

MANAGER'S REPORT - JANUARY 2024

This report provides an overview of District issues and projects that we have been working on since the last board meeting.

TAYLOR/STIFFLER BRIDGE: Reclamation completed their work. I talked to both Joe and Jim McClelland from Westen Mortgage. As of Jan. 4, everyone has all relevant copies, and I signed the amendment. I heard from Joe this morning (Mon, Jan. 22) that the amendment has not been signed by the parties yet. He seems to be on it.

PHILLIPS' BRISTOL ESTATES: From our perspective, everything is complete for this subdivision. We had to amend the original water delivery agreement as the County renumbered the lots for the final plat. But, that is done now and I anticipate the final plat will be approved. Phillips agreed to a 4-inch HDPE line under Columbia at his cost. This is in line with our own policies for road crossings. Al has been very easy to work with.

NEW DREAMS SUBDIVISION: Meetings have been held with surveyor, Ron McKinnis who represents both the City and the developer. Nothing of substance to move forward; still waiting on new specifications for lowering the RL-2 irrigation line off Division and how the remaining lots on the system will be served. A demand letter to developer for amounts due from removing District irrigation facilities last spring, to the District is being processed by our attorney.

CANAL BRIDGES: We were notified by Umatilla Fire Department that two of the bridges crossing the canal may not meet their specifications for bringing their trucks across, which means they are out of specs for us. We talked at a previous board meeting about contacting landowners after the first of the year. Chris Grant, the new fire chief, is offering to help put together a broad team of folks that should be involved with these bridges – City, County, Fire, Police, BOR for instance. We plan to meet with him next week to discuss how to move forward. **ON AGENDA FOR DISCUSSION.**

LAMB WESTON MEETING: Lamb Weston reached out to me in September about the possibility of sending their process water to our canal. We have had several emails back and forth. We have a meeting set on Friday, Dec. 15 at 2 pm for discussion. If one of the board members could attend, that would be great.

THREE AGENDA ITEMS FOR REVIEW: Changes listed in red.

WATER RIGHT TRANSFERS

DEVELOPMENT POLICIES

FEE SCHEDULE 2024

CITY OF UMATILLA DEVELOPMENT: A new school is being proposed by the City that will be south of the canal, adjacent to the McClenahan subdivision. We have opened conversation with the City about our concern for pedestrian and bicycle traffic, mainly kids.

They are aware and are working on our discussion from over a year ago wherein they are planning a bridge over the main canal west of Shady Rest. They are planning for pathways from there and from Powerline to the new school. This doesn't solve our immediate concern with kids crossing the canal at the 4X4 building. I believe we should discuss fencing that area from the Washington bridge past the 4X4. It would need to be six-foot high, no climb fence. This would also cut down the grass clippings tossed in the canal each season from this area. This is not in the current budget.

CITY OF IRRIGON COUNCIL MEETING: Chet and I went to the City Council meeting on Tuesday, Jan. 16. We were listed as an "Information only" item on the agenda by the City Manager, but it was a discussion. I have enclosed a copy of the agenda, the City Manager's memo to the Council and a copy of a letter that I gave Palmquist.

The Councilors asked immediately about the court decree. I had a copy with me (132 pages), Chet stated he was sure Wendy sent one to Aaron and they would do so again. I gave Aaron a copy of a 2009 letter to former City Manager, Gerald Breazeale, where the Federal rights and information were clearly stated. I explained to the Council that the intent at that time was to address any overlapping jurisdiction issues, but changes at Reclamation and the City put that aside. But, here we are today.

We found the Councilors very engaged and asking good questions. We thought that the Manager was very protective of the City, which frankly is his job.. One Councilor asked if the federal rights were "over" the City rights. Chet made it clear that they needed to be recognized, and there is a process for working within them. While the City Manager was not interested in a resolution to the competing interests, the Council was. Chet and I both explained to them that we are protecting the federal interests, the facilities and the rights of the water users to get their water at a reasonable cost. We used examples of what has been happening. A hired planning contractor sitting next to the Manager, Carla McLane, former planner for Morrow County, who I've always thought well of until very recently, brought up a few things that she must've been "handfed" by the Manager as they were out of context and misinformative. But, I was able to thank her for bringing them up so I could correct the information.

