

AFFIDAVIT OF LORI WOHLETZ

I, Lori Wohletz, declare under penalty of perjury that the foregoing is true and correct on this 25 day of August, 2006, in Las Vegas, Nevada.

1. This affidavit represents, as accurately as possible, my actions relating to the proposed lift of a deed restriction on the Royal Links Golf Course property. I first became aware of the proposal to lift the deed restriction after it had been held in abeyance by the first City Council meeting. I was attending a 40 hour hazardous materials class at the Water Pollution Control Division.¹ I was told by David Mendenhall, the WPCF Manager, that Richard Goecke, Public Works Director, wanted an engineering study done to evaluate any possible impacts to the WPCF from lifting the deed restriction.

2. At this time, I was not aware that there was a proposal to remove the Royal Links Golf Course and to develop homes on the property.

3. As the City's Environmental Officer, I do not routinely become involved in OSHA issues, but due to personnel issues with the WPCF Safety Officer, I was asked to step in and complete the hazardous chemical response documents. As a result of this, I had submitted documentation to the EPA Risk Management Program concerning the methane tanks at the WPCF, some two weeks before, where the explosive force radius was calculated by me to be well within the Royal Links property.

4. I believe that Deputy City Attorney William Henry's, internal report, dated July 22, 2005, accurately represents my involvement in interfacing with City management about an engineering report which I believed to have been altered to support

¹ It may be relevant to note that this class had resulted from a serious accident involving a chemical tank some months previously in which an employee had been injured and OSHA had then required the City to create a Hazardous Materials Emergency Response Plan.

the lift of a deed restriction for Mr. Walters' golf course -- The Royal Links.

5. Having read both the account by William Henry and the account later put together by the Metropolitan Police Department, dated November 3, 2005, I feel that William Henry's account is much more accurate and a better record of what actually occurred regarding the manipulation of the original engineering report prepared by HDR Engineering for the City of Las Vegas.

6. Since Deputy City Attorney William Henry's account lists all pertinent dates, in detail, I will not include that narrative again in this affidavit, but will instead focus on the events which occurred after Mr. Henry completed that document.

7. Once it became known by the City Council that the original engineering report had been edited and all negative impacts to the City from the lifting of the deed restriction had been removed from the edited version, then City management began an attempt to complete a new engineering analysis. I was not involved in any of the discussions over the approach that should be taken regarding a new study and was never, at any point, asked for an opinion or analysis by City management.

8. I sent one e-mail to City Manager Doug Selby, and other upper City management, in an attempt to clarify the applicability of odor easements since it had been reported in the press that odor easements would negate any impact to the City from odor complaints from any houses constructed on the golf course property. Since I knew this to be completely inaccurate, I felt that it was my responsibility to inform City management. The e-mail that I sent to City management dispelling the applicability of odor easements was totally unsolicited by City management and I received absolutely

no response or follow-up questions from anyone. In fact, I received no response to the e-mail whatsoever.

9. At this time, David Mendenhall of the WPCF and Charlie Kajkowski of the Public Works Department informed me that City Manager Selby had attempted to set up a “deal” by which Mr. Walters could conduct his own engineering analysis and then complete any required mitigation in exchange for the lifting of the deed restriction. Both David Mendenhall and Charlie Kajkowski treated the proposal with disdain and expressed what could only be described as contempt for the whole proposal. I was told by Charlie Kajkowski that City Attorney Brad Jerbic had refused to sign off on the proposal, so a new approach was being considered.

10. Charlie Kajkowski said that the City could not get any engineering firm to conduct a study because all firms approached expressed concerns that if they returned with a negative analysis, they might face legal action by Mr. Walters. Because of this, the idea of sharing liability by having an expert panel composed of four separate engineering groups was decided to be the best approach.

11. The time frame for completing the study was only two weeks – which was obviously inadequate. I was told by both Charlie Kajkowski and by David Mendenhall that the compressed time frame was to accommodate Mr. Walters’ development schedule and that the engineering study had to be completed on that time frame even if more in-depth analysis had to be scrapped to make the schedule. The engineers on the expert panel were told to do the best that they could with the limited time available.

12. At this time, I was asked by Charlie Kajkowski to prepare a presentation for the expert panel composed of a regulatory review of the environmental laws affected by

both the construction of houses and hazardous materials issues. I initially refused to participate for several reasons. First, I was the only City staff person required to make a report to the expert panel even though both the WPCF Plant Manager and the Plant Engineer, who have much more on-site knowledge, had been involved in all other engineering studies. Second, when the list of firms involved was given to me, I was listed by name – not as City staff. Third, it was the common belief of all City staff at the WPCF that the decision to lift the deed restriction was already made and that any new engineering study would be a complete waste of time.

13. Finally, I had been informed by Charlie Kajkowski that Mr. Walters had called City Manager Selby to complain that the engineering report was sure to come up negative because City staff had a personal vendetta against him. He also claimed that City staff had threatened the engineering firms that if they did not come up with a negative finding, they would never work for the City again.

