



CITY OF BLYTHE

235 North Broadway / Blythe, California 92225
Phone (760) 922-6161 / Fax (760) 922-4938

September 24, 2008

Riverside County Grand Jury
Attn: John B. Todd, Foreperson
P. O. Box 829
Riverside, CA 92502

RE: 2007-08 Grand Jury Report – Blythe Airport

Dear Mr. Todd:

Pursuant to Penal Code Section 933 ET SEQ., this is the City of Blythe response to the Riverside County Grand Jury report dealing with the Blythe Airport. The City of Blythe, (City) is the long term Lessee of the airport from Riverside County who is fee owner of the Blythe Airport. Unfortunately, the City has been caught virtually in the middle of a regulatory quagmire of State and Federal regulations that frankly don't mesh well. The following is presented for your consideration:

Report Recommendation: The City of Blythe and the Blythe Airport Manager must take immediate action to implement the mitigation measures that were directed by the CEC and funded by FPL. Specifically they must:

- Vigorously pursue an agreement with Wolfe Enterprises to purchase and/or transfer Wolfe Enterprise's FCC license (frequency 122.8 Mhz) to the City of Blythe for operation of the SuperAWOS Unicom.

Response: The City of Blythe ordered and installed the SuperAWOS (SA) unit as directed by the CEC and funded by Blythe Energy. That unit was operational on October 17, 2006 on the Blythe Airport Unicom frequency of 122.8. As mandated by the California Energy Commission (CEC), it contained the out-going message to arriving pilots, "Power plant located one mile east of the Blythe Airport. Avoid low altitude, direct over-flight, due to potential thermal plumes." When this equipment was ordered from Potomac Aviation Technology Corporation, the quotation for this equipment specifically stated: "Frequency allocation – None Required". City staff asked specifically about this item and was assured that there would be no issues related to the use of this equipment on an active Unicom frequency, as was the case nation wide. Subsequently Mr. Wolfe

filed a complaint with the Federal Communications Commission (FCC) claiming the SA caused interference on the Unicom frequency he currently holds the license to, call sign WQDX395. The City complied with the FCC order dated March 9, 2007 to shut the SA off which essentially took the CEC mandated announcement to avoid the power plant east of the airport off the air to arriving pilots. The City of Blythe retained legal counsel to explore alternatives to reactivate the SA within regulatory guidelines. As a result of that investigation, the FCC wrote a letter back to the interested parties, (City, Wolfe, CEC, FAA) offering several alternatives. As allowed by Section 316 of the Communications Act of 1934 as amended, 47 U.S.C. § 316, a FCC license can be modified. Presumably to permit the SA to operate anytime the FBO is not at his facility. In addition the FCC cites Section 87.213(b)(1) of the Commission's Rules, 47 C.F.R. § 87.213(b)(1), which directs unicoms to transmit communication relative to "the necessities of safe and expeditious operation of aircraft such as condition of runways, types of fuel available, wind conditions, weather information, dispatching, or other necessary information." To quote the FCC letter of January 25, 2008, "We hereby direct Mr. Wolfe to inform us and the other recipients of this letter, within fifteen days of the date of this letter, whether Station WQDX395 currently advises aircraft of the power plant issue during the station's operating hours." Mr. Wolfe has not complied with that directive and as of September 16, 2008 has again refused to comply fearing personal liability should an aviation accident occur on or near the Blythe Airport. The FCC further suggests, "Accordingly, to the extent that the City is concerned about the availability of suitable advisories regarding the power plant during the hours when Unicom Station WQDX395 currently is not operating, it may wish to arrange to provide Mr. Wolfe with the means to make automated announcements during those periods." On September 16, 2008 Mr. Wolfe once again advised the City he wants no part of the announcement process fearing personal liability unless compensated. Finally the FCC letter offers the City could seek its own license to operate an automated unicom at the airport during hours when Station WQDX395 is not operating. Such a waiver would most assuredly be protested by Mr. Wolfe. Finally, the FCC states, "Of course, we are unable to make any representations regarding the outcome of any such waiver request." It should be noted that the City has previously discussed on three different occasions with Mr. Wolfe, alternatives to this dilemma. Any release of the title to the Unicom license to the City or to modify the existing Unicom license to co-locate two transmitters on the same frequency is clearly not an option for him without proper compensation from BEP1.

The attached letters received on September 8, 2008 and September 17, 2008, indicate Mr. Wolfe's intent to "...negotiate to obtain a conclusion to protect the public safety." This issue boils down to Blythe Energy paying for the impacts (real or perceived) to Mr. Wolfe's Fixed Base Operation (FBO) at the Blythe Airport. To "Vigorously pursue an agreement with Wolfe Enterprises..." without an ability to speak to the cash settlement required for Mr. Wolfe is not a position the City can accommodate. The City will transmit this most recent correspondence from Mr. Wolfe to the CEC and Blythe Energy for resolution. Once there is an ability to obtain the existing Unicom license in the City of Blythe's name, the City will do exactly that. Finally, once the proper license is obtained for the SA equipment, the announcement required by the CEC will be broadcast both by the FBO and automatically by the SuperAWOS equipment when the FBO is closed.