Chet did a great job explaining the trespass issues and that the City could hire an attorney and Reclamation can send their solicitor, but does everyone really want to spend that time and money? He would prefer working together. Yes, it's a process, but one Reclamation has been doing for many years. It was a perfect statement.

A council member asked if we were getting information on development/planning commission meetings, and I said we were. But, in the case of Walnut Grove (off Oregon Street), our information was withheld from the Planning Commission and the surveyor. I looked at Aaron stating that I sent the information to him. At first, he tried to deny that he didn't know, etc. He had lots of words, trying to deflect. I reminded him about when Rhonda Riley partitioned the same lot, the surveyor located our line, put it on the plat, and he would not accept the plat. He then stated that as long as our line was in the City ROW, he didn't need to consider it as part of the development. I was able to point out the fallout of that decision to the Council. The area was

a large open ditch until 1998, which many folks on the Council recalled. The Rileys had a bridge over the ditch. When the District piped the open ditch, there was still a berm giving the pipeline about 24-30 inches of cover. As development continued, that berm has been removed and we only have 8 – 10 inches of cover now. Utilities, driveways are all going in and we cannot protect our line. The new landowners will be responsible for any repairs, which won't make any of them happy..

I stated to the Council that working together, we can have the development that the city needs and protect the facilities. Continuing to use Walnut Grove as an example, if the city would work with the District, we could've had the irrigation facilities lowered, replaced with HDPE at developer's cost) and have room for the City and other utilities (and asphalted driveways) to be installed. This is what we and the county did on the Phillips subdivision just down the road. Chet reiterated that Reclamation works on these issues routinely. The end result would be much different than the mess we have there. I could see them nodding their heads and one Council member stated that they would be working with Reclamation and the District in the future.

At some point in the meeting, City Manager Palmquist stated that he knew past city managers were concerned about there being enough water for the City to serve all its patrons and approached the District to keep irrigation within the City. But he is not concerned.. They have sufficient water and the irrigation water is not needed. He wanted that to go on record.

Chet did a great job as well and it seems that the City Council appreciated our time.

FOLLOW-UP FROM CITY MEETING: Chet and I met the day after the meeting. He is confirming with the solicitor that they are on-board. I will push back on the Walnut Grove landowners, where they have trespassed onto our facilities (fencing and driveways). I have not yet put any pressure on the landowner, which is New Dreams. Reclamation has already asked the City for a crossing agreement.

I will also put information in our upcoming newsletter about our concerns with the City. Many folks have asked questions, and we will answer them.

DISTRICT MAPS: Looking over ORS 92.104 (attached), I see that our maps for the city of Irrigon could be made more accessible for the City. Currently, we use them as ditchrider maps and they haven't been updated in 20 or more years. We discussed GPS last year, and I put some money back in the budget for this. I can see how having a digital map with exact location will be important to city development as well as our own ditchriders. I think we need to somehow find a way for this to happen.

OSHA INSPECTION: After the OSHA Health inspection Tuesday morning, which Ben and Lisa will report on, we will need to add funds to the 2024 budget to address some of the recommendations. We completed the work recommended by the Safety inspection officer.

92.103 Notice to district of tentative plan. (1) Prior to approving a tentative plan for a proposed plat of a proposed subdivision or partition that is subject to review under ORS 92.044, and that is located in whole or in part within the boundaries, an easement or a right of way of an irrigation district, drainage district, water control district or water improvement district, a city or a county shall submit notice of the tentative plan to the district.

(2) Within 15 days of receiving notice under subsection (1) of this section, the district may submit to the city or the county a statement containing any information or recommended conditions for approval of the tentative plan for the proposed plat relating to:

- (a) The structural integrity of irrigation facilities;
- (b) District water supply;
- (c) Public safety;
- (d) Potential liabilities of the district; or
- (e) Other potential exposures to the district.

