

Tuesday, February 9, 2021

Farmers Union Ditch Meeting

Board Present:

Sam Rosti, Lloyd Akins, Paul Akins, Mike McGowan

Craig Waddell, Seth Kettering – Ditch Riders

Rosalie Cope, Secretary/Bookkeeper

Jerry Kiser, Attorney for FUD

Sam Rosti called the meeting to order at 5:03 p.m.

ADAM CAPELL, RYAN HAMMONS JOHN THOMAS – TOLL BROTHERS, MIKE O'REILLY, BECKY MCKAY – ENGINEERING SOLUTIONS, BERT & CHAD GILLIS - MARJORIE MOYLE PROPERTY

Mike O'Reilly explained they are working on the Moyle property which is directly adjacent to Beacon Light Rd. The Emmett Lateral runs along the east side of the property and the Star Acres West lateral runs along the north side. The Emmett Lateral is an open ditch and the Star Acres lateral is piped. Toll Brothers is proposing to pipe the Emmett Lateral and make improvements to the Star Acres Lateral. They received Jerry's letter outlining the expectations if they are to move forward with these projects. They are asking about the Board's request to provide a 15' road from the center of the pipe if they are to pipe the Emmett Lateral. They are in agreement with the Gillis' to put the pipe on their side of the property and are asking to eliminate the 15' road and provide an easement from the center of the pipe into the back lots. Jerry asked what the restrictions would be on the easement for the property owners. They would not be able to build any permanent structures, no large trees and the easement would be spelled out in the CC&R's. Jerry Kiser stated that would not be enforceable. They would also like to install fencing. Sam stated he had previously met with Becky McKay and explained there had to be a way for Farmer's Union to access the diversion box. Farmer's Union has been accessing through the Gillis property. Mr. O'Reilly explained they have plans for a common lot from the public road to the irrigation structure. The HOA landscaping contractor would maintain. The proposed plan is for the pipe on the east side to remain on Gillis' property and the easement to be 15' on each side of the pipe. Sam asked if the fence would be 15' in. They would like to put the fence on the property line. Becky McKay explained that for about 520' the Emmett Lateral is on the Gillis property. Jerry reiterated his letter stated the easement needs to be 15' from the center of the pipe when they put it into the existing open ditch. It was asked why they would pipe the ditch if the easement had to remain in place. The Board said they do not have to pipe. Mr. Gillis said the ditch has always been maintained from the Moyle side. Sam stated if there was a total of 16' of access once the ditch is piped that would be adequate for

maintenance. He reiterated there could be no trees or fence. Sam suggested a walking path, grass or common area. Sam asked if they could make that work. They would install the pipe on the east side as far as it can go. There is a common lot planned for where the easement comes onto the Moyle property. Jerry stated that would be adequate with the exception of lots 48 and 30. Those lots would have to be adjusted. Sam stated if there is access to the division box and the HOA keeps the pipe clean then 16' should be workable. Some common area could be eliminated as long as 16' is accessible the full length of the ditch. There is a 100' common lot that runs for 520' from Beacon Light which is approximately half the distance. The lots that back up to the ditch are 151 feet. Lots 48 and 30 where the ditch runs down their side lot lines will need to be adjusted. Sam thinks an 18" pipe will carry the water. They will run a hydraulic analysis to determine the size of pipe. Sam reiterated no trees could be planted within 10-12' of the pipe. Toll Brother suggested they could restrict species in the CC&R's and can put in the final plat that goes with each property. The fence will be on the edge of the easement and the easement can be reduced to 16'. Sam thinks the same situation would be suitable on the north side. They will revise the plans to have a walking path along the east and north sides. Jerry will issue a License Agreement on behalf of the Emmett Lateral. Jerry asked that a provision be added to the CC&R's that upon request of the Lateral the HOA will enforce any violations, i.e. trees. Sam asked about re-designing the box. The slots on the split when water comes out of Gillis' pipe is important. Bert Gillis asked that they make sure there is metal so it can be cut out in the event it ever needs to be adjusted. Lloyd Akins asked if Star Acres has been contacted or had any input. He suggested they be contacted prior to approval of the final design. Chad Gillis is going to contact Star Acres.

Minutes from the January meeting were mailed to the Board prior to the meeting for review. Lloyd Akins moved to approve the minutes with revisions; motion was seconded by Mike McGowan.

