

Wednesday, February 11, 2020

## Farmers Union Ditch Meeting

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Board Present:

Sam Rosti, Lloyd Akins, Paul Akins, Mike McGowan

Craig Waddell - Ditch Rider, Seth Kettering

Rosalie Cope, Secretary/Bookkeeper

Jerry Kiser, Attorney for FUD

Guests: Ted Roberts – HG 63, Derritt Kerner – Rock Solid Civil, Logan Schirmer – 3708 Hwy 16, Alma Marvin – HG 38

Sam Rosti called the meeting to order at 5:37 p.m.

LOGAN SCHIRMER – 3708 HWY 16

Mr. Schirmer has not been using his water in the past but plans to this year and would like to install a pump. He would like to put a box in approximately 15 ft. to the east of Stillwell's pump 60. The Board asked Craig Waddell to meet with Mr. Schirmer to find out where to place the box. Farmer's Union should be able to order the box and place it if Mr. Schirmer will pay for it.

ALMA MARVIN – HG 38

Mrs. Marvin said headgate 38 is in the process of organizing a lateral association. She has 0.375 share of Farmer's Union for 0.875 of an acre and would like to transfer 0.04 of a share to her neighbor, Ray Stephens. Mr. Stephens has 1.05 acres and does not currently have any water shares. The Board asked Mrs. Marvin to get written approval from the majority of the water shares on the lateral before the split is authorized.

DERRITT KERNER – ROCK SOLID CIVIL

Mr. Kerner provided the Board with a map of Northstar Ranch subdivision. He explained they will be extending Blessinger Road approximately ½ mile to the existing subdivision off Purple Sage. They have been working with Drainage District No. 2 but are not sure where Farmer's Union jurisdiction ends. There is a low area where the road extension will be built with a natural drain which appears to be the tail water from Farmer's Union. They will be working with the Army Corps of Engineers and filling in that area and will need to install a culvert for that water. The Board recommended a 48" pipe because at times there is quite a bit of water that goes through there.

Minutes from the December meeting were mailed to the Board prior to the meeting for review.

Mike McGowan moved to approve the minutes; motion was seconded by Lloyd Akins.

Minutes from the Annual meeting will be reviewed by the Board for approval at the March meeting.

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

The Board discussed the 2020 assessment from the Bureau of Reclamation for Lucky Peak O&M. The assessment is \$125,000.00. The 2019 assessment was \$50,900 and the 2018 assessment was \$37,200. Rosalie stated the payment is not due until April 1<sup>st</sup> and there should be enough in assessments received by then to cover the bill without having to take anything out of savings.

#### DITCH RIDER REPORT

Craig said he is able to have a natural gas line installed to the shop free of charge because Farmer's Union is a non-profit. He can have a heater installed for \$1,200 - \$1,500. Currently the only heat in the shop is a wood stove. Sam asked if the shop is sealed up so the heat won't escape. It is not. At this time the Board does not want to invest the money in the shop, especially if doors, etc. are not prepped to keep the heat in.

Craig reported they are going to start installing blocks near Eagle Hills golf course. He has been trying to coordinate schedules with Rod Wagner. There is still a lot of canal maintenance to be done, so this project may have to be put on hold until fall.

Craig reported he and Seth are burning weeds and dealing with down trees. Craig said he received a call from ACHD and the hill is sloughing off. They will assess the problem when it dries out more and can grade the maintenance road so the water sheds into the canal. Craig would like to put some rip rap on the top edge and add some road mix, he will coordinate with ACHD.

Craig said he would like to bring on a third person to help with canal maintenance for a limited time this spring.

Craig reported all of the new headgates are installed.

Sam asked if Bennett has done the repairs at the Klondike yet. Craig said he will follow up.

Craig said the water spills between gates 76 and 78 and causes a blow out every year. They are going to place two blocks in the center and two on the outside to create two chutes so the water from one doesn't blow out the other.

## ATTORNEY'S REPORT

Jerry Kiser reported the City of Boise has not responded to the letter he sent regarding issues related to the Whitewater Park. John Roldan is trying to get an official response which City legal is reviewing at this time.

ACHD needs to put an irrigation pipe across the culvert at State and Collister on the downstream side so they can irrigate vegetation around the intersection for a few years. The Board does not see a problem with installation of the pipe.

Jerry reported he should be receiving bids back on the trash rack. The flow meter is a separate bid item and Jerry is not sure when those bids are due back.