(3) The district shall base the information and recommended conditions of approval included in the statement described in subsection (2) of this section on rules and regulations adopted by the district.

(4) The city or the county may include the conditions for approval described in subsection (2) of this section in the final decision approving the tentative plan of the proposed plat. [2017 c.357 §2]

Note: 92.103 was added to and made a part of ORS chapter 92 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

92.104 District to report boundary locations. (1) For the purposes of providing cities and counties with the necessary information to fulfill the requirements of ORS 92.103, each irrigation district, drainage district, water control district and water improvement district shall submit a report detailing the locations of the district boundaries, district facilities and any easements and rights of way held by the district to each city and county in which any part of the district is located.

(2) An irrigation district, drainage district, water control district or water improvement district that submits a report to a city or a county under subsection (1) of this section shall give notice to the city or the county within 90 days of any change to the location of a district boundary, district facility or any easement or right of way held by the district. [2017 c.357 §4]

Note: 92.104 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 92 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: The definitions applicable to ORS chapter 198 apply to 92.104. See section 3, chapter 357, Oregon Laws 2017.

Note: Section 5, chapter 357, Oregon Laws 2017, provides:

Sec. 5. Each irrigation district, drainage district, water control district and water improvement district shall submit the report required under section 4 (1) of this 2017 Act [92.104 (1)] on or before January 1, 2019. [2017 c.357 §5]



AGENDA
Irrigon City Council Meeting
January 16 – 6:00 PM
Irrigon City Hall - 500 NE Main Avenue

ZOOM MEETING – Information on Second Page

- Call to Order/Pledge/Roll Call
- Mayor’s Comments
- 1. **Public Comment – Maximum 3 minutes/person/topic. A maximum of 30 minutes may be allotted for the public comment. This is the time provided for individuals wishing to address the Council, at their discretion. Multiple items on the same topic need to be combined through one speaker. Please email (clerk@ci.irrigon.or.us) your comments or questions by 4:30pm of the meeting date so that the Mayor and Council can hear your comment or question.**
- 2. * Consent Agenda (The Consent Agenda allows the Council to approve all items together without discussion or individual motions. Councilors can request an item be removed for later in the meeting and discussion)
 - a. Approval of Minutes – December 19, 2023
 - b. City Manager Report and Staff Updates
 - c. Accounts Payable
 - d. Law Enforcement
 - e. Municipal Court
 - f. Correspondence
- 3. **WEID Presentation – Information Only**
- 4. * Deliberation - “Irrigon Development Code Title X Amendment and Replacement”
- 5. * Ordinance 262-24 “Irrigon Development Code Title X Amendment and Replacement”
- 6. * Safe Routes to Schools Project Bid Award
- 7. Items for Future Council Meetings
 - Ordinance 260-23 “Camping and Homelessness” - TBD
 - Food Pod Project – Late Spring - TBD
 - Joint Management Agreement with Morrow County –TBD
 - Splash Park Project - TBD
 - Boards and Commissions (Irrigon Code) –TBD
 - Development Code – On-going
 - Public Contracting & Purchasing Policy – TBD

Next Regular Meeting Date – February 20, 2024

* Denotes a motion and vote required.

If you would like to attend and need assistance, please phone Irrigon City Hall at 1.541.922.3047 or TTY relay 1.800.735.2900 The facility is accessible for people with disabilities. Records Requests: The public may request documents for review, as legally applicable. A written request shall be submitted with a response in 5 business days of the time and cost for such public document request. City will proceed upon written notice to proceed or disregard the request.



MEMORANDUM

To: City Council
From: Aaron Palmquist, City Manager 
Date: January 16, 2024
RE: WEID (West Extension Irrigation District), Information Only - Item #3

I. Introduction

On January 8, 2024, Staff received an email from Bev Bridgewater who is the manager of the West Extension Irrigation District (the "**District**"), a true and correct copy of which email is attached as Exhibit A. The District is one of three irrigation districts within the federal "Umatilla (reclamation) Project" which, all together, supply a primary supply of irrigation water to over 17,000 acres and a supplemental supply of irrigation water to approximately 13,000 acres. This memorandum only concerns issues being raised by the District as it is the **only** irrigation district within the Umatilla Project that supplies irrigation water within Irrigon's city limits.

