

Tuesday, February 8, 2022

Farmers Union Ditch Meeting

Board Present:

Sam Rosti, Lloyd Akins, Mike McGowan, John Schram

Seth Kettering, Sean Kettering – Ditch Riders

Rosalie Cope, Secretary/Bookkeeper

Jerry Kiser, Attorney for FUD, Andrew Waldera – Sawtooth Law

Guests: Lawrence Stubbs – Spring Valley Dev.; Corey Blaine – 1164 E Beacon Light Rd.

Sam Rosti called the meeting to order at 5:59 p.m.

COREY BLAINE – 1164 E BEACON LIGHT RD.

Corey Blaine has been working with Jerry Kiser on behalf of Capital View Irrigation in regards to re-doing the pump station. They plan to deepen the vault and replace the centrifugal pump with a turbine pump. Jerry has reviewed the plans and there will not be any footprint changes.

Mr. Blaine also provided the Board with plans for a bridge he is proposing in order to access a portion of his property he currently does not have direct access to. The proposed bridge will be similar to the previous bridge approved by the Board. The proposed bridge will be 20' wide with wing walls that go into the bank. The Board would like to see a 25' concrete apron on the canal road on each side of the bridge so the Ditch Riders can cross. The Board approved the plans and Jerry Kiser will issue a License Agreement.

LAWRENCE STUBBS – SPRING VALLEY DEV.

Lawrence Stubbs with Alliance Consulting provided the Board with plans for a 10' wide x 50' long x 8' tall box culvert for emergency access into the lower end of the Spring Valley development. Mr. Stubbs stated the emergency access road is not near the primary access into the development. The primary access will be farther up Hwy. 16 on the right hand side and will be a full intersection. Jerry Kiser asked about the proposed parking lot, park and maintenance building shown on the plans. Mr. Stubbs reported that was proposed to the City of Eagle but would be very far off. Jerry Kiser stated the Board is willing to work with them on an emergency access road not to be for public use. Mr. Stubbs stated this will be a gravel road. There will also be a utility corridor to include the pressurized irrigation, sewer, water and power. There will also be a wastewater treatment plant on the east side of the canal. Lloyd said a sewer line under the canal would need to be addressed. Mr. Stubbs stated the sewer line would run down Big Gulch to Hwy. 16. He is going to get more information on the sewer line

for the Board. The road will be 30' with a 50' right-of-way. The Board thinks the bridge needs to be at least 14' wide in order to reach edge of bank on both sides and will require a 25' concrete apron on each side. Mr. Stubbs stated the structure will consist of a cast in place floor and wing walls with a pre-cast box. Jerry Kiser stated the following items will need to be addressed prior to an approval being made.

- 1) More information on utilities crossing
- 2) Revised set of plans
- 3) Change width of bridge from 10' to 14'

The Board would like to see the steel casings for utilities to extend beyond the right-of-way and an additional casing to accommodate future services. Mr. Stubbs stated the casings shown in the plans are 125' and will also be covered by the concrete aprons for additional protection.

Mr. Stubbs also provided plans for a crossing downstream from the box culvert. The existing well will remain and they would like to begin construction on the new well soon. They need to pipe water across the canal from the existing well to be used for construction. They are proposing a 12' steel casing that would span the canal. The steel casing would contain a 6" collapsible pipe to carry the water. They propose to bury the sleeve with gravel where it crosses the Farmer's Union right-of-way. The pipe would be in place for the full water season. Eventually the water line will be included in the utilities going under the box culvert. Jerry Kiser will issue a temporary crossing agreement for one year that can be renewed upon Board approval.

DITCH RIDER REPORT

Seth reported the work at the Green Meadow Spill is complete. The cost was approximately \$3,100. Healy Tree Service completed the tree work last week and Larking is working on the boxes. Seth stated he is currently waiting on the box for the subdivision on Pierce Park so that work can be completed. They still need to fix the box at Schirmer's then will start burning.

Linda Overman is scheduled to deliver 200 eco blocks from Sunroc around the last week of February.

The Dry Creek weed rack is done and they will be working on installing it in the next couple of weeks.

