

Wednesday, June 14, 2023

Farmers Union Ditch Meeting

Board Present:

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

Seth Kettering, Sean Kettering – Ditch Riders

Rosalie Cope, Secretary/Bookkeeper

Andrew Waldera, Attorney for FUD

Guests: Brad Candau – West Beacon Light LLC; Kasey Ketterling – Ardurra; Lacey Clark, KM Engineering – Freedom Acres Sub.

Sam Rosti called the meeting to order at 5:30 p.m.

BRAD CANDAU – CANDAU ESTATES SUB.

Mr. Candau's engineers sent revised plans for utility work at the bridge crossing to Kasey Ketterling with Ardurra for review. They are no longer proposing to relocate the canal in order to do the utility work. Toll Brothers was digging down on the south side to install sewer line up to the cul de sac which is 20-30' from the existing sleeves and the test holes were dry which means water is not seeping and causing an issue on the downhill side. They think what seepage exists can be pumped and put back into the canal. Instead of a liner they will put a clay or concrete plug below the trench, around the pipe. Natural seepage will always exist. The goal is to prevent a higher flow event from coming through the pipe bedding. Kasey suggested if a de-watering hole is dug a representative from Farmer's Union is on-site to observe. He suggested going step-by-step; dewater, excavate and observe there are no wet conditions. Kasey asked Mr. Candau's engineers to include the steps as construction notes in the plans. The plans are to be attached to the Addendum agreement. Andy stated there are going to be things done that differ from the original plans which were signed off on by both entities. The work will have to go into an Addendum that will be attached to the original agreement. An agreement will be signed and in place before any work begins. Idaho Power and Intermountain Gas will also need to have license agreements in place prior to accessing the utility sleeves. Andy has been in contact with Idaho Power, they entered into a license agreement in 2022 to utilize the utility sleeves. There are changes that differ from the 2022 agreement therefore Andy will need to issue an Addendum to the original agreement with the changes. Andy will communicate with Idaho Power to get the Addendum in place.

Drawings for the proposed pressurized irrigation system were also sent to Ardurra for review. They plan to install a new headgate on the north side of the old bridge, across from the existing headgates and connection for the pressurized irrigation system.

Kasey has not had a chance to review the p.i. plans. Any work to the headgate can't be done in-season but the majority of the work is outside of the easement and can begin any time.

LACEY CLARK, KM ENGINEERING – FREEDOM ACRES SUB.

Ms. Clark provided the Board with plans outlining the proposed location to cross the drain at the tail of the canal. The County requires agency approval before they will approve the pre-plat. The current road is 6-8 ft. wide. Farmer's Union would require a box culvert however the Board agreed a bridge meeting County requirements would be acceptable as long as drain flow is not impeded. Andy Waldera will send an approval e-mail on behalf of the Board.

Ms. Clark also asked if they could discharge runoff water into the canal. The Board stated no discharge water is allowed directly into the canal. Pre-development flow levels could possibly be accepted. The question is where does the ditch end? The Board is under the impression it ends upstream but Andy does not see the need for a license agreement since the proposed crossing is of the drain and not the canal. Andy's only concern is the drainage easement is maintained in order to flow tail water. He said Farmer's Union would claim prescriptive drainage easement at the tail of the canal in order to maintain drain flow.

ERIC SCHIRMER – 4430 N DOUBLE S LANE

Mr. Schirmer provided the Board with a sketch of plans to connect a 10 hp electric pump to the headgate and box installed by Farmer's Union. The box is uphill so a flow meter will be required. He will need to pipe outside the easement and install the pump into another box. The pump will be powered by solar and screens will be installed to keep debris from entering the pump. Farmer's Union has a good road on the opposite side of the canal. The side of the canal he is proposing to install the pump on is hillside and Farmer's Union does not currently have a road on that side. The box is on the ditch bank. He will need to core a hole in the box and run a pipe across the easement to the other box. The Board asked Seth to communicate with Mr. Schirmer to explain what the Board is asking for. The plans need to show the box is outside the Farmer's Union easement. Andy will follow up with a license agreement once plans are submitted and approved by the Board.

Minutes were tabled until the July meeting.

DITCH RIDER REPORT

Seth has spoken to a property owner who has a vinyl fence on the canal on the east side of Park. The fence is less than 10' from the canal for approximately 100 yards. Seth said rip rap was installed in that section years ago and has slipped. He would like to get in there this fall to dip and slope and re-set the rip rap. He can't access without removing the fence. Seth said they are refusing to remove the fence and have offered to build the road up so the excavator can get above the fence. The Board asked Andy Waldera to send a letter to the property owner to have the fence removed.

Seth reported Sean passed the written portion of the CDL test.

ATTORNEY'S REPORT

Andy met with Capital View and they liked the proposal. He is in the process of drafting an agreement.

PRISTINE DEVELOPMENT

Mr. Lindsay provided Rosalie with a letter determining how many shares he wished to retain. Andy Waldera asked for language to be added to the letter that he (Lindsay) unconditionally relinquishes and surrenders all additional shares he owns above and beyond one miner's inch to the acre as a result of the Pristine Springs Subdivision development on neighboring land back to the Company for the Company to re-issue to others in its discretion. Mr. Lindsay responded that he now wishes to keep all of the shares and has paid the 2023 assessment.

