

WOOSE Report

on the Ohio State
University
Airport



September 2006
Vol. 2 Supplement

Implications of the Don Scott Field Plans

A Supplement to the July 2006 Report

Prepared by

We Oppose Ohio State airport Expansion

Released into the Public Domain

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September 15, 2006

Karen A. Holbrook, President
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City Council Members
Worthington City Council

Board of Trustees
The Ohio State University

WOOSE has received Dean Baeslack's response to Volume 2 of the WOOSE Report on the OSU Airport.

We appreciate the confirmation of many of the points made in the WOOSE report, such as the fact that Don Scott Airport does not have a business plan. We also appreciate Dean Baeslack's actions to correct this by preparing one. However, we believe that OSU's response is incomplete and does not deal with the basic issues contained within the report.

The WOOSE Report was not isolated to consideration of airport-related issues. It addressed broader issues related to the University's responsibilities to its neighbors and its fiduciary responsibilities to Ohio taxpayers.

This Supplement to Volume 2 sets forth each of Dean Baeslack's comments and WOOSE's response to each. The original report, and this supplement, are directed to the President and Board of Trustees of The Ohio State University. We hope that you will give the issues raised serious consideration and direct the University administration to develop a plan to correct the problems we have identified.

As with all of our works, if the University finds items in error or our assessment incorrect, we would appreciate the courtesy of an explanation. The position taken by University representatives to dismiss Volume 2 outright at the time of its publication was obviously not correct. We appreciate the more thoughtful response by Dean Baeslack even though we believe it is incomplete or incorrect in some parts. We hope that this supplement lays the basis for an ongoing dialogue and offers you the opportunity to make improvements to the benefit of the University and the surrounding communities.

We would also note that we have not yet received a complete response to Volume 1 of the WOOSE report. Although the situation has changed significantly since its publication in February 2005, we hope that the University will make a complete and thoughtful response to the issues raised in that report.

Thank you for your review and consideration of these important issues.

A handwritten signature in black ink, appearing to read "Dennis S. Hennen". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dennis S. Hennen
WOOSE President

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I. Executive Summary

A. Purpose and Organization

The WOOSE Report on the Ohio State University Airport, Volume 2, Implications of the Don Scott Field Plans was issued on July 5, 2006. The University responded to the report with a two-page letter on August 31, 2006. This response is located in Appendix B.

The common theme for the Volume 2 report was the impact of OSU plans on surrounding communities and the lack of plan completion by The Ohio State University. There were twelve recommendations addressed to OSU, one to the Ohio Department of Transportation and one to local governments.

The report subject areas that generated recommendations consisted of the following:

- Don Scott Field Area District Plan (PLAN)
- City of Columbus 2006 Northwest Plan
- OSU Airport Business Plan
- Ohio Airport Capital Improvement Plan
- Don Scott Field Real Estate Value
- Ohio National Guard Helicopter Hangar
- The FAA, Land Use, and Grant Assurances

This supplement to the July 2006 report is structured for the reader to understand the issues and why WOOSE believes The Ohio State University's response was incomplete and in some instances incorrect. Each of OSU's responses is considered in turn using the following format:

- WOOSE Report Executive Summary
- WOOSE Report Recommendations
- OSU Response
- WOOSE Comments

B. Acronyms and Definitions

Airport	The Ohio State University Airport
FAA	Federal Aviation Administration
OACIP	Ohio Airport Capital Improvement Plan
ODOT	Ohio Department of Transportation
ONG	Ohio National Guard
OSU	The Ohio State University
PLAN	Don Scott Field Area District Plan
University	The Ohio State University
WOOSE	We Oppose Ohio State airport Expansion
WOOSE Report ..	WOOSE Report on The Ohio State University Airport, July 2006

II. WOOSE Report, OSU Response, and WOOSE Comments

A. Don Scott Field Area District Plan (PLAN)

WOOSE Report Executive Summary

The 1998 Don Scott Field Area District Plan (PLAN) remains unapproved by the OSU Board of Trustees and its delay is having an effect on the Columbus Northwest Plan. The PLAN elements raise legal and public issues that need to be addressed, and there are concerns the PLAN concepts are out of date. This report suggests Don Scott Field could offer a solution to reduce the life of operating leases extending out to the year three-thousand (3000) that OSU has entered into contractually.

WOOSE Report Recommendations

1. When updating the Don Scott Field Area District Plan (PLAN), delete the “aggressive airport business development strategy” and reject locating warehouses on Don Scott Field.
2. Present to the Ohio General Assembly for review and approval the PLAN concept of transferring university land and other assets to a private sector development corporation.
3. Evaluate how Don Scott Field can be utilized to reduce operating lease payments and improve OSU’s financial condition.

OSU Response

Don Scott District Plan

The Report claims that the “1998 Don Scott Field Area District Plan” remains “unapproved” and that there are concerns that the plan’s “concepts are out of date.”

The Don Scott Area District planning process was intentionally put on hold in 1998. This was explained at an Airport Advisory Committee meeting. This was done because the University realized that we needed to address with the FAA the issue of the land outside the Airport boundary (the so-called “Exhibit A” land) and we needed to complete planning for the future land needs of the College of Food, Agricultural, and Environmental Sciences. Moreover, we now need to ensure that all airport-related concerns are addressed before we move forward again with this planning.

Supposed Operating Lease that extends to the year 3000

The financial statement quoted does say that. It is a mistake that will be corrected with the FY 2006 version of the lease footnote. The Controller's Office reports that this is actually the building association fee for the Treasurer's River Watch office space.

WOOSE Comments

In this WOOSE report section there were four broad issues listed below of which the first three were not addressed and the fourth one was acknowledged as an error.

- The 1998 PLAN has not been approved and is needed to provide critical input to the City of Columbus Northwest Plan.
- The 1998 PLAN raises questions as to whether OSU understands and could manage the impact it will have on surrounding communities.
- OSU plans to “shift land assets to a single ownership entity” raise legal and public policy issues.
- OSU should consider how Don Scott Field can reduce operating lease debt.

The OSU response ignored the fact that the 1998 PLAN acknowledged that it was a catalyst and the City of Columbus was waiting to incorporate it into its Northwest Plan. The effect of eight years without guidance was demonstrated by the results of the draft 2006 Northwest Plan, which is commented on later in this report.

