



P.O. Box 229 Geneva, IL 60134 Voice: (630) 208-9898 FAX: (630) 208-9895 Emergency: (630) 675-9963

September 22, 2020

Re: Shodeen lawsuits

Dear Neighbor:

On September 16, 2020, Kane County Judge Mark Pheanis ruled on the claims made in the lawsuit filed by the District and described in the December 1, 2014 “Letter to Residents Regarding Lawsuit” and the “Complaint Filed Against Various Shodeen Entities” posted on the District’s homepage. The ruling came after a week-long trial in December 2019 and after various post-trial proceedings. The trial dealt with the complicated issues brought up in the District’s lawsuit, as amended and expanded from time to time. The trial also dealt with additional claims that Shodeen entities brought against the District in a later lawsuit that those entities filed. In that second lawsuit, the Shodeen entities sought money from the District for various damages, including rent, which the District stopped paying in April 2012 for the golf courses on which the District irrigates its treated wastewater.

If you wish to read the Judge’s entire 16-page Order, it is being posted along with this letter. Below is a short summary of the Judge’s rulings:

1. The Judge awarded the Shodeen side \$2,616,079.36 for unpaid rent for the golf courses, but awarded the District \$2,678,798.25, because Shodeen breached his contract to deliver a deed or provide easements for irrigation land needed by the District. The judgment in favor of the District is larger than the judgment in favor of Shodeen by \$62,718.85.
2. The Judge determined that Shodeen cannot control excess capacity that the District itself creates in the District’s system in the future. The Judge also ruled that Shodeen cannot compel the District to annex property or use the District’s bonding power (as provided in the 1995 agreements fought about in the litigation), and that Shodeen has no right to tap-on fees from any property that the District annexes in the future (also eliminating a right Shodeen claimed under the 1995 agreements).
3. Shodeen owns the right to the remaining excess capacity in the system “as designed” in 1994-95, as that excess capacity is determined by the District’s engineers, Sheaffer & Roland.

We must note that both the District and the Shodeen entities have the right to appeal to the Illinois Appellate Court and to seek review of any portion of Judge Pheanis’ order that they believe to be ill-founded based on the law or the evidence presented at trial. As of this writing, no party has taken any steps to appeal, but the time allowed for such steps has not yet elapsed.

Very truly yours,

Mill Creek Water Reclamation District Board of Trustees
James Dougherty, President
Mark Hammond
Ben D’Andrea