14. Given that Mr. Walters had made this accusation, I felt that it would be deemed to be a conflict of interest if a City staff member participated directly in completing part of the analysis and that all of the work should be completed by independent third parties. When I expressed these concerns to Charlie Kajkowski, he was very adamant that I participate in the expert panel and had me speak to City Attorney Brad Jerbic. Both Brad Jerbic and Charlie Kajkowski assured me that the study would be conducted “above board” and that the findings would be presented to the City Council without any manipulation. Brad Jerbic also assured me that if Mr. Walters attempted any form of legal action or any other form of intimidation against me personally, that the City would come to my defense.

15. With that assurance, I agreed to complete my portion of the study. At this time, I was also told by Charlie Kajkowski that instead of having the panel complete an “open ended” evaluation, that the City Manager wanted the panel to focus on a defined list of questions. I was asked to give recommendations for the questions. I did not see the final list of questions until the day the expert panel convened, but the initial list of questions, put together principally by myself and David Mendenhall, were very comprehensive and very unbiased.

16. I completed my portion of the study and then spent four days with the expert panel touring the WPCF and discussing the impacts of the housing development on the operational facility. Two members of the expert panel I knew very well from their past work on the facility – Tom Card and Jay Witherspoon.

17. Both Tom Card and Jay Witherspoon talked at length during the four days of the expert panel tour about what a mistake the City was making in allowing the houses to be built on the Royal Links property and both expressed their concerns that the decision was “already made” and that their report was essentially just “window dressing.” Given that both were nationally recognized experts, their level of concern cemented in me the belief that lifting the deed restriction would result in endless compliance problems for the facility and would be nothing short of a disaster for the City. This belief was also expressed by David Mendenhall and by John Bettencourt, the facility engineer and also by all City WPCF staff employees.

18. The day of the expert panel presentation was the first time that I read the final list of questions that were given to the expert panel. I was shocked at how the questions had been reworded in what I felt was a very overt attempt to influence the

outcome of the expert panel recommendation. At the time that Charlie Kajkowski passed out the questions, the City Manager had not yet arrived at the meeting. I was seated next to David Mendenhall and I asked him what he thought of how the questions had been edited. He rolled his eyes and said "What did you expect? We've always known what the outcome was, haven't we?"

19. At that time, Tom Card – who appeared very contemptuous of the list of questions – asked Charlie Kajkowski if the panel was limited to just addressing this list of questions.

20. Charlie was very reluctant to be pinned down on an answer to this question and finally said that this question would have to be answered by the City Manager. I was very angry at this point and immediately contradicted Charlie and told the expert panel that the City expected them to complete a full and accurate analysis and that they should feel in no way restricted by the set of questions – which appeared to be so biased that the expert panel were rolling their eyes and smirking.

21. The expert panel went on to make an excellent presentation. About half way through, the City Manager arrived. Upon being seated, Doug Selby immediately told the expert panel that his opinion was that because the County had already approved two developments adjacent to the WPCF, that the City would have to install the odor controls anyway and that the development of the other two thirds of the WPCF's boundary would have no additional effect. This was also the opinion that was expressed in the writing of the questions which were slanted to try and encourage this finding. The expert panel then made their presentation and recommended that the City maintain two thirds of the golf course as a buffer and try to purchase additional land on the other side

of the Las Vegas Wash to attempt to preserve that as a buffer, as well. David Mendenhall asked the City Manager if he had considered the possibility of the City buying the Royal Links golf course back from Walters instead of allowing it to be developed. Doug Selby replied that owning golf courses was a "bad investment" and that the City had no interest in owning Royal Links.

22. The expert panel made it very clear that each of the three stages of odor control were entirely dependent on the level of odor complaints received; and that the more complaints, the more likely it would be that the City would have to install additional controls. They were very clear in demonstrating that the odor models indicated that the future plant expansion would need no additional controls, other than what was current, if Royal Links was not developed and that the development might make future expansion impossible. The City Manager appeared very upset and responded that the panel had not given him anything that he could take to the City Council. He said that he needed a recommendation more along the lines of a higher wall. The expert panel pointed out that a wall would likely do little good and might make matters worse by channeling odors to the southern developments.

23. It should be noted that the WPCF currently has a very intensive program for odor control employed by only a small number of similar plants nationwide. The three phases suggested for additional odor control by the expert panel would be addressing only the last ten percent of odors and would be an extraordinary level of control employed by only a handful of plants nationwide. Phase three odor control, which would be required by the plant expansion if Royal Links were developed, would require

the control of 100% of odors at the fence line. It was not clear if this level of control had ever been achieved by any plant anywhere in the world.

24. I became increasingly frustrated during the presentation by the expert panel since it was clear that City Manager Doug Selby had no intention of changing his position that the housing development should move forward. Due to that frustration, and a growing belief that I just wouldn't be able to stand working for the City much longer, I became increasingly bold in challenging the City Manager and Charlie Kajkowski. I asked the City Manager what the benefit to the City would be to lift the deed restriction; he replied that the City would get \$7.5 million in return. When I suggested that was a very small benefit, he snapped that it was \$7.5 million that we didn't currently have. When I replied that it was my job to protect the facility, he responded angrily that it was his job to provide information to the City Council and that what they did with it was their business.

