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From: Sue McKendry
To: UCC Consumer Info
Subject: AB Replied 8.13.25 12:42 PM - IURC Cause No. 45992 Crown Point and Windfield Indiana Territory Dispute - Concerns over inaccurate testimony and involved parties with the case
Date: Thursday, July 31, 2025 5:58:27 PM
Attachments: Commonwealth Report notice_20241003_antideq_crown-point_se_report.pdf
Hein Crown Point LBL Donation Agreement.pdf
Hein to CP Warranty Deed.pdf
Hein Property 45-16-14-400-011.000-041 Transfer Record.pdf
Hein Property 45-16-14-400-012.000-041 Transfer Record.pdf
Original Request - FOIA 28 David Nicholls Response Hein & LBL Development Agreement.pdf
FIOA 28 Orginal Request from Susan McKendry - Donor agreement 2-16-25.pdf
- FOIA 28 Kutanovski Response 4-4-25.pdf
Gmail - New FOIA Request - Ticket Number 59 Lotton Hein LBL Development records.pdf
FOIA No. 59 response from city - Hein & LBL Agreement.pdf
Original FOIA Request by Susan McKendry- Ticket Number 60 - Hein & LBL Agreement.pdf
Alex Kutanovski RESPONSE TO FOIA_APRA NO. 60 - Hein & LBL Agreement request.pdf

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Hello Ashley,

Thank you for returning my call today. As I explained, I have concerns about evidence being presented in Cause No. 45992 currently being adjudicated by the IURC. I believe that the City of Crown Point and its witnesses are not acting in good faith. I believe they have failed to provide accurate and complete information necessary to the decision before the commission. The following is a list of those concerns:

- Submission as evidence and reference in testimony to the LBL Crown Point Land Donation Agreement. This was presented as Exhibit H in The Verified Prefiled Direct Testimony and Exhibits of Albert Stong, P.E. on Behalf of the City of Crown Point, Indiana April 21, 2025. Also referred to in the Direct Testimony of Greg Falkowski.

  While this referenced donation agreement on the surface appears to be a legitimate document, if you dig into the actual ownership of the donated property, it was never owned by LBL Development.

  I have attempted several times to acquire any contractual agreement between the legal owner of the 44 acres, Mr. Edward J. Hein and LBL Development from the City of Crown Point. Their response has been that the city does not have any records of any agreement between the land owner and LBL Development. My three different FOIA requests have failed to yield any such agreement or even an acknowledgement that the City of Crown Point was aware of any agreement between Edward Hein and LBL Development.

  Mr. Stong testified on page 10 lines 14-21; "This concept further progressed through conversations with other interested parties to the south and east of the City, including LBL, which owns or controls the majority of the Disputed Area, resulting in the Donation Agreement with LBL, a copy of which is attached as my Exhibit H. This Donation Agreement deeded property to the City for the new WWTP in return for a

commitment on the part of the City to make available both water and sewer service to the Disputed Area where development is planned. Exhibit B illustrates the footprint of the LBL Development within the Disputed Territory." The City of Crown Point cannot produce any documents, meeting minutes or any other record where any agreement between Edward Hein and LBL Development was mentioned or discussed in any city meeting.

In Mr. Stong's testimony Page 4 line 21-23 and page 5 line 1-3 He states "Of particular note is LBL's intention to construct a large development within the Disputed Area. Crown Point and LBL have entered into a Donation Agreement, whereby LBL donated 44 acres of land to Crown Point as the site of the new SE WWTP, and, in return, Crown Point agreed to make available water and sewage utility service to LBL's land in the Disputed Area within five years. The bulk of the Disputed Area is land owned or controlled by LBL, as illustrated in Exhibit B."

In Mr. Falkowski's testimony (page 14 lines 8-13) he states "Intervenor LBL Development LLC ("LBL") owns or controls the bulk of the Disputed Area. LBL's desire for service from Crown Point is so strong that it donated 44 acres of land to be used as the location of the new SE WWTP. In exchange for the 44-acre land donation from LBL, Crown Point has committed to offer wastewater utility service to LBL's real estate near the 44-acre donated parcel, where Crown Point will build its new wastewater treatment plant." This is continually perpetuating what appears to be a falsehood that LBL Development donated land to the City of Crown Point.

While on the surface, the donation may appear to be factual, however if there is no agreement between Edward Hein and LBL Development it would then in fact be a lie. It appears that LBL Development only supports the City of Crown Point in this service territory dispute due to some relationship with Edward Hein that has not been disclosed. He has exerted some unseen influence to obtain access to service for his neighboring properties without providing anything in exchange to the City of Crown Point. The donation agreement outlines that Edward Hein & LBL Development, as the donors, will have access to the system within 5 years of the donation in reciprocity for the land.

So, the question is how can the City of Crown Point have entered into a donation agreement with a party that had no ownership of the property being donated? The land transfer documents filed in the lake county courthouse show both of the parcels donated were owned solely by Edward Hein and directly transferred directly to the City of Crown Point. Why is the donor of the land being presented as LBL Development in all the testimony, when they never owned the property? I question LBL Development's inclusion in this cause for any reason, as they are merely adjacent land owners. I have attached the donation agreement, my FOIA requests to the City of Crown Point with the city's responses and the land transfer documents from the Lake County Courthouse.