Lloyd asked Seth how much water he thinks can be spilled at the Dry Creek spill. Seth stated Craig had said not to let more than 8" spill because it would flood the park. Sam stated the Chase property is going to be developed and at some point the wastewater spilled at Dry Creek will need to be addressed. In the event water needs to be spilled the wasteway needs to be protected.

Sam asked how much excavator work needs to be done. Seth stated from the Klondike, re-set Schirmer's headgate and dip and slope to the highway then some work needs to be done from the West side of the highway to the tail.

Sean repaired the Klondike so it will spill evenly.

Lloyd Akins reported he spoke to the Coastline Equipment salesman regarding the backhoe. Repair work has now been done to the backhoe therefore the price has gone up to \$57,000. The machine has not been traded in, it still belongs to Lakefork Irrigation and they won't send it to Boise for a test drive unless Farmer's Union commits to purchase it. The Board would like to hold off on purchasing this backhoe and will continue to look for something more suitable.

Seth stated they will do the canal work at 5353 W Hill Road once the property owner has the trees removed. Sam asked Seth to get a quote for the tree removal.

Andy asked if Farmer's Union has a policy regarding applications/requests for work on the canal requiring license agreements. Andy suggested having applications for work along with plans submitted to Board prior to November 1st for work to be done in that year. John stated he and Lloyd have discussed implementing a process where plans would be submitted to an engineer approved by the Board for review. The engineer would then submit a report for approval to the Board. Andy stated Pioneer Irrigation has such a process that is outlined on their website. They have published policy that requires applicants to download and complete an application form and attach professionally engineered plans for the proposed project, a deed and a narrative of the project. The policy states applications are to be submitted prior to November 15th. There is an application fee of \$2,500 broken down into services, \$500 to administration (ditch rider/personnel time), \$1,000 for attorney to draft license agreement and \$1,000 for engineering review. Any remaining money is refunded upon execution of the license agreement. The engineer on retainer will review the plans and upon approval will submit a letter of approval to the attorney with a set of approved plans in order to draft the license agreement. The Board is in favor of adopting a policy. Andy is going to start work on a policy base on what Pioneer Irrigation already has in place.

ATTORNEY'S REPORT

Colombowala emailed Jerry requesting until Friday, the 18th to pay the invoice for bank repairs.

Jerry reported the lawsuit against Brower has been dismissed and the lien released. Past due assessments and legal fees have been paid in full.

Gary Madenford wants to split off 5 of his 10 acres to Cresta del Sol. Jerry submitted a standard comment letter to Ada County stating they will need a pressurized irrigation system and will need permission from the Emmett Lateral if they intend to take the water out or change the point of delivery.

Jerry is drafting a comment letter regarding Flats 16 Subdivision proposed in Eagle. The letter will be similar to the comment letter he sent regarding the Chase property off

Floating Feather. Water is delivered from headgates 112 and 113. Headgate 112 delivers water to the 120 acres on the east side of Hwy. 16 then under the highway to the winery property. Jerry believes headgate 113 goes to the far north of the property. The letter will state there is an unincorporated lateral running through the property which needs to be protected. The subject property is the first water user on the lateral and delivery to water users downstream is not to be interrupted. Jerry will provide contact information for Clint Travis at Riverbirch Golf Course as they are the majority water user on the lateral.

Jerry received a C.U.P. application regarding a 5 acre property on Haven Drive for a u-pick flower business. There will be food trucks, vendors, parking, etc. It appears the parking area will be near the canal. Jerry is going to send a comment letter requiring a fence that will restrict access to the canal right-of-way. Jerry stated they are also proposing trees in the right-of-way which will not be allowed.

Jerry and Andy reported they received the Boise City pathways Initiative and Master Plan. Andy stated he has flagged pages where canal companies and specifically Farmer's Union is mentioned. Jerry stated Boise City has not had any contact with Farmer's Union regarding the plan.

Jerry received a crossing request from Idaho Power that will run up Linder Road and cross the canal underground and overhead to Spring Valley. Jerry has asked for more information and will start drafting a license agreement. Lloyd and Sam stated there is a 2" gas line in that area.

ACHD TRASH RACK

Jerry has not received bids from either party the plans were sent to. The option at this time is to send the check back listing the items not covered in the initial bid and request ACHD re-bid in the fall for the next off-season.

CRESTA DEL SOL

The headgate and water delivery system for Cresta del Sol will not be considered for approval until the cut into the bank below the canal is resolved.