The OSU response did not address concerns expressed about the PLAN where it states that it “is dependent upon the expansion of the airport and the implementation of an aggressive airport business development strategy.” Nor did OSU concern itself with the PLAN’s use of “flex/warehouse” and the subsequent concerns for increased truck traffic, compatibility with surrounding communities, and its effects on their roadways.

The OSU response highlighted several points in the WOOSE Report where it stated that the PLAN remains “unapproved” and its “concepts are out of date.” These phrases had their origin from public comments made by the University’s Senior Campus Planner in a February 17, 2005 Northwest Plan Advisory meeting.¹

There are some draft plans for the area, none of the plans have been adopted by the Board of Trustees. Additionally, some of the plans are outdated and will need to be revised before going further.

The OSU response did not address legal and public policy issues related to the proposed transfer of “land assets to a single ownership entity” nor how such an entity would be held accountable by the legislature and Ohio citizens.

¹ Northwest Plan Advisory Committee, Meeting Summary. February 17 2006. URL <http://www.columbusinfobase.org/electlib/library/NW%20Plan%20Update%20Feb%2017%20Minutes.pdf>

The OSU response appears to make light of the issue related to OSU's 2005 Financial Statement Note 8 entitled "Operating Leases." This note depicted significant operating lease payments between the years 2,046 and 3,000. WOOSE, like other users of financial statements, relies upon the integrity and accuracy of the financial statements prepared by OSU management and opined upon by the international accounting firm Deloitte & Touche. WOOSE hopes OSU has informed the Ohio Auditor of State of the error in its financial statement notes and that its 2006 financial statements will reflect the correction.

The OSU response referred to its actions related to a land issue with the FAA. In April of 2006, OSU management was directed by the Board of Trustees to offer to the State Controlling Board for its approval the sale of certain land parcels to the State of Ohio. To date, OSU management has not yet presented the offer to the State Controlling Board. WOOSE wonders why this is so.

WOOSE also noted that OSU stated "we needed to complete planning for the future land needs of the College of Food, Agricultural, and Environmental Sciences." WOOSE was aware of the completion of the College of Food, Agricultural, and Environmental Sciences Master Plan in November 2004.

B. Columbus' 2006 Northwest Plan

WOOSE Report Executive Summary

The Columbus 2006 Northwest Plan demonstrates a lack of reality and input from the PLAN. An example of this lack of reality is demonstrated by a roadway depicted within OSU Airport boundaries. The Northwest Plan asks for a multi-jurisdictional approach to expanding State Route 161 without knowing what has been approved for development on Don Scott Field by the OSU Board of Trustees.

WOOSE Report Recommendation – Directed toward Local Governments

Activities related to the Columbus Northwest Plan should be curtailed until the Don Scott Field Area District Plan is updated and approved by the OSU Board of Trustees. Upon plan approval and distribution, local governments can make informed decisions about Don Scott Field's future impact on their citizens.

OSU Response

City of Columbus Draft 2006 Northwest Plan

The earlier draft included an east-west road running through University property north of University Airport. That road plan was not suggested by nor was it endorsed by the University. The City of Columbus is aware of the status of the Don Scott Area District Plan.

WOOSE Comment

In this WOOSE report section there were three issues listed below which OSU did not address.

- The Northwest Plan, April Edition, states the Don Scott Field District Area Plan will be completed in 2008 to 2010.
- The Northwest Plan depicts a roadway within OSU Airport boundaries.
- The 2006 Northwest Plan urges multi-jurisdictional approach to expanding State Route 161, but does so without information from the Don Scott Field Area District Plan.

The OSU response did not confirm or deny the draft 2006 Northwest Plan entry stating the PLAN will be completed in 2008 to 2010.

The OSU response statement that “the earlier draft included an east-west road ... was not suggested by nor was it endorsed by the University” is partially correct. The Northwest Plan map for the April edition also had a roadway that entered airport property from the west. Both maps were included in the WOOSE Report.

The WOOSE Report recommendation cited above was not directed towards OSU but towards local governments. The draft 2006 Northwest Plan asks for a multi-jurisdictional approach to expand State Route 161, but does so without any input from OSU as to whether Don Scott Field will contain office buildings, flex/warehouses, or a golf course. The February edition of the draft 2006 Northwest Plan map for the north side of Don Scott Field had a large area colored for office buildings and was changed in the April edition to “Uncertain.” It is difficult for elected local officials to make informed decisions affecting their constituents without knowing what OSU plans to do with the 1,400 acres that make up the Don Scott Field Area.

C. OSU Airport Business Plan

WOOSE Report Executive Summary

The OSU Airport's lack of a business plan demonstrates an unprofessional view of the operation of the fifth-busiest airport in Ohio. The PLAN, expected to be completed in the 2008 to 2010 timeframe, includes the development of an airport business plan. Rather than waiting on the PLAN, OSU should ask the Columbus Regional Airport Authority and/or the Fisher College of Business for assistance in developing an airport business plan immediately.

WOOSE Report Recommendation

Contact the Columbus Regional Airport Authority and the University's Fisher College of Business on the development of a business plan for submission to and approval by the Board of Trustees.

OSU Response

University Airport Business Plan

The Report claims that the Airport has no business plan approved by the Board of Trustees. The Board of Trustees does not ordinarily request or approve business plans for operating units. Review of financial plans is the function of the department chair and dean of the college, Academic Affairs, and Business and Finance, among others. The Airport has a strategic plan for FY 2007, which includes both a five year capital and a five year operating budget.

WOOSE Comments

The OSU response says it does not have a business plan. The WOOSE recommendation is a continuation of one made on page 47 of the February 2005 WOOSE Report on the Ohio State University Airport.

When asked for a copy of the OSU Airport Business Plan, the Airport Director indicated there wasn't one. The statement was confirmed by the College of Engineering Dean in a September 21, 2004 email, who said, "A business plan is being developed and one does not now exist."

Nearly two years after the above OSU statement was made, WOOSE believes having an airport business plan is necessary to provide guidance to University management and

staff on various aspects of operating the 6th busiest airport² in Ohio as a business, including such items as asset utilization, revenue realization and expense control.

The University has said they have a “strategic plan, a five-year budget and ‘all sorts of documents that guide our operations.’ ”³ Despite requests for these documents, the University has yet to produce them.

