
CFD2 | Regular Meeting

06.05.2023 via Zoom 5:30-6:57pm

Attendees

Ian Baldwin (Board Member)
Farley Brown
Gina Campoli (President)
Nicole Civita (Board Member)
Paula Davidson (Treasurer)
Christina Finkelstein (Secretary)

Norm Hanson (Board Member)
Renee Rossi (Board Member)
Steve Smith (Systems Operator)
Jake Tracy (D&K)
John Zaber

ABSENT:

George Hall (Board Member)

Acronym Guide

DEC	Department of Environmental Conservation
D&K	Dubois & King, consultant engineers for CFD2
RCAP	The Rural Community Assistance Partnership
WL-01	Well polluted with PFAS
WL-04	Well with no detectable levels of PFAS
WL-05	Reference to potential primary source well or its location
WL-06	Reference to potential primary source well or its location
WL-07	Reference to potential primary source well or its location

Agenda

1. Changes/Additions to agenda
2. Approve minutes from last meeting
3. Well 7 Progress Update
4. Addition: Lawsuit Update
5. Treasurer/Finance Committee Report
6. Addition: WL-04 and Chlorinator
7. Addition: Board Member Recruitment
8. Other Business
 - a. July Meeting Date

1. Changes/Additions to agenda

- A. Letter from Napoli Shkolni re PFAS multi-party lawsuit and proposed settlement agreement
- B. Board member recruitment

2. Approve Minutes

MOTION: Nicole made a motion to approve the minutes from May 1, 2023. Ian seconded. The motion passed unanimously.

3. Well-07 Progress Update

- A road that will allow safe passage of a drill rig to the potential Well-07 site was built by Tatro over two days and completed on May 31. According to Nicole, Sterling College now has a very substantial road, about 12-14' wide, that leads to the potential site. The road had to be built up by a foot and the sides blended into the surrounding area for erosion control. Per the access agreement, the road surface will need to be finished with a smaller aggregate material once passage of a drill rig is no longer needed. Nicole also noted that the farm managers will need to be involved in directing what areas get reseeded.

- There is a temporary bridge constructed from timber crane mats for heavy equipment to get over a stream located along the path to Well-07. If Well-07 is viable the bridge will need to be sufficiently improved to allow smaller vehicles to pass for regular maintenance in the future. Additional improvements to the bridge may require a stream alteration permit.
- Jake Tracey (D&K) informed the Board that Chevalier, the drilling subcontractor, is hoping to have a drill rig available next week [by June 16]. Jake will keep the Board updated.

Discussion

- Ian said he surveyed the road and site area and inquired about the purpose of the large pit. Jake said it was a slurry pit that is used during coring. The slurry will be removed from the site and the hole filled in and the area reseeded when work is completed.

Well-05 wellhead removal

- Gina recalled a previous conversation about removing the Well-05 wellhead from the Brown/Zaber property.
- Farley Brown noted that they recognize the request is not a priority, but that they are still very interested in having the wellhead removed.
- Removal needs to be coordinated while Chevalier is on site for Well-07. Jake will help to coordinate around Brown/Zaber's planned use of the area.

4. Lawsuit Update

Nicole reviewed the status of the Aqueous Film-Forming Foams Products Liability Litigation per a letter received from Napoli Shkolni, the firm representing CFD2 as part of the Multi-District Litigation (MDL), on June 5th. ***[Secretary's note: Nicole sent Gina an email on June 5th summarizing the Shkolni letter. That email is copied below in its entirety as it outlines the same points Nicole covered during the public meeting.]***

- Plaintiffs (the Class of Public Water Systems participating in the multi-district litigation, which we voted to join a few months ago) and Settling Defendants (DuPont, Corteva, Chemours) have agreed to a settlement amounting to \$1.185 billion.
- The settlement funds will pay public water systems that have already detected PFAS in their water [this is us], will provide for testing of water systems that have not yet

been tested, and will pay those water systems who subsequently do find PFAS as a result of that testing.

- The settlement does not release any claims against the defendants for soil contamination, so such claims can be pursued in separate individual or class action litigation.
- Based on this letter and some information [Nicole has] seen about this case, this may not be a settlement with all of the defendants. [Nicole has] not done a full docket review, but prior filings named The 3M Co., Tyco Fire Products L.P., National Foam, Inc., Buckeye Fire Protection, Chemguard, E.I. Du Pont De Nemours and Company (“DuPont”) and The Chemours Company as defendants. It is possible that Corteva now owns some of those companies... There could still be additional claims/settlements forthcoming.
- The settlement agreement still needs to be reviewed and approved by the Court. This letter just explains that the parties have reached agreement. The Court needs to be presented with it, accept it and issue an order directing the completion of the litigation for the settling parties.
- Without more information about the number of public water systems to be compensated under this settlement and how the funds are to be parcelled out, it is impossible to know what we might recover. Once the settlement is approved, we can expect more information and a claims process.