II. The District's Apparent Allegation to a Right of Way

Attached to the District's email are six old plat maps which are numbered in the upper left corner in succession "1-6" by the District and a true and correct copy of which reduced plats are attached hereto as Exhibit B. It is Staff's understanding that the District may be submitting these old plat maps as a means to show the City Council where the District claims to possess rights of way on, across and through certain areas within the City in order to access, operate, maintain, and replace existing conveyance infrastructure through which the District (during the irrigation season) delivers irrigation water to District patrons. The District also appears to claim in its email that it necessarily retains such existing rights of way pursuant to the terms and conditions of a 1914 court decree (the "**1914 Decree**") and that such rights of way are as much as 60 feet wide. The District, however, did not include a copy of the 1914 Decree with the submittal of its email to the City.

Because the District has failed to produce a copy of the alleged 1914 Decree, upon which the District relies, Staff cannot properly assess the nature of the District's claims or statements within the District's email and nor can it recommend that the City Council consider the extent of any rights of way within the City being claimed by the District at this time. Once the District produces a true and correct copy of the 1914 Decree to Staff, Staff anticipates that it will be able to properly address any issues raised by the District involving District rights of way before the City Council. Staff also states that the District generally enjoys the right to maintain sufficient access to its existing conveyance infrastructure to operate and maintain the same within the City limits. However, again, Staff still needs to see a true and correct copy of the 1914 Decree to determine if such document vests in the District a 60-foot right of way (as the District claims in its email) for the benefit of operation and maintenance of District conveyance infrastructure within the City limits.

III. Conclusion.

In consideration of (a) Staff's inability to consider the terms within the referenced 1914 Decree, and (b) the extent to which the District apparently relies on such Decree to claim rights of way within the City limits, Staff requests that any and all issues raised by the District's email of January 8, 2024 be tabled for further consideration before the City Council at a future time sufficiently following Staff's receipt of a copy of such decree.



United States Department of the Interior

BUREAU OF RECLAMATION

Umatilla Field Office
32871 Diagonal Road
Hermiston, Oregon 97838

JUL 27 2009

IN REPLY REFER TO:

UFO-4110
LND-6.00

Gerald W. Breazeale
Manager, City of Irrigon
P.O. Box 428
Irrigon, OR 97844

Subject: City of Irrigon - Proposed Construction of Pedestrian and Bicycle Improvements across Bureau of Reclamation Facilities and Associated Rights-of-Way - Relocation Lateral No. 2 - Section 25, T. 5 N., R. 26 E., W. M., Morrow County, Oregon - West Extension Umatilla Project, Oregon

Dear Mr. Breazeale:

On July 23, 2009, the Bureau of Reclamation (Reclamation) received your electronic mail message advising that the City of Irrigon (City) plans to construct a pedestrian and bicycle improvement project along First Street without significant delay. You also note that completion of the project will require removal, lowering or replacement of a portion of the old concrete irrigation pipe crossing First Street.

Your message implies that the City remains uncertain as to ownership of the irrigation pipe or existence of any rights-of-way for irrigation facilities over and across platted City streets that may be superior to rights claimed by the City.

The irrigation pipe mentioned is federally recognized as Relocation Lateral No. 2 (RL2). The RL2 and its associated right-of-way are federally owned features of the West Extension of the Umatilla Project (Project), operated and maintained by the West Extension Irrigation District (District) under contractual obligation to Reclamation. As a Project feature RL2 is utilized for delivery of Project water during the irrigation season which generally occurs annually between April 1st and October 15th or thereabouts.