25. When the expert panel stated that the plant expansion would mean odor controls at 100%, Charlie Kajkowski and I broke into a long argument whereby he was attempting to make me agree that the plant expansion would mean 100% odor controls regardless of Walters' development because the County had already approved housing to the south of the WPCF. The expert panel was very clear on showing that the development to the south had natural barriers of over 150 feet of the Desert Inn right-of-way and the Las Vegas Wash, but that the Walters' development would be only 20 feet from the fence line of the northwest corner which was reserved for expansion. The additional expense of odor control to a 100% level would be solely due to the Walters' development. I would not agree with Charlie and the argument progressed to the point

where I left the room. Charlie followed me into the hall and continued trying to brow-beat me into agreeing with the City Manager's position. I finally became so upset that I stormed off. Because of this, I was not present for the final discussions between the expert panel and the remaining City staff and management.

26. I note here that in the expert panel's final report, they did recommend that the City build a wall if the development was approved. I was surprised by this since they gave that proposal scant usefulness during their presentation. Another item to note is that the expert panel assumed that they would be presenting their findings to the City Council directly and had prepared for that event. Instead, the City Manager chose to present the findings himself. I do not know if he attempted to "spin" the findings, however, it would not have been customary for the panel to present its findings directly to the City Council and to have been available to answer questions from the City Council.

27. The item to lift the deed restriction was placed on the agenda with staff recommending its approval and was identical to the original proposal, with the exception that the City would build a wall and do a small amount of additional odor control – approximately \$5 million worth. Nevertheless, Mr. Walters was not required to make any expenditure, or to increase his payment, for lifting the deed restriction.

28. The reaction of City staff to the City Council approving the deal was disgust, to say the least. Talk among staff was of how much influence Mr. Walters exerted with the Mayor, City Council and City management. However, most City staff seemed to view this particular transaction as "par for the course" based on similarly outrageous deals in the past. I felt that since the item had been placed on the agenda with staff

recommending approval that not all City Council members might have been fully aware of the implications for the WPCF facility. At this point, I was convinced that the City Manager was attempting to facilitate the deal ignoring any potential detriment to the City. Accordingly, I made an attempt to contact Councilman Reese, whom I had worked with in the past and whom my family had known for forty years. Councilman Reese had given my husband his first haircut at the age of two and the family had a great deal of confidence in his integrity.

29. I sent Councilman Reese an email detailing my concerns. However, he made no attempt to contact me for further information and, in fact, seemed to want to distance himself from me as much as possible. The day after receiving essentially a "brush off" by Councilman Reese, I received a call from David Schwartz from the Las Vegas Review Journal. He asked for my opinion and analysis of the lift of the deed restriction and I "unloaded" and answered every question put to me instead of following the usual City procedure of referring him to the Public Works Public Information Officer.

30. The Las Vegas Review Journal story appeared on the day of the next City Council meeting. This coincided with a letter from the Nevada Attorney General stating that an investigation of the matter was being opened. The Mayor and City Council then voted to rescind the decision on the deed restriction until such time as the investigation was complete.

31. A few days after this action, an email was sent to all City staff by the City Manager as a rebuttal to the statements that I had made to the newspaper. The email eliminated any chance that I had of remaining as an employee with the City. For a City Manager to take the extraordinary step of attempting to persuade every City staff

member that I was, at best, a disgruntled employee and, at worst, a liar ended any and all chance that I had of remaining with the City. I responded in an email and offered my resignation.

32. Concerning my position with the City, there are some things which should be known. My position involved working very independently with very little supervision. I was also a classified employee and so any disciplinary action would have to involve the employees' association. My independence and my protection as a classified employee gave me a greater freedom to speak out than other City employees enjoyed. Also a natural personality trait to be defiant and outspoken made it difficult for the City to control my actions to the extent that they might have controlled others involved with these matters.

33. Shortly before I left employment with the City, Mr. Walters went on an NPR radio program and made the statement that I was going to resign anyway and so my "gesture" of resigning in protest was of limited value. This was partially true, although I was very angry that Mr. Walters had gotten this information from the City. I had considered leaving the City for some time. Like many working mothers, I had found the task of juggling a demanding full-time job and the needs of two teenagers to be personally exhausting. I had also experienced a never-ending series of health issues which had begun to take a toll.

34. Due to the massive cuts in retirement benefits for those who retire in their 40's, I needed to work a few more years. Also, the City was in the process of upgrading my position, which would have been a significant raise for me. I had hoped to remain and accrue retirement benefits at the higher salary grade for at least two years.

Ironically, the meeting to finalize my position upgrade was held one hour before I walked into the Deputy City Manager's Office with the "edited" engineering report that started this whole series of events. I was obviously very aware of the consequences for my position upgrade and so I told Human Resources in that meeting that I only intended to stay another two years. Someone in this meeting must have given this information to Mr. Walters for his use in attempting to discredit me.

35. Not surprisingly, the position upgrade never occurred. However, the position is now out for recruitment at the higher salary grade.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct and that this declaration was executed on August 25 2006 in Las Vegas, Nevada.


LORI WOHLTZ