

Tuesday, October 9, 2018

Farmers Union Ditch Meeting

Board Present:

Sam Rosti, Lloyd Akins, Paul Akins, Tom Foster

Craig Waddell, Ditch Rider

Rosalie Cope, Secretary/Bookkeeper

Jerry Kiser, Attorney for FUD

Guests: Jay Walker – AllTerra Consulting; John Tensen, Kate Harris, John Rolden – City of Boise; Terri & David Chlebeck; Marty Goldsmith

Sam Rosti called the meeting to order at 5:35 p.m.

DAVID & TERRI CHLEBECK

Mr. and Mrs. Chlebeck explained they recently purchased a property adjacent to the canal. They said there are some large trees on Farmer's Union property that have branches overhanging their property and they would like the Board's permission to address the trees and clean up the property. The Board is going to have Craig Waddell meet with them to work together on a plan.

JAY WALKER, ALLTERRA CONSULTING

Mr. Walker's firm is consulting on a project titled Iron Mt. Ridge Subdivision on property at 2153 N Pollard in Star. Mr. Walker asked the Board how much water the property had, how large the pipe is, where delivery is, etc. The Board instructed Mr. Walker to meet with Mr. Schreiner who sold the property to Mr. Walker's client.

MARTY GOLDSMITH

Justin Martin, representing Marty Goldsmith presented the board with a map of the property under J&M Land, LLC showing two locations where they would like to install gates on the canal road. Mr. Martin explained they have had a problem with trespassing through the canal road onto their property. He said the property is posted and they have spoken with a Sheriff's Deputy to no avail. Jerry suggested they file a trespassing complaint. Mr. Martin said the Deputy asked for a letter from the Farmer's Union Board clarifying the easement restrictions. Jerry stated by allowing gates on the access road the Board would be setting precedence and Farmer's Union needs to look at the cumulative effect. The Board said in order for them to consider the installation of gates, the gates would need to be automated so the ditch riders would not have to get out of their vehicle to open. There would need to be an agreement in place stating the property owner would need to remove the gates upon the Board's request. At some point the property will be developed and

the gates could potentially be removed. The Board asked for them to report back with specs on a gate. Craig Waddell stated Grainger Supply has a good option for an automated gate. Jerry Kiser is going to draft a letter to the Sheriff's office.

BOISE CITY

John Rolden presented a draft of the letter to shareholders for the Board to review. As discussed at the August meeting the letter is intended to serve as outreach to Farmer's Union Shareholders outlining the benefits of discharging treated water from the Lander Street treatment plant into the canal. They will be installing a 24" discharge pipe and as much as 25 cfs, 1,250 inches of water could be added to the canal. The additional water may help cut down on storage water usage. Jerry Kiser asked when they plan to submit the application. Ms. Harris responded the draft application is ready to be submitted. Sam Rosti asked if the Lander Street facility is designed for 25 cfs. Kate Harris explained there is an average monthly discharge limit however there are occasional peaks. The discharge limit permits 59 million galls per day. They are looking at growth, so it could be more. Ms. Harris explained the main collection systems are set up to go to other facilities so they "base load" the Lander Street facility to prevent extreme spikes. They are waiting for the Board's approval of the letter before they submit the application. Jerry asked how the letter would be distributed. He said it needs to have the Farmer's Union return address and be signed by the Farmer's Union President. Mr. Rolden stated the City could mail the letters and Rosalie is going to provide them with mailing labels for the shareholders. The letter was reviewed and the Board provided the City with a few minor changes. Mr. Rolden is going to work with Jerry Kiser on the changes and submit a revised letter for final approval at the November meeting.

Craig Waddell asked if it would be possible to have an access gate installed to cross with equipment at Veteran's Parkway. John Tensen asked for the Board to put a request in writing and said they would work with ACHD to see if they can get approval. Craig also brought up the increasing need for herbicides which he believes can be attributed to the ponds spilling into the canal and is concerned the influx of the warmer water from the treatment plant may require even more chemicals. John Tensen asked what the cost is for copper sulfate. Sam said the cost is approximately \$2.10 per lb. Craig also stated the copper sulfate is not doing the job and we may have to switch to something else.

Ms. Harris stated the City will begin taking water samples out of the ponds and the river the beginning of February.

John Tensen reported they are getting the riverbed prepped at this time and McMillen will be installing the diversion dam next week. John said there are more trees that need to be removed and he is concerned about seepage from removal of the trees. Craig suggested putting Bentonite in the hole where the tree is removed and digging a trench at the tow of the ditch where it connects to the path and sealing once the tree roots are removed. John stated he is seeing seepage at the base of the pond below the greenbelt and across the top of the greenbelt.

Minutes were read by Rosalie Cope.

Sam Rosti moved to approve the minutes with corrections; motion was seconded by Lloyd Akins.

Paul asked about "Free Water", if the water is moved to another location in the canal would they have to pay maintenance on it. Jerry Kiser stated in the past some of the "free water" was moved and was not required to pay maintenance. Jerry said he informed Bryce Farris from now on if any of the "free water" is moved downstream they would be required to pay canal maintenance. Jerry said if you refer to the headgate book there are a few on Bloom Street that are in the "free" zone and that is as far north as the "free zone" goes. Jerry stated in old minutes he read the "free" zone ended where the pipe crosses the canal south of Bloom which used to be called Sand Creek.

DITCH RIDER REPORT

Sam Rosti reported water will be shut down on October 15th.

Craig Waddell stated the pipe installed to divert water at the sluice channel below the intake is closer than 10' to the tunnel and McMillen did not install the waterman gate as planned. Instead they are just planning to use stop logs on the intake.

