



ROUNDUP MESA LANDOWNERS ASSOCIATION – ESTABLISHED 2000

April 29, 2024

TO: LANDOWNER MEMBERS OF ROUNDUP MESA SUBDIVISION:

IMPORTANT INFORMATION

The Board of Directors would like to share with you a recent letter we received from the attorney representing the proposed Middle Musselshell County Water District (MMCWD). Although the attorney states that his letter is not a threat, legal action is clearly threatened. Although the attorney's opinion is that the roads in our subdivision are public, that is only his opinion and clearly not the case. This fact can be confirmed by a call to the County Commissioners. If the roads were public, the County would be maintaining them.

We are also sharing our response to that letter.

Additionally, everyone recently received a notice from the water district, stating that the monthly cost per landowner would be "about \$90/month". The third attachment to this notice is page 43 of the latest engineering report. Please note the indicated user cost per month.

The position of the Board of Directors has remained the same. **Anybody who wants water and can afford the costs should be able to get water. But NOT by using and causing damage to the PRIVATE roads belonging to the members of the RMLA.**

Before you make decisions, please be informed. You can obtain the entire engineering report through the link below:

2023 Water PER updated April 2024.pdf

<https://greatwesteng.egnyte.com/dl/01CoyVHgN0>

Password:erkpRCJDy97e

The link above is only effective until May 12th.



Knudsen & Knudsen, PLLC

Attorneys at Law

Jordan W. Knudsen
Hannah Scott Knudsen

February 13, 2024

Roundup Mesa Landowners Assoc.
PO Box 583
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Mr. Chairman,

Greetings. My name is Jordan Knudsen. I am an attorney in Hardin, MT, and I represent the Middle Musselshell County Water District (MMCWD). I am writing to you about the proposed routes for water lines to be installed by the Central Montana Rural Water Authority (CMRWA), and routes for water lines to be installed by the MMCWD in the Roundup-Mesa subdivision. Although I do not represent the CMRWA, it has come to my attention that members of the RMLA board and some individual owners oppose the installation of any water lines throughout the RMLA subdivision, whether those lines are installed by CMRWA or MMCWD. I am writing to you to address concerns that you may have about the project, from the MMCWD's perspective.

Currently the CMRWA has plans to install main lines along the southern and eastern boundaries of the RMLA subdivision. According to the most recent plans in my possession, CMRWA also plans to lay a distribution loop through the subdivision, mostly following the established roads in the subdivision. There appear to be short portions of the loop that will not follow roads, however, but they are still within the easements granted along lot lines. After the main loop is installed, the MMCWD intends to install shorter distribution lines from this loop.

I have reviewed the relevant Certificates of Survey that established the subdivision, and I have concluded that there are multiple utility easements which can be used by both the CMRWA and the MMCWD to lay these water lines. Specifically, each COS established a 100-foot-wide easement wherever there is a road, and 80-foot-wide easement along lot lines. I have reviewed your letter to the CMRWA, dated February 15, 2023, and compared that to the language of the COS's and I have concluded that the RMLA does not have the legal authority to refuse access to these utility easements. I have also concluded that many of the conditions asserted by you in that letter are unenforceable, and are do not comport with the legal nature of the utility easements granted in the COS's. The express language of the easements has granted access to all utilities, both **public and private**. An easement creates a dominant estate and

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servient estate. Any purchaser of a parcel in the RMLA subdivision has taken ownership subject to these easements, and therefore the owners of the parcels are the servient estate holders. Therefore, neither the RMLA nor any individual owner has the legal authority to stop the construction, maintenance or repair of these water lines as long as they are within these easements. I completely understand that concern over liability, however I don't see the likelihood that the RMLA would be liable for any damages caused by the CMRWA or the MMCWD for the installation and maintenance of these lines. I find the chances that the RMLA would be liable for any personal or property damages related to the installation of these water utilities to be very remote. It's my understanding that upgraded phone lines were recently installed in these easements in the subdivision. The process for the installation of water lines will be similar, and the risk to the RMLA would be nearly non-existent, just as with the installation of upgraded phone lines.

