

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JAMES S. WAYNE, INDIVIDUALLY AND AS)	
TRUSTEE OF THE JAMES S. WAYNE LIVING)	
TRUST)	
V.)	CASE NO.
)	2009-00264
HENRY COUNTY WATER DISTRICT NO. 2)	

COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION
TO JAMES S. WAYNE, INDIVIDUALLY AND AS TRUSTEE

James S. Wayne, pursuant to 807 KAR 5:001, is to file with the Commission the original and seven copies of the following information by November 18, 2009 with a copy to all parties of record. Responses shall be appropriately bound, tabbed and indexed and shall include the name of the witness responsible for responding to the questions related to the information provided.

Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

James S. Wayne shall make timely amendment to any prior response if he obtains information which indicates that the response was incorrect when made or,

though correct when made, is now incorrect in any material respect. For any request to which James S. Wayne fails or refuses to furnish all or part of the requested information, he shall provide a written explanation of the specific grounds for his failure to completely and precisely respond.

Careful attention should be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations.

1. Paragraph 4 of the Complaint states that “previous owner told James S. Wayne prior to the purchase that the Farm had access to water from the Henry County Water District #2 (“Henry District”), because he had constructed a one-mile long private water line across another property owner’s land, with permission from that property owner, to the farm from the Henry County Water District #2’s main line which runs along U.S. Highway 421”¹

a. Who was the owner who sold 1054 McCarty Lane in Campbellsburg, Kentucky (“Property”) to the purchasers?

b. Who was the “adjacent property owner” referenced above?

c. What independent verification was made by James S. Wayne, Individually and as Trustee of the James S. Wayne Living Trust (“Complainant”), Deborah Wayne, Maria Scharfenberger, or anyone acting on their behalf, of the above assertion regarding the 3" water line prior to purchase?

¹ See Complaint, Case No. 2009-00264, paragraph 4 at page 6.

- d. Did anyone associated with the Complainant discuss the 3" water line with Larry Congleton ("Congleton") prior to the purchase?
- e. Did anyone associated with the Complainant discuss the 3" water line with the Henry County Water District prior to the purchase?
2. What documentation was reviewed or drafted by anyone associated with the Complainant regarding the legal ownership and control of the 3" water line prior to the purchase?
3. Is the Complainant aware of any documentation that reflects a conveyance of the real property underlying the 3-inch water line? If so, please describe.
4. When did water service from Henry District first begin at the Property?
5. Prior to water service being provided by Henry District, how was water furnished to the Property (116.3-acre farm)?
6. Is that source of water still available?
7. Who currently lives on the Property?
8. Is the Property currently being actively farmed? By whom?
9. Provide a copy of the contract and all other documentation concerning the purchase of the Property.
10. Did Complainant request that water service be disconnected to the Property on or about March 6, 2008?
 - a. How was the request made?
 - b. Why was the request made?
 - c. When was the request made?

11. If the answer to 10 above is in the affirmative, prior to the water being disconnected on or about March 6, 2008, did Complainant have any discussions with Henry District regarding the water service?

12. Notwithstanding the complaint regarding the 3" water line, what efforts have been made by Complainant since the disconnection on or about March 6, 2008 to reconnect water service from Henry District? If any effort was made, who was involved in these efforts on behalf of the Complainant? On behalf of Henry District? Please describe these efforts.

13. At the time of the disconnection, who was living on the Property?

14. Was the Property being farmed at that time?

15. Since the water was disconnected, describe all requests by the Complainant to Henry District to again furnish water to the Property?

a. How were any such requests made?

b. Who was involved in any discussions?

c. Were there any written requests? If so, please provide copies.

16. Was Henry District involved in or did it participate in any way, at any time, in the negotiations between Complainant and the seller of the Property regarding the 3" water line?

17. If so, were any representations or assurances made to the Complainant by Henry District regarding the 3" water line? If so, please describe.

18. Did the Complainant have any discussions with Congleton, prior to Complainant's purchase of the Property, regarding the 3" water line on Congleton's property?

19. What if anything does Complainant consider Henry District's legal obligation to be in the matter of the 3" water line? Please describe and state the reason that Complainant believes this to be Henry District's legal obligation.

20. Since the Property was acquired by Complainant, has Complainant made any effort to resolve the matter of the 3" water line with the prior owner of the Property? If so, please describe. If the answer to this question is in the negative, please state the reason.

21. What efforts have been made to negotiate with Congleton to resolve the matter of the 3" water line since Complainant purchased the Property? If so, please describe. If not, please explain.

22. What is Complainant's understanding of the service capacity of a 3" water line?

23. Paragraph 6 of the Complaint states that "Complainant is the sole owner of the Wayne water line, where such line was constructed by the prior owner of the farm and where such line was included in the purchase price of the farm"²

a. What documents exist that support the statement made in paragraph 6 above?

² Id at pp 6-7.

b. If no such document exists, is it Complainant's position that the prior owner had the legal authority to transfer the underlying real estate owned by Congleton to the Complainant?

c. What is this belief based on?

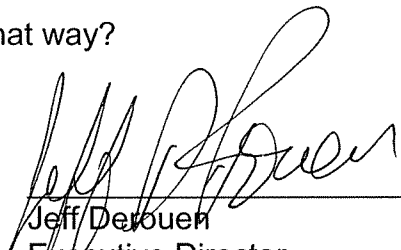
d. Was this memorialized in the deed to the Complainant?

e. Please provide a copy of the deed and any other documents regarding the transfer of the 3" water line that were received by the Complainant from any source.

f. If no such documents exist, is it Complainant's position that such a transfer could be achieved based upon a verbal representation?

24. What has been the relationship between the Complainant and Congleton since Complainant purchased the Property?

25. Did this relationship change following the Complainant's disconnection of water service from Henry District? If so, in what way?



Jeff Derouen
Executive Director
Public Service Commission
P. O. Box 615
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DATED: NOV - 4 2009

cc: Parties of Record

Honorable W. Henry Graddy
W. H. Graddy & Associates
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