

Beaver Slough Drainage District

June 10, 2015 - Garden Valley Discussion Questions

1. Did the quiet title action affect more than just an easement for legitimate District business, such as upland property or buildings?

This question is moot. The case has been settled and the defendants that did not file an answer or that were not defaulted have been dismissed. The District cannot provide legal advice as to the scope of the easement, but the purpose of the quiet title was to clarify the statutory authority of the District allowing it access to property within the District to continue to maintain the District infrastructure.

2. What did the District actually commit to do at the 5.14.2015 settlement conference in Portland?

The District agreed to have a meeting (which was held on June 10, 2015) to discuss the Garden Valley Residents concern with being in the District.

3. Can we verify that J. Willis and the Waterman's insisted that the other landowners in the District be joined to the motion for summary judgement?

The court filings are public records and the transcripts can be ordered for the hearings.

4. Is it possible for the bond to include payment for all costs associated with landowner involvement in all aspects of litigation (in other words, can the bond pay for the landowner legal fees in addition to the District's legal fees)?

No, the bond proceeds may be used only for costs that can be capitalized and are associated with the District's infrastructure and its statutory obligation to operate, maintain, repair, and construct that infrastructure. Legal fees for individual landowners are not tied to the District infrastructure and the bond proceeds may therefore not be used for those legal fees.

5. Do landowners have the option of pre-paying any portion of the bond fees?

Oregon Revised Statutes do not authorize landowners to pre-pay any portion of the bonds.

6. Would the District consider including China Creek channel maintenance as part of its overall maintenance program?

Since its formation in 1906 the District has been responsible for the construction, operation, repair, and maintenance of the berm and culvert/tide gate structure at the entrance to the Coquille River as well as the major canals and their associated berms including the North Dike. The purpose of this infrastructure is to protect all District landowner's properties from flooding due to high tides and to facilitate drainage.

Expansion of the District's maintenance responsibilities to the China Camp Creek Channel to the East of Highway 42N goes beyond past practice and policy of only maintaining District created infrastructure.

However, within the frame work of the District Water Management Plan, the District is willing to work with the landowners in the Garden Valley management area to obtain the necessary permits to maintain the China Camp Creek channel and to assist with the coordination of rodent control. Additionally, the District is willing to explore the possibility of creating a sediment trap in the China Camp Creek Channel to the East of Highway 42N to manage sediment more effectively.

7. Is it possible for the District to invoice a property owner for a parcel that is offending other properties, but is further removed (geographically/spatially) from the affected landowners?

ORS 541.10 and 547.20, copied below, addresses the issue of individual landowners not maintaining their waterways. It would appear this is not limited to adjacent landowners.

547.410 Maintaining improvements; notice to owner or occupant of premises. (1) Whenever the engineer or secretary of such a drainage district notifies the supervisors that any ditch, lateral, drain, canal, slough, waterway or conduit is less efficient, by reason of the failure of the owner of the premises upon which it is situated to repair, clean or grade the same, the board of supervisors shall serve or cause to be served upon such owner, if the owner is known and residing within the county in which the district is situate, or if not a resident of the county, then upon the occupant of the premises, a notice in writing notifying the owner or occupant of the clogged or obstructed condition of the ditch, lateral, drain, canal, slough, waterway or conduit. (2) The notice shall be served by delivering to the owner, occupant or person in charge of the premises a copy thereof certified to be such by the person serving it, or if there is no occupant or the owner is not a resident of the county, then the notice shall be served by posting a copy of it in a conspicuous place upon the premises. Immediately after serving or posting the notice, the person serving it, by authority of the board of supervisors, shall file the original notice with the county clerk of the county in which service is made, together with a return on the notice stating the time and manner of making service. The notice and return, when so filed, shall be retained as a public record of the county.

547.415 Failure of owner or occupant to act; maintenance by supervisors. If the owner or occupant of the premises upon which the clogged or obstructed ditch, lateral, drain, canal, slough, waterway or conduit is situated fails for 10 days after being notified of the existence of such clogged or obstructed condition, to repair, clean or grade the ditch, lateral, drain, canal, slough, waterway or conduit or remove the obstruction therefrom, the board of supervisors shall immediately repair, clean or grade the same and cause it to be promptly placed in a proper and efficient condition.

8. What exactly do landowners need to do if they choose to leave the district (i.e., what documents need to be completed and filed, etc.)? If a liability waiver is required, what specific language is required in that waiver?

Adjustment of District boundaries is governed by ORS 547 and the District cannot provide legal advice to individual landowners. Any conditions for removal of parcels from the District would have to be addressed through the process of adjusting the District boundary.

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