The MMCWD does not intend to abuse these easements, nor do they intend to install any water lines outside of the established easements without landowner consent. However, if the RMLA or any individual attempts to prevent the installation of these water utility lines in these established utility easements, the MMCWD may respond with swift legal action, which could include a Temporary Restraining Order, and an Injunction to accompany a Declaratory Judgment Action. **Please do not take this as a legal demand or threat of action, but just an assertion of legal rights by the MMCWD to install water utility lines in the recorded easements.** I genuinely desire that the RMLA and the MMCWD can come to an understanding on this matter, and that we don't have to **end up in litigation.**

It is my understanding that the RMLA does not currently have an attorney retained. If this is not the case, or if you retain an attorney, please have them contact me on the information on this letterhead. I sincerely hope that the RMLA will realize the positive impact on the subdivision that the water utilities will provide, and that this matter can be put to rest without further legal action. Having personally experienced a rural water project in my home county nearly twenty years ago, I can tell you that the project is truly a benefit to the subdivision. Feel free to call me or email me. Thank you.

Sincerely,



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ROUNDUP MESA LANDOWNERS ASSOCIATION – ESTABLISHED 2000

Jordan W. Knudsen

Via email attorney@knudsenknudsen.com

March 18, 2024

Dear Mr. Knudsen;

We are in receipt of your correspondence dated 2/13/2024. Your statement that the letter is not a legal demand, or a threat is completely counter-balanced by the litany of implied threats.

You mention several times in your letter your findings and conclusions. Your opinion is just that, an opinion, filtered through the lens of support for your client. There are differing opinions, which have been completely disregarded. Further, this water district is not a utility, neither public nor private. It is a cooperative. We refer you to MCA Title 69-3-101-2a. A large number of owners within the subdivision want nothing to do with this water district, and have been inducted into the district, without their knowledge and consent. Their outcry has been largely ignored, met with aggressive and, in our opinion, unreasonable behavior, with the prevailing attitude seemingly to ignore the rights of the individual in favor of the purported benefit of the many. Attempts by members of the RMLA to discover facts have been treated with disdain and, sadly, angry aggression, probably fueled by the personal animosity of the board of the water district for RMLA covenants and regulations, and the attempts of the RMLA board to perform the responsibility of enforcement of those covenants and regulations. Should the proponents of the water district have been able to set aside their personal animus and engage in a businesslike cooperative action, the current situation would most likely not exist.

The Roundup Mesa Landowners Association (RMLA) was formed in the year 2000. As to the rights and responsibilities entrusted to the Board of Directors, we refer you to page 1 of the Articles of Incorporation, filed by the Secretary of State on 11/22/2000. The roads and lands within the subdivision are PRIVATE property. We find that this does not allow randomly formed institutions willy-nilly access to create unsightly and lasting damage to the surface of the lands which are not the property owned by those institutions.

There are 76 lots within the Roundup Mesa Subdivision, and 66 individual owners. No one will tell us the actual vote tally, but our estimate is that Only 14 votes were received in the special election which created this water district, and it was done without most of the owners having been made aware that it was happening. In the process of creating this water district, and to this date, the Roundup Mesa Board of Directors have not been approached by representatives of the water district to discuss their plans or to inform the owners as to the truthful pros and cons of participation with this entity. To date, inquiries as to which landowners are members of the water district and what exact route has been chosen for targeted damage, and the levels of that damage have not been answered, nor have the actual costs associated with the water district been disclosed.

As to your opinion regarding remediation conditions the RMLA Board has stated not being enforceable, we would ask that you consider the fact that pipeline companies and contractors have agreed to and complied with those conditions for nearly as long as there have been pipelines. Reputable pipeline companies are happy to comply with standards which protect the integrity and safety of the lands which they traverse.

We notice that nowhere in your letter do you state that your clients will participate in open and fair good faith negotiation to acquire, and pay a fair, mutually agreed upon price, for the privilege of encroaching upon, and creating damages to, privately owned lands in the Roundup Mesa Subdivision. This is not surprising, as the formation of this water district was planned in secret meetings and surreptitious dealings with the County Commission, without any transparency, or any indication of the intentions of the water district.

