

Saturday, January 13, 2024

Annual Meeting of Shareholders - Farmers Union Ditch Meeting

Board Present:

Sam Rosti, Paul Akins, Bert Browen, Corey Blaine
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 1:02 p.m.

Sam Rosti introduced the Board, Attorney and staff.

2023 Annual Meeting Minutes were provided to attendees for review. There was a motion to forego reading of the minutes; motion was seconded. Not enough shares were represented at the meeting for a vote however all attendees were in favor.

As of a few days ago the snowpack in the Boise Basin was at 70% which is a little behind for this time of year. The Boise Basin storage is approx. 61% of full because of some carryover. Storms anticipated in the next week so we should be good.

Seth Kettering reported there is a lot of tree work going on. The majority is near the Lander sewer treatment plant and a few other spots along the canal. They have replaced 3-4 headgates so far and plan to replace a couple more this off season. There are some piles of rip rap staged in several places for bank repair. They are dipping and sloping and pulling some sand out of the canal.

Sam reported a new Toyota Tacoma pickup was purchased for \$34, 946. The company sold Storage water for a net revenue of \$19, 227.52. The equipment is well maintained and the John Deere 710K Backhoe purchased in 2022 has been an asset.

Plans for the shop facilities and improvements to the property purchased in 2022 are underway.

Financial Report:

Income for 2023	\$641,337.93
Plus Interest Earned	\$ 19,500
Plus Storage Water Rental	<u>\$ 19,227.52</u>
Total Income	\$680,105.45

Expenses for 2023	\$605,204.65
Income Projected for 2024	\$645,349.00
Expense Projected for 2024	\$594,970.00

Assessments:

No increase in assessments.
2024 FUD Share

\$973.76 or \$88.52 per inch

Sam explained 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. The estimated assessment for Lucky Peak O&M in 2024 is \$59,700 and is estimated to go up to \$81,900 in 2025.

A new trash rack was installed on hwy. 44/Collister. When a section of the canal was put under State Street ACHD agreed to install a large trash rack to catch any large trees or debris from causing an issue with the box culvert or plugging the canal.

There are continued issues with the City of Boise regarding the Whitewater Park. For those that are not aware Sam explained as part of that project a \$7-\$8 million dollar dam was built for Farmer’s Union with state of the art controls and a fish ladder. It can be regulated for catastrophic flood flows and has been a huge asset.

Legal Report – Andy Waldera

Andy followed up on the Cresta Del Sol development in Star which was discussed at the 2023 Annual meeting. The developer made a vertical cut of 20-30’ which was cut straight into the hillside. The issues have been worked through and a license agreement was executed. There are indemnification provisions in the agreement and Toll Brothers made some alterations to the design so the cut is not as drastic and are installing an engineered retaining wall. Farmer’s Union had an independent engineering review done along with a Geo Tech investigation and canal seepage study.

Farmer’s Union operates under the premise of water delivery and the first obligation is to maintain the integrity and function of the ditch system and development should pay for itself. Toll Brothers has been invoiced for \$18,565 for reimbursement of legal fees pertaining to the license agreement.

Andy explained the company will be implementing a License Agreement process which is a stepped process. Farmer’s Union will have an on-call dedicated engineer. If a Developer wants to do work that touches the canal right-of-way or modifies a portion of the canal in some way they will be required to apply and pay an application fee up front which will cover the company’s independent engineering review and attorney fees to draft and record the license agreement.

There are sections of the canal that are on grade and sections that are high fill such as Cresta del Sol. The downhill slope is part of the canal bank and if the hillside is removed the latter and subjacent support of the canal is being compromised. Farmer's Union claims a statutory easement under section 42-11-02 that measures 25' from top of bank on both sides in on grade locations and 25' from the tow of bank in high fill situations.

In the Treasure Valley, especially on the south side of the river there is a pattern of drain flow declines. Drain flows back into the Boise River replenish the natural flow of the river for other senior water rights downstream. There is an administrative water break in the river at Star Bridge where administratively the river goes dry however there are enough return flows upstream of Star Bridge the 200cfs is kept wet so it can be diverted. The return drain flows allow a lot of out of priority (junior water rights) diversions upstream. On the north side Farmer's Union gets drain flow return credits. As long as at least 100cfs comes back to the Boise River Farmer's Union gets 20-25% as uncuttable water right that allows us to continue to divert that percentage of water without penalty upstream. Water users in the Valley are conducting studies to investigate why the drain flows are declining in some areas. Those studies will allow those on the north side of the river to have a better understanding so the declines can be avoided on our side of the river. The declines in drain flows are likely attributed to urbanization and the loss of incidental seepage through flood irrigation practices. Sprinklers are only irrigating the 6" root zone instead of flooding an area and having the excess water not taken up by the crop seep back into the ground water. In June of 2022 the river at Star Bridge was short 200 cfs and the only reason there wasn't a delivery call is because the Bureau of Reclamation had Salmon fish flush flow augmentation water in the river that was diverted and made up through other return flows downstream. This situation has not happened before.

The State entered into a deal with the Bureau of Reclamation to study the feasibility of adding 30,000 acre feet of additional storage capacity in Anderson Ranch Dam through a 6' dam raise. The original cost estimates were approximately \$80 million which have gone up to \$125 million. The State of Idaho earmarked approximately \$35 million for the project and several legislators are questioning the feasibility of the project with the rising costs. The original cost estimate of \$1,600 per acre ft. of additional water has gone up to \$4,300 per acre ft. depending on the ultimate construction costs.

