

Saturday, January 14, 2023

Annual Meeting of Shareholders - Farmers Union Ditch Meeting

Board Present:

Sam Rosti, Paul Akins, Mike McGowan, John Schram
Seth Kettering, Sean Kettering and Dale Wood - Ditch Riders
Rosalie Cope, Secretary/Bookkeeper
Andrew Waldera, Attorneys for FUD

Sam Rosti called the meeting to order at 1:05 p.m.

Sam Rosti introduced the Board, Attorney and staff.

2022 Annual Meeting Minutes were reviewed.

Proxies were counted and verified by Rosalie Cope: 85.0693 shares represented *which did not constitute a quorum.*

Sam reported the canal ran at 80% this past season and Farmer's Union was able to end the season with a small amount of water left in storage.

As of Tuesday, January 10th snowpack in the Boise basin is just under 130% of average, Payette is a little below that, Weiser basin is in line with Boise basin and Owyhee basin is at about 150%. It is still early in the year but is looking good for now.

Farmer's Union purchased a 2012 John Deere 710K Backhoe for \$76,000. Funds from the Equipment Savings account were utilized for the purchase.

Property at the tail of the canal was purchased from Debbie Foster with plans to eventually relocate the shop facilities to and sell the Clover Street property. With changes to State Street and increases in traffic it is really difficult to get in and out of that property with equipment. The Board met with an engineer and will be having a survey of the property completed.

The ACHD trash rack at Collister for the box culvert is complete. It is designed to catch debris such as a large tree to prevent the culvert from plugging.

A new Toyota Tacoma pickup is on order. The Ford Rangers are still in use but are approximately 20 years old and the Board thought it was time to get something newer that will last for a long time.

Since there is not a quorum there will not be an election therefore the Board stands as is.

Legal Report – Andy Waldera

Andy explained the majority of Farmer's Union storage water is in Lucky Peak reservoir. Lucky Peak is an Army Corps of Engineers facility and when it was built the only way to garner enough funds to construct the facility was to partner with the water users to utilize it for irrigation storage water. Historically the O&M charges are based on Congressional appropriations and what the facility was originally approved and built for which was 50% flood control and 50% irrigation storage. Whatever the costs were to operate the facility were to be split in half by the Federal Government for flood control and water users interests for irrigation storage. Of the 50% of total space approximately 130,000 acre feet has storage potential. Of that, only approximately 70,000 acre feet is contracted to irrigation entities. Since approximately 1953 the Federal Government has not paid their portion for flood control. Through collaboration with other irrigation entities Lucky Peak was reallocated with the Federal Government paying their 50% for flood control. The 50% left for the irrigation entities is still a huge expense depending on the work that needs to be done including the proposed office building. There has been a lot of major component work done to Lucky Peak in the last 5 years and that will continue for several more years. The largest ticket item is the Army Corps of Engineers requested office building with an original estimated cost of \$8 million which is now down to \$5 million. The water users still have questions as to the true need for that facility. The water user's groups were able to engage the help of Congressman Fulcher's office to intercede in order to obtain better information on the budgeted expenses. The water users are asking for more information on what percentages of the facility are truly for storage of water vs. what percentages of the facility operations and staffing are for other uses. Under contract the water users are only obligated to pay for the percentage of items that are related to the storage of water. The office building proposal has been removed from the budget for up to the next three years. Lucky Peak is controlled by the Army Corps of Engineers and they prepare annual budget then pass the bill on to the Bureau of Reclamation. The Bureau has been working with the Army Corps and they are going to begin holding budget meetings with the water users starting this July to better outline the projected budget needs and actual O&M work that needs to be done on a 3-5 year schedule.

Cresta Del Sol development in Star executed a vertical cut of 20-30' in which they cut straight into the hillside. This development is in an area where the canal is in a high fill position and the Board had serious concerns with the stability of the canal. The hillside has been re-packed, compacted in 8-12" lifts and held up fine in the 2022 irrigation season. The Developer is proposing to cut into the hillside again and install a boulder retaining wall to gain a few more lots. The Board is willing to consider the idea however the Developer has been required to conduct Geo Tech investigation and a canal seepage study. The studies are complete and the Farmer's Union engineer is reviewing. At this time there is no agreement.

Andy reminded shareholders the canal easement is 25' from top of bank in on-grade situations and 25' from toe of bank in high fill situations.

Andy reported on the ongoing efforts to build additional storage facilities in the Boise River Basin. One of those projects is the Anderson Ranch reservoir dam raise. Anderson Ranch is the largest reservoir in the system and only fills about 50% of the time. The proposal is to raise the dam by 6' in order to gain approximately 30,000 acre feet of storage that will only fill about half of the time. The water users have shown interest in purchasing some of that storage space however the projected cost is \$25 per acre ft. and is not a feasible expense for storage water space. The State of Idaho has stepped in and has agreed to finance the project. The State plans to recoup costs over time in long-term leases for the water. The water users groups question the dam raise vs. the idea of freeing up the 170,000 acre ft. of un-contracted space in Lucky Peak. Idaho Fish and Game has a 50,000 acre ft. allotment for stream flow maintenance leaving 120,000 acre ft. of un-contracted space. The water users groups are going to push for opportunities to free up some of that space for storage water supply.

Boise City is in the process of installing a pipeline under the Canal to divert the 35cfs appropriated from the River to circulate through the Esther Simplot ponds for better flow to take care of bacteria concerns and water quality issues. In order to return the water to the River the water needs to be piped under the Farmer's Union Canal and into Veteran's pond where it will then spill back into the River. The City has until the end of February by contract to complete the project.

Esther Simplot and Veteran's Park visitors are arguably trespassing along the canal easement. The Master plan for Veteran's Park is coming up for review and Farmer's Union is working with the State Department of Parks and Recreation to protect the easement. Farmer's Union may be enforcing the license agreement against the City to keep pedestrian traffic out of the canal easement. The City states it has no choice because some of the funds for the parks were Federal dollars that came with strings attached requiring a degree of public access due to an old land swap involving Veteran's Park. It seems the Veteran's Park land swap was not part of that federal program so the argument does not seem to be accurate.

Boise City terminated the Lander Street water reuse contract with Farmer's Union. The City secured a \$500 million bond from taxpayers with another \$500 million bond expected in the near future. The City plans to collect wastewater from Lander Street and West Boise removing that discharge water from the Boise River and pumping it up onto the bench where the City owns quite a bit of property.

Andy reported there are no updates on the FEMA floodplain and what constituted development under the permitting process. Farmer's Union has very little exposure.

Andy stated subdivision reviews have been numerous, are ongoing and problematic. Development in the foothills is cause for concern for up gradient storm water runoff issues.

There is one outstanding assessment for \$170.22 and a lien as well as a lawsuit has been filed.

A regional issue that warrants monitoring is the Simpson plan which was the suggestion to spend \$35 billion to breach the four lower Snake River dams for Salmon connectivity. Governor Ensley and Senator Murray are willing to have a dam breaching conversation in Washington State but not until the funding is secure and significant work has been done to improve transportation infrastructure. Removing the lower Snake River dams would eliminate barging and increase rail and trucking as modes of transportation. They want clean energy replacement capacity in place first. Oregon and Washington both have aggressive green energy legislation that they can't meet if the dams are removed. From a water use perspective the upper Snake Basin is sensitive about Salmon issues and the flow augmentation components of the 2004 Nez Perce agreement. The Nez Perce Tribe filed claims to essentially all of the flow in the Snake River at Lewiston. In lieu of litigation Congress ratified the Nez Perce agreement where the US agreed to shelve the water right claims in return the BOR committed to providing up to 487,000 acre feet of fish flush flow augmentation from the upper Snake projects to help with Salmon recovery. Irrigators flow augmentation water could only be taken for a price and has a cap of 487,000 acre feet. Unfortunately we are now 18 years into the 30 year agreement.

The Columbia Basin treaty renegotiation between Canada and the US is also a concern to Idaho because it involves flood control and hydro power obligations between the two nations. The U.S. paid for massive dams in Canada and gained flood control in the Columbia River Basin and the ability to buy hydro power. As population in Western Canada increases Canada is not interested in operating the reservoirs for flood control. They want to boost hydro power generation which means there is less flood control space.

These issues could impact water supply as well as assessments.

Financial Report:

Income Projected for 2022 = \$575,771	Actual	\$580,825.96
Plus Interest Earned		<u>\$ 2,269.42</u>
Total		\$583,095.38
Expense Projected for 2022 = \$722,490	Actual	\$506,037.59
Income Projected for 2023 = \$642,459.00		
Expense Projected for 2023= \$676,400.00		

Assessments:

2023 FUD Share

\$973.76 or \$88.52 per inch

Sam explained the Lucky Peak expense was addressed by the Board several years ago. Assessments have been increased gradually to build up revenues so there would not be a one-time significant increase. Treasure Valley water users are working to get more transparency from the Bureau of Reclamation to ensure only O&M costs associated with storage of irrigation water is passed on to the irrigators.

Projected expenses are higher than projected income however the Board is confident there are enough funds in reserves from previous assessment increases to cover the projected Lucky Peak O&M increase.

Ann Ritter asked why there was such a significant increase in legal fees in 2022. Sam explained there has been an increase in potential litigation and there were several months the beginning of the year where there was crossover with Jerry Kiser retiring and Sawtooth Law coming on board.

The question was asked if there is more demand for water with the increase in residential development. Sam explained water is matched to the land. All developers are required to install flow meters when installing pressurized irrigation systems. It may actually be easier to deliver water now because there is more uniform usage of water. Other ditch companies claim they are in fact using more water than when the property was being farmed. Andy said there is data that residential users do use more water. For example pasture or farm ground is watered heavy for a short period of time where residential users water the same top 6" of ground instead of saturating the ground and getting deeper water.

The question was asked if the Avamore development is affecting Farmer's Union at all. Sam stated they are not a Farmer's Union water user.

Cheryl Bloom expressed concerns about lateral water users input on developments within their laterals and how to govern. Sam reiterated it is in the best interest of Laterals to form lateral water users groups to help enforce watering schedules, approving pump sizes, etc. Andy explained the Farmer's Union jurisdiction ends within 25' of the headgate. Title 42-1301 outlines Lateral Water Users Associations. Three or more users on the same point of diversion are by default an association so they should organize and form. That dictates through bylaws how votes are counted, etc. Lateral Water Users Associations have the power to assess for aging infrastructure and do repairs. Also, individuals are no longer personally liable for leaks, floods, etc. The Association would be sued in the event of a leak rather than individual homeowners.

Pat Miller asked if weirs are set according to shares or can individual property owners on the lateral change the weir setting. Andy stated individual water users can not

change the weir setting unless it has been agreed upon by the lateral. It is a Title 18 misdemeanor. They need a lateral manager to check the weirs.

The question was asked if there will be water cutbacks in the 2023 irrigation season. Sam stated not at this time but it is too early to predict. Robert Hendricks with headgate 72 lateral water users asked what flow is lost in open ditches. Sam explained if water is moved over a mile in the canal 30% is deducted. Andy stated a good rule of thumb is 1/3 is lost due to evaporation and/or seepage. Does the lateral association have any liability in removing trees along the lateral? Andy stated seepage is an ancillary benefit. Paul Akins stated trees roots will also destroy pipe so they need to be removed.

Mike McGowan moved to adjourn the meeting; motion was seconded by John Schram. Motion was unanimously approved. Meeting adjourned at 2:38 p.m.