

Monday, April 15, 2024

Farmers Union Ditch Meeting

Board Present:

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

Seth Kettering, Sean Kettering, Dale Wood – Ditch Riders

Rosalie Cope, Secretary/Bookkeeper

Andrew Waldera, Attorney for FUD

Sam Rosti called the meeting to order at 5:31 p.m.

Minutes from the March meeting were e-mailed to the Board for review. John Schram moved to approve the March minutes with corrections; motion was seconded by Corey Blaine. Motion was unanimously approved.

2729 N HAVEN DR.

Mr. Southerland has been unable to attend the last couple of Board meetings and emailed the Board a map of the irrigation system he would like to upgrade to. Mr. Southerland and one other water user are on pump 52 and he would either like to upgrade the existing headgate to allow installation of his own pump alongside the shared pump or put in a new headgate along the south property line. Mr. Southerland raises lavender and has been working with the NRCS to better utilize his irrigation water. They are requiring a new 5HP pump as part of the new system. Bert Browen met Mr. Southerland's father onsite to get a better idea of what they are planning and was informed there are no issues in sharing a pump with the neighbor but would like to upgrade the system and are still in the thought process.

Andy was contacted by Dan Christman's neighbor who shares pump 56. Last March Andy sent Mr. Christman a letter informing him a flow meter would need to be installed by April 1st of 2024. His neighbor told Andy they received an estimate of \$5,000 for the flow meter and asked if this was standard policy for Farmer's Union. Andy is going to send them some examples of other properties that have been required to install flow meters so they can see it is Company policy. Seth said they have 3 phase power going to the pump. There are three pumps at that location, the one large new pump installed by Christman and a second small pump inside the pump house and one on the outside. Corey and John will do a site visit with Seth to take a look at the pumps and try to determine how much water they are pumping.

DITCH RIDER REPORT

Water was turned in on the 10th.

Seth reported they started spraying weeds today.

Idaho Power ended up boring the line to complete the project at Gary Opper's. Andy issued an Amended License Agreement.

Sam asked if Seth would have Healthy Tree do some work along Collister to help clean that hard to access area up. Seth said they have already removed some of the bushes to help gain access to the trees.

Seth confirmed Toll Brothers completed the rock wall on March 14th.

ATTORNEY'S REPORT

Andy reported Eagle Sewer District met on April 8th and the Board approved the facilities plan utilizing a willing irrigation partner for discharge water. There is a follow up meeting on May 13th which Andy will attend along with any Board members that are available to talk to the Eagle Sewer District Board and reiterate that Farmer's Union is interested in taking the recycled wastewater for irrigation purposes. The next step would be to move forward with a contract so Neil Jenkins can start securing funding and lining up work schedules. Eagle Sewer is now considering coming in on the west side of the Highway 55 which allows them to utilize the ITD easement making it easier than any other route.

There is a meeting with the Bureau of Reclamation on April 22nd and a meeting with the Army Corps on May 20th to discuss the higher than expected projected assessments for Lucky Peak O&M.

The Nez Perce tribe and other patriot tribes recently released a fish loss study where they analyzed the estimated fisheries populations on the various systems in the Columbia, Snake and tributaries to both pre-dam and what they are today. The estimated fish loss in the Boise River is approximately 1.3 million and in the Payette is approximately 1.4 million. In the report there is a stream and watershed color coded map that illustrates water temperature and water temperature projections due to climate change. When it comes to Salmon perpetuation and recovery issues the vast majority of blues and greens (cold water) is in Idaho. It is in the Salmon drainage, upper Boise drainage, upper Payette drainage and a little bit in Oregon. The tribes have laid out the argument that if there is going to be an ongoing legal requirement to save and recover Salmon species in the face of climate change the only way it can possibly be done is access the cold water refuge of Idaho. There will need to be some water user management and communication. Historically on Federal ESA issues 2/3 of the cost of the efforts has been born by the upper Snake and 1/3 by Southwest Idaho. The blue and green areas are primarily in Southwest Idaho. Idaho Attorney General sent a letter to the Nez Perce Tribe asserting it has violated the Nez Perce Agreement through its activities in litigation and now this study. The Nez Perce Agreement had commitments in it that were intended to resolve these types of issues. By the Tribe continuing to push these issues they have gone beyond the benefit of the bargain it received in the Agreement. Andy speculated the State probably sent the letter to try to open the Tribe to renegotiation of an extension of the Agreement.

The City of Pocatello and Water District 1 filed a lawsuit seeking to invalidate Water District 1's local rental pool rules. The first 2/3 of the Judge's opinion is in line with irrigator's point of view, however the last 1/3 of the opinion is Basin 1's last to fill rule. Pocatello has rented water out of Palisades every year and since 2005 Water District 1 has had a last to fill rule for anyone leasing water. Prior to 2005 the rule was more in line with Water District 63 with in-basin rental pool. Judge Wildman states the last to fill rule makes sense and should apply because anyone that leases water and is not last to fill is enlarging their water right which is injury under the law. IDWR sent letters to Water Districts 63 and 65 stating that in light of Judge Wildman's decision they don't think IDWR can honor Water District 63 and 65's versions of the last to fill rule with the in-basin, out-of-basin distinction because Judge Wildman has decided in a legal case based on State law that last to fill is necessary to protect against enlargement and injury. Starting after this irrigation season IDWR has made the determination that last to fill will apply across the board. How will that impact the Veolia leases with entities in the Districts? This ruling could force the Veolia's to take a position against irrigators and go to court to say irrigators don't need the water anymore, it needs to be reallocated it is contrary to the policy of optimum economic development of the State's water resources to allow irrigation entities to sit on all of this storage water that they don't use. The only way to get the Department to reverse the decision is to initiate a petition for declaratory ruling that Judge Wildman may be right in District 1 but is wrong here because.... There is a meeting with Water District 63 at 10 a.m. on April 23rd.

WestWater Research notified Andy their project to acquire storage water is tabled until the beginning of 2025.

John Schram would like to see the Board stipend increased due to the amount of commitment some of the Board members have had with involvement in Water District 63 meetings, meeting with Shareholders and Ditch Riders on-site to gather more information to take back to Board meetings. Paul Akins disagrees and thinks Seth Kettering should be promoted to Canal Manager and Board members should not be meeting with Shareholders on-site. The Board asked Rosalie to provide them with a salary summary for review. John Schram moved to increase the Board stipend from \$272.95 to \$545.90; motion was seconded by Corey Blaine. Motion was passed 4-1 with Paul Akins against.

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

Paul Akins moved to adjourn the meeting; motion was seconded by Corey Blaine. Motion was unanimously approved. Meeting adjourned at 8:25 p.m.