 (Pages 118 to 121)

Independent Reporting, Inc.
281-469-5580

CAUSE NO. 89C0462

WOLFE AIRPARK CIVIC
CLUB, INC.

VS.

ROBERT L. WAGSTAFF,
INDIVIDUALLY AND D/B/A
K & W AVIATION, INC.

§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

BRAZORIA COUNTY, TEXAS

23RD JUDICIAL DISTRICT

FINAL JUDGMENT

On the 20th day of November, 1990, came on to be heard the above entitled and numbered cause for trial on the merits. The Plaintiff **WOLFE AIRPARK CIVIC CLUB, INC.**, appeared by and through its duly authorized representative and by and through its attorney of record and announced ready.

The Defendants, **ROBERT L. WAGSTAFF, INDIVIDUALLY AND D/B/A K & W AVIATION, INC.**, appeared individually and by and through its attorney of record and announced ready.

No jury having been demanded, the Court proceeded to review the file and finds that all persons entitled to citation have been properly cited, that this cause of action is ready for trial and that all pre-requisites to trial have been legally satisfied.

The Court further heard the agreement of counsel that this matter had been compromised and settled and that the parties agreed to the entry of this judgment herein as reflected by the signatures of their attorneys herein.

The Court finds that the agreement of the parties is reasonable and that it should be made the judgment of the Court.

It is therefore **ORDERED, ADJUDGED AND DECREED** that Defendant, **ROBERT L. WAGSTAFF** be and is hereby immediately and permanently enjoined, pending further order of this Court from:

1. Using or allowing others to use the facilities of **WOLFE AIRPARK** without paying any and all landing fees, maintenance fees, water charges, tap charges, civic club assessments, and any and all other fees due and owing **WOLFE AIRPARK CIVIC CLUB, INC.** by virtue of its maintenance and operation of the runway known as "Wolfe Airpark."
2. Allowing Defendant's airplanes or those airplanes stored on property owned by Defendant from utilizing the landing strip, airpark, runway, and any and all other facilities operated by Wolfe Airpark Civic Club.

3. Utilizing any garbage facilities available to members of Wolfe Air Park Civic Club, without paying any and all assessed fees, including back fees, arising out of the use of said waste facilities.
4. Parking and or storing aircraft on property owned by Wolfe Air Park and/or Wolfe Air Park Civic Club and/or operated by Wolfe Air Park Civic Club.
5. Accepting and utilizing water service without paying to Wolfe Air Park Civic Club any and all charges incurred arising out of the said water facilities.
6. Allowing un-authorized aircraft to utilize the air strip owned and/or operated by Wolfe Air Park Civic Club without paying any and all charges assessed by Wolfe Air Park Club for the use of said facilities and/or air strip and/or runway.

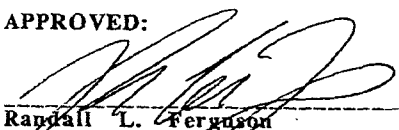
This injunction is permanent in nature and extends to Defendant, his agents, employees, and any and all others acting in concert with Defendant and/or utilizing the facilities of Plaintiff under any alleged authority of Defendant.

It is further ORDERED, ADJUDGED AND DECREED that all costs of court are to be assessed against the party incurring same for which let execution issue if not timely paid.

SIGNED this _____ day of _____, 1991.

Judge Presiding

APPROVED:



Randall L. Ferguson
2444 South Park Avenue
Pearland, Texas 77581
713/485-1412
SBOT #06927100
Attorney for Plaintiff

Michael A. Culling
P. O. Box 465
Manvel, Texas 77678
713/489-9113
SBOT#05211000
Attorney for Defendant

Utility Technology, Inc.
18820 CR 128
Pearland, Texas 77581

December 14, 2003

Wolfe Air Park Civic Association
P.O. Box 454
Marvel, Texas 77578

Re: New TCEQ Monitoring Requirements for Public Water Systems

To Whom It May Concern:

I would like to take this opportunity to inform you that as of January 1, 2004 the Texas Commission of Environmental Quality (TCEQ), will be requiring public drinking water systems such as yours to begin the weekly monitoring of chlorine. Testing from at least one of five monitoring checkpoints and the recording in and the maintenance of a formal log of these readings will be necessary. Additionally, on a quarterly basis the results will need to be submitted to the TCEQ.