- Reactivate the SuperAWOS that has been purchased by BEP1 that will notify pilots using the Blythe Airport to avoid direct over flight of the power plant.

Response: The City of Blythe concurs with this recommendation and will make every effort to comply as outlined above.

- Conduct an environmental review that has been funded by the BEP1, of the designation of a calm wind runway and/or a change in the traffic-landing pattern at the airport.

Response: The City of Blythe agreed in the CEC hearings concerning the Blythe Energy Power Plant No. 2, (BE II), that since the second plant would come closer to impeding safe left-hand traffic for runway 26, the City would recommend to the FAA to institute right-hand traffic for runway 26 when the construction for BE II started. The Grand Jury recommendation to advance the environmental review to change the calm wind runway designation and change the traffic pattern for runway 26 prior to BE II starting construction, will be presented to the CEC and BEP as a mitigation measure for their consideration and funding obligation. An environmental review is not currently funded by BEP1.

Sincerely,



David Lane
City Manager

Cc: Mayor and Council
CEC, Mr. Terrence O'Brien
FAA, Mr. John Milligan
FCC, Mr. Bill Zears
RCEDA, Mr. Colby Cataldi
City Attorney, J. Scott Zundel Esq.
R.W. & G. , Terence Boga, Esq.
FPLE, Mr. John Goodwin
Mr. Pat Wolfe



WOLFE ENTERPRISES



Blythe Airport

17240 WEST HOBSONWAY • BLYTHE, CALIFORNIA 92225 • (760) 922-6125

City of Blythe
Airport Manager: Charles Hull
231 N Broadway
Blythe, Ca. 92225

Sorry about this letter on such a late date but as you know I've been out of town for three months.

I'm writing this letter in response to the request of the Riverside County Grand Jury. They have requested that we negotiate and settle this safety problem that the power plant has created. If the airport is compensated for the loss of the ILS at \$6301.00 a month from the day it was ordered to be turned off until it can be turned back on, and they make a reasonable offer for the use of the radio license. Then I would be agreeable to broadcast a warning to pilots about the power plant being there. The figure of \$6301.00 is the amount the airport lost with the closing of the ILS.

I need a response as soon as possible. I need to response to the Grand Jury request of the out come of the negotiation by Sept 17, 08.

Thank You

Pat Wolfe
Blythe Airport
9/8/08

Cc. Riverside Jury
Nelson Fowlkes
James Gilbert



WOLFE ENTERPRISES



Blythe Airport

17240 WEST HOBSONWAY • BLYTHE, CALIFORNIA 92225 • (760) 922-6125

Sept. 17, 2008

City of Blythe
Airport Manager: Charles Hull
231 N. Broadway
Blythe, Ca. 92225

I'm writing this letter at the request of Mr. Hull as a addendum to my Sept 16 '08 letter regarding of the Grand Jury request to negotiate. There is a two part settlement in this case. One is the cost of the damage to the airport caused by FP&L Power plant. The second part is what it is worth to FP&L to transmit a warning to pilots about the danger of flying over their power plant. I have given the first part, the amount of the actual loss to the airport, to Mr Hull. I believe the Mr. Hull's request for me to come up with both figures would be better served by FP&L coming up with the second half to show they are willing to negotiate in "Good Faith". What they need is my radio license. If they will make a fair offer, this problem can be settled. You can in inform them that sales of a radio license can be found on the Internet under "radio license broker". I do not believe that this will happen unless the City strongly requests that the CEC carries out their responsibility and instructs the licensee to comply with their own order and acquire the warning about the dangerous power plant to pilots. Per the Grand Jury's instructions, parties must "vigorously pursue an agreement with Wolfe Enterprises to purchase and/or transfer Wolfe Enterprise's FCC license (frequency 122.8 Mhz) to the City Of Blythe for operation of the Super AWOS Unicom."

Also the CEC has ordered the traffic pattern be changed at Blythe Airport before the second plant can be built. I have spoken to and written letters to the FAA and they have assured me the it is too hazardous to change to pattern. If we can come to an agreement on the above issue I believe that I can help in this matter.

Again I re-iterate my willingness to meet with parties involved and negotiate to obtain a conclusion to protect the public safety. This needs to be done expeditiously before cool weather arrives and again the plumes become a more serious hazard to the flying public.

Thank You

Pat Wolfe

Cc: Riverside County Grand Jury
Case# 07-08-037