Andy reported there is an increase in ground water application water rights and informed attendees that Farmer's Union will likely protest those water right applications through a supplemental use remark. The use of surface water available should be utilized before ground water should be considered for irrigation.

Andy reiterated the large spike in O&M costs at Lucky Peak were due to a planned \$8 million Army Corps of Engineers control building. Through pressure from irrigation entities, TVWUA and Idaho Congressional delegates the project has been put on

hold indefinitely. Irrigation entities are demanding an accounting of the functionality of the building and how much was related to the storage and release of water as opposed to flood control, recreation, etc. This should stabilize the O&M annual assessments.

Andy explained Farmer's Union does not get involved in lateral issues. The Farmer's Union jurisdiction ends at the edge of the easement. He reiterated water users are the owner's of the lateral ditch systems and pipelines and encouraged neighbors to work together to solve delivery problems or maintenance issues.

The Boise River has several daily load allocations. The ones that matter to irrigators are sediment and phosphorus. Over the life of the Boise River, TMDL and other projects have been going on to clean up drain return flows as well as waste water treatment plant discharges to the drains or the River. Trends in phosphorus and sediment loads have been going down. On the south side of the river the clean-up efforts have been going well enough that there is some leeway on not needing TMDL's to be drafted for 5, 10 and 15 mile drains. They will be handled through an alternative restoration plan.

In 2023 IDWR updated and streamlined its contested case procedural rules and water appropriation rules. They are going before Legislature this session for approval. DEQ has also updated water quality standards, recycled wastewater and stormwater rules under the Idaho pollutant elimination discharge program. All of those things affect water users therefore TVWUA has making sure those amendments don't contain anything that would pose harm or risk to irrigators.

The Idaho Water Users Association legislative committee meeting will be next Monday. The ditch rights statutes which are the rights, obligations and protections for irrigators are contained in Idaho Code Title 42-11 and 42-12. In response to a couple of isolated Idaho Supreme Court opinions the Water User's Association initiated a review of the code and determined it had been pieced together too much over the years. They stripped it down and have rewritten chapters 11 and 12 to clarify them and make them more user friendly.

The domestic use exemption is currently 13,000 gallons per day for up to ½ acre. There is some discussion that 13,000 is too much and how the domestic water rights are treated in water adjudication is being reviewed. Andy directed shareholders to the Idaho Legislative website and the Idaho Water Users Association website for updates and more information.

Idaho water users are reaching a point where issues on the Columbia River downstream of us, the Snake River and throughout the Pacific Northwest and Southern Canada are converging. This includes the 30 years of litigation on the Columbia/Snake Rivers as it relates to Salmon recovery and the Columbia power system including breaching the four lower Snake dams. The Federal government entered into a multi-billion dollar settlement agreement with six Indian Tribes and the

States of Oregon and Washington that sets up a 10 year goal to build up enough replacement infrastructure in terms of hydropower generation, transportation alternatives and water rights purchases and retirements to breach the four lower Snake dams in Washington, the Little Goose, Lower Monumental, Lower Granite and Ice Harbor. This deal was made by the Council of Environmental Quality without Congressional approval. Through the Salmon litigation these operations as it relates to dam operations and flow augmentation water supplies for fish flush are contained in a biological opinions document issued by the Federal Government. Those opinions govern the operations of Federal facilities such as the Federal storage reservoirs in Idaho. If things are upset downstream to change the circumstances on which the biological opinions are based then dam operations in our area will be scrutinized. The State of Idaho filed a counterclaim seeking a judicial declaration that breaching of the four lower Snake River dams is not a legal option or remedy to the Endangered Species Act.

The Columbia River Treaty between the United States and Canada expires in the fall of 2025. The Treaty led to the Canadian construction of three major reservoir systems in the Columbia River Basin and Montana paid for by the United States. The purpose was for Canada to provide a certain amount of flood control storage and hydroelectric production. Without a replacement treaty or renewal there is the potential to upset flood control operations throughout the system. The Canadian government has performed flood control storage for the United States at the detriment of their own hydroelectric power production potential. They would like to run those facilities more for power production and less for flood control. In doing so, they would then go to on-demand flood control which would force the United States to maximize use of federal facilities for flood control purposes rather than a stable amount of flood control water being handled. The purpose of flood control is to flush water through the system and maintain open reservoir space to catch water where irrigation storage is meant to catch and hold all the water and minimize flood control space.

The Nez Perce agreement expires in 2035. The Snake River adjudication bought peace with the Nez Perce tribe and its senior water right claims within the Snake River drainage. It provided 30 year biological opinions from the Federal Government governing upper Snake dam operations including Lucky Peak, Anderson Ranch and Arrowrock. Under the agreement, the Federal government can't take the storage water for Endangered Species Act purposes. They can lease the water but they can't take the water.

Lloyd Akins asked if the proposed breach of the four dams would affect certificate holder storage water. Andy explained if the dams are breached it could affect biological opinions which would affect all of the water in Lucky Peak. Irrigators own a right to use Federal reservoir water we do not own the water.

Proxies were counted and verified by Rosalie Cope: 87.1973 shares represented *which did not constitute a quorum.*

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

Jeff Devine moved to adjourn the meeting; motion was seconded by Cheryl Bloom. Motion was unanimously approved. Meeting adjourned at 2:08 p.m.

DRAFT