D. Ohio Airport Capital Improvement Plan (OACIP)

WOOSE Report Executive Summary

A review of OSU Airport’s Ohio Airport Capital Improvement Plan (OACIP) on file with the Ohio Department of Transportation showed projected increases in operations and aircraft based at the airport over the next ten years. When the OACIP was compared to a previous master plan’s projections and actual activities, it raised the issue of overstatement. The airport’s projections, when combined with high aviation fuel prices predicted by the U.S. Energy Information Agency, suggests a reduction in the OSU Flight School aircraft fleet. An analysis of FAA data shows that itinerant operations became the dominant portion of traffic at OSU Airport in 1995.

WOOSE Report Recommendations

1. Review its Cessna aircraft fleet size and calibrate it to the number of individuals taking pilot flight training.
2. Evaluate process used to generate airport projections, determine what influence may be affecting the process to generate overstatements, and institute the appropriate changes to policy and procedures.

OSU Response

Airport Capital Improvement Plan

The Airport has a five year capital budget. The operations forecast was based on FAA predictions for the industry as well as local assumptions. The forecast will be reassessed as an element of the Part 150 Noise Study.

² Based upon the FAA Terminal Area Forecast (TAF), OSU total operations of 99,809 in 2004 position the airport in sixth place. Previously it was in 5th place. Cleveland-Hopkins, Port Columbus, Akron-Canton Regional, Dayton International, and Cincinnati Lunken airports had more total operations than OSU. Also in 2004, Bolton Field had 71,072 operations, whereas Rickenbacker only had 39,826 operations.

³ Teter, Lyndsey. “OSU: WOOSE report may be inaccurate.” Worthington News. July 19 2006.

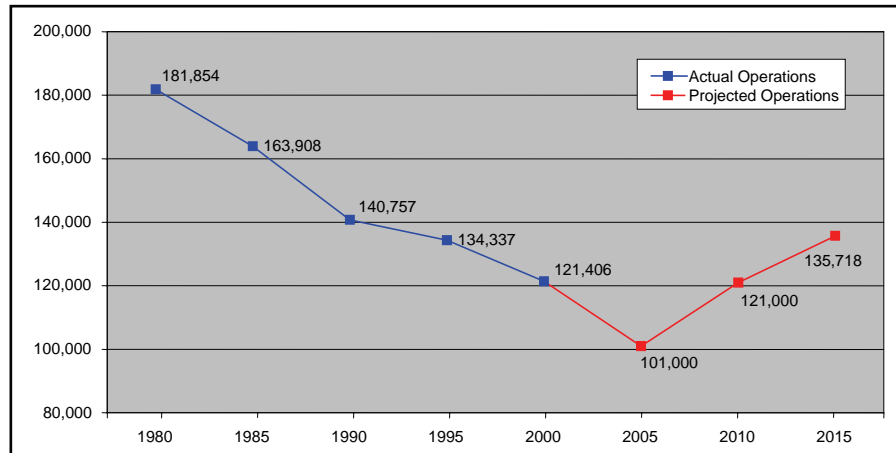
WOOSE Comments

According to the OSU response, “The operations forecast was based on FAA predictions for the industry as well as local assumptions.” WOOSE is focused on the process that produced the flight operations forecast for the 1990 OSU Airport Master Plan and 2005 Ohio Airport Capital Improvement Plan (OACIP). The OACIP called for a 34% increase in flight operations, a level that in 2015 would be slightly greater than the OSU Airport’s flight operations back in 1995.

What concerns WOOSE is that two years after the 1990 OSU Airport Master Plan was completed, the forecast-to-actual flight operations was off its mark by 35,580 – a 22% drop. The seven-year forecast-to-actual flight operations was off by 70,843, a 39% drop. As shown in the WOOSE Report, flight operations at OSU Airport during 1980 to 2000 were on a downward trend and it is not known if flight operations have bottomed out. As commented on earlier, OSU Airport ranks as the 6th busiest airport in Ohio, a step down from its ranking as 5th busiest several years ago.

As depicted in Figure 1, the OACIP forecast shows a dramatic turn around of flight operations. WOOSE is concerned that the OACIP forecast also used the same process that created the flight operations forecast in the 1990 OSU Airport Master Plan.

Figure 1 – Total Flight Operations – Historical and Projected (1980 to 2015)



WOOSE continues to believe that high aviation fuel prices will dampen airport activity projections, though OSU did not indicate whether it agreed with the WOOSE argument or the U.S. Department of Energy's twenty-five year fuel price forecast. We noted the following passage about high fuel prices in the 1990 OSU Airport Master Plan.⁴

While the number of annual operations at the Airport has grown over the past three years, 1986 activity levels were only 78 percent of the 1976 levels of operation. This pattern closely follows a national decline in general aviation activity due primarily to the high costs of fuel and other expenses associated with owning and operating aircraft.

The lack of discussion about the number of aircraft owned by OSU was disappointing. OSU Airport is home to three flight training schools and there are six other schools located in central Ohio. It appears that OSU has 24 flight instructors,⁵ whereas Central Ohio's self-proclaimed "Largest Privately Held Flight School" has only 3 flight instructors.⁶

Finally, the February 2005 WOOSE Report noted the yearly transfer of \$200,000 from the Airport account into the Flight School account.⁷ WOOSE continues to hold its position that the money transfers imply the OSU Flight School business model can only be successful if it receives yearly subsidies.

E. Don Scott Field Real Estate Value

WOOSE Report Executive Summary

A comparison of Don Scott Field real estate parcel market values for the 2002 and 2005 Franklin County Auditor Reviews showed thirteen (13) parcels lost value. Three of the parcels lost over 30% of their value. One 57-acre parcel that has the 2006 Northwest Plan approval for single-family residential development lost 34% of its value. The current market value of that parcel is slightly more than the 1988 offer price by the Dublin School District.

⁴ The Ohio State University Airport. Master Plan Update, Technical Report. August 1990, p. I-6.

⁵ The Ohio State University, College of Engineering. Administration and Faculty Web Site. September 2006. URL <http://www.eng.ohio-state.edu/faculty/directoryresult.php?find=18>

⁶ Bolton Flying Services. Certified Flight Instructors. September 2006. URL <http://www.boltonflyingservice.com/cfi.html>

⁷ WOOSE. WOOSE Report on the Ohio State University Airport. February 2005, p.44.