Craig Waddell reported as of September 30th Kendall Rivers' employment was terminated and at this time he does not have any help. Craig received an application and Sam has talked to a couple of people that might be interested in the job. Rosalie presented a draft of a posting for the job for the Board to review. The Board asked Rosalie to post the job in the Capital Press and a couple of job sites.

Craig reported as soon as the canal is dry he will begin work on the headgates that need to be replaced or repaired. He reported at headgate 114 the HOA has a concrete box on the hill that slipped this summer and split the pipe which is now leaking. The pipe that runs from the box has been repaired several times this year to keep their water flowing. Sam asked who owns the property. Craig reported one of the tenants said the property was previously owned by AR Boise, M3 and was foreclosed on by the bank. Jerry stated the only responsibility of Farmer's Union is the headgate box in the canal. Any other problems are the responsibility of the property owner. Craig would like to put the concrete box on the water side and run a pipe out then have their system off the side of the canal and on the valley floor. In the meantime the Board directed Craig Waddell to lock the headgate until the repairs are taken care of. Craig said headgate 6 needs to be replaced and headgate 51 needs a new wall and pipe.

Craig said he would like to install submerged orifice weirs in the "free water" zone. There are approximately 10-12. Paul Akins asked what the estimated cost would be. Craig stated he has the materials but needs to have the metal bent. He said the last time he had a piece bent the cost was around \$150.00 each.

The Board reviewed August and September financials. Paul Akins moved to approve the financials; motion was seconded by Tom Foster.

Rosalie reported there are still four outstanding assessments. Rosalie is continuing to issue finance charges and sent out statements again the first of the month. Jerry Kiser stated he will send a lien notice with the November statements.

Rosalie presented a preliminary budget for the Board to review. As discussed at the August meeting the budget will need to be increased for herbicides/pesticides.

Rosalie reported she has documents from I.C.C.U. for the Board to sign in order to open a checking account, with recommendations on how to divide the funds between a money market checking, savings and a cd in order to maximize earnings.

Lloyd Akins moved to approve the financials; motion was seconded by Tom Foster.

ATTORNEY'S REPORT

Jerry and Lloyd attended the pre-hearing conference on the Lexington Hills protest this morning. Suez is determined to keep the water and take it out of the Farmer's Union Canal. In Jerry's opinion, Farmer's Union has a very weak position. Farmer's Union can't prohibit them from taking the water out of the canal unless we can prove it causes injury. Jerry stated the conveyance loss issue is very small and secondly, when the Lexington Hills HOA challenged Suez the hearing officer ruled the water rights quantities are measured at the headgates out of the canal rather than at the river. Therefore, they are not charged any conveyance loss because Farmer's Union received 1/3 of the water right for conveyance losses. Jerry would like to let Lawrence Wasden know that although losing the maintenance fee isn't part of the injury that IDWR can consider it is still a factor that weighs on Farmer's Union's decision. The assessment per share of \$673.76 multiplied by the 69.25 divided by 11 inches equates to \$3,612.08 Farmer's Union would be losing in assessment. Although Farmer's Union recognizes it is not a water right injury the matter is still important. Farmer's Union was contracted to deliver the water with the expectation we would be deriving maintenance fees which will be lost. Jerry suggested presenting the argument to Suez to see if they will come up with a settlement. Jerry stated there is still the unresolved issue of the agreement from 1916 which states Farmer's Union agrees to deliver the water perpetually however it does not state they are required to put the water in the canal in perpetuity. Jerry said there is a schedule set for proceeding with the legal process. The Board directed Jerry to present the argument to Suez and see where it goes.

Rosalie provided copies of the revised headgate book. The Board reviewed and noticed there are still issues that need to be resolved. The Board will further review and get back to Rosalie with revisions.

Rosalie reported she received a Business Member Application and Certification of Beneficial Owners of Legal Entities form from Idaho Central Credit Union that needs to be completed and returned in order to open the account. The Application requires personal information and signatures from Board members. Rosalie also reported she spoke with a representative from Total Merchant Concepts regarding credit card processing. They have two different options the first is similar to the “pay as you go” option offered by QuickBooks. With this option there are no monthly or annual fees and no long-term contract. There is a 2.69% fee assessed on all swiped transactions and 3.49% plus 19 cents per transaction on all keyed in transactions which is what we would be dealing with. After 12 months or more without activity a \$3.99 monthly fee will apply until processing is resumed. The second option has a \$49 set up fee \$8 monthly access fee, \$10 monthly support fee, \$10 monthly compliance fee and \$12 annual IRS reporting fee. The cost per transaction is 0.10% and 10 cents per transaction. With this option we could suspend the service for \$28 and would not pay fees on the closed months.

The Board asked Rosalie to follow up with Crandall-Swenson to find out with a non-profit does the Board have to provide their personal information in order to open a bank account and if so what liability does each Board member have?

Rosalie presented a preliminary budget for the Board to review. Rosalie stated the budget reflects an additional \$100 per share increase in anticipation of an increase in O&M on Lucky Peak. Rosalie asked the Board to review the entire budget but had some areas that need special attention including Auto Maintenance, Yard Diesel, Equipment Repairs, House & Shop Repairs, Wood Waste and Herbicides/Pesticides. Rosalie will update the budget with the Board’s recommendations and present at the November meeting for further review.

Jerry handed out memos regarding Idaho’s New Trespass Law and Idaho’s New Stand your Ground Law concerning the implications on ditch riders and irrigation entities. He asked the Board to read and become familiar with the law.

Paul Akins moved to adjourn the meeting; motion was seconded by Tom Foster. Meeting adjourned at 11:10 p.m.