

Wednesday, March 9, 2022

## Farmers Union Ditch Meeting

---

### Board Present:

Sam Rosti, Lloyd Akins, Mike McGowan, John Schram, Paul Akins

Seth Kettering, Sean Kettering, Dale Wood – Ditch Riders

Rosalie Cope, Secretary/Bookkeeper

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

Guests: Derritt Kerner & Keith Bowhan – Torchlight/Nash property; Tommy Wall – 5727 Hill LLC; Krista Englund & Wes Lucas – Idaho Power

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

### TOMMY WALL – 5727 HILL LLC (BEND SUB.)

In December Mr. Wall provided the Board with design plans for the 5727 Hill LLC development off Hill Road. They are proposing to bore under the canal to install a sewer line in order to connect to sewer through the neighboring subdivision. The revised plans include a 25' common lot along the southern lot line, bordering the canal as requested by the Board. The plans include 17' access points on the western and eastern ends. Since the lot line has been pushed back the City is requiring the sewer line to be further down on the property to service neighboring properties in the future. Along the very northern edge of the common lot, within the first 5' of the 25' will be a 700 – 800' underground main sewer line to connect to the crossing. The sewer line is planned to be above the bottom of the canal which ranges from 6 ½' to 8' deep. Jerry Kiser asked for a pump station plan to include; pump size, installation, flow meter all sized to meet the water right for the property.

### DERRITT KERNER & KEITH BOWHAN – TORCHLIGHT/NASH PROPERTY

Derritt Kerner and Keith Bowhan with Rock Solid Civil provided the Board with plans for a pump station for Torchlight Estates Sub. There are three headgates on the property; 127, 128 and 129. Headgate 127 feeds the Nash property, 128 feeds Greendale Grove and 129 feeds Fred Adams property. The pipe from 129 goes straight to the Adams property. The other two headgates go through the Toll Brothers property to the Nash property. They have drafted a profile of that system. The system includes a pond which will only serve as an amenity at this time because ACHD would not approve mixing stormwater with irrigation water. The pond will be fed by the pump station which will have a smart valve to allow the pump to run enough to fill the pond but not drop pressure. There will be a structure in the pond with an electrode to measure water level. Sam asked where the water will go if the pond fills up with runoff water and runs over. The system is a closed system, there will not be any overflow. They have ACHD seepage beds to handle runoff water. The Board reiterated that the

pond was originally proposed to serve as a spill for setting the weir. Once the weir is set the system should be shut off and nothing should be flowing into the pond. An amenity is not an authorized use of irrigation water.

The Board asked they remove the existing 5' box and replace with a longer box. Mr. Kerner asked if they can install a weir plate in the existing box. Sam and Lloyd stated the existing box has been replaced previously and it is a foot too high. When the canal is low the plate had to be removed to get an adequate water level. The Board said the existing box can be used if they want to remove it and reinstall to proper depth and install new pvc pipe.

They were planning to do the work prior to the 2022 irrigation season however installing a new headgate and changing the elevation of the box is more invasive work than originally planned so the work will have to be done in the fall. Toll Brothers was to do the work but Lloyd informed them there is a cease and desist order from the City for work on the Moyle property.

#### WES LUCAS – IDAHO POWER

Idaho Power is requesting a crossing agreement to bore underneath the canal and install a new overhead line on the west side where the canal crosses Linder. Farmer's Union has deliveries on the north and south sides. They are replacing the overhead line to feed the house on the corner and installing three phase underground that will pop up on the north side of Homer to feed an existing three phase going west which will continue underground through BLM property into Big Gulch. Eventually a new substation will be installed off Gary Lane and Willow Creek to feed all of the homes in Spring Valley sub. The service they are installing now will be a back up at that time. Jerry stated the overhead crossing should not be an issue. There are two headgates at the bridge, headgates 96 and 97. Headgate 97 which is on the west side of the road may have to be moved in order for Idaho Power to bore in the right-of-way. Jerry asked for a set of plans for approval.

Minutes from the February meeting were mailed to the Board prior to the meeting for review. John Schram moved to approve the February minutes with revisions; motion was seconded by Lloyd Akins. Motion was unanimously approved.

