

PARK FOREST WATER DISTRICT

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February 19, 2020

A letter to all Park Forest residents

Re: Eagle Rising Litigation Summary

Dear Fellow Residents,

Based on comments received from some residents regarding the recent rate increase and the lack of information concerning the litigation filed by Dr. Steve Jacobs and Cathy Lane, the District Board decided to provide a summary of the prior and current litigation cases. As many of you may know, their claims involve their properties known as Eagle Rising.

Case No. 2016CV30376, El Paso County District Court

Through Casas Limited Partnership Number 4 (“Casas”), Dr. Jacobs and Ms. Lane sued El Paso County and others, including the District, concerning the dead end on Kurie Road that abuts their properties. The basis for Casas suing the District was a fire hydrant located within a public easement. The District filed a motion to dismiss the claims that the Court granted, but it came at a legal cost of approximately \$4,000. The District requested its legal fees, but the Court did not award them.

Case No. 2017CV32161, El Paso County District Court – Case No. 2017CW3038, Water Court, Water Division 2 – Case No. 2019SA106, Colorado Supreme Court

IQ Investors, LLC (“IQ”), another corporate entity in which Dr. Jacobs and/or Ms. Lane have an interest, and Casas sued the District in El Paso County District Court under an inclusion agreement for their properties attempting to force the District into supplying water at no cost to them for ponds located on those properties. Casas and IQ also claimed the District has been unjustly enriched by reconstruction and/or repair work done on the ponds; the Board members want to make clear that the pond work was not done for the District’s benefit nor at its request.

Casas and IQ filed virtually identical claims against the District regarding the ponds in the Water Court case after being sued by the State of Colorado for illegally storing water in these ponds. Some of the background regarding Casas’ and IQ’s claims was provided in the District’s March 2018 letter to the residents. The El Paso County and Water Court cases were consolidated before the Water Court, and the litigation is now entering its third year.

As regarding the ponds claim, the Water Court granted motions filed by both the State and the District for entry of judgment in their favor and denied similar cross-motions filed by Casas and IQ. Casas and IQ appealed those judgments to the Colorado Supreme Court. The District’s litigation attorney filed a brief in the appeal and is preparing for oral argument in April that the Supreme Court has ordered.

This litigation has involved numerous court filings, many of which are lengthy, and it has taken our litigation attorney several weeks to get ready for trial which is now wset for next month. The District

expects Casas and IQ to appeal if the District wins at trial, which would mean we'll incur additional legal fees and expenses.

Our litigation attorney has put in hundreds of hours to prepare and file motions and legal briefs to counter the filings made by Casas and IQ, to handle case matters and prepare for the upcoming trial, and in connection with the appeal. All of this has cost the District well over \$100,000 in legal fees and related expenses, and going through the trial itself will add in the tens of thousands more to the total legal cost. While the Water Court awarded the District a part of its legal fees against Casas and IQ as regarding the ponds claims, those fees are part of the judgment currently on appeal and have not been paid back to the District.

If there is enough interest, and to the extent possible, the District will post the court filings on the District's website.

Since this litigation began, as a Board we have discussed on several occasions several ways to try to negotiate a reasonable settlement short of giving Dr. Jacobs and Ms. Lane everything they want. We authorized our general counsel to attempt to reach a settlement, but unfortunately it does not appear possible based on apparently non-negotiable terms received from one of Casas' and IQ's attorneys.

As rate payers ourselves, we know the litigation has been very expensive for all of us. As a Board, we also want you to know we are doing the best we can under the circumstances to keep the District operating reliably in a cost-efficient way.

We want to thank you all again for your patience and understanding, it has been a very frustrating time for all of us. We invite you to contact the District directly with any questions regarding its operations.

Park Forest District Board

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