WOOSE Report Recommendation

Determine why there was market value reduction for thirteen (13) land parcels in Don Scott Field. Real estate parcel 590-159023 should be reviewed for its current market value in preparation for its future sale.

OSU Response

Don Scott Field Area Real Estate Value

The Report claims that certain Ohio State properties suffered “market value losses” over the last few years. This is based on a review of the County Auditor's 2005 triennial real estate appraisal. These appraisals are done for tax purposes and do not reflect market value. Moreover, State of Ohio property is held for University use, not for market appreciation for sale.

WOOSE Comments

There were three points made in this report section:

1. Don Scott Field has a market value of \$162 million and is similar in size to the city of Bexley.
2. Don Scott Field lost over \$6.8 million in market value over a three-year period.
3. A 57-acre parcel recommended for single-family residential development suffered a 34% decline in market value.

WOOSE understands the OSU position as it relates to use of the term “market value” and wishes to explain this term was found on the Franklin County Auditor real estate records. The OSU position implies the Don Scott Field land could be worth more than the \$162 million value assigned by the Franklin County Auditor.

WOOSE was forthright in stating the following in the WOOSE Report on page 38:

It is acknowledged market value does not play an active role at OSU due to its exemption from paying county real estate taxes. The disclosure of the market values losses at Don Scott Field has two objectives:

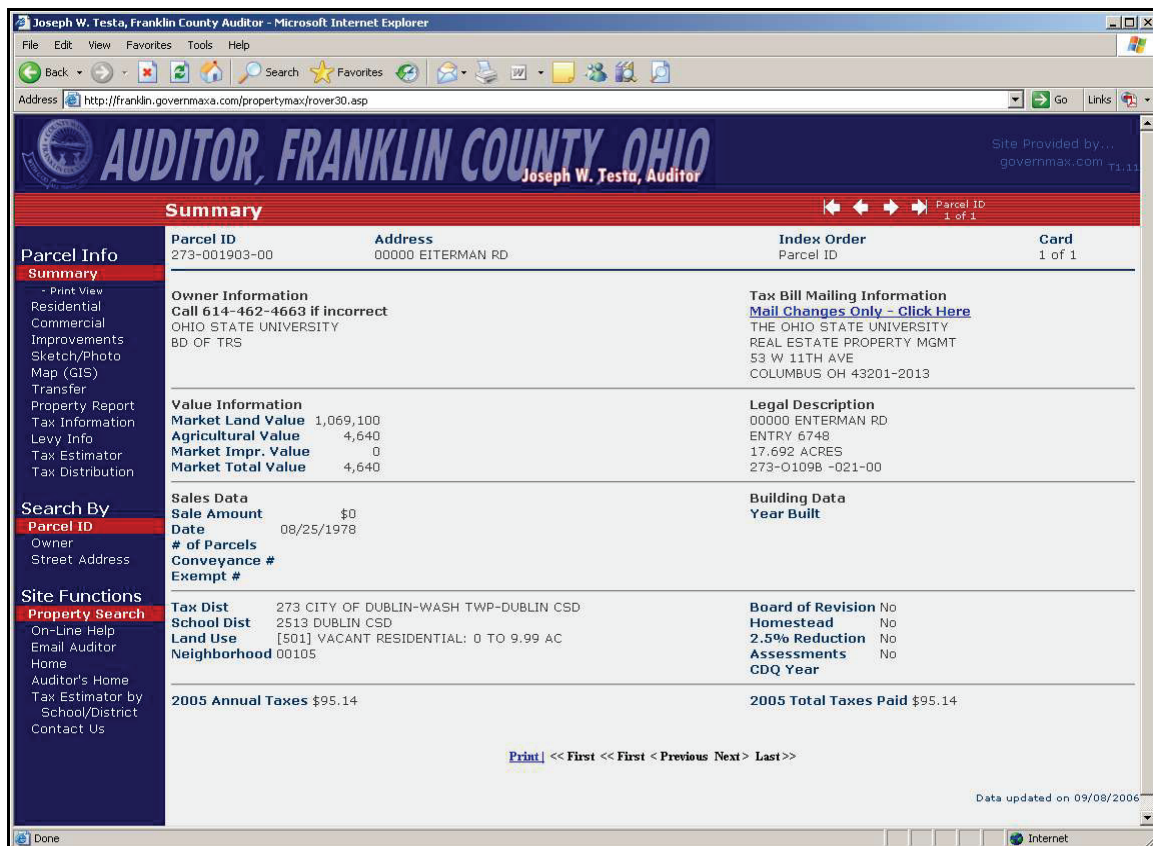
- 1. Assist OSU in being a good steward of public lands.*
- 2. Alert OSU to market value reductions for management review and response.*

Our subsequent review of the Franklin County Auditor land parcel records revealed that there are approximately 526 parcels used by The Ohio State University. 33 of these

parcels are assessed real estate tax. The majority of the 33 parcels were given a “market value” and there are several parcels for which the value is derived from its soil type. Those latter parcels are listed in the Current Agricultural Use Value (CAUV) program⁸ where the land is assessed for tax purposes based upon the soil type.

CAUV parcel number 273-001903 is located within the city of Dublin just south of the Post Road and State Route 33 interchange (Figure 2). While the County Auditor gave the property a “market value” of \$1,069,100, the soil type for this land resulted in a agricultural value of \$4,640. The annual real estate tax for the 17.692 acre parcel is \$95.14.

Figure 2 – CAUV – Parcel # 273-001903



If such property was classified as commercial property the annual real estate property tax would be \$28,733 (Figure 3).

WOOSE also noted the Land Use code for this property is incorrect. The 501 code is “Vacant, unplatted residential land; 0 to 9.99 acres. The property has 17.692 acres and

⁸ Franklin County, Ohio Auditor. Current Agricultural Use Valuation (CAUV). September 2006. URL http://www.franklincountyohio.gov/auditor/Real_Estate/CAUV.shtml

the CAUV land use code is 111 and is defined as “Cash (Grain/General) farm qualified for CAUV.” OSU should notify the Franklin County Auditor of this misclassification.

