

Tuesday, February 20, 2024

Farmers Union Ditch Meeting

Board Present:

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

Seth Kettering, Sean Kettering – Ditch Riders

Rosalie Cope, Secretary/Bookkeeper

Andrew Waldera, Attorney for FUD

Guests: Neil Jenkins – Eagle Sewer Dist.

Sam Rosti called the meeting to order at 5:26 p.m.

Neil Jenkins with Eagle Sewer District reported the Eagle Sewer District Board approved moving forward with the plan for a class A treatment facility. The public comment period started yesterday and will run through their next Board meeting on March 11th which will also be the public hearing portion. They will be meeting with City Council prior to the March 11 and the Board agreed a representative from Farmer's Union should be in attendance. The DEQ technical review is complete and went well. The plan is approved by DEQ but they recommended a public comment period which is not required because they will not be using Federal funds for the project. At this time there are no maps pointing to a particular canal. The plan is being approved on the premise of cleaning up the water to reuse quality and finding a willing partner. If the March meeting goes well the Board will adopt the plan at the April 8th meeting. In May they will move to hold another public hearing regarding increasing rates to pay for the initial up-front investment for the long-term return. They are aiming for water year 2029 to have the project operational.

DITCH RIDER REPORT

Seth reported the 300' eco block wall along Ritter's property on Beacon Light Road is complete. The wall increased the ditch road by 5-10 ft.

Sean replaced two of the automated gates at the shop. Seth said there are four gates at the shop and they previously replaced two. Now they are all in good shape.

It looks like Toll Brothers is starting work on the rock retaining wall at Cresta del Sol. The slope is backfilled and appears to be prepped for rock installation.

The Candau project is complete but he does still plan to add some rip rap and fix the ditch road.

Tree removal is ongoing. There is a section along Hill Road and Gary Lane remaining. Seth plans to replace two more headgates before water season, one upstream of the Klondike and the second at the tail of the canal.

ATTORNEY'S REPORT

Andy has a signed agreement from Intermountain Gas for Spring Valley development. Under the agreement they have until March 25th to complete construction. There is a \$2,500 per day penalty for any delay from March 26th to April 1st.

Andy received plans from the design Engineer for Hevostila Estates on February 9th which include an electrical conduit plan where they are proposing an open trench cut. Andy informed them the Board does not typically allow an open trench cut, boring is typically required no fewer than 3' below the bottom of the canal and boring pits have to be outside the easement with steel sleeve casings. Andy received the final plans this morning and they agreed to bore. They are going forward with relocating the headgate box to north side of the canal and will be installing about 50' of STR35 pipe from the headgate box to the pump station. They will also be installing a McCrometer flow meter. Everything else is located outside easement. Andy will include the same late penalty language as in the GWC Capital agreement.

Andy needs to double check some revisions he made to the Opper agreement. Idaho Power is waiting on the agreement and he does not know what their schedule is. Idaho Power's diagram shows the electrical line 25.5 ft. from the edge of the canal road which is between 2 ½ to 3 ft. from the tow of slope. The trench does not touch the canal it is just in the easement. Under the agreement they have until March 15th to complete the work and Seth has the discretion to approve an extension via email.

Andy has been in communication with CK Engineers regarding the license agreement to bore under the canal on the southwest side of Eagle Road and Beacon Light Road for a potable water main for Rocking A subdivision. The agreement is drafted and Al Scott has approved signing of the agreement however they want to know if they can't complete the job by March 25th if the Board would allow the bore during irrigation season. The bore is on the West side of existing bridge box culvert and the bore will be under the concrete floor box culvert with a steel sleeve the full width of the easement. The Board has a policy to not allow work directly relating to the canal during water season and voted not to make an exception in this case however agreed to have Andy include the penalty language as in the GWC Capital agreement as a compromise. Seth is also going to verify the floor of the culvert is concrete.

Annual Meeting minutes and January Special Meeting minutes; John Schram moved to approve the minutes from the Annual meeting and the January special meeting; motion was seconded by Bert Browen. Motion was unanimously approved.

Andy reported the Idaho Water Users Association Legislative committee's re-write of Idaho Code Title 42-11 and 42-12 was met with resistance and IWUA agreed to submit basically half of the revisions to clarify self-help in 42-12-07 and take out the

items the City of Meridian, Intermountain Gas and the Association of Idaho Cities are skeptical of. They plan to go back with the remainder of the revisions in the 2025 legislative session.