#### DITCH RIDER REPORT

Seth reported Daniel Christman at 2141 W Valli Hi Rd. has been utilizing Larry Crawford's driveway to access his pump. Mr. Crawford doesn't want Mr. Christman to use his driveway for access any longer so Mr. Christman asked Seth if he could get access from the north side of the canal. Farmer's Union does not currently utilize that side of the right-of-way and is overgrown. Seth stated the trees on that side could be a potential hazard for the canal and would like to have them removed. He received a bid of \$3,312 to clear the trees. Mr. Christman has agreed to burn and assist with maintenance if he is able to utilize the right-of-way for access. The Board agreed the work would have to wait until fall; they don't want to risk having a tree fall into the canal at this time. Mr. Crawford has agreed to let Mr. Christman use his driveway for

another season if necessary. Andy Waldera will issue a letter to Mr. Christman letting him know Farmer's Union will remove the trees in the fall because it is beneficial to the company.

Seth reported they are continuing to burn and clean.

Seth met with the contractor on the Candau bridge and had them replace the rip rap in the bottom of the canal with cobble. Andy suggested they also fill in the rip rap along the bank with the extra cobble to ensure trash doesn't get caught in the rock.

Seth asked the Board about installing a gate at the top of Blessinger Road at Willis Road in order to access the tail of the canal. Mike said he has a spot where the gate can go, he will measure and let Seth know what size gates to purchase.

## ATTORNEY'S REPORT

### LAND PURCHASE

Andy spoke Steve Arnold at A Team Land Consultants and he has agreed to assist with the conditional use permit application. He will need a preliminary plan for the shop to submit with the application. Sam suggested building a red iron shop that is at least 60x60 with three storage bays. Andy will work with Steve once the Board gets the tentative shop plan to him.

### CAPITAL VIEW ASSESSMENT

Jerry Kiser was contacted by Pete Newton in regards to the 2022 invoice. Capital View had a credit on storage water from 2019 and a credit for storage water not used in 2020 that was carried over onto the 2021 assessment reconciliation. However, the credit was not carried over to the net assessment paid for 2021 therefore still needs to be applied. Rosalie and Jerry have taken a look at the worksheet and acknowledge the credit was not applied. Rosalie emailed the revised invoice to the Board for review and will send to Jerry Kiser to forward to Capital View. Jerry stated Capital View was not charged for storage water on the 2022 assessment and will not be using storage water this year. He will contact Mike Meyers and let him know Capital View is not to receive storage water.

Andy asked if there would be a benefit to both Capital View and Farmer's Union if Farmer's Union was to take over Capital View's shares and Capital View would become shareholders on a lateral. Lloyd said this was brought up before and Capital View was not interested. They want to keep their water rights because the Jacob's water rights are uncuttable. Jerry stated the bylaws would have to be amended and the last time the bylaws were amended was for the adjudication and Board members had to go door to door to get proxies. In a short water year Capital View would not benefit.

Andy stated there is a new Capital View Board and maybe the topic needs to be discussed again. At a minimum maybe they would agree to different terms of calculating the assessment so it is less complicated for both parties.

#### CAMADRE HEIGHTS SUB.

Jerry has a copy of the agreement from 2008 for the Camadre Heights bridge. The agreement was not notarized and does not appear to have been recorded. It has the usual provisions of a crossing agreement. Jerry is not sure it is binding on heirs, successors and assigns. Andy stated it is only binding if heirs, successors and assigns are aware of the agreement. Jerry stated anything in the canal that creates an issue needs to be fixed or Farmer's Union will remove. Lloyd reported there is some erosion on the north side of the bank and water is swirling in there. Mr. Johnson told Lloyd they plan to throw some bags of concrete in there and put some rebar in to hold in place. Lloyd informed him that would not be sufficient and if that is their responsibility to fix or Farmer's Union will repair the bridge correctly and they will be charged.

#### 5353 W HILL RD

Jerry provided the Board with a copy of the most recent email from Craig Dale at 5353 W Hill Road regarding tree removal and bank stabilization. Mr. Dale states they do not want the trees removed but want the bank protected. Seth is getting a bid for tree removal and the Board does not have any other suggestions for fixing the problem in that area. The trees have been undermined and the rootballs are exposed. The trees along with rootballs need to be removed in order for the bank to be repacked and rebuilt.

