

Tuesday, July 13, 2021

Farmers Union Ditch Meeting

Board Present:

Lloyd Akins, Paul Akins, John Schram
Seth Kettering, Dale Wood– Ditch Riders
Rosalie Cope, Secretary/Bookkeeper
Jerry Kiser, Attorney for FUD

Guests: Gretchen Hoyt – 8914 Lander Street; Steve Noyes – City of Eagle; Josh Mann – Engineering Solutions; Brad Candau – West Beacon Light LLC

Lloyd Akins called the meeting to order at 5:26 p.m.

Josh Mann with Engineering Solutions provided the Board with plans for the Rene Place Subdivision pump station. The revised plans show a variable speed, single pump sized to handle as little as 15 gpm and as much as 200 gpm. Mr. Mann explained he also added a box to allow the water to be measured when the pump is operating and will install a flow meter that will max out at 200 gpm. The flow meter will not allow more than 200 gpm to be pumped. Jerry asked for a full size set of plans and for information on the contractor who will be installing the weir box. Paul Akins moved to approve the plans; motion was seconded by John Schram. Motion was unanimously approved.

CANDAU BRIDGE

Brad Candau provided the Board with a revised set of plans for the proposed bridge for his property off Beacon Light Road. Jerry Kiser asked how much elevation gain there is on the south side of the road. To bring the current access road up to the existing bridge deck it is approximately a 2' climb. After the rough grading there will be approximately a 6% slope. The bridge is 26' wide and 24' long. There will be wing walls on each corner of the box culvert and a concrete apron will slope down approximately 3 ft. Lloyd stated they will need to install rip rap in the upstream wing walls and would like rip rap covering the ends going into the bank on the downstream side to prevent erosion. Paul Akins moved to approve the plans with conditions that the plans be revised to include a 25' concrete apron on each side and rip rap at the intake and the tail. Jerry Kiser asked for a page to be added to the plans showing the concrete apron at the bottom of the box where the intake comes in to prevent water from undercutting the structure. Jerry also asked that Mr. Candau provide a digital copy of the revised plans for the Board to review as well as a full size copy for his file. Motion was seconded by John Schram. Motion was unanimously approved. Jerry will issue a license agreement upon receipt of the revised plans.

Mr. Candau reported he is in the process of purchasing four shares of water from Boise Valley. The Board asked Mr. Candau to get more information from Boise Valley on where the water shares are currently being delivered to determine if there will be additional conveyance loss.

Mr. Candau requested permission to pull water out of the canal for the water truck when they begin grading on the north side of his property. Lloyd stated that within reason that could be allowed because he does have water shares. The Board agreed to allow a limit of five trucks per week with no more than 5,000 gallons per load. They are to fill between 5 am to 9 am daily, during off peak hours to help regulate the canal. Any more