

Agenda Item: 10.

MEMORANDUM

TO: Finance, Expenditures and Legal Subcommittee

FROM: Martin P. Cleveland, P.E., Construction Engineer

SUBJECT: Account Over 110%
Account #01-03-590-4430
Maintenance, Dams – Land Rights

DATE: December 8, 2014

District policy 7.5 FEL Subcommittee – Budgetary Oversight states, “If, at any time during the fiscal year, the District expenditures from any budgetary account, for which more than \$10,000 was budgeted for that fiscal year, exceed the amount budgeted by more than 10%, the Chairperson of the FEL Subcommittee may call a meeting of such Subcommittee to consider recommendations to the Board with respect to such accounts.”

The referenced account is under \$10,000, yet the following account is submitted for review:

1. Account #01-03-590-4430 (maintenance, dams – land rights)
2. Budget: \$5,000
3. Anticipated Account Status with October expense: \$72,207.51

As a result of extended litigation period and District Court for Washington County and Nebraska Court of Appeals rulings against the District in the Camden Case, associated with Papio Creek Watershed (PL566) Structure W-3 Rehabilitation, the District is now liable for the landowner’s legal fees and court fees, totaling \$72,207.51. The fees include interest.

Enclosed is an order from the District Court for Washington County that indicates that the Papio-Missouri River NRD owes the court \$64,223.01 to compensate Camden’s attorney for work on the case and court costs.

In addition, the Nebraska Court of Appeals has ruled that the District owes Camden’s attorney, \$7,984.50. As per state statutes, payment is to be made to District Court for Washington County. Enclosed is a copy of that notice.

It is recommended by Management that the Subcommittee recommend to the Board of Directors that the following account be allowed to exceed 110% of the budgeted amount: #01-03-590-4430, Maintenance, Dams – Land Rights.

IN THE DISTRICT COURT OF WASHINGTON COUNTY, NEBRASKA

JOHN CAMDEN and MARY CAMDEN,)
Husband and Wife; and,)
WILLIAM RUWE,)
)
Plaintiffs/Condemnees,)
)
vs.)
)
PAPIO-MISSOURI RIVER NATURAL)
RESOURCES DISTRICT,)
)
Defendant/Condemner.)

CASE NO. CI 09-264
CASE NO. CI 09-301
CASE NO. CI 10-73

ORDER

2013 FEB 26 PM 2:15
SUSAN FRANKLIN
DISTRICT COURT

The matters of the (1) Motion for New Trial or Alter or Amend and Reconsider the Order on Summary Judgment filed by John Camden and Mary Camden; (2) Motion for New Trial or to Alter or Amend the Order filed by Papio-Missouri River Natural Resources District; and, (3) the Motion for Attorney's Fees and Costs came on for hearing on February 25, 2013. Paul Peters appeared on behalf of Papio-Missouri River Natural Resources District. Benjamin Belmont and Oliver Jenkins appeared on behalf of John Camden and Mary Camden. A brief was submitted by Papio-NRD on February 23, 2013 and has been reviewed by the Court. The Court heard arguments from both counsel. The Court being duly advised does hereby find and order as follows:

1. The Motion for New Trial, Alter or Amend and Reconsider the Order on Summary Judgment filed on behalf of John Camden and Mary Camden, on or about January 28, 2013, is denied;
2. The Defendant/Condemner's Motion to Alter or Amend and Motion for New Trial, filed on or about February 20, 2013 on behalf of Papio-Missouri River Natural Resources District, is denied; and,
3. The Motion for Attorney's Fees and Costs filed on behalf of John Camden and Mary Camden is granted and the Court finds that the reasonable sum for the fees and court costs on appeal to be assessed against Papio-Missouri River Natural Resources District for all three cases (CI 09-264, CI 09-301, and CI 10-73) is in the total aggregate amount of \$64,223.01.



As indicated, this sum represents the total consolidated fees and Court costs incurred in all three cases and the Court directs that this sum (\$64,223.01) is to be paid to the Clerk of District Court for Washington County, Nebraska and that for administrative convenience, the Clerk of District Court shall receive the funds in the first case filed (CI 09-264) and disperse the funds through that same case

Signed and dated this 26 day of February, 2013.

BY THE COURT:



JOHN E. SAMSON, DISTRICT JUDGE

NEBRASKA SUPREME COURT
AND NEBRASKA COURT OF APPEALS
OFFICE OF THE CLERK
P.O. BOX 98910
2413 STATE CAPITOL BUILDING
LINCOLN, NE 68509
(402) 471-3731

December 1, 2014

David M. Newman
HUSCH BLACKWELL LAW FIRM
13330 California Street #200
Omaha, NE 68154

IN CASE OF: A-13-000266, Camden v. Papio-Missouri River Natural Resources District

The following internal procedural submission or filing by a party:

Motion of Appe for Attorney Fees **submitted or filed** 09/03/14

has been reviewed by the court and the following order entered:

Appellees' motion for attorney fees is sustained; Appellant is ordered to pay \$7,984.50 to Appellees for their attorney fees incurred in connection with the consolidated appeals.

Respectfully,

CLERK OF THE SUPREME COURT
AND COURT OF APPEALS

IMPORTANT NOTICE

Due to the reduced number of cases awaiting submission to the Supreme Court and Court of Appeals, and as part of the courts' continuing efforts to reduce case-processing time, **future requests for brief date extensions will be closely scrutinized.** See Neb. Ct. R. App. P. §§ 2-106(F) and 2-109(A). Pursuant to Neb. Ct. R. App. P. § 2-110(A), if an appellant's default for failure to file briefs is issued, appellant "is required to file a brief within 10 days after receipt of such notice. Appellant's failure to file a brief in response to the notice of default subjects the appeal to dismissal."

**PLEASE BE ADVISED THAT THESE RULES WILL BE
STRICTLY ENFORCED.**

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December 1, 2014

David M. Newman
HUSCH BLACKWELL LAW FIRM
13330 California Street #200
Omaha, NE 68154

IN CASE OF: A-13-000267, Camden v. Papio-Missouri River Natural Resources District

The following internal procedural submission or filing by a party:

Motion of Appe for Attorney Fees **submitted or filed** 09/03/14

has been reviewed by the court and the following order entered:

Appellees' motion for attorney fees is sustained; Appellant is ordered to pay \$7,984.50 to Appellees for their attorney fees incurred in connection with the consolidated appeals.

Respectfully,

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December 1, 2014

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13330 California Street #200
Omaha, NE 68154

IN CASE OF: A-13-000268, Camden v. Papio-Missouri River Natural Resources District

The following internal procedural submission or filing by a party:

Motion of Appe for Attorney Fees **submitted or filed** 09/03/14

has been reviewed by the court and the following order entered:

Appellees' motion for attorney fees is sustained; Appellant is ordered to pay \$7,984.50 to Appellees for their attorney fees incurred in connection with the consolidated appeals.

Respectfully,

CLERK OF THE SUPREME COURT
AND COURT OF APPEALS

IMPORTANT NOTICE

Due to the reduced number of cases awaiting submission to the Supreme Court and Court of Appeals, and as part of the courts' continuing efforts to reduce case-processing time, **future requests for brief date extensions will be closely scrutinized.** See Neb. Ct. R. App. P. §§ 2-106(F) and 2-109(A). Pursuant to Neb. Ct. R. App. P. § 2-110(A), if an appellant's default for failure to file briefs is issued, appellant "is required to file a brief within 10 days after receipt of such notice. Appellant's failure to file a brief in response to the notice of default subjects the appeal to dismissal."

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