Figure 3 – Franklin County Auditor’s Tax Estimator for Parcel # 273-001903

Joe Testa, Franklin County Auditor's Tax Estimator	
Market Value	\$1,069,100
Owner Occupied	No
Residential or Commercial	Commercial
Effective Rate (Tax Year 2005)	76.788397
Estimated Yearly Tax (Current Rate)	\$28,733
Tax District	CITY OF DUBLIN-WASH TWP-DUBLIN CSD

While OSU doesn’t recognize the Franklin County Auditor’s “market value” or the “market value losses”, there are several issues that OSU must realize.

1. One of the properties identified in the WOOSE Report is owned by the OSU Board of Trustees and the “market value loss” may require an inquiry by the Trustees into this issue because of their fiduciary responsibility.
2. OSU should be in the position to explain why 13 of the 47 (27%) of parcels that make up Don Scott Field had their “market value” reduced by the Franklin County Auditor. It is WOOSE’s position that taxpayers should not have to contact elected state or county officials to obtain explanations about University property values.
3. OSU stated “State of Ohio property is held for University use, not for market appreciation for sale.” There appears to have been a communication breakdown between OSU and the City of Columbus since the draft 2006 Northwest Plan recommends approval for residential infill development for parcel number 590-159023. The current zoning classification for this parcel is M2 – manufacturing and the Northwest Plan states it will support new development compatible with existing single-family development.

F. Ohio National Guard Helicopter Hangar

WOOSE Report Executive Summary

An issue of concern is the Ohio National Guard (ONG) Helicopter Hangar and MedFlight of Ohio. OSU has attempted in past years to obtain or purchase the ONG Helicopter Hangar and is currently waiting on FAA funding to purchase it. The ONG helicopter tie-down area was purchased by OSU with FAA funding in 2001.

It appears OSU may violate U.S. Law if it uses FAA funding to purchase the ONG helicopter hangar and this report suggests OSU request a U.S. Attorney General opinion on the issue. The hangar is currently the home for MedFlight of Ohio.

This report shows OSU has not properly and publicly disclosed its relationship with MedFlight of Ohio. There are issues of OSU providing interest-free loans to MedFlight without discussion or approval by the Board of Trustees and the lack of disclosure in OSU's financial statement notes.

WOOSE Report Recommendations

1. Ask the FAA to request a U.S. Attorney General opinion whether OSU may use FAA funding to purchase the ONG Helicopter Hangar.
2. Publicly disclose its relationship with MedFlight, describe the public purpose of the loans to MedFlight, identify the process used to approve and issue the loans, and disclose any other loans that have been issued to MedFlight in the past eleven years.

OSU Response

Possible Purchase of ONG Hangar

The Report claims that the purchase of the Ohio National Guard hangar with FAA funds may violate FAA rules or Federal law. The Report implies that the University would otherwise seek to keep its relationship with MedFlight unknown to the FAA. If the University were to be in a position to purchase the ONG hangar, it would have no reason to try to conceal its involvement in MedFlight when applying for FAA funds necessary to accomplish such a purchase. The University seeks appropriate legal advice regarding such purchases.

WOOSE Comments

Our report gave a brief history of OSU activities related to the Ohio National Guard (ONG) helicopter hangar currently leased to MedFlight. This section served to inform the reader of nearly two decades of OSU's actions to attempt to obtain the ONG helicopter

hangar either through a military surplus transfer or purchase with 90% FAA funding of the purchase price.

OSU raises an interesting issue in its report where it asserts that it may or may not have disclosed to the FAA its relationship with MedFlight. WOOSE welcomes any information from OSU as to when it informed the FAA of its financial and directorial interests in MedFlight.

Discussed later in this report is OSU's lack of public disclosure of the MedFlight interests via its annual financial statements in accordance with Government Accounting Standards Board pronouncements, the issuance of an interest-free loan to MedFlight, and the lack of entries related to MedFlight transactions in the Board of Trustees minutes.

The WOOSE Report points out a major roadblock in the OSU pursuit to obtain the ONG helicopter hangar. This roadblock is found in federal law and specifically the FAA Airport Compliance Requirements. According to the FAA regulation, use of federal money to purchase the ONG helicopter hangar and its subsequent use by MedFlight, a company OSU has a financial and directorial interest in, would constitute support for a monopoly. Such action would be anti-competitive. The relative FAA Airport Compliance Requirements are as follows:⁹

The FAA has concluded that the existence of exclusive right to conduct any aeronautical activity at an airport limits the usefulness of the airport and deprives the using public of the benefits of a competitive enterprise. Apart from legal considerations, the FAA considers it inappropriate to provide Federal funds for improvements to airports where the benefits of such improvements will not be fully realized due to the inherent restrictions of an exclusive monopoly on aeronautical activities.

It is with that understanding of the situation and with the knowledge that OSU can ill afford to spend scarce financial resources on expensive outside legal counsel that WOOSE made the suggestion that OSU present this issue to the U.S. Attorney General for his written opinion. As OSU knows, when questions pertaining to Ohio law or regulations arise, county prosecutors seek the formal advice (opinion) of the Ohio Attorney General.¹⁰

⁹ Federal Aviation Administration. Airport Compliance Requirements. October 2 1989, p.8. URL http://www.faa.gov/airports_airtraffic/airports/resources/publications/orders/media/obligations_5190_6a_part1.pdf

¹⁰ Ohio Attorney General. Attorney General Opinions. September 2006. URL <http://www.ag.state.oh.us/legal/opinions/>

OSU Response

OSU/MedFlight Relationship

The Report states that Ohio State has not “disclosed” its MedFlight relationship. The University was one of the founding members of MedFlight. This was explained at a recent Airport Advisory Committee meeting. The University’s relationship with, and participation in, MedFlight is a matter of public record. Anyone desiring to learn more should contact MedFlight or the University personnel who are on the MedFlight Board. Finally, MedFlight is one of the related entities that is monitored by the OSU “Affiliated Entities Committee of the Board of Trustees.”

WOOSE Comments

OSU takes credit for disclosing its relationship with MedFlight at a meeting when it was WOOSE that challenged OSU to explain this relationship in a discussion of late night aircraft noise. Only after the OSU relationship with MedFlight was raised did an OSU vice-president briefly discuss MedFlight. At that meeting, OSU announced the cessation of late night flights by some noisy jet aircraft under contract with MedFlight.

