

DEEP SPRINGS
DEEP SPRINGS COLLEGE, CALIFORNIA
Founded 1917

June 8, 2012

Legal Update from TDS Chair Dave Hitz DS'80

The Board of Trustees' goal is for Deep Springs to go coed in 2013. David Neidorf and the transition team are on target to move forward. (After my message is an update from David.)

On the other hand, the legal process has been frustratingly slow. We had hoped to have a court decision months ago, but we didn't anticipate that two trustees would take legal action to block the board's vote. As a result, we may not get a ruling in time for a 2013 transition. With potential appeals we could be delayed until 2015 or beyond.

To avoid delay, the trustees have voted to move forward on coeducation without waiting for a court ruling. We did this because we worry that delay could damage Deep Springs. It could be harder to recruit students since they won't know whether or not the school will be coed. Uncertainty could hurt fundraising, faculty recruiting, morale, and possibly cause unforeseen damage to the school's standing. Letting the decision languish for years does not seem prudent. As a board, the trustees voted to go coed, so we believe that our job now is to make it happen: effectively, quickly, and – of course! – legally.

People may be surprised. How can it be legal to go coed before the court rules?

The reason is that most of Deep Springs' assets are not subject to the trust restrictions which lie at the center of the pending court case – they are not even part of the original Nunn Trust. The college has about \$27 million in total assets, including \$17 million in investments. But only about \$2.5 million is *potentially restricted*. Our plan is to undertake coeducation and to run the college **using only assets that are clearly unrestricted**, reducing available investments to \$14.5 million. The legal petitions are still important, because we still want the \$2.5 million. There is some risk, but we believe we have a strong case.

You may recall that the last coed discussion, in the 1990s, ended in a stalemate when the board realized that the college was almost bankrupt. The trustees turned their attention to fund-raising. In a show of good faith, trustees on both sides of coeducation shook hands and gave *unrestricted* gifts to Deep Springs. They wanted to let future trustees decide this issue. Since then, our policy has been not to accept donations with restrictions either for or against coeducation. We rebuilt the college and the endowment entirely with unrestricted funds. As a result, few restricted assets remain.

This is the simple version, but as always, we will post all our filings on our website for those who want the details. <http://www.deepsprings.edu/news%20and%20events/coeducation>

DEEP SPRINGS

DEEP SPRINGS COLLEGE, CALIFORNIA

Founded 1917

This approach does not guarantee success. We will notify the court of our plans. Perhaps we will be blocked, but we believe it is unlikely. We remain optimistic and hopeful that we can have a successful transition to coeducation in 2013.

Dave Hitz
Chairman, Trustees of Deep Springs