Andy has been working with Lateral 75 which is off Beacon Light upstream from Lateral 78. Canterbury subdivision is one of the largest shareholders on the lateral and they also have shares on Lateral 78. Lateral 78 has had issues with the relocation of the lateral as a result of development on the old stone house property and Andy thinks the Lateral 78 issues are being resolved. However he represents Mark Beckman, a Farmer's Union shareholder on Lateral 75. Mr. Beckman is the first water user downstream of Canterbury and there are a few water users downstream of his property. The tail of Lateral 75 goes under Floating Feather to the second phase of Colony subdivision. Mr. Beckman is subdividing his property in 1+ acre lots and Canterbury is trying to use Lateral 75 issues to stop his development. Canterbury is of the opinion that everyone downstream of their subdivision is on a rotation schedule and Canterbury and water users upstream are not. Canterbury is taking the full flow of the lateral with the exception of diverting Mr. Beckman's shares on a rotation schedule through a box that diverts water into Canterbury's p.i. ponds which have turned into a water feature. To be compliant with IDWR the ponds need to meet the 24 hour fill rule meaning they have to be able to fill and be pumped dry within 24 hours. Canterbury should divert their shares out of that box and the remainder of the water in the system should flow through the system. If there is spill it should flow into the Eagle drain. Canterbury has two ponds side by side. The upper pond cascades into a lower pond that overflows and spills into the New Dry Creek canal or if the upper pond gets too high it overflows into the New Dry Creek canal. Andy sent a letter to Canterbury outlining the right of recapture and pond usage regulations. The Canterbury amenity ponds could potentially get Farmer's Union in trouble with IDWR.

The Cities of Eagle and Boise are proposing pathway ordinance revisions.

A property owner by the Dry Creek spill is trying to do a land swap with the land owner on the other side of the Farmer's Union canal. The land owner on the south side of the canal owns ground extending to the north side of the canal they can't access. The plat for the neighboring subdivision has a pathway on New Dry Creek which was required by the City of Eagle that ends at the Farmer's Union trash pile. The City of

Eagle won't allow the land swap unless they recognize and agree to further the pathway easement. The land owner on the north is asking for Farmer's Union to get involved. Andy let them know Farmer's Union considers crossing agreements on a case by case basis to determine if there is a benefit or a need for it and can the benefit be weighed against the risks to Farmer's Union. In this case there would not be any benefit to extending the pathway. This situation is unique in that the City of Eagle owns the pathway portion.

Jerry sent the record of survey to Susan Buxton. The State Parks Department of Parks will need to approve and record.

The Snake River Water Keeper filed a lawsuit against Simplot regarding violations of the Clean Water Act from the feedlot in Grandview. There were allegations of overland Clean Water Act violations where the contaminated water is hitting irrigation ditches and drains. There are no intervening landowner or ditch operators implicated in the lawsuit. Andy stated there could be implications to water users stemming from the Simplot Lawsuit and another lawsuit, the Sacket suit with the US Supreme Court. The Sacket's bought ground in Priest Lake and filled in wetlands to build a house. The EPA said the regulated wetlands are tributaries to Priest Lake and need to be restored they will be fined for violations. The case went to the Supreme Court twice and the court agreed the wetlands are not waters of the United States. The majority opinion on the law with waters of the United States is that only tributary waters or wetlands that are so close and so interconnected with what are regulated water bodies are considered waters of the United States. The statute states "adjacent", not "adjoining" which are two very different words. The Supreme Court recognized "adjacent". The Supreme Court's opinion can't be overturned without Congress amending the Clean Water Act.

IDWR's negotiated rulemaking amending the water appropriation rules is going according to plan and should be wrapped up in July.

DEQ is amending the IPES program rules as it relates to discharges to regulated water bodies.

Andy was approached by the Superintendent of Eagle Sewer District to see if Farmer's Union or Pioneer would be interested in taking their affluent water which amounts to 7-8 cfs. They are currently taking the water to west Boise and west Boise is raising their sewer rates. The Board authorized Andy to issue a letter stating Farmer's Union is interested in the conceptual idea. Andy suggested getting the City of Eagle to endorse the idea stating it would save their rate payers money by going to class A water and reuse is a valuable resource to supplement long term water resiliency and irrigation opportunities within the Eagle area. The Board asked if discharge would be year - round. Neil Jenkins said at this point they do not have an understanding of how much of the canal segment it would take downstream to infiltrate the water. There would need to be a way to de-water that segment at times in order to do maintenance work. Options include installation of a bypass pipeline that comes into a lower segment of

the canal or a structure in the canal at the point of discharge where Eagle could pipe it into the upstream portion of the canal. Andy stated Eagle Island State Park could also be a recipient. Paul asked if they are looking to increase the cfs over time. Andy stated they are in the process of drafting their 20 year plan.

HUTTON LATERAL

Rosalie spoke with Shawn Brownlee from Trilogy Development and they are going to try to work with Steve Bruneel to work something out with him to include his property in their pressurized system. They will get back to Rosalie when they come to an agreement so the shares from the Hutton Lateral can be split accordingly.

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

Paul Akins moved to adjourn the meeting; motion was seconded by Corey Blaine. Motion was unanimously approved. Meeting adjourned at 8:41 p.m.