

Tuesday, December 12, 2023

Farmers Union Ditch Meeting

Board Present:

Sam Rosti, Paul Akins, John Schram, Corey Blaine, Bert Browen

Seth Kettering, Sean Kettering, Dale Wood – Ditch Riders

Rosalie Cope, Secretary/Bookkeeper

Andrew Waldera, Attorney for FUD

Guests: Lawrence Stubbs – Alliance Consulting, Chris G. – Intermountain Gas, Gary Opper - 3130 N Can-Ada Rd.

Sam Rosti called the meeting to order at 5:28 p.m.

Idaho Power is working on a project at Gary Opper's residence at 3130 N Can-Ada Road and did not obtain approval or request a license agreement from Farmer's Union to trench inside the right-of-way. Mr. Opper's place is in a high fill area and the Board stated the right-of-way begins at the toe of the bank. Andy explained the easement is statutory and will not normally be found on record. John did a site visit and noted the chain link fence is only 25' from the top of the canal bank. Andy asked Idaho Power for a formal plan and will draft a license agreement to allow them to trench within the easement however if the work is done outside the right-of-way then Farmer's Union would not need to be involved. They will submit a design to Andy and work with him to obtain a license agreement.

Gary Opper also attended the meeting and Andy reiterated the easement is statutory under Idaho Code section 42-11-02 which states "width necessary to do the work of operating and maintaining the canal." It is a statutory easement as defined by the canal company, not defined by any other land users unless Farmer's Union signs off. Anyone planning work in a high fill area of the canal should contact the Board for easement requirements prior to doing any work. Mr. Opper was informed the Board already came to a resolution with Idaho Power.

SPRING VALLEY SUBDIVISION

As discussed last month the stainless steel utility sleeves originally installed underneath the box culvert do not meet the specifications for Intermountain Gas. Lawrence Stubbs with Alliance Consulting along with Intermountain Gas are proposing a new plan to bore at an angle which will encompass a greater area of the canal. Mr. Stubbs explained the line is a high pressure steel gas line which does not bed therefore the angle designed in the new plan is necessary in order to obtain alignment. They can bore as originally proposed but it is more complicated and will cost more.

Sam's concern is the amount of exposure the canal has to potential accidents with so much linear feet of pipe interfering with the canal. Andy suggested installing a concrete liner to protect the bottom of the canal when cleaning, etc. in the future. Intermountain Gas does plan to install test posts so current can be run through to locate the pipe. If the canal is lined the company should have no reason to be excavating in the future and if they do they will hit the liner before the pipeline. Andy stated Pioneer Irrigation has standard concrete liner specs that he can forward to Mr. Stubbs. Paul asked if we allow them to begin work since the project will need to be completed by March 1st. The Board agreed to let them begin work while they are working with Andy on the license agreement. They are going to do a cost analysis to determine whether they can stick to the original plan of installing the line under the box culvert or if they want to move forward with boring at an angle and lining the canal. If Andy receives the Engineers drawing utilizing Pioneer's standards and specs he should be able to have a license agreement drafted by the end of the month.

DITCH RIDER REPORT

Seth reported the Candau project has started. The Contractor said Mr. Candau has agreed to do the concrete plug but is not going to extend the sleeve to the outside edge of the right-of-way. Andy stated the original license agreement does not include an extension it was a request of the Board. Sam asked the Ditch Riders to keep an eye on it to see if there is any seepage during irrigation season.

Several of the new headgates have been installed and some of the rip rap work is completed. Seth plans to use eco blocks to shore up the bank along Ritter's property. He is also planning to install approximately 100' of eco block wall and some rip rap along the Grellas' property at 4600 N Park Lane.

Dave Unruh is getting Copper Sulphate and is getting Seth a contact to purchase the liquid form.

Sam asked about ditch maintenance along Collister. Seth stated they have staged 4 loads of rip rap which will be installed while Seth is in the canal with the excavator. Healthy Tree will also be onsite to chip some of the debris as Seth is cleaning. They can't go all the way to Bloom because of all of the encroachments.

ATTORNEY'S REPORT

Andy has a draft of the Water Management Plan for the Board to review. John stated the application is due the 19th of January however he is having surgery and would like to meet with NRCS prior to the end of the year.

Corey stated it is probably time to get started on a grading plan, site plan, etc. for the Foster property. As part of the application NRCS wants an estimate for the site plan, prep, etc. Corey volunteered to meet with Ardurra on-site to discuss. Andy reiterated the County requires a basic site plan with setbacks as part of the CUP application.

Last month the Board discussed Jerry's concern over the expiring statute of limitations on the 2014 City of Boise Whitewater Park agreement and the final approved construction plans that weren't fulfilled in the as-built construction. Jerry dropped off a plan sheet to Andy that include a rock barrier wall with a maximum height of 2'. Several rocks were placed approximately 2' apart, not a rock wall. Jerry's working theory is the statute of limitations is 5 years from completion of construction. Andy does not have a firm date on when construction was completed. Jerry estimates construction was completed sometime in the first quarter of 2019 which would give Farmer's Union until the first quarter of 2024 to file suit. Andy is of the opinion Farmer's Union can spend a lot of money in legal fees but is there a real problem that needs to be solved. A rock wall built to specs would help deter pedestrian traffic on the canal road but would not solve the problem. Does the lack of a wall impede or impair the flow of water or impeding operations. Andy stated there is an indemnity clause in which the City agrees that if something does come up the City is required to defend, hold harmless and indemnify Farmer's Union for any and all claims that in any way arise from the City's construction and operation of the recreation area. The Board does not think the time and money it would take to follow through on a suit is going to solve the problem so agreed to not pursue legal action.

The Board reviewed the A/R Aging Summary and at this time there is only one property a lien will need to be filed on.

Minutes from the November meeting were e-mailed to the Board for review. John Schram moved to approve the November minutes with corrections; motion was seconded by Paul Akins. Motion was unanimously approved.

John Schram moved to approve the financials; motion was seconded by Bert Browen. Motion was unanimously approved.

Andy reported the Federal Government entered into a proposed settlement agreement with the tribes and the environmental plaintiffs in the FRCS litigation. The state of Idaho filed a counterclaim in the settlement arguing that Federal Government can't breach the four lower Snake River dams because their Congressional authorizations occurred before the construction completion of three of the four and the endangered species act does not have a retroactivity clause. They can't undo what came before them.

BUDGET

Rosalie provided the Board with a revised draft of the 2024 budget for review. The proposed budget leaves the assessment rate at \$973.76.

John mentioned there is a piece of ground on the northwest side of the Foster property that has been fenced off by the neighbor. The survey shows that property is part of the property purchased by Farmer's Union. The Board agreed to take the fence down.

John Schram moved to adjourn the meeting; motion was seconded by Paul Akins. Motion was unanimously approved. Meeting adjourned at 8:16 p.m.