In 1916 Reclamation acquired, among other things, a privately owned irrigation system and all rights-of-way therefore, in the vicinity of what was then the privately owned, unincorporated, townsite of Irrigon (Irrigon), from the Oregon Land and Water Company (OL&W Company) by Quit Claim Deed (QCD) executed May 4, 1916. The QCD was granted pursuant to the Decree of February 26, 1914, District Court of the United States, in and for the District of Oregon, Ninth Judicial Circuit, in Equity, Cause No. 3209 (Decree). The Reclamation facility now federally recognized as RL2 and its associated right-of-way were included in that acquisition

Irrigon was not included in the QCD granted to Reclamation as it was by Decree specifically excluded from the terms, conditions and limitations of sale, settlement and disposition under Reclamation Law. All other interests and properties acquired by Reclamation pursuant to the Decree were made subject to the terms, conditions and limitations of sale, settlement and disposition under Reclamation Law.

At that time Irrigon existed as platted within a portion of Section 24, T. 5 N., R. 26 E., and a portion of Section 19, T. 5 N., R. 27 E., Willamette Meridian, Oregon. Otherwise described, at the time of Reclamation's acquisition Irrigon was bounded on its northern boundary by the Columbia River, on its southern boundary by what is now called Idaho Avenue, on its eastern boundary by 12th Street, and on its western boundary by 1st Street.

That portion of Reclamation's RL2 facility and its associated right-of-way at issue in this instance are located within Section 25, T. 5 N., R. 26 E., Willamette Meridian, Oregon, as is the southern extension of First Street. Specifically, Reclamation's RL2 facility and its associated right-of-way cross First Street within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, of said Section 25.

According to official Bureau of Land Management records Section 25 was originally transferred from federal ownership, in its entirety, to the Northern Pacific Railway Company (NPRC) by Rail Road Grant Patent No. 3, on April 11, 1896. The NPRC in turn conveyed Section 25, in its entirety, to the OL&W Company by Deed of October 27, 1905. Again, Reclamation acquired its existing interests from the OL&W Company by QCD of May 4, 1916.

Review of the record, commencing with conveyance from the sovereign through acquisition by Reclamation, fails to provide any evidence of any claim to the RL2 facility and its associated right-of-way superior to those rights currently held by Reclamation.

Accordingly, construction of the project as proposed over and across the RL2 Pipeline and its associated right-of-way without benefit of authorization from Reclamation will be considered by Reclamation as unauthorized use and occupancy of a federally owned facility and/or an interest in land.

Regulations found at 43 C.F.R. § 429.3, specifically provide that possession or occupancy of Reclamation land, interests in land (rights-of-way), facilities or waterbodies requires acquisition of use authorization from Reclamation. Use or occupancy without benefit of authorization granted under the provisions of 43 C.F.R. § 429, is considered a trespass against the United States pursuant to 43 C.F.R. § 423.24(a) and is prohibited by 43 C.F.R. § 429.31(a).

Although a proposed date of construction was not provided, your urgency to construct the proposed project has been noted. However, as you are well aware the District has been delivering Project water through the RL2 since April 1st and will continue to do so until October 15th or thereabouts.

Any proposal seeking use of Reclamation's lands, interests in lands (rights-of-way) or Project facilities must be reviewed by Reclamation and found to be not inconsistent with Project purposes before authorization to use can be given. Removal, lowering or replacement of the

RL2 during a period of peak irrigation is certainly inconsistent with Project purposes. Proposals posing substantial impairment to delivery of Project water are scheduled for construction during periods of non-delivery.

Reclamation welcomes the opportunity to review the City's proposal. However, to accommodate construction across Reclamation's RL2 and its associated right-of-way as soon as possible after termination of Project water delivery please submit an application for authorization to use to this office at your earliest convenience.

Please find enclosed for your review copies of all previously noted regulations, title documents and application materials. Should you have questions or need additional information please contact Mr. Steve Cummings, Realty Specialist or Mr. Michael Bommer, Manager at 541-564-8616.

Sincerely,


Michael J. Bommer, Manager
Umatilla Field Office

Enclosures

cc: Ms. Bev Bridgewater
District Manager
West Extension Irrigation District
P.O. Box 100
Irrigon, OR 97844-0100