

Saturday, January 8, 2022

## Annual Meeting of Shareholders - Farmers Union Ditch Meeting

---

### Board Present:

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

Lloyd Akins called the meeting to order at 1:05 p.m.

Lloyd Akins introduced the Board, Attorneys and staff. Lloyd 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.

Lloyd Reported Farmer's Union also received \$42,500.00 from Water District No. 63 for rental of 2,500 acre feet of storage water in 2020. Farmer's Union sold storage water for a couple of years to help keep the fees passed on to shareholders at a minimum. Storage water was not sold in 2021.

Snowpack is currently at 136 – 140% and the reservoir system which includes Lucky Peak, Anderson Ranch, Arrowrock and Lake Lowell is at 136 - 140%. It is still too early in the year to make any predictions.

The Board has made an agreement with Debbie Foster to purchase a portion of ground at the tail of the canal to eventually relocate the shop facilities to and sell the Clover Street property. With the changes to State Street and increases in traffic it is really difficult to get in and out of that property with equipment.

New headgates have been installed and others are being repaired. Farmer's Union is working with ACHD to have a trash rack installed at Willow Lane.

Lloyd reported there have been no major equipment purchases. The Ditch Riders are keeping up with maintenance however the equipment is aging and there may be some major maintenance in the future.

2020 Annual Meeting Minutes were provided to attendees for review. Tom Sorge moved to forego reading of the minutes; motion was seconded by Mark Skaggs. There were not enough shares represented at the meeting for a vote however all attendees were in favor.

Proxies were counted and verified by Rosalie Cope: 110.9182 shares represented *which did not constitute a quorum.*

### **Legal Report – Jerry Kiser**

Jerry Kiser explained the Bureau of Reclamation charges O & M related to Lucky Peak projects. In conjunction with TVWUA, water users were able to get the Bureau to reevaluate how the costs are allocated between the various users and spaceholders in the Reservoir. Historically none of the O&M costs were allocated to flood control which is one of the primary purposes of the reservoir. After working with the Bureau the group was able to reduce the allocation (71,000 af of the 273,000 af) for spaceholders down just under 13%. Jerry explained there are regular and extraordinary costs associated with the Reservoir and they are all allocated a little differently. The Board had anticipated the annual rate to come down after some major repairs and improvements were done to the dam. However, now there are extraordinary expenses in the B.O.R.'s budget that spaceholders feel need further discussion and negotiation. One including a new office building that started three years ago at a cost of \$7 million. The latest estimate is \$4 million and there is still no justification or explanation for an office building of that magnitude. In conjunction with TVWUA a meeting is trying to be set with the Army Corps of Engineers to find out if spaceholders can be a part of the budgeting process or at least have more input on what and how much is being charged. The Army Corps of Engineers operate the dam. They pass their costs on to the Bureau of Reclamation and the Bureau passes the costs on to the spaceholders and various users.

Several years ago State Street was widened, a box culvert was installed and Farmer's Union water was put into the culvert. As part of that deal ACHD was supposed to provide for a trash rack to be installed near Willow Lane. A flow meter was also to be installed to measure flows so there would be advance warning from the flow meter if there was an obstruction then the trash rack would prevent any large trees, etc. from creating an obstruction. Jerry Kiser has been working with ACHD. It has been a long process that is not yet resolved. The Board will be discussing some of the actions ACHD has taken to try to get the trash rack in.

Boise City applied for a water right of 35 cfs to be diverted from the river, run through the Esther Simplot ponds and flow back into the river. This effects Farmer's Union because the lowest pond empties into the canal right above the headgate where water is diverted down the canal and excess water is diverted into a spillway that goes back into the river. Farmer's Union objected to the City's application and then came to a resolution with an agreement the City could divert the water with the stipulation the water had to be returned to the river and not into the canal. The City has designed a system that will eventually put in a barrier in the lowest pond, divert the water through a measuring device and run under the canal into Veteran's pond then back to the river. At this time the plans are designed but have not been approved by Farmer's Union. The City would like to do the work prior to the 2022 season but the Board still needs to discuss. They will need to breach both banks of the canal to install the return pipe.

Jerry explained as part of that process in 2021 Boise City rented 2500 acre feet of water from the River Bank to run through the ponds. Farmer's Union would not agree to have the water run back into the canal unless arrangements could be made with the Idaho Department of Water Resources to allow Farmer's Union would to use the water. Approval was granted on a one time basis. The result was Farmer's Union gaining 2000 acre feet of water free of charge to utilize in an especially short water year. If Boise City does not get the construction in the lower pond done this year they will not be able to divert the water.

Jerry stated subdivision reviews have been numerous, are ongoing and problematic. The Board and legal staff is trying to stay on top of them to make sure the impacts on the canal and delivery system are as minimal as possible and any impacts that do exist hopefully can be mitigated and won't cause problems.

Mr. Sorge asked if the subdivisions are currently using Farmer's Union water and if they are going to continue to do so. Jerry Kiser stated those that have shares are using the water that is pertinent to the ground being developed. Most of the municipalities have imposed ordinance requirements that if there is ground water or irrigation surface water available they are required to utilize the water. Under Idaho water law irrigating yards is essentially considered the same as irrigating a crop.

In terms of flood insurance FEMA has entered into an agreement with the Idaho Department of Water Resources that essentially goes against current Idaho law. The agreement is that if any irrigation facilities are within floodways there are certain new requirements or regulations. For example, if the ditch it dredged normally spoils would be placed on the canal bank to dry then cleaned up. Now in floodway areas if any excavation is done the materials have to be removed. Jerry explained the area of floodway ground under Farmer's Union is very minimal. There are three spots on the canal which are affected.