Jerry received a letter from Ilyas Colombowala stating that in his opinion the repairs performed to restore the bank exceeded restoration and involved extensive enhancements to the canal width, grade of canal bank and tree removal and destruction far downstream from his property. He does not think he should have to pay for all of the work. Mr. Colombowala stated in his letter that he hired Dan's Pump Company to make necessary modifications to the pump system to avoid future canal bank damage from unintended overflow. Jerry suggested contacting Dan's Pump Company and informing them the pump system can't use an overflow and return flow to the canal and secondly inform Mr. Colombowala he is responsible for the full bill. Jerry will issue a follow up letter informing Mr. Colombowala he is expected to pay for the cost to fix the system. The work was done for 1/3 of the cost of what it would have been if Farmer's Union hired a private contractor. Lloyd stated he will also not receive water until an appropriate pump system is in place to include a flow meter. Farmer's Union does not want water from his ponds returned to the canal with weeds and algae. Jerry will also send a letter to Dan's Pump Company and include his original letter to Mr. Colombowala.

## BOISE CITY WHITEWATER PARK

Jerry reported Boise City is no longer responding to his emails or calls. Jerry suggested reaching out to the State Parks department to set a meeting to discuss the lease they have with the City. They are 2 ½ to 3 years into a 5 year statute of limitations. Jerry will contact the State Parks department to see if they will agree to a meeting.

## BOISE CITY CANAL CROSSING

Jerry stated Farmer's Union has not entered into an agreement with the City of Boise at this time. Jerry will not issue a contract until all details are finalized and exhibit A can be attached. Jerry said exhibit A can be revised to provide for whatever pipe the Board wants them to use to go underneath the canal. Lloyd stated he does not believe the intake structure and pipe were ever onsite. Lloyd wants C900 pipe covered in a foot of concrete to cap. Sam stated there is not enough room to require a sleeve; the outlet will be 6" under the pond level which only provides 7" of elevation. Jerry will revise exhibit A to include the C900 pipe and a foot of concrete cover from sidewall to sidewall. The dates of construction will need to be changed to start on November 1<sup>st</sup> and be complete no later than March 1<sup>st</sup>, 2023.

Lloyd would encourage the Board adopt a policy to deal with applications/requests for work on the canal requiring license agreements. Andy has a draft document outlining the process for considering encroachments and crossings. There will be an online application form with an up-front fee of \$3,000 broken down into services, \$500 non-refundable fee for administration (ditch rider/personnel time), \$1,000 for attorney to draft license agreement and \$1,500 for engineering review. Any remaining money is refunded upon execution of the license agreement. Once the preliminary plans and application are submitted they will be turned over to McMillen-Jacobs. They will work back and forth with the applicant until plans are acceptable. At that time the final design will be presented to the Board for approval and upon approval legal will draft a license agreement. Applications must be submitted by November 1<sup>st</sup> in order to be considered for the off-season. Pioneer Irrigation has pre-fixed standards and specifications involving headwalls, pipe requirements, easement width, etc. Andy would like to have the policy in place by May.

Paul asked if this policy would cover all types of crossings and easements. Andy stated Pioneer also has two versions of in-house license agreements they utilize; 1) utility crossing 2) simple service work, i.e. fence or other minor encroachment. Legal reviews the agreements on an annual basis. Andy does not think Farmer's Union needs these at this time. Sub-categories can be addressed at a later date once the basic process is in place.

Jerry reported there is no reference in the Bylaws as to who can hold the proxy. As long as there is a proxy the shareholder can be represented and vote via proxy. He stated there are only two references to proxy in the Bylaws. There is a limit in the bylaws that any one person can only vote 25 shares. There is no reference to term of the proxy therefore the term would revert back to Idaho Code which is 11 months.

Jerry sent a letter to ACHD regarding the trash rack along with the uncashed check. He has not received a response. Sam would like Lloyd to follow up with Clayton Ayers and Bennett construction to find out if they are planning to bid on the project.