DITCH RIDER REPORT

Seth Kettering reported they have been busy cutting trees upstream from Dry Creek, through Lexington Hills to the Golf Course. They plan to burn most of the debris, but they can float the larger pieces to the weed rack to pull out. The weed rack is repaired. They should be done with tree work in about two weeks. Seth has dipped from Linder to Park and cut an access road on north side by Fry's. The tail of the canal has been burned and cleaned. The headgate at Tom Foster's still needs to be replaced.

Seth reported the bridge they were trying to install at Vine Estates was approximately 28' wide and the canal is only 18' wide in that spot. The bridge was going to take up most of the road and the road is really narrow there to begin with. Jerry has spoken to them and the bridge is going to be taken down to 18' and the pipe is going to be dropped down to approximately 6' so it will sit where it should. Jerry stated Seth needs to make sure they rip rap the wing walls and compact. Seth is concerned the delivery box is only about a foot from the wing wall. Sam asked why they can't

incorporate the box into the new wing wall. They would just need to install a waterman in the wing wall. Seth will contact the contractor that is installing the bridge.

Craig Waddell reported the gates on the J&M Land property have been locked all winter and have not been a problem. Sam said when the property is developed the gates will have to be removed. Lloyd would like to see the gates locked open and not used in the future.

Craig stated he plans to return to work in two weeks. He provided the Board with a letter from his surgeon that outlines restrictions such as not lifting more than two pounds. The Board does not want him to return to work until fully released. The Board directed Jerry to issue a letter to Craig reiterating he is not to return to work or engage in any activity that exceeds the restrictions imposed by his treating physician.

ATTORNEY'S REPORT

TRASH RACK

Jerry provided the Board with an email from ACHD in response to inspection of the Box Culvert at Collister. The first response was that ITD inspected it as soon as they opened it to traffic. They are on a two year schedule and might make it a four year schedule. Jerry pointed out the agreement is that they inspect it annually. The next response is that the structure will be inspected yearly and they are determining a time frame now. Jerry is going to give ACHD about ten days to respond with a schedule then he will inform them it is to be inspected before the water comes in. Once the revised plans are back from River Structures the agreement will be ready.

River Structures is putting together new plans to address the things that needed to be added at their request. Jerry thought it would be best to have them design the rack in two halves and secure on the center pillar so the weight would be reduced in case something needed to be done with it. There will be places to anchor it on the top and ends. Jerry thinks the span is approximately 20 ft. and if the rails are 2 ft. apart it should be manageable. We have not received a check for Jerry's fees. He will follow up. Rosalie sent the invoice a couple of weeks ago.

TRIDENT RIDGE

The right-of-way is from the 1908 agreement. They did provide Jerry with a diagram showing Wing Road, the turn-around at Scenic Lane and their property line. The property line goes down the middle of Wing Rd. Jerry asked Mr. Carpenter how the 60' right-of-way came to be. Lloyd said there is not room for a 60' right-of-way without expanding it onto the west side into the subdivision. When they get to Lloyd's property he does not think they are extending the right of way, they are going to continue with the 50' as per the 1908 agreement. Lloyd thinks the drain is installed and the dirt work is done. Jerry has a report from Atlas who has been reviewing the work. With the exception of the first one they say when they arrived on site no work

was being done. They did not find any sand or gravel pockets and the bank integrity looks good.

THOMAS RIGHT-OF-WAY

As a follow up to the walk-through the Board did with the Thomas' on February 2nd Jerry provided the Board with a draft letter outlining what was discussed. Jerry stated he did not include anything in regards to sand or canal bank work. Sam and Brannon had a discussion and Sam stated there is some sand below and above the headgate. There is standing water in the canal that in the deep parts is not allowing sand to build up. Sam said at the time they are doing tree work and have a skid steer or equipment they can flatten out the bottom and remove some sand. Sam told them Farmer's Union could clean with the excavator if they would allow access. Jerry reiterated they are required to take sand out, pack around and root balls, rip rap, etc. Jerry will add to the letter that Sam had mentioned to Brannon that Farmer's Union could do the work otherwise they will be expected to take care of it. Jerry said the agreement is not clear regarding the headgate. It doesn't say anything about installation. Jerry's interpretation of the agreement is the Thomas' are responsible for "locating" the headgate and Farmer's Union is responsible for installing a measuring device. Sam thinks the headgate is a conduit to the pond and the pond can't overflow. The pond is higher than the canal so a weir will not measure the water. The Board agrees that a flow meter needs to be installed on the pump in the pond at some point in the future. Lloyd is not sure the ditch rider's are going to have time this year to install the box and suggested letting the contractor hired by the Thomas' go ahead and install the wall with a waterman and new pipe as planned. Jerry Kiser will revise the letter with revisions.

