

Tuesday, April 9, 2019

## Farmers Union Ditch Meeting

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Board Present:

Sam Rosti, Lloyd Akins, Paul Akins, Tom Foster

Craig Waddell - Ditch Rider

Rosalie Cope, Secretary/Bookkeeper

Jerry Kiser, Attorney for FUD

Guests: John Tensen - City of Boise; Roselands 345 LLC; Trevor Soggs; TV44 LLC  
- Marty Goldsmith; Kevin McCarthy

Sam Rosti called the meeting to order at 5:28 p.m.

### JOHN TENSEN

The City of Boise provided Jerry Kiser with plans to install fiber optics which would require a crossing agreement with Farmer's Union. The Board approved the plans and authorized the crossing agreement. John Tensen will obtain signatures from the City and have the agreement recorded.

Mr. Tensen presented the Board with photos of the boom and wave feature which are part of the construction at the Whitewater Park. He reported the construction equipment is out of the river. John said the structure seems to be maintaining the agreed upon pool level. Craig Waddell met with the City's wave technician and the wave technician will check the screens for debris daily.

Mr. Tensen reported the City is running 7-8 cfs into the ponds at this time.

John Roldan will provide Jerry Kiser with a copy of the draft application for DEQ, the Board will have a chance to review the application before it is formally submitted.

Paul Akins asked what work remains at the diversion. Mr. Tensen said there is still landscaping but they are wrapping things up. Paul also asked about the Islands and Mr. Tensen shared several photos with the Board.

### DITCH RIDER REPORT

Craig Waddell report Seth Kettering is doing well, but the weather is slowing them down.

An inquiry was made by the owner of property at 5909 W Hill Rd. as to ownership of a tree hanging over power lines and crushing their pump house. Craig Waddell did a site-visit of the property and determined the property is part of a lateral and is not the responsibility of Farmer's Union.

#### MARTY GOLDSMITH

Mr. Goldsmith presented the Board with diagrams of locations where he would like to install two additional gates. Mr. Goldsmith and Craig Waddell met at the gate on Hartley so Craig could see how the gates are intended to operate. The gate is set up to automatically close but can be set to stay open. The gates open with a remote or keypad and Mr. Goldsmith will get the remotes to Craig. Mr. Goldsmith reiterated the gates will be open during irrigation season and closed during hunting season. Jerry Kiser asked what the need is for the easterly gate. Isn't there already a gate at Hartley? Yes, but the existing gate is on the east side of the road. Mr. Goldsmith would just like to shut the area down for three months to keep trespassers out during hunting season. Lloyd is concerned Farmer's Union will be setting a precedent by allowing installation of gates on the right-of-way. Craig suggested allowing only one additional gate where access is off the road and deal with the other location if a problem is noticed. Lloyd thinks once gates are installed it is the responsibility of the property owner to enforce trespassing rather than Farmer's Union. Jerry Kiser stated Mr. Goldsmith can prosecute any trespassers as long as he complies with the anti-trespassing statute for posting and notice requirements. Farmer's Union has a right-of-way that can't be interfered with and has the right to enforce the right-of-way. Farmer's Union already has no trespassing signs posted along the canal and Mr. Goldsmith is going to have additional signs made with his contact information to post. Mr. Goldsmith does not want anyone on the right-of-way other than the Farmer or Farmer's Union employees. The Board approved installation of the additional gates and will add language to the license agreement that the gates can be closed from September 1<sup>st</sup> through January 31<sup>st</sup> as long as the ditch riders have remotes. All gates are still approved on a temporary basis and at any time the Board can require they be removed. Jerry said each request to encroach on the right-of-way has different circumstances and has to be approved by the Board. Paul Akins moved to approve installation of the gates with restrictions as discussed; motion was seconded by Tom Foster. Motion approved. Jerry Kiser will issue an additional license agreement and Craig Waddell will work with Mr. Goldsmith on installation.

#### TREVOR SOGGS

Mr. Soggs has 7 ½ acres of which he would like to irrigate 3. He is applying with IDWR for a water right out of Drainage District #2. He explained IDWR requires him to have Farmer's Union declare the water does or does not remain under Farmer's Union control. The Newman lateral comes out at Blessinger. The tail of Farmer's Union water goes over the Newman and into Middleton Mill. Middleton Mill has a right on the water. Craig said he thinks we need to talk to the Watermaster and determine what FUD is getting credited for as far as how much water has to go back into the ditch as return flow from the Farmer's Union Developed water right. There is 100cfs and 20cfs of that is Farmer's Union which has to be returned to the river.

Farmer's Union can issue a statement to IDWR stating the water is the end of Farmer's Union subject to return flows required to go back to the river. Any water above that amount and above what Middleton Mill filed on Mr. Soggs may be able to get rights to. Wastewater right is subject only to the fact that the water is there. IDWR will determine whether or not he can get a water right. Mr. Soggs said if IDWR does not approve the water right then he can apply to drill a well for aquifer water. He stated IDWR prefers to issue rights for surface water rights over aquifer water rights. If it is determined surface water is not available he can apply for a right to drill a well for aquifer water. Jerry Kiser stated as part of the application there will be a field examination by IDWR.

Minutes were read by Rosalie Cope.

Lloyd Akins moved to approve the minutes with corrections; motion was seconded by Tom Foster.

#### ATTORNEY'S REPORT

Lloyd and Craig met with Mr. Symmonds at his property on Hill Rd. and Lloyd thinks they arrived at a solution to the problem. Mr. Forester was not able to attend the meeting.

Jerry reported Mr. Kallas is wondering about the survey. Sam contacted the surveyor and he is supposed to be working on it. Jerry is going to follow up.