Jerry stated there have been a lot of public notices from the City of Eagle regarding the Spring Valley development. The application is for Pump #1 which is 1,006 acres and 2,200 units. He is going to issue a standard developer letter. The hearing is scheduled for March 21<sup>st</sup> in case any Board members wish to attend.

Jerry reported the City of Eagle is holding an open house to discuss the development of an 85 acre sports park along Hwy. 16 across from Pollard Lane. The property is at the bend of the canal below the Klondike. At this time they are not seeking comment, just feedback.

Jerry provided the Board with the temporary crossing agreement for Spring Valley sub. for signature. The agreement is for the sleeved water line for dust abatement during construction this summer. They still need to submit plans and diagrams to Andy in order for the final crossing agreement to be drafted.

The McMillen-Jacobs consulting master service agreement is ready and in signature form. The agreement ends December 31<sup>st</sup>, 2022 but will automatically renew on an annual basis beginning January 1<sup>st</sup> in each successive year unless terminated earlier pursuant to the terms and conditions in the agreement. McMillen-Jacobs would like the agreement to expire annually so they can review their rate structure prior to renewal. They will supply the Board with an updated rate schedule prior to termination in case the Board decides not to renew. Greg Clark will be the Farmer's Union on-call engineer.

#### CRESTA DEL SOL

Andy provided an interim license agreement for the bank repacking at Cresta DelSol. The Geotek report is attached to the agreement.

Andy reported the full design package was submitted on March 8<sup>th</sup> but he has not had a chance to review and McMillen-Jacobs will also need to review. There are 120 new test bores, soils permeability analysis was completed on the bottom of the canal and hillside stability analysis. They have repacked the hillside according to the Geotek plan. McMillen-Jacobs focus is on hillside stability at this time and then will determine if the canal will need to be lined or piped.

Lloyd, Mike, John and Andy met with Marty Goldsmith and Associates on-site to review their plans for the Terra View development. They reviewed the preliminary design and excavation plans. They are proposing stations 1-11 at different locations along the canal. The first segment of cuts are 25' from the tow of the bank and anything more significant will be outside of the 25'. They are proposing a horse path that will only encroach on the easement in the area where they are building the bridge. Otherwise it will be outside of the 25'. They did not address trees. They are also

proposing to install a fence between the equestrian path and the canal road. The question is if they install at the 25' mark will it create a weed patch, can they install the fence further up therefore they can spray and maintain the area. The Board would like the vegetation left below the canal for bank stabilization.

Rosalie has received phone calls from at least ½ dozen Boise Valley shareholders stating they sold their properties in 2021 and are no longer responsible for the invoice from Farmer's Union. Rosalie received an email from Megan stating she is behind on transfers. Rosalie would like the Board to assist with getting information from Boise Valley in a timely manner. There is extra work and expense incurred in receiving new Delivery Agreements after Annual invoices are issued. The Board asked Andy to discuss with Bryce and see if they can prompt some action.

Rosalie asked the Board if they would like to remove the tab on the website referring to the Lander Street Wastewater Reuse. The Board agreed to remove the content but keep the tab with a statement regarding termination of the contract by Boise City.

Rosalie asked to Board if there is a definitive turn on date for water. Seth informed the Board that water was to be turned in to the canal on April 4<sup>th</sup> but to post the first week in April on the website.

Rosalie reported that she and John Schram have a meeting with a financial advisor at Family Tree Financial next Tuesday to discuss setting up a Simple IRA.

Rosalie received a call from Jim Morris in regards to the letter he sent last September regarding headgate 15 sitting up too high in the bank. Lloyd reported he and Seth had taken a look at the headgate and it does sit too high in the bank. It is also on a ridge so there is not enough drop and the headgate and pipe are at the same level in the box. The headgate can't be lowered because of the amount of development in the area and it is attached to a pipeline. They were not able to come up with a viable solution. Sam suggested having Seth take another look and see if it is possible to put one or two Eco blocks in the canal to serve as a check until the water level gets to 60' then they can be removed. Another solution might be to add rip rap to the bank. Water might get behind the Eco blocks and scour the bank.

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

John Schram moved to adjourn the meeting; motion was seconded by Mike McGowan. Motion was unanimously approved. Meeting adjourned at 9:14 p.m.