

WESTLAND IRRIGATION DISTRICT NEWSLETTER – AUGUST 2018

**P.O. Box 944
Hermiston, OR 97838**

**Phone (541) 667-2030
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Dear Westland patrons,

The weather forecast is finally predicting the end to the smoke and haze in the air...hopefully for the remainder of this summer. If you know firefighters or other personnel who have been involved in fire containment and control this summer, please let them know you appreciate their efforts.

On to water news...

WATER – HOW LONG IS WATER EXPECTED TO BE AVAILABLE?

McKay Reservoir water is projected to last until approximately the middle of September. Depending on what variation there is in irrigation demand between now and then, that projection may change by a few days either way. For updated information, please check the District's website, www.westlandirrigation.com ; Facebook page, www.facebook.com/WestlandIrrigationDistrict ; or call the District office at 541-667-2030.

Please remember it is your responsibility as a water user to schedule water by calling the Westland ditchrider at 541-571-1201. You should be checking your flow meter(s) regularly to track your water use and avoid exceeding your stored water allocation. ***Patrons will be subject to an overuse charge of \$200 per acre-foot (or portion thereof) for water used in excess of their allocation at the time McKay water is no longer in the District's delivery system.***

LITIGATION – ELH LLC et al vs. WESTLAND IRRIGATION DISTRICT

The following is an update provided by the District's legal counsel:

Amended Complaint: On June 26, 2018, the Plaintiffs filed a second amended complaint with Umatilla County Circuit Court. The amended complaint eliminated assertions that had appeared in the prior complaint that the board of directors had “facilitated large scale theft of Umatilla River and McKay Reservoir waters by allowing high levels of over pumping by three junior water rights holders.” The amended complaint also removed statements that these water users were engaged in “massive illegal over pumping” and that the District was engaged in a “massive water misappropriation scheme.” The second amended complaint also removed Frank Mueller as a plaintiff, and further eliminated plaintiffs’ substantive due process claim and tortious interference with economic relations claim.

Discovery: The last of the scheduled depositions was completed on August 3, 2018, with the deposition of Frank Mueller. Mr. Mueller was a Westland board member for more than 40 years. (He was also a plaintiff in the lawsuit until he withdrew his claims.) Among other things, he testified that Westland has always accounted for McKay allocations the way in which it is done today. He also testified that when he was on the board (from 1970 to 2014), he believed that Westland distributed water properly to all of its patrons.

Summary Judgment: Both the District and Plaintiffs have filed their respective summary judgment motions. Summary judgment motions are requests for the court to rule in a party's favor, arguing that no factual disagreement on certain points means that the particular issue should be decided conclusively. The Plaintiffs have moved for partial summary judgment, seeking a determination from the court that the district is required to deliver water to its patrons based on the prior appropriation doctrine. The District has filed a response to the Plaintiffs' motion. Meanwhile, the District has filed a summary judgment motion, seeking a determination from the court on several legal matters. The Plaintiffs filed a combined response to the District's motion, and a reply to the District's response to its own motion.

The remaining brief due to the court is the District's reply to the Plaintiffs' response to the District's motion, which is due August 27, 2018. Oral argument before the court is set for Thursday, August 30, at 9 am in Hermiston. The Court may rule from the bench the day of oral argument, but it is more likely the Court will issue a written opinion several weeks after the oral argument. The Judge can dispose of all or portions of any claims or defenses. If everything is dismissed, the case is over at the circuit court level and there will be no trial. If only a portion of the claims or parties are dismissed, then any remaining party or issue will go to trial. If Plaintiffs' motion is granted, it will likely resolve a legal issue but we will still go to trial on damages and any remaining issues.

Trial: A trial is currently scheduled for three weeks in Pendleton beginning October 15, and will run each day from 9 am to 5 pm with standard breaks. This is a jury trial. If the Court dismisses some or all of the claims of Plaintiffs' or resolves liability issues at the summary judgment phase, the trial will likely be shortened.

Appeal: Any final resolution of issues, whether through summary judgment or trial will trigger the right for a party to appeal. The appeal times begin to run as soon as a dispositive ruling is made as to the whole case, so if claims or parties are dismissed in part at summary judgment the appeal time will not begin to run until after trial and a judgment is entered.

If you have questions or concerns about this litigation, please contact the District office at 541-667-2030 or info@westlandirrigation.com.

ELECTIONS

Elections for board of director positions of divisions 1, 3, and 5 will be held November 13 at the District office. If you have questions about the upcoming elections, please contact the District office.

DISTRICT CONTACT INFORMATION

Office (physical address): 77096 Highway 207, Echo, OR 97826

Office (mailing address): P.O. Box 944, Hermiston, OR 97838

Telephone: 541-667-2030; Fax: 541-667-2031

Office Hours: 7 a.m. to 4 p.m. Monday through Friday

PERSONNEL

District Manager, Mike Wick	541-571-1200
Office Manager, Tami Sherer	541-667-2030
Field Supervisor, Bobby Bailey	541-571-1202
Maintenance, Steven Cleveland	541-571-1203
Ditchrider telephone number	541-571-1201

DIRECTORS

Bob Levy, Chair	Division 1
Jack Bellinger, Vice Chair	Division 4
Jordan Bennett	Division 2
Phil Sharkey	Division 3
Justin Terry	Division 5