Jerry reviewed the Farmer's Union service area map and approx. half of Mr. Blaine's property, the west half is in the Farmer's Union service area.

Jerry reported a ghost letter and proposed revised definition of Waters of the United States was sent out by IWUA. Jerry is going to send in a comment letter on behalf of Farmer's Union. He said the new regulations are better but he has not read in detail yet. The response comment deadline is April 15<sup>th</sup>. Jerry will provide the Board with copies of the letter at the next meeting.

The Refill hearing has been rescheduled by the court for June 18<sup>th</sup> at 9:00 a.m. Jerry is not aware of any objections being filed at this time.

Jerry reported the Board approved plans provided by Capital View to use the existing weir box to place their new pump on at the May 8, 2018 meeting. At the last meeting Craig Waddell reported Capital View had removed the headgate at CV#2.

#### KEVIN MCCARTHY – KM ENGINEERING

Mr. Newell contacted Sam Rosti to discuss work on installation of the new pump for Roselands. Sam suggested he send a representative to the meeting. Kevin McCarthy with KM Engineering explained he has been working with Mr. Newell since the first phase was complete. At that time Mr. McCarthy and Sam Rosti had been discussing the pump station developed for the first phase was set below the ditch bank which prohibited it from being a static system. It was also set up so water

would be diverted then run through Phase I of Roselands and offsite. The goal was to make a static system out of that pump station. Now that Mr. Newell is developing the remainder of the property they are working to develop a new point of diversion and convert to a static system. When this was originally done a license agreement was not issued for the pump station. Now as part of moving the lift station they have entered into a license agreement with Farmer's Union. The challenge is how to get a license agreement for the existing Roselands subdivision. They have asked Roselands HOA to share in the cost of relocating the pump station. Lloyd stated the water system was developed with the water feature to be intentional. There is an old house and four acres off New Hope Rd. which was supposed to be a park with a water feature that never did come to fruition. Sam stated the design was illegal to begin with because water cannot be knowingly wasted. The system was originally installed for the Peterson property and the Little property to the west of Roselands. Mr. McCarthy said their intention is to remedy the problem to eliminate the "babbling brook" by moving the point of diversion and pump station and converting into a static system upon approval of Farmer's Union. Mr. Newell wants to know why he has to supply water to Roselands subdivision. Jerry stated Mr. Newell said there would not be any injury to existing water users because they were all on one point of diversion and there would continue to be one diversion for the same users when the pump station was moved. Jerry said the license agreement provides for indemnification of Farmer's Union if there is any interference with delivery to the other water users on the lateral. Mr. McCarthy stated the new station is intended to service Roselands. Jerry said Roselands CC&R's outline the properties have pressurized irrigation. There was an existing headgate and a box was built so Roselands could be hooked in. Jerry stated there is only a concern about what goes on in a lateral when irrigation water that is a water right in Farmer's Union name is wasted. If it is discovered water is being wasted Farmer's Union will step in and say the water is not being used for the legal purpose of irrigation and notify IDWR. Mr. McCarthy said they need Farmer's Union help communicating with the HOA as to why the pump station is being moved. They are asking the Board to draft a letter stating they were notified by Farmer's Union Board that water was being wasted and flooding was occurring and as a solution they chose to move the point of diversion and re-do the system. Meeting minutes from July 2006, November 2017 and March 2018 outline previous discussions. Lloyd asked Jerry to send a letter to Mr. Newell explaining that moving the point of diversion and re-doing the system was to cure the water waste and flooding damage from the old system.

#### ATTORNEY'S REPORT CONT.

Jerry Kiser presented the Board with a letter from the Attorney for John Dobson. The Board directed Jerry to reply reiterating water will not be delivered to Mr. Dobson until a fully executed delivery agreement is in place and Mr. Dobson is not being treated any differently than any other Boise Valley water user that wants to have water delivered out of the Farmer's Union canal and he is not in the free zone.

Jerry also presented the Board with an e-mail from Megan Aubrey with Boise Valley in response to the addendum to the delivery agreements. A delivery agreement

signed by Boise Valley and a new Boise Valley shareholder does not constitute a completed agreement. The agreement is not complete until the Farmer's Union Board signs. Sam and Jerry have discussed and think the best approach is for Jerry to meet with Bryce Farris and go over all of the concerns and explain Farmer's Union Board is not trying to be difficult. Boise Valley shareholders have used Farmer's Union storage water and have not been charged for it in the past as well as many other advantages. The Board is just trying to be fair and make sure the water users receiving delivery from the Farmer's Union canal only get what they are entitled to and make a transition that is not across the board; when ownership changes a new agreement is required. If Bryce goes back to the Boise Valley Board and is met with resistance a special meeting needs to be called between the two Boards.

Lloyd Akins moved to approve the financials; motion was seconded by Tom Foster.

Rosalie reported after the March meeting she contacted Mr. Jayo and relayed the procedure for transferring water from one point of delivery to another. Rosalie has not heard back from Mr. Jayo on the transfer to Mr. Wonders.

Rosalie reported in going through the insurance renewal with Marty Koch at the Hartwell Corp. it was discovered that the new automation equipment and gates should be listed on the policy. The Board directed Rosalie to work with Craig to get a list of equipment and values. Maybe Shane Livingston can help.

- Main Headgate (2)

- Spill

- Remote sensor on Klondike and Canal Headgate at point of measurement

- Modems

The Board amended the meeting time of 6:00 through the spring and summer to 5:30.

Lloyd Akins moved to adjourn the meeting; motion was seconded by Tom Foster. Meeting adjourned at 9:44 p.m.