WOOSE agrees with the OSU response in that the University is a founding member of MedFlight. WOOSE is disappointed OSU did not address the following:

- Why has OSU not disclosed its business relationship with MedFlight in its annual financial statement notes?
- What was the public purpose for OSU to make an interest-free loan to MedFlight?
- Why don’t the Board of Trustee minutes contain information about the MedFlight loans or OSU’s involvement with MedFlight?

WOOSE acknowledges that OSU has disclosed its dealings with other non-profit organizations both in its financial statement notes and Board of Trustee minutes. Why there hasn’t been full disclosure and answers about the MedFlight loan transactions is puzzling.

G. The FAA, Land Use, and Grant Assurances

WOOSE Report Executive Summary

In a February 2006 letter to OSU, the FAA cited OSU’s noncompliance with 8 of the 29 federal grant assurances that OSU agreed to on acceptance of airport improvement grants. The letter states that MedFlight and the Ohio Department of Transportation are not paying their fair share of airport fuel flowage fees. It is not known if OSU has

informed its statutory legal counsel, the Ohio Attorney General, or MedFlight and ODOT of the FAA's February 2006 letter and its assertions.

OSU responded to the FAA on April 7, 2006, offering reasons why the FAA claim was invalid. First, OSU does not currently have any ground leases in effect with any tenant. Second, MedFlight and ODOT fuel their own aircraft, thus OSU personnel and insurance costs are not included in their fuel costs.

It is hoped that the FAA will accept OSU's explanation and issue a definitive and binding statement concerning fuel flowage fees. Until that time, the fuel flowage fee issue implies ODOT has an unpaid arrearage. This may present a problem to the State of Ohio due to a provision in the Ohio Constitution on public debt. This report also suggests that MedFlight and the State of Ohio may wish to communicate directly with the FAA on this issue.

A Google search of the term "fuel flowage fees" revealed a number of internal audit reports nationwide indicating numerous problems associated with the recognition, receipt and reporting of this fee type. These reports also noted weak internal controls in place to prevent, detect, and correct errors related to fuel flowage fees. In the last WOOSE Report, it was noted an internal audit had not been performed at OSU Airport since 1996.

The FAA made several recommendations in their February 2006 letter, but we consider the one dealing with the creation of standards for its fixed based operator substandard. The FAA only cited one commercial activity while there are a number of commercial activities currently in operation at OSU Airport. There are other airports, including those owned by universities, which have developed and implemented standards for the commercial activities at their airports.

WOOSE Recommendations

1. Ascertain the FAA's position on fuel flowage fees related to MedFlight and ODOT based upon the April 7, 2006 OSU response. It may be appropriate for MedFlight and ODOT to respond individually through their legal counsel on this issue.
2. Conduct an audit of the fuel flowage fee system at the OSU Airport and release the report to the public upon completion.
3. Develop "Minimum Standards for Commercial Operators" in accordance with FAA Advisory Circular 150/5190-5 for all commercial activities at OSU Airport. The standards established by other organizations could be used as a guide to reduce development time.

OSU Response

“FAA cited OSU Airport for lack of compliance with grant assurances”

The Report claims that the FAA has cited the University for noncompliance regarding FAA grant assurances. This is untrue. FAA's letter, based on a 2005 inspection, raised several concerns and questions. The letter concludes: "We urge the University to take our [FAA] comments and concerns into consideration and request the University provide a written response within 45 days of the date of this letter explaining how they intend to take corrective action on all issues addressed." The University responded on April 7 to address the issues raised by FAA. The University has not yet received any follow up correspondence from FAA.

WOOSE Comment

In this WOOSE Report section there were five areas.

- FAA cites OSU Airport for lack of compliance with grant assurances established by Title 49 U.S.C. § 47101, *et seq.*
- The FAA says ODOT and MedFlight are not paying their fair share of airport fuel flowage fees.
- The FAA assertion on airport fuel flowage fees noncompliance by Med Flight and ODOT raises the issues of fuel fee arrearages and Ohio's unpaid debt.
- The OSU Internal Auditor should perform an audit of OSU Airport fuel flowage fees to ensure there are appropriate internal controls in place and operating as designed.
- FAA advice to OSU on development of "Minimum Standards" falls short .

WOOSE believes OSU should reread page 45 of the WOOSE Report very carefully. OSU will note WOOSE used the exact language in the FAA letter to OSU informing it "of the airport compliance issues" and the "problem areas identified in this letter concern several Federal assurances." WOOSE also noted the Federal letter ending asking OSU "how they intend to take corrective action on all issues addressed." Clearly, OSU has to fix something.

As to the issue of fuel fee arrearages and Ohio's unpaid debt, OSU did not comment. The WOOSE Report expressed its hope that the FAA would agree with the OSU reasoning on the fuel flowage fees and issue a definitive and binding statement to the effect of indemnifying the State of Ohio, specifically ODOT.

There are several issues that OSU has not fully understood:

1. If the FAA demands payment of fuel flowage fees from the ODOT, then Ohio taxpayers are the ones who ultimately pay the bill.

2. WOOSE is not comfortable with OSU representing ODOT in this matter to the FAA.

As expressed in the WOOSE Report, it is hoped that OSU has informed the Ohio Attorney General and ODOT of the fuel flowage issue and obtained concurrence from these two state agencies on its April 7th letter to the FAA.

The February 2005 WOOSE Report disclosed that the OSU Airport had not had an internal audit during the period of 1996 to 2004 and it is not known if there has been an audit during the 2004 to 2006 time period. When WOOSE researched the fuel flowage fee issue, it learned of fee accounting problems at other airport including Cincinnati's Lunken Airport. WOOSE, like all taxpayers, expect public institutions to exercise prudent stewardship of public money and property.

If OSU Airport hasn't had an internal audit since 1996, it would be appropriate for one to be conducted now.

The final area of this report section dealt with the FAA advice on the development of "Minimum Standards" for OSU Airport. The basis for the "Minimum Standards" is a 21-year-old FAA regulation whose purpose is to prevent discriminatory practices and promote competition.

When one looks at the services provided at OSU Airport, one gets the impression of an OSU monopoly on services offered to the public. Most of the services offered at OSU Airport are provided by OSU employees, though other services such as the rental car and restaurant services are provided by private sector companies.

It would be difficult for a private sector business to compete with OSU in these service areas if there is no framework that ensures equal access and nondiscrimination in lease contract terms.

