

**FOREST LAKES DOMESTIC WATER IMPROVEMENT DISTRICT  
PUBLIC HEARING AND EXECUTIVE SESSION**

August 22, 2019

The Public Hearing was called to order by Chairman Lou St. Germain at 10:00 am at the Forest Lakes Owners Association Club House. Present were Board Members Sally Rottier, Ray Grimmett, and Paul Studer. Staff members present were Grant Cooper and Amy Belch. In Attendance were 10 residents with 3 requesting to speak.

**1. Call Meeting to Order**

Mr. St. Germain called the meeting to order and the reason for this meeting is to inform the public about the Little Colorado River coalition and possible increase to their water bill to help with the coalition cost.

**2. Pledge of Allegiance**

**3. Public presentation by legal counsel regarding the Little Colorado River**

**Adjudication and Gila River Adjudication associated with the Districts water supply.**

Mr. St. Germain stated the Little Colorado River Coalition started in 1978 and let Mr. David Brown from Brown and Brown Law, P.C. explain to the public. Mr. Brown states he is a 5<sup>th</sup> generation St. Johns, Arizona native. Mr. Brown son and daughter in law are also involved along with Mr. Brown's two brothers. Mr. Brown explained that they are in the middle of litigation so there are some things he cannot get into besides the history and court dates. Mr. Brown explained The Forest Lakes D.W.I.D gets updated information on the litigation monthly and once a year in an executive session. Mr. Brown goes on to say there is also litigation in the southern half of Arizona that is in a real hard fight for water rights that he is also involved in. LCR is a collaboration of water companies, sanitation companies, and farmers totaling 22 entities involved. Forest Lakes District got a hold of Mr. Brown and his team about 22 years ago regarding problems in the office, the wells, taxes, and rates. Mr. Brown states that it was a mess and it took his brothers a long time to clean up. Now a days the district is a smooth operation. Mr. Brown informed the district at that time about the adjudication that was going on with the Navajo and Hopi Tribes over the Little Colorado River basin, the Coconino County aquifer and the water districts wells. Mr. Brown recommended to the district about getting involved. So the district joined the LCR Coalition in 1998.

Mr. Brown explained tribes started getting more sophisticated back in the 70's and started hiring lawyers to file claims against everyone's water. Mr. Brown explained Arizona is divided into three parts, everything on the west that flows into the Colorado River is not part of the adjudication because of a 1926 ruling, the second part is the Gila River which has their own adjudication and the third part is the Little Colorado River.

Mr. Brown informed the public that Forest Lakes District is actually involved in both adjudications but is only paying for the litigation of the Little Colorado River. Mr. Brown states he will never bill the district for being a part of the Gila River litigation because the risk is small.

Mr. Brown explained the tribes are claiming six times that amount of water in the Little Colorado River basin including ground water. The Hopi tribe is also claiming "before time and memorial" which means before white development. The tribes are trying to jump the line of the dates which the tribe was created not settled. Navajo is claiming a born on date of 1968 which trumps everything in the basin. The litigation for the past 10 years has been with the Hopi tribe over dates that we don't believe are accurate. Mr. Brown states that litigation is still on going. Phase 2 litigation starts June 2021. Litigation is approximately 5 to 6 months. Phase 2 litigating is about quantity of water. Mr. Brown states this is a huge phase if the tribe wins this phase, they can come get water anywhere they want in the Coconino County Aquifer which means right next to the districts wells. This part of the case has approximately 92 experts. Mr. Brown has never heard of a case with so many experts. Mr. Brown has trial June 2021, 2024 and 2026 with the Navajo tribe.

Mr. Brown states Forest Lakes District is paying 2% of 2 million for fiscal year 2019-2020 and other entities in the coalition are paying more. Other entities have also started a water preservation fee in their billing starting

at \$5.00 a month. Mr. St. Germain stated Forest Lakes D.W.I.D is considering \$3.70ish for the line item to be added to customer's bill.

#### 4. Call to the Public

Mr. Carl Kunasek asked how the rate of \$3.71 be adjusted annually, assuming always going up with the litigation continuing on for a number of years. Mr. Brown replies during negotiations the cost went down because the LCR was not litigating. Mr. Brown anticipates to plateau at this level for the next 2-3 years. Mr. Kunasek asked why the tribes are trying to claim so much water. Mr. Brown replies tribes are claiming six times the amount of water that is in the Coconino aquifer.

Mr. Wayne Rothwell appreciates Mr. Brown comments but his question is really to Forest Lakes D.W.I.D board. When do you plan on implementing the surcharge and is it a monthly fee? Mr. Studer replies it is a monthly fee and that will be reviewed annually. Mr. Studer states the fee will be reviewed August 29<sup>th</sup> Board meeting and will show on Septembers billing. Mr. Brown included that customers have always paid for the LCR. Mr. Brown states that the district is just adopting a water preservation fee and the fund is solely for the purpose of the Coalition.

Ms. Patti Phillips stated this has been very helpful and the explanations from Mr. Brown has been outstanding. Ms. Phillips recommends the Forest Lakes Board put out to the community a summary of the Little Colorado River Coalition and the possible length of time for litigation. Mr. Brown states he could write up a history of the LCR Coalition for Forest Lakes to publish. Mr. Rothwell replies to Ms. Phillips with the districts approval he would add the summary to an email blast. Mr. Rothwell also expressed his support as a community member for the \$3.71. Mr. St. Germain stated the Board will take that into consideration.

Mr. Brown thanked everyone who came.

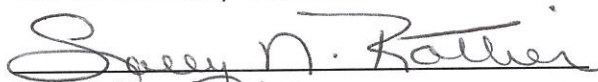
Mr. St. Germain made a motion to adjourn. The motion was seconded by Mr. Studer and motion carried. The meeting was adjourned at 10:55 am.

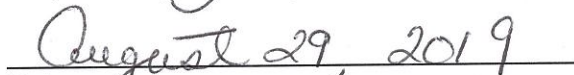
FOREST LAKES D.W.I.D.

Minutes by:  
Amy Belch

Minutes Approved:

  
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Lou St. Germain, Chairman

  
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Sally Rottier, Secretary

  
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Date