I want to bring this change to your attention because in my experience over the last years your facility does not routinely have a chlorine residual nor has there been bleach in the container to maintain a chlorine residual. As the system operator I add chlorine to your system on my monthly visits to ensure proper disinfection; however please note that this is a temporary fix and only lasts for a short period. The change in the TCEQ requirements is to assure that the chlorine residual at these facilities remains constant. Also note that the change to weekly monitoring is not currently included in my contract with your facility.

I would appreciate an opportunity to meet with the civic association and discuss the new requirements. Please contact me at 281-485-8051 or on my pager at 713-762-2374 so we can discuss this in greater detail and I can provide you a price for this additional service.

Sincerely,


Jeffrey H. Brennan
Owner
Utility Technology, Inc.

Supplement no. 5 Warning letter from well operator



*our
file copy*

Texas Department of Health

Robert Bernstein, M.D., F.A.C.P.
Commissioner

Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services

Hermas L. Miller
Deputy Commissioner
Management and Administration

Public Health Region 4
10500 Forum Place Drive
Suite 200
Houston, Texas 77036
(713) 995-1112

April 27, 1988

John N. Bogart, M.D.
Regional Director

Ronald C. Preddy
810 Starduster
Manvel, Texas 77578

Subject: Clarification of Items in Rules & Regulations
Wolfe Air Park
I. D. #0200409
Brazoria County, Texas

Dear Mr. Preddy:

In answer to your letter dated April 26, 1988, the following sections of the Rules and Regulations for Public Water Systems apply:

1. State "Approved" water system - page 45, Section .001 Appendix B, "Approval" Requirements.
Wolfe Air Park does not meet these standards but is recognized as a Public Drinking Water Supply.
2. State "Approved" water system - Page 45, Section .001 Appendix B, "Approval" Requirements.
With areas deficient high lighted in yellow.
3. Section .007 Water System Quantity Requirements, Page 33.
 - A. Requirements for a system of less than 50 connections or less than 150 population - section .007 A(1)(A).
 - B. Requirements for a system of 50 to 250 connections or 150 to 750 population - section .007 A (1)(B).
4. Section .007 Water System Requirements, Page 33.
Your system at the present has one well rated at 50 gpm and 2 pressure tanks rated at 2500 gallons total capacity. This system would allow 33 connections at the present capacity ratings.

If further clarification of the Department's Rules and Regulations are required or if our office can be of any additional help, please feel free to contact us.

Yours very truly,

Mark V. Lowry

Mark V. Lowry, P. E.
Regional Director for Environmental
and Consumer Health Protection

1VL/bz

PRIDDY ET AL 00725

Supplement 6 Clarification of Wolfe Airpark not having a "State Approved Water System"

RECEIVED
ORBIT ENGINEERING & CONSTRUCTION
11007 Houston Dr., La Porte, TX 77571 / (713) 470-1425

August 10, 1985

35 AUG 15 AIO: 00

Mr. Bob Matthews, PE
Plan Review & Wastewater Branch
Division of Water Hygiene
Texas Department of Health
1100 W. 49th St.
Austin, TX 78256

RE: Notice of Completion of Water Supply and
Distribution System, Wolfe Air Park, Brazoria Co. Tx.

Dear Mr. Matthews,

Please be advised that I have physically
inspected the Wolfe Air Park water supply and
distribution system, and attest that the completed work
is substantially in accordance with the plans on file
with the Texas Department of Health, Division of Water
Hygiene.

A copy of the system drawing, showing minor "as
built" changes, is enclosed. Some of the water mains were
enlarged and were relocated to facilitate looping.
Additional block valves were also installed. The system
as currently configured will be limited to 22 residences,
based on the 34 gpm well pump at the single well, Well A.

The second hydropneumatic pressure storage tank
was installed in parallel with the first, with a
combined capacity of 2500 gallons at Well A.

Also enclosed for your reference are the
following documents: a copy of the Approved for
Construction Letter from Francis B. Hidalgo for the State
of Texas, dated January 29, 1981 with a copy of the
originally submitted system plan; State of Texas Water
Well Report documenting a well drilling log dated
February 17, 1981; copy of a signed Statement By Water
Purveyor dated February 10, 1981; copy of the filed and
recorded document establishing the sanitary control
easement for subject system, in the County of Brazoria;
three consecutive bacteriological sample test reports
indicating no coliform organisms found.

If I may be of further assistance, please let me
know.

Sincerely,

Charles B. Walker, Jr.
Charles B. Walker, Jr., P.E.