The Federal District Court of Oregon did grant the environmentalists, tribes and Federal government's motion for stay in the Salmon litigation. The state of Idaho, Farm Bureau and others opposed the motion for stay criticizing the settlement does not take into account all of the interests and stakeholders involved. Idaho wants the counterclaim based on the legal question of whether the endangered species act can be used to breach the dams as a remedy. The Federal District court agreed with the plaintiffs and Federal government and stayed all proceedings including the State of Idaho's counterclaim. The stay is in effect for 5 years and can be renewed for an additional 5 years.

During the District 63 Water Users Annual meeting they reported that a delegated group met with the Bureau of Reclamation in regards to the Nez Pierce agreement. The Water Users want to coordinate with the Bureau regarding the water users position on key deal points moving forward as the Nez Pierce agreement gets re-negotiated. Water Users wanted to ask if the Bureau is willing to work together off-line to get where the stakeholders want to be before the discussion has to be opened up.

The Columbia River Treaty in terms of set-aside flood control water Canada is required to provide expires this fall. The treaty does not go away but shifts from required to called upon release. Canada is taking the position that called upon will require the United States to maximize its flood control use of all Federal facilities in the region. Lucky Peak, Anderson Ranch and Arrowrock are included in the Federal facilities. This is a problem for Bureau of Reclamation facilities because while they manage flood control they balance the space to have open room for flood control while ensuring the gates are closed to capture water for irrigation purposes. Canada wants the shift because their required amount of flood control limits their ability to generate hydropower. The Army Corps and the Bureau are working on flood control contingency plans.

Paul Hanson asked Sam if his family could lease water to a neighbor uphill of the canal. Andy said the property has to be in the Farmer's Union water right place of use or an application for transfer through IDWR has to be done. If they agree to pay for the cost to file an application of transfer in order to add acreage to Farmers Union's water rights the Board would consider.

Rosalie received a quote from the Hartwell Corp. for cyber insurance. Cyber was included in the policy in years past but as of 1/1/24, it is no longer included in renewals and needs to be quoted separate. The Board does not see a need for a cyber policy at this time.

Rosalie provided the Board with a copy of the 2024 O&M estimate from the Bureau of Reclamation for Lucky Peak. The projected rate for 2024 was \$5.97 per acre ft. The

amount billed was \$7.30 per acre ft. which is \$13,300 more than projected. Andy said the billing is very generic and water users want an explanation on the non-routine items. The Bureau and the Army Corps of Engineers has to be able to verify the expenses passed on to the storage space holders are directly related to the storage and release of water. The Bureau committed to have a meeting with the Water Users in July of 2023 to give a more detailed accounting of the needs over the next 3-5 years and what costs are being passed on to the Water Users. That did not happen so Sawtooth Law and the Water Users Association are going to follow up.

Rosalie provided the Board with a draft of the Capital View assessment for review. Andy had one correction on the worksheet otherwise the invoice looks correct under the new agreement and Rosalie will send to Capital View.

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

Andy said the Board needs to begin thinking about leasing water to Veolia. There is currently a 90% snowpack with 70% system fill. Flood control release is highly likely since only 60% system fill was needed.

Sam received a call from a representative of West Water Research, a water economics monetization firm asking if Farmer's Union or any other irrigation entities would be interested in selling storage space. Andy informed them Farmer's Union would probably not be willing to sell storage space however a long-term lease might be something the Board would entertain as long as it is in-basin. Sam would like to Board to think about possibly selling a small amount of storage if the financial benefit is appealing enough. If the company sold 500 acre ft. for several million dollars a lot of improvements could be made to the canal. For example, Farmer's Union has slightly more than 30% evaporation loss and if a portion of the canal was piped that water could possibly be made up. Over the last 50 years of record Farmer's Union has not used all of its storage water.

Rhen from Ardurra contacted John wanting to know what the status of the site plan is for the conditional use permit. Bennett construction has met with a few of the Board members on-site and are going to give the Board an estimate to do the ground work and the Ditch Riders will remove a few trees and stumps. John said we should have a response on the NRCS grant by June. There was some discussion about lining and rip rapping the ditch rather than piping if the grant is not awarded.

Andy said Pioneer Irrigation just finalized their standards of development and he will revise for Farmer's Union.

Corey reported The Erlebach's who purchased Mike McGowan's property agreed to give Farmer's Union an easement for Idaho Power to trench through his property to get power to the Foster property. The Board gave Corey the authority to offer him up to \$1,000 as a token of goodwill if he sees the need. The original Idaho Power estimate was around \$30,000 and with the easement the cost is going to be \$19,135.

Paul Akins moved to adjourn the meeting; motion was seconded by Bert Browen. Motion was unanimously approved. Meeting adjourned at 8:28 p.m.