WOOSE believes OSU needs to establish itself as a leader in offering a competitive service environment to the aviation public.

H. Communication within the Airport Advisory Board and Noise Committee

OSU Comment

[M]any of these concerns and questions could have been addressed and answered easily if WOOSE had just contacted us before publishing the report, or been discussed through your active involvement on the Airport committees.

WOOSE Comments

We agree that some items, for example the 3,000 year lease, could have been clarified had WOOSE approached the University with questions before publication of the report. In the future we will attempt to resolve such questions earlier. However, we believe all of the issues the University responded to remain relevant and would have been published anyway.

It is important to note that in the past, the University was not responsive to community questions and concerns.^{11,12,13} Although the situation has improved, the University remains evasive and has appeared unwilling to address many of the topics brought forth in the WOOSE Reports.

Airport Layout Plan Approval

During the February 16, 2006 Airport Advisory Board meeting, airport director Doug Hammon made the following statement in regard to the airport's "Future Airport Layout Plan" (ALP).

This has already been reviewed by the FAA. They've already done their airspace approval, they've already made all their comments or [sic] comments have already been incorporated into here. So what you see is, technically, from the FAA and the airport standpoint, is ready to go to the board of trustees for approval. Once adopted by them, the FAA's already signed off on it.

In a March 30, 2006 letter to the City of Worthington,¹⁴ the University stated "... the University has not submitted any version of the draft Future ALP to the FAA for formal review and approval."

The question was posed to the FAA as to whether or not they have received the Future ALP and whether or not it has received their approval. Irene Porter, Manager of the FAA's Detroit Airports District Office, responded with the following:¹⁵

¹¹ Hennen, Dennis. "OSU's silence on airport is maddening." Letter to the editor. Columbus Dispatch, May 22 2004. URL <http://www.dispatch.com/editorials-story.php?story=dispatch/2004/05/22/20040522-A11-02.html>

¹² Cusack, Mary Jo. "Ohio State turns deaf ear to airport noise complaints." Letter to the editor. Columbus Dispatch, July 3 2004. URL <http://www.dispatch.com/editorials-story.php?story=dispatch/2004/07/03/20040703-A11-01.html>

¹³ Shafaieh, Nima. "OSU airport hasn't been a good neighbor." Letter to the editor. Columbus Dispatch, November 28, 2004. URL <http://www.dispatch.com/editorials-story.php?story=dispatch/2004/11/28/20041128-C4-05.html>

¹⁴ Letter from OSU to the City of Worthington. March 30 2006. URL <http://woose.org/docs/files/2006-03-30-osu-worthington-title-transfer.pdf>

On April 13 ,2004, Ohio State University submitted an ALP for Federal Aviation Administration (FAA) review. On May 6, 2005 the FAA transmitted comments concerning the ALP review. After these comments are addressed, the FAA could approve the ALP, subject to the status of the environmental study. It is FAA's policy not to approve an ALP in the middle of an environmental study. However, if the airport either completes the study or cancels the study then the FAA could approve the ALP. If the environmental study were canceled, the FAA would conditionally approve the ALP subject to future environmental action. If the environmental study were complete and approved by the FAA, the ALP would be unconditionally approved with respect to the development cleared by the environmental review.

Title Transfer

During the Airport Advisory Board meeting on March 30, 2006, the issue of the change of title of several OSU airport properties came up. Robert Haverkamp, an Assistant Vice-President for the University, stated at that time the title change was not necessary for the University to develop properties north of the airport. In an April 4, 2006 email to WOOSE, he further asserted:

However, I will note that the FAA and Ohio State have agreed that the property outside the Airport on the clarified Exhibit A never has been, and is not now, part of the Airport. Based on that fact and subject to the condition I noted above, the FAA does not have the authority or intention to regulate use of that land or determine how revenue from that land is allocated. The proposed title changes for parcels inside the Airport are administrative changes that the FAA has requested and to which the University has agreed in order to clarify ownership. But the implementation of these title changes, or the lack of their implementation, in no way impacts the University's right to use the land outside the Airport.

These statements directly conflict with statements he made to the Ohio State Board of Trustees in their March 3, 2006 meeting.

"[Due to changes in FAA rules] ... revenue from [Exhibit A] land needs to support the airport."

"The FAA, in determining that we can get use of the land outside the airport have said they want title for all the land inside the airport to be consolidated."

"... getting back the full use of that property."

¹⁵ Letter from Irene Porter of the FAA to Dennis Hennen of WOOSE. August 21, 2006. URL <http://woose.org/docs/files/2006-08-21-porter-response-to-hennen-qs.pdf>

Agenda Items

WOOSE has made several suggestions for agenda items to be included in airport committee meetings. While we acknowledge that not all of these issues would be relevant for the full committee, to date, nearly every request has gone unacknowledged.

In a July 7, 2006 email to the University and airport committee members, WOOSE President Dennis Hennen requested several items for consideration by the committees, including:

- an “update on land title transfer,” and
- discussion of the “FAA’s February letter citing OSU for lack of compliance with grant assurances, OSU’s response, and what this means.”

We are certain that OSU received these requests. In a July 8, 2006 email to Mary Jagiello of the FAA, Doug Hammon forwarded the email sent by Mr. Hennen, with the following comment regarding the FAA’s February letter:

Please see Dennis Hennen's very last comment below. When will I be receiving your letter addressing our response? We have an Advisory Board Meeting on 7/20, so it may be good to have before then.

To date, the only information the University has released to us concerning this issue is Dean Baeslack’s response to the WOOSE Report Volume 2. The original FAA letter, the email quoted above, and the University’s letter were all obtained through an FAA Freedom of Information Act request.

Recommendation

We hope that the recent restructuring of the Airport Advisory Committees will provide committee members with direction on how to have topics of interest to them and their constituents addressed in that forum or in another appropriate, public forum. We also hope that the University will be more forthright in their comments to the committee in the future.

III. Appendices

Appendix A - Report Contributors

The WOOSE report was prepared entirely by citizens who volunteered their time and expertise in the research effort. The following is a listing of some of the report's contributors. Other individuals also provided information, reviewed, and commented on the report's publication process.