We are pleased that you find the water district in your home county beneficial. We assume that your water district is operated by individuals who have knowledge and experience commensurate with the huge responsibilities required to manage such a large responsibility. We would also point out that most of the owners in our subdivision do not receive the kind of income which would allow them to pay the expected costs of the CMRWA. Further, your reference to "upgraded phone lines" requires correction. Those lines were, in fact fiber optic lines, and, as such are fragile and disturbance of the soils near them by heavy equipment, intending to follow the same paths are likely to damage them. The fiber lines are required to be at least at a depth of 42 inches and water lines need to be at minimum 6 inches below the frost line. The average frost line depth in Montana is 61 inches, so 25 inches deeper. The possibility for damage is certainly present. Many residents in the subdivision work from home and any disruption to the internet provided by these fiber optic lines could result in a loss of income and possible loss of employment. I am confident that "Swift Legal Action" will be taken to recoup lost and potential earnings. Not a threat, just the assertion of legal rights. Further, most of the roadways in the subdivision have no thru fare and if obstructed or damaged will not allow for ingress and egress for residents and emergency service vehicles. We have individuals that are handicapped or disabled who must be able to safely enter and exit when needed.

In regard to your implied threat of legal action, that is certainly not the preferred choice for the RMLA Board. However, if the truth can only be revealed under oath in a court of law, we will not cower from that possibility. We would prefer that your client simply be forthcoming and transparent with their intentions and the ramifications of their actions. Two years past inception, there exists no map of the district, nor final engineering report, which might shed light upon the potential loss of finances and property damage to lands owned by individuals in opposition to the methods, protocols and intentions of this much questioned and newly formed water district.

Sincerely,



John Adams
RMLA Chairman



Janice Beck
RMLA President

Table 8-1 - Funding Scenarios for Middle Musselshell Subdivision

ITEM	Funding Options		
	SCENARIO #1 SRF Emerging Contaminants Principal Forgiveness Loan (20-yrs, 2.5%)	SCENARIO #2 MCEP, RRGL, SRF Loan (20-yrs, 2.5%), SRF Forgiveness	SCENARIO #3 MCEP, RRGL, SRF Loan (20-yrs, 2.5%), SRF Forgiveness - No CMRWA
MMCWD Water System	\$3,594,000	\$3,594,000	\$6,050,000
Rounded Total	\$3,594,000	\$3,594,000	\$6,050,000
DNRC Grant	\$0.00	\$125,000.00	\$125,000.00
MCEP Grant	\$0.00	\$750,000.00	\$750,000.00
SRF/EC Forgiveness	\$3,594,000.00	\$750,000.00	\$750,000.00
CDBG Grant	\$0.00	\$0.00	\$0.00
SRF Loan	\$0	\$1,969,000	\$4,425,000
Total Project Funds	\$3,594,000	\$3,594,000	\$6,050,000
RD - Interim Interest (loans > \$500,000, see link to calculate)			
SRF Bond Reserve (1/2 year payment)	\$0.00	\$63,204.90	\$142,042.50
Total Loan Amount	\$0	\$2,032,205	\$4,567,043
Annual Loan Payment	\$0	\$130,470	\$293,210
Total Loan Payments Over Life of Loan	\$0	\$2,609,400	\$5,864,200
Total Interest Paid Over Life of Loan	\$0	\$577,195	\$1,297,158
Annual Loan Coverage	\$0	\$13,047	\$29,321
TOTAL ANNUAL CAPITAL DEBT SERVICE COST	\$0	\$143,517	\$322,531
<i>User Capital Cost/Month²</i>	<i>\$0.00</i>	<i>\$265.77</i>	<i>\$597.28</i>
Current Annual O&M ¹	\$0.00	\$0.00	\$0.00
Current Annual Debt Service ¹	\$0.00	\$0.00	\$0.00
Additional O&M Due To Project	\$28,600.00	\$28,600.00	\$28,600.00
Annual Short Lived Asset Reserve/Capital Reserve	\$0.00	\$0.00	\$0.00
TOTAL ANNUAL O&M COSTS	\$28,600	\$28,600	\$28,600
<i>User O&M Cost/Month²</i>	<i>\$52.96</i>	<i>\$52.96</i>	<i>\$52.96</i>
USER COST/MONTH²	\$52.96	\$318.74	\$650.24
Existing Average User Cost/Month/EDU	\$0.00	\$0.00	\$0.00
COST/MONTH INCREASE/EDU	\$52.96	\$318.74	\$650.24
Average Existing Other System Cost/Month	\$37.72	\$37.72	\$37.72
Total Proposed Water & Sewer Cost/Month	\$90.68	\$356.46	\$687.96
Combined Systems Target Rate ³	\$40.58	\$40.58	\$40.58
PERCENT OF COMBINED TARGET RATE	223.5%	878.4%	1695.3%

¹ The system currently does not have any O&M or debt

² Based on an estimated 45 EDUs

³ <https://comdev.mt.gov/Resources/Target-Rate>