10/5/1 (1984)

Exhibit 1

CB Walker
8-12-85
508/
PRIDY ET AL 00739

Supplement 7 Maximum design limit of 22 connections

DEED
VOL 1552 PAGE 537

EXHIBIT "A"

Wolfe Airpark Subdivision of a 99.891 acre tract of land, being all of Lot 17 of the Subdivision of the Thomas Spraggins Survey, Abstract 365, Brazoria County, Texas, according to the map or plat thereof recorded in Volume 16, at Page 154 of the Plat Records of Brazoria County, Texas.

LESS AND EXCEPT:

lots 153, 154, 155, 156 and 157 of said Wolfe Airpark Subdivision.

J.H.M.

FILED FOR RECORD
AT 4:30 O'CLOCK *PM*

JAN 30 1981

H.R. STEVENS, JR.
CLERK COUNTY COURT, BRAZORIA CO., TEX.
BY *Aileen Melka* DEPUTY

Supplement 8 Legal description of Wolfe Airpark Subdivision



Texas Department of Health

Bert Bernstein, M.D., F.A.C.P.
Commissioner

DIVISION OF WATER HYGIENE
1100 West 49th Street
Austin, Texas 78756-3192
(512) 458-7497

Robert A. McLean, M.D.
Deputy Commissioner
Professional Services
Hermas E. Miller
Deputy Commissioner
Management and Administration

February 14, 1986

Mr. Frank Wolfe, Developer
Wolfe Air Park
Wolfe Air Park No. 15
Manuel, Texas 77578

Subject: Public Drinking Water Supply
Wolfe Air Park
I.D. #0200409
Brazoria County, Texas

Dear Mr. Wolfe:

I am writing in regard to your recent telephone conversation with Mr. Pope concerning the installation of individual customer meters at Wolfe Air Park.

It is understood that there is no direct charge for the water and that the subdivision has a potential of 49 connections. Section .005.(b)(3) of this Department's "Rules and Regulations for Public Water Systems" states that "systems with an ultimate development potential of 50 connections or less where no direct charge is made for the water shall be excused from this requirement". Therefore, the installation of individual meters will not be required.

Sincerely,

Larry E. Mitchell

Larry E. Mitchell, R.S.
Surveillance and Technical
Assistance Branch
Division of Water Hygiene

LEM:11

ccs: Brazoria County Health Dept.
Public Health Region 11

PRIDY ET AL 00722

Exhibit 3

Supplement 9 Directives of no direct billing for water unless water meters are installed

DEED

VOL 1552 PAGE 534

may be stored in any aircraft hangar in such quantities so as to endanger neighboring properties.

Section 3. Declarant covenants to construct roads in Block 1 consisting of a 6-inch limestone base, 16 feet in width. After initial construction, maintenance of those roadways shall be the responsibility of the Civic Club, paid for with funds available from the annual and special assessment set forth in Article IV herein.

Section 4. Each owner whose lot abuts any road or taxi easement shall at his sole expense provide adequate fencing to prevent children and pets from having access to said road or taxi easement.

Section 5. Each Owner agrees to connect to a central sewage system if and when a central sewage system becomes available.

Section 6. Each owner agrees to connect to a state approved water supply system if and when said state approved water supply system becomes available and to pay therefore a reasonable monthly water service fee.

ARTICLE VII.

SPECIFIC USE RESTRICTIONS FOR LOTS ONE THROUGH ONE HUNDRED FIFTY-TWO BLOCK TWO

Section 1. No part of a hangar shall be located nearer than forty-five feet (45') to the center of the taxi-way or roadway adjoining any lot and five feet (5') from any adjoining property line.

Section 2. Aircraft hangars shall be of fire-proof construction inside and out, support beams must be of either steel, cast-concrete or other material approved by the Architectural Control Committee or Board. All hangars shall be painted with twenty-five year paint. No aircraft hangar shall be used for regular living quarters or as a dwelling. No explosive or combustible materials may be stored in any aircraft hangar in such quantities so as to endanger neighboring properties.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Enforcement. The Civic Club, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Civic Club or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any suit instigated by the Civic Club to enforce its rights hereunder, Owners shall pay Civic Club's reasonable attorney's fees should the court having jurisdiction of such suit grant all or any part of the relief requested by the Civic Club.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

I have sent a copy of this document to the applicant and the administrative judges' assistance.

Sworn this 20th day of July, 2018 by Joe Walker PE

 PE