- IURC Testimony by Albert Stong also included (page 6 lines 1-3) "The extension of existing sewer and transport to the existing 1 WWTP illustrated in Exhibit A would provide prompt sewer service to meet any initial demands from the Disputed Area." In statements to the Crown Point City Council, he inferred that the current wastewater

treatment plant was at max capacity and the new wastewater treatment plant they are planning to build was necessary to meet the needs of the city as it is developed now. In his report to the city, he makes a statement that "...the city has been approached by land developers and asked to consider significantly expanding the service area beyond the limits shown in the Wastewater Master Planning Report. A second wastewater treatment plant (WWTP) in the southeast portion of the service area is considered by the developers as a cost-effective solution to both the current system issues while supporting substantial future growth beyond the service limits indicated in the 2018 Wastewater Master Planning Report." I have attached the report from the Commonwealth Engineers, Inc. Southeast Wastewater Treatment Plant Analysis Technical Memorandum where this statement was published. In Mr. Falkowski's testimony (Page 13 line 20-22) he states "As Mr. Stong testifies, Crown Point's current wastewater treatment plant has the capacity to timely meet initial development needs in the Disputed Area." I believe the only reason Crown Point is seeking this expansion of the service area is to accommodate this singular developer and to obtain these free 44 acres.

When we confronted the Mayor & City Council with questions about this in city council meetings, the response was two-fold. We were told falsehoods,

1) The current wastewater treatment plant was at max capacity. - Which may be true if the city weren't currently completing a downtown interceptor project to separate the wastewater from rain water which will significantly reduce the flow going into the current plant.

2) The Council had no choice but to build a new plant, as they were being required by IDEM court order. -The council was conflating their court order to stop dumping into the waterways with building a new wastewater treatment plant. Stopping the overflow was being accomplished by separating our waste water from our stormwater. A completely separate project that will be completed this year. You can see the responses and lies told to the Crown Point Community regarding these facts in the Crown Point City Council Meeting recordings January 6, 2025; February 3, 2025 & March 3, 2025. Minutes of those meetings can be found on the City of Crown Point Website and the videos of those meetings including public comments, officials and Mr. Stongs responses to statements can be found on the City of Crown Point Facebook page and City of Crown Point Youtube channel.

Below is a table from that Commonwealth Engineering report showing that the current wastewater treatment plant has the capacity necessary for the existing municipal needs and some growth with the 2018 project service area without the land developers requesting the City build a new wastewater treatment plant. On pages 14 & 15 of Mr. Stong's testimony he specifically outlines that the completion of the current Downtown Interceptor project in Crown Point will (line 23 page 14 and lines 1-4 page 15) "Notably, this alleviation of flow from the existing sewers and lift stations provides significant additional system-wide conveyance capacity for sewage affording new customer connections to the existing sanitary collection system both within the existing

service area and throughout the Crown Point Expansion Area." Showing that the new SE wastewater treatment plant construction is not necessary to meet the needs of existing and future customers, it is only necessary for LBL Developments future plans.

If they have Winfield provide the service to this area, Crown Point may not need to spend 80-100 million dollars on a new plant. The plans for that additional plant are described in Phase 3 (page 15 line 5) of Mr. Stong's testimony. He continually refers to the donation agreement and LBL Development throughout his testimony as the reason for building the additional SE wastewater treatment plant.

Table 1-1: Crown Point Wastewater Service Area

Item Description	Total # of Connections	Total Service Area (AC)	# of Additional Connection	Service Area Increase(ac)
Existing Service Area	16,159	11,465	N/A	N/A
2018 WWMP Projected Service Area	23,899	22,260	7,740	10,795
Land Developers Proposed Service Area	66,124	37,110	37,125	14,850

- The City of Crown Point has already entered into financial agreements for funding of a multi-million-dollar new wastewater treatment plant and raised existing customer rates to start collecting funds to pay for the project. I have concerns that the City of Crown Point has already raised rates and intends to begin construction of this new SE WWTP to service this disputed territory in October 2025 before this case has even been decided by the IURC. Can the IURC issue an injunction halting rate increases and any construction of the new facility until this case is decided?

- Of very minor concern is that Mr. Falkowski made a couple of remarks during his testimony that are not wholly true. On page 6 lines 12-13 he stated, "Crown Point has been awarded the Best Place to Live in Northwest Indiana over 10 times since 2010 and the Best Downtown in Northwest Indiana every year since 2010." While Crown Point has been potentially on the list of these places, they have not been THE No.1 on the list of the Best every year since 2010. Additionally, on Page 11 lines 6 & 7; he states "In addition to our local teams, the full-size baseball complex is also home to the Lake County Corndogs, a semi professional baseball team." The Lake County Corndogs are a collegiate summer regional league baseball team not a semi-professional baseball team. That statement I believe is an attempt to inflate the preeminence of Crown Point's standing in the area among its neighboring communities. Once again showing what I believe is a lack of good faith in being honest in the testimony of the City of Crown

Point witnesses.

Thank you for your time and consideration of this matter. Please feel free to call me with any questions.

Sincerely,

Susan McKendry
219-308-2748