Discussion

- *[Secretary’s Note: A basic explainer about how an MDL works that Nicole found online is attached as an addendum to these minutes for customers’ reference. See page 10.]*

5. Treasurer/Finance Committee Report

- Paula noted that she was able to submit a reimbursement request for \$243,000. However, only \$215,000 was approved. Several invoices paid directly to vendors were not covered. Paula reached out to Jon Ashley who suggested she contact Amy Galford at DEC. There is no resolution yet, but it seems that the denial is a result of CFD2 paying the vendors directly rather than D&K paying first and billing CFD2.
- Paula said that we now have enough funds (together with reserve funds) to pay back the Capital Improvement Note that is due in mid-July.

- Paula will be submitting another reimbursement request for \$27,000 to cover a recent D&K invoice.

Meters Update

- Paula reported that she heard from Linda Ramsdall that Sterling College will be renting the Common House again so it makes sense to install a meter there.
- Steve reported that meters are \$183 each and the outside readers are \$15 each. There are five properties that require meters: the Simmons property, Brown/Zaber property, the Historical Society, the Common House, and the Coyle's cabin.
- Three properties (the Historical Society, the Common House, and the Coyle's cabin) require a corner horn yoke, which is \$400 each. A corner horn yoke is installed in the basement of a property and is required to mount the meter.

Discussion

- Christina asked if the property owner is responsible for the corner horn yoke since it is inside the home. Steve said that his understanding is that CFD2 maintains everything to the curb stop and the property owner maintains everything after the curb stop. However, historically CFD2 has always installed the meters in the homes.
- Paula noted per the Ordinance, the smaller meters are purchased by CFD2 (but the larger meters are paid for by the property owner). Nevertheless, for the home that she and her husband recently built, they had to pay for their meter but she wondered if perhaps that was because a lot of expense was required for CFD2 to get to their property. The Ordinance has not been consistently followed.
- John Zaber (previous Board member) noted that before Steve Smith, the homeowner paid for the corner horn yokes.
- Christina suggested that she review the Ordinance again with John Kiernan.
- Steve expressed his concern over informing a property owner that they are responsible for equipment costs purely because CFD2 wants to track water usage. Gina concurred. Nicole noted that both the Simmons and the Brown/Zaber properties are special cases due to the property use arrangements. The Board needs to understand what the Ordinance says and any deviation from it can be discussed and voted on.
- John Zaber noted that their home already has a corner horn yoke, but it has not been installed. John asked if it can be tested because it may be frozen. Steve said he

can examine it but he has no way of actually testing it. John said he will follow-up with Steve to make an appointment.

- Christina will send the relevant Ordinance language to the Infrastructure Committee so that it can make a recommendation to the Finance Committee. The Finance Committee will then need to determine whether CFD2 is in a financial position to follow the recommendations.
- Christina asked if there was an update on the large meters at the Academy. Steve reported that there is a new meter in Minden Hall, but the meters at the main building and the gym are not new.
- Paula noted that the usage over time has been odd, but it's difficult to discern if there is a problem because of bottled water usage and use of the buildings following a typical academic calendar.
- Christina asked if there was an update on different base rates for institutions based on meter size. Paula confirmed that the Finance Committee was charged with studying the issue and making a recommendation, but that the issue fell by the wayside. She noted it would be helpful to review D&K's asset inventory.
- Gina asked if the Board was interested in reviewing rates as it will take outreach and additional action. We need clear policies. Norm did not think we should have different base rates for different customers and that we need a logical approach. Christina recalled a conversation with John Kiernan where larger base rates and/or large meters are applied using a formula that is proportional to an equivalent household unit.
- The Finance Committee will take the points discussed under consideration and provide a recommendation on further actions, if any.
- Norm asked Paula where we stand on the state reimbursement and whether it will cover bonuses. It will not. Paula read from an email correspondence regarding the matter confirming that operator payments are not DWSF [Drinking Water State Revolving Fund] eligible.
- Gina noted that she made the argument that if any of the work had been done under sub-contract by D&K or a third-party, then we would have been reimbursed. Nicole noted the state's logic is odd because having done the work in-house saves the state money.
- Norm noted that the Board discussed CFD2 paying for bonuses out of reserve funds. The Finance Committee will review past discussions and make a recommendation.