WATER RIGHT PROTEST

Jerry reported the condition has been agreed to that states the return of the 35cfs in the water right application will not be comingled with the Farmer's Union water in its delivery canal and another provision that provides for a separate agreement that is enforceable separately from the water right. IDWR does not want to be involved in managing the crossing agreement. There is another conference call on Friday to fine tune the additions to be included on the permit. When there is a final draft Jerry will distribute to the Board for review. Jerry also received an email from Chris Bromley requesting a conference call with himself and John Roldan relating to the City of Boise wanting to put water in the ponds this year since they will have nowhere for the water to go. The Board approved Jerry to participate in the call however the Board would like a resolution on the pending issues before water from the park ponds will be allowed into the canal.

Paul Akins made a motion that Farmer's Union doesn't enter into another agreement until the City settle issues on the existing Whitewater agreement and Jerry is authorized to participate in the conference call; motion was seconded by Mike McGowan.

In the demand letter Jerry sent to the City of Boise he gave them two drop dead dates. One expired on December 31st for items that could be addressed immediately. The other date of February 15th was for items they might need more time to address. There has been no response to the first deadline.

Jerry Kiser spoke to Alan Funkhouser regarding flow meters and he recommended the McCrometer mechanical flow meter called the McPropellor. It does not need batteries, has no gauge or readout that can be altered or changed. It is hard fastened and sized from 2" to 96" depending on pipe size.

Jerry reported he has pictures of the bank the Lee's on Hill Road are concerned about. He said it looks like they have thrown concrete rounds into the bank which are not helping to secure. Jerry informed them they can hire someone approved by Farmer's Union to rip rap. Craig is going to contact Wagner Farms to see if they are available and Jerry will pass along the information.

CULVER SUBDIVISION

Jerry spoke to the Developer. They are not going to be able to install the headgate this year. As they are developing they will install a backup for City water which is what they will utilize this year. They will provide better plans for the proposed headgate and pump station. Jerry sent a sample of a crossing agreement so they know what is expected. Culver's had headgate 11 and a pump at one time. The Board is comfortable letting the proposed pump station replace that. The other water users will still have headgate 11.

J&M LAND HEADGATE 104

Jerry provided the Board with a copy of the letter sent to J&M Land in regards to installing a flow meter on headgate 104 that goes to the pivot. Sam confirmed the property is going to be farmed this year. Jerry reported the subdivision application was supposed to be heard by planning and zoning on January 4th and that was bumped to February 1st. He is not able to find minutes on the City of Eagle's website. Jerry is going to contact the City to see if it has been heard.

Jerry received a notice regarding a new subdivision north of Homer Road for 17.2 acres with three lots. It would be on the other side of Homer from the canal. Jerry does not see any impact to Farmer's Union.

Jerry received a letter from the Developer regarding Breitenbach Ridge Subdivision. This relates to headgate 138. There are two ten acre parcels, each have a house on the back of the lot and they are proposing 20 new lots. Jerry sent the City of Star a letter informing them this is a lateral and they are short of water. Sam said they need to form a lateral association. Jerry will send a letter requesting they form a lateral association and meet by the end of March. Farmer's Union does not manage laterals.

CAPITAL VIEW

Rosalie is working on a draft of the Capital View Assessment and will mail to the Board for review prior to sending. Jerry reiterated for the last two years Capital View has ordered storage water. In 2019 they were assessed for 22 inches of storage water and the water master confirmed the water was never put into the river. They were charged for 30 inches and only used 22 in 2020. The assessment will include a credit for the 2019 storage water and a partial credit for 2020. Jerry informed Capital View they will be charged for the water whether it is used or not. Capital View is responsible for notifying both the Farmer's Union Ditch Riders and the Watermaster when they would like to use storage water.

Rosalie reported she received a renewal notice from Northwest Irrigation Operators to be a part of the herbicide pool. Craig has been purchasing chemicals directly from Wilbur Ellis therefore the Board agreed to not renew the membership.

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

Meeting regulations remain in place restricting gatherings to no more than 50 people so the Annual Meeting is still on hold.

Jerry Kiser reported lien fees and assessments have been received on all outstanding accounts with the exception of Brower. Jerry has been in contact with a Title company that is working on a re-finance for Brower so is hopeful that as part of the refinance they will have to pay the lien fees and back assessments to Farmer's Union. He is waiting to file the foreclosure.

Mike McGowan moved to adjourn the meeting; motion was seconded by Lloyd Akins. Meeting adjourned at 8:25 p.m.