Jerry received an email from Kelly Burroughs reporting City staff had removed the sandbar from in front of the intake structure, added angle iron to bottom of intake screens to secure and recorded a video of the culvert.

Jerry provided the Board with a memo from the City amending ordinances for the new FEMA mapping floodplain hazard regulations. The general floodplain permit for irrigation entities once enacted will require a 5 year development permit which will allow irrigation entities to dredge, grade, deposit spoils for no more than 10 days, etc. Jerry stated very little of the Farmer's Union canal falls within the floodplain area. The City of Boise will handle maintenance of the diversion structures. That leaves the area from the control gates at the box culvert to State Street and two other small locations; approximately 100 ft. at Pierce Park, Seaman's Gulch and only about 50 ft. at the top of Big Gulch. The area from the control gates to State Street is probably where we need to focus on to make sure we are in compliance. Paul would like to see the canal marked in the affected locations so the ditch riders are aware. Jerry said this is a proposed amendment to the ordinance and is not in place yet.

Jerry provided the Board with financials and a budget for TVWUA. He reported this year TVWUA is going to focus on public education in regards to trash on canal banks, right-of-way, etc. They will be launching a media campaign and creating a brochure for title companies and realtors to hand out to new home buyers.

Boyd Nielsen/Storage 55 has not been using water and would like to sell his 1.5 share. The designated headgate is 32 and is shared with one other user, Greg Ramey. Mr. Ramey has 0.067 of a share which is less than an inch of water. If Mr. Nielsen's water is removed from the lateral there will not be enough water to measure, therefore Mr. Ramey would not receive his water. Mr. Ramey signed a letter stating he would give permission for Mr. Nielsen to sell the water however the Board does not think he is aware of the ramifications. The Board asked Jerry Kiser to issue both parties a letter outlining the situation.

Jerry Kiser reported there was a case sent to the Supreme Court in August 2019 regarding ownership of water which was sent back to District Court to make a factual

determination related to the decision made by the District Court. The central issue the court ruled on is the appurtenancy of shares in a mutual company; whether the shares are a pertinent to the land. The court named the shares floating shares stating the holder of the water right is the mutual company. The shares merely represent a right to water delivery. The question is if there is a sale of property with no reference to water rights do the shares go with the property. The court ruled because shares are "floating" they are not tied to any specific ground unless the contract between the mutual company and the shareholder has a provision in the articles or bylaws stating otherwise. Jerry said no mutual companies have a specific designation of a share to specific land. This ruling just dealt with ownership of the water, the court did not make any ruling on moving the water. Statute 42-108 outlines if water is going to be moved to a different place of use or point of diversion that right to the use of the water or the use of the diversion is represented by shares then point of delivery can't be moved unless permission is granted from the mutual company.

Jerry received a public notice regarding Rene Place subdivision which is next to Eagle Hills Golf Course. Jerry said there is a road that comes off Floating Feather and there is only one other access point that comes from Wycliffe Subdivision on the plans. Jerry responded stating there is not enough water. They have 11 inches for 18 ½ acres. It also appears they would need to install a bridge over the canal which would need to be approved by Farmer's Union and put a road in from Floating Feather for access. The hearing is March 2<sup>nd</sup>.

Jerry reported Mr. Carpenter is supposed to be providing him with cross section drawings showing the slope at Trident Ridge. Jerry reiterated there will be no agreement until the Board has reviewed and approved the drawings. He said the Board will not allow any activity that will jeopardize the integrity of the canal or increase the potential for seepage. The main concern is they don't cut any more near the canal. Jerry said it appears they will be building up to the lots. From the grading plans it looks like the lots will be terraced and the slopes will have French drains that run into an open drain or piped drain running back to the storm drains.

Jerry Kiser reported the plans sent out with the public hearing notice for the City of Star's new water tank are different than what was previously approved by the Board. The plans sent out with the public hearing notice show the bridge being raised. The engineer said they are putting reinforcements on the bridge which will not raise it much. Jerry requested the plans for the bridge and stated that was not part of the original approval.

The Board reviewed the Capital View assessment and the question was raised regarding how much storage water was used in 2019. Jerry Kiser is going to work with the River Master to confirm storage water usage.

Rosalie provided the Board with the notice of Lucky Peak O&M charges and projects along with the 2020 invoice. Jerry sent a letter to Bryan Horsburgh asking how

irrigators can get more involved in spending decisions such as \$7 million office buildings.

Mike McGowan moved to adjourn the meeting; motion was seconded by Paul Akins. Meeting adjourned at 9:17 p.m.