6. WL-04 and Chlorinator

- Steve reported that there is a problem with the check valves on WL-04. He has an estimate from Manosh for \$3601.80 to replace the valves. He scheduled the work to be completed on Thursday (June 8th).
- The chlorinator is a separate issue, though the failed check valves in WL-04 exacerbated the spikes in chlorine noticed by many customers.
- Steve discovered that there were a couple of plastic nuts that were broken on the chlorinator's pump head. He reached out to the installers who informed him that the part is not under warranty and it would cost \$1350 to replace.
- Steve confirmed that there was no warranty on the parts even though it was installed last summer.
- Steve worked with the DEC and the National Rural Water Association to get the name of the manufacturer. The manufacturer sent Steve a complete new head, which includes the plastic nuts, for \$301. He also had to order a new off-gassing valve, which cost \$160. The system is now complete and working properly.
- The Board thanked Steve for his initiative and problem-solving and for saving CFD2 over \$800.

7. Board Member Recruitment

- Gina noted that the Board needs to actively recruit new members. Christina suggested first putting out a call on the Front Porch Forum and sending an email to all customers. Depending on interest, the Board can then determine which community members would best fill capacity gaps.
- Discussion about the overall small pool since the customer base is so small. Discussion that having a representative from the Academy is necessary. Gina noted that she had reached out previously, but will do so again as the school is under new leadership.
- Suggestion and consensus to wait until we know whether WL-07 yields water before launching a recruitment effort since a working, PFAS-free well will greatly reduce the workload of the Board in future months/years. If WL-07 does not yield and we are forced to look at building a treatment facility, then the urgency and need to quickly build capacity in specific areas will be greatly heightened.

- Extensive discussion and speculation on what-if scenarios.

8. Other Business

July Meeting Date

- Since the first Monday conflicts with the Town's annual block party, the next Regular meeting will be on Monday, July 10th.

Actions Items

- Jake Tracey will update the Board on Chevalier's schedule and when drilling can be expected to begin.
- Jake will coordinate with Brown/Zaber and Chevalier to remove the WL-04 wellhead.
- Steve will investigate the corner yoke at the Brown/Zaber property to determine whether it is still operational.
- Christina will send the relevant Ordinance language to the Infrastructure Committee so that it can make a recommendation to the Finance Committee. If relevant, the Finance Committee will then need to determine whether CFD2 is in a financial position to pay for the corner yokes.
- The Finance Committee will revisit base rates and meter size.
- The Finance Committee will review past discussions and make a recommendation about paying for bonuses out of reserve funds.
- George will hand-deliver these minutes and any announcements to customers without email.

Upcoming Meetings

The next Regular Meeting will be on **Monday, July 10th at 5:30pm. PLEASE NOTE THE NEW DATE.** A special meeting will be called if there are developments or other issues that merit full Board deliberations.

A reminder announcement with the Zoom link (<https://us02web.zoom.us/j/87324152544>) will be posted on Front Porch Forum.

NOTE: The Zoom link (<https://us02web.zoom.us/j/87324152544>) and call-in details are the same for all remaining 2023 meetings.

Call in Details:

Meeting ID: 873 2415 2544

One tap mobile

+13092053325,,87324152544# US

+13126266799,,87324152544# US (Chicago)

Dial by your location

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

+1 646 931 3860 US

+1 301 715 8592 US (Washington DC)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 386 347 5053 US

+1 408 638 0968 US (San Jose)

+1 564 217 2000 US

+1 669 444 9171 US

+1 669 900 6833 US (San Jose)

+1 719 359 4580 US

Meeting ID: 873 2415 2544

Find your local number: <https://us02web.zoom.us/j/87324152544>

Addendum

How does multidistrict litigation work?

Multidistrict litigation is often a good option for complex cases against the same defendant, such as after a train crash. A panel of seven federal judges, the Judicial Panel on Multidistrict Litigation, oversees these cases. The United States passed a federal law establishing this panel in 1968.

These seven judges determine whether to consolidate cases into multidistrict litigation. Unlike class action lawsuits, this process is entirely in the hands of the court. The goal of the Judicial Panel on Multidistrict Litigation is to reduce time and cost associated with hearing a large number of claims filed against a common defendant.

Once the judges decide to consolidate cases, they assign a judge to the multidistrict litigation. This is often a judge in a district court already presiding over one or more of the cases. This judge oversees the pretrial proceedings and the discovery process.

These pretrial proceedings and the discovery process are often the most time-consuming and expensive part of any case. Since all the cases share a common basis, it is not necessary for each attorney to request and review documents, depose witnesses, or conduct other time-consuming research. This is the primary advantage of multidistrict litigation.

Often, settlements occur during the pretrial and discovery process. When this happens, the judge oversees negotiations for all the cases grouped into the MDL. Each individual claimant can choose to accept the settlement terms or continue with his/her case. (This is where we are at.) After the lawyers complete the discovery process, the judge sends any remaining cases back to the court where they originated for trial.