Andy reported McMillen sent him a master services agreement to review. Andy has several edits including the term of December 31, 2023. Andy suggested ending the term on December 31, 2022 with an annual renewal clause to include 30 day notice for termination. It covers the services they will provide and will assign a task order for different matters. Andy stated sections 30 and 31, governing law provisions are broad because McMillen works in multiple states. He would like that amended to Ada County, Idaho. The Board approved the agreement with Andy's suggested changes. Andy will work with McMillen on the final draft.

Andy provided the Board with a draft license agreement for Cresta del Sol. He received a letter from Toll Brothers Attorney on February 3rd. The response letter included a lot of "they are working on it" references. McMillen has given Toll Brothers

a list of studies and reported they are working on the studies and list of items they were given. They have agreed to repack the hillside with native material with a 45 degree slope as identified by GeoTek. In the letter Toll Brothers laid out three development options.

- 1) Go ahead with proposed boulder wall
- 2) Re-pack the hillside and work incrementally on the boulder wall
- 3) Re-pack hillside and put off boulder wall until next off season

The overall application/engineering design review package and required studies were not going to be complete until March 5th. However, they wanted to begin work on the boulder wall by February 28th without the final engineering studies, GeoTek and design review package complete. At this time option 3 is the most reasonable. The backfill/re-packing the hillside needs to be done under a professional GeoTek plan and license agreement with an indemnity provision. Andy added a footnote stating the request for a liner is still under discussion pending analysis. He plans to have the license agreement executed by Friday and the timeline for repacking the hillside is 7-10 days. Lloyd stated the material that came out of the bank is sandy and questions how they plan to pack that material back in. Andy reported there is a GeoTek plan for re-packing the hillside, what standards, what compaction rate and the process in detail. The plan has been reviewed and approved by McMillen.

Andy expects pushback on the terminology “unauthorized cut” in the license agreement. In an email on Monday from Toll Brothers they do not believe any work will or has taken place in the Farmer’s Union right-of-way. To their knowledge there is no statute or instrument to support the conclusion that Farmer’s Union has a right-of-way of any specific dimension in this region of the canal. The email states Farmer’s Union did not raise any objection to the plat. Jerry stated Farmer’s Union received a pre-plat for this project but no grading plans.

Andy will issue a license agreement for compaction and replacing the soil that was removed. This will be the first step. Once studies are complete and McMillian has reviewed a meeting needs to be set to discuss options and next steps.

A letter was received from the State Insurance Fund that the worker’s compensation claim for Craig Waddell has been resolved and is final. The treating physician stated to the Idaho Industrial Commission that Craig has permanent physical limitations compromising his ability to perform the job requirements to do the work required of a Ditch Rider. Andy stated Craig can dispute the rating and try to get the limitations changed. He should also be eligible for job training, etc. The Board agreed that based on the findings of the Idaho Industrial Commission Mr. Waddell’s employment as a ditch rider should be terminated. A letter from the Board will be sent to Craig notifying him of termination of employment.

Minutes from the December meeting were mailed to the Board prior to the meeting for review. John Schram moved to approve the December minutes with revisions, Annual

Meeting minutes and January Special Meeting minutes; motion was seconded by Mike McGowan. Motion was unanimously approved.

LAND PURCHASE

Andy spoke to Mort McMillen in regards to contracting a land consultant/planner to assist with the Conditional Use Permit. Jerry Kiser reported he contacted Canyon County Development Services regarding a conditional use permit for the Foster property. They are a minimum of 6-8 months out on hearings so the June 1st closing deadline is not likely to be met. The Board needs to ask Deb for an extension on closing and may have to offer earnest money.

BOISE CITY CANAL CROSSING

There is a crossing agreement in place signed by both parties but has not been exchanged. Exhibit A needs to be modified to require the SDR pipe and start a dialogue so the work can be done next fall.

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

Rosalie provided the Board with a draft of the invoice for Capital View for review.

Sam would like Jerry Kiser to look into the bylaws regarding Proxy. He wants to know if the appointed proxy needs to be a shareholder or can be anyone?

John Schram moved to adjourn the meeting; motion was seconded by Mike McGowan. Motion was unanimously approved. Meeting adjourned at 10:49 p.m.