John O'Keeffe

- Business Consultant.
- Previous employers include Big Bear Stores Company, Ohio Auditor of State, Profit Recovery Group, Inc.
- B.S. Accounting 1978, Franklin University.
- Former President/Vice-President, Central Ohio Chapter of Information Systems Audit & Control Association.
- Scoreboard/timekeeper, Thomas Worthington High School Boys & Girls Varsity Soccer teams, since 1996.
- Worthington homeowner since 1989.

Ed Lentz

- Hospital and Health Systems, Regional Health Planning and Assessments.
- B.S. University of Cincinnati.
- M.H.A. Wayne State University.
- Associate Clinical Professor, Department of Preventive Medicine and Assistant Professor, Graduate Program in Health Policy and Health Services, Administration, College of Medicine, The Ohio State University.
- Consultant: U.S. Public Health Service and The Appalachian Regional Commission.
- Current Memberships: Board of Directors, NetCare Corporation, Columbus Rotary Club, Medical Care Advisory Committee – Ohio Department of Jobs and Family Services.
- Worthington homeowner since 1957.

Dennis S. Hennen

- WOOSE , Secretary, 2003 to 2005.
- WOOSE, President, 2005 to Present.
- Old Worthington Association, Trustee, 2006.
- Consulting Party to Federal Aviation Administration.
- B.S. Mathematics and Computer Science, 1997, Lipscomb University.
- M.S. Computer Information Science, 1999, The Ohio State University.
- Computer Science Researcher for military and intelligence agencies, 2000 through 2005.
- Owner and operator of web site design and programming firm, 2005 to present.
- As part of ongoing civic activism, Mr. Hennen has brought several pro se civil cases against illegal junk faxers.
- Worthington homeowner since 2003. He has lived in vicinity of airport since 2000.

Appendix B - OSU Response to the July 2006 WOOSE Report



Office of the Dean
College of Engineering

142A Hitchcock Hall
2070 Neil Avenue
Columbus, OH 43210
Phone 614-292-2836
FAX 614-292-3244

August 31, 2006

Mr. Dennis S. Hennen
128 Caren Avenue
Worthington, OH 43085

Re: Response to WOOSE Report on
the OSU Airport Volume 2

Dear Mr. Hennen:

We understand that your goal is to find solutions to the current noise problems and to find a way for the airport to serve its academic mission in a manner compatible with surrounding communities. We are committed to this same goal. We have reviewed your report and offer the following comments.

Don Scott District Plan

The Report claims that the "1998 Don Scott Field Area District Plan" remains "unapproved" and that there are concerns that the plan's "concepts are out of date."

The Don Scott Area District planning process was intentionally put on hold in 1998. This was explained at an Airport Advisory Committee meeting. This was done because the University realized that we needed to address with the FAA the issue of the land outside the Airport boundary (the so-called "Exhibit A" land) and we needed to complete planning for the future land needs of the College of Food, Agricultural, and Environmental Sciences. Moreover, we now need to ensure that all airport-related concerns are addressed before we move forward again with this planning.

Supposed Operating Lease that extends to the year 3000

The financial statement quoted does say that. It is a mistake that will be corrected with the FY 2006 version of the lease footnote. The Controller's Office reports that this is actually the building association fee for the Treasurer's River Watch office space.

City of Columbus Draft 2006 Northwest Plan

The earlier draft included an east-west road running through University property north of University Airport. That road plan was not suggested by nor was it endorsed by the University. The City of Columbus is aware of the status of the Don Scott Area District Plan.

University Airport Business Plan

The Report claims that the Airport has no business plan approved by the Board of Trustees. The Board of Trustees does not ordinarily request or approve business plans for operating units. Review of financial plans is the function of the department chair and dean of the college, Academic Affairs, and Business and Finance, among others. The Airport has a strategic plan for FY 2007, which includes both a five year capital and a five year operating budget.

Airport Capital Improvement Plan

The Airport has a five year capital budget. The operations forecast was based on FAA predictions for the industry as well as local assumptions. The forecast will be reassessed as an element of the Part 150 Noise Study.

Don Scott Field Area Real Estate Value

The Report claims that certain Ohio State properties suffered "market value losses" over the last few years. This is based on a review of the County Auditor's 2005 triennial real estate appraisal. These appraisals are done for tax purposes and do not reflect market value. Moreover, State of Ohio property is held for University use, not for market appreciation for sale.

OSU/MedFlight Relationship

The Report states that Ohio State has not "disclosed" its MedFlight relationship. The University was one of the founding members of MedFlight. This was explained at a recent Airport Advisory Committee meeting.

The University's relationship with, and participation in, MedFlight is a matter of public record. Anyone desiring to learn more should contact MedFlight or the University personnel who are on the MedFlight Board. Finally, MedFlight is one of the related entities that is monitored by the OSU "Affiliated Entities Committee of the Board of Trustees."

Possible Purchase of ONG Hangar

The Report claims that the purchase of the Ohio National Guard hangar with FAA funds may violate FAA rules or Federal law. The Report implies that the University would otherwise seek to keep its relationship with MedFlight unknown to the FAA. If the University were to be in a position to purchase the ONG hangar, it would have no reason to try to conceal its involvement in MedFlight when applying for FAA funds necessary to accomplish such a purchase. The University seeks appropriate legal advice regarding such purchases.


"FAA cited OSU Airport for lack of compliance with grant assurances"

The Report claims that the FAA has cited the University for noncompliance regarding FAA grant assurances. This is untrue. FAA's letter, based on a 2005 inspection, raised several concerns and questions. The letter concludes: "We urge the University to take our [FAA] comments and concerns into consideration and request the University provide a written response within 45 days of the date of this letter explaining how they intend to take corrective action on all issues addressed." The University responded on April 7 to address the issues raised by FAA. The University has not yet received any follow up correspondence from FAA.

We believe that many of the additional concerns raised in this report are not especially relevant to key issues related to potential future development at the OSU Airport, and effects of the OSU Airport on the surrounding environment, especially noise. Furthermore, many of these concerns and questions could have been addressed and answered easily if WOOSE had just contacted us before publishing the report, or been discussed through your active involvement on the Airport committees.

Thank you for your continuing interest in OSU Airport. We will continue to work with the community to answer questions and to deal with important community concerns about the OSU Airport.

Very truly yours,



W. A. "Bud" Baeslack III
Dean, College of Engineering