- 1) The intake/diversion from the river
- 2) A very narrow strip, 300 – 400 ft. at Pierce Park
- 3) Seaman's Gulch

Jerry reported under their option in the Lander Street water reuse contract the City of Boise opted to terminate the agreement. Jerry explained under the terms of the agreement the City will be prohibited from delivering that water to any other irrigation entity for 10 years.

Jennifer Michaud asked if discussion was going to be had regarding treated wastewater being discharged into the canal. Jerry Kiser and Lloyd Akins explained Jerry Kiser just reported on that matter. Another shareholder was under the impression Farmer's Union was accepting treated water in the 2021 season. She expressed concern over the additional algae in her pond and her fish dying. Jerry Kiser explained there are no existing connections or facilities to discharge the water into the canal and no water from Lander Street has ever been discharged into the

canal. The low water year and extreme heat would cause those things. Lloyd explained Farmer's Union has no control over the quality of water coming into the canal from the river. The assumption is made that all regulations are being adhered to but as the water level gets lower the toxicity in the water is elevated. There are many naturally occurring toxins in the river water.

Ms. Michaud asked when the contract with the City was terminated. Jerry stated sometime in August. Jerry explained the City held a Bond levee as part of their overall reuse plan which no details have been released on. The bond election did not have anything to do with any specific projects or where water would be discharged. The reuse plan was approved by City Council. Lloyd explained at this time the only association Farmer's Union has with the City of Boise is the ongoing discussion regarding the Simplot ponds.

**Financial Report:**

The question was asked how the proposed office building at Lucky Peak affects Farmer's Union. Jerry Kiser explained the Army Corps of Engineers operates the Dam and since it is a Federal reservoir the Bureau of Reclamation oversees and administers the water deliveries. Under contract with the Federal government Farmer's Union uses storage water in the reservoir we are obligated to pay a portion of the annual operation costs and expenses. The Army Corps of Engineer costs are passed on to the placeholders and "other" stakeholders such as flood control and recreation. The office building is in the budget but has not been approved by Congress. Farmer's Union is working with TVWUA who is an advocacy group comprised of approximately 200,000 acres served from the Boise River. This allows the water users/irrigation entities an ability to coordinate mutual interests of water users/irrigation entities in the valley. There is also the Idaho Water Users Association who has members statewide whose interests are not always the same basin to basin.

Seth Kettering stated the Ditch Riders are in the process of putting up more No Trespassing signs along the canal road.

The question was asked if the Farmer's Union Board is taking a stand against Boise City's attempt to turn the canal maintenance roads into public access. Lloyd stated yes, the Board is very much against the idea. Jerry Kiser stated the issue is complicated. As a mutual ditch company Farmer's Union does not own the majority of the canal or the maintenance roads. By statute there is a right-of-way that allows whatever area is necessary to do maintenance and clean the canal. In order to protect the right of way there are certain allowances to prevent use that interferes with the ability to maintain, clean and make repairs to the canal. For the majority of the canal the land is owned by private citizens who have the right to prohibit trespassing on their property. In order to turn the canal roads into public areas the City would need to enter into an agreement with every individual landowner to cross their property. Jerry explained even if every property owners were to give permission Farmer's Union can still deny access under the maintenance rights.

Mr. Sorge asked for clarification on the financials. He stated in 2021 there was a positive cash flow of \$138,000 and in the 2022 budget there is a negative cash flow of \$145,000. He asked if the land purchase proposed amount of \$150,000 was the contributing factor. Rosalie Cope stated, yes the land purchase is included in the 2022 budget as an expenditure however the funds will be coming from a capital improvements savings not the operating budget. The O&M charges related to Lucky Peak are budgeted to increase from \$78,300 in 2021 to \$166,000 for 2022. As discussed several years ago major O&M charges with regards to Lucky Peak were expected however the Board had not been provided with any information as to how much for sure and when the charges would be passed on. Lloyd Akins explained the Bureau does not send out a budget with the "true up" calculations until around the first of February which is after the budget is approved each year. In order to be proactive the Board implemented a \$100 per share increase for a period of three years. The increases were implemented in 2018, 2019 and 2020. Assessments for 2021 did not increase and the Board did not elect to increase assessments for 2022. As Jerry Kiser explained earlier Farmer's Union has been working with TVWUA to include flood control in the formula in order to help decrease some of the cost passed on the spaceholders.

Mr. Sorge asked if there are any delinquent assessments. Rosalie Cope reported there is one outstanding assessment for \$1,063.69 and a lien as well as a lawsuit has been filed. Mr. Sorge also asked if there are any shares for sale. There are not.

Income Projected for 2020 = \$588,042	Actual	\$563,513
Plus Interest Earned		\$ 6,982
Plus Storage Water Rental		<u>\$ 42,500</u>
Total		\$612,995

Expense Projected for 2020 = \$488,397	Actual	\$487,250
--	--------	-----------

Income Projected for 2021 = \$588,485	Actual	\$572,270
Plus Interest Earned		<u>\$ 3,032</u>
Total		\$575,302

Expense Projected for 2021 = \$430,306	Actual	\$437,311
--	--------	-----------

Income Projected for 2022 = \$577,271

Expense Projected for 2022 = \$722,490.00 (\$150,000 budgeted for capital expense)

**Budget Highlights:**

Purchase of property	\$150,000
----------------------	-----------

**Assessments:**

2021 FUD Share	<b>\$873.76 or \$79.43 per inch</b>
----------------	-------------------------------------

2022 FUD Share

**\$873.76 or \$9.43 per inch**

Meeting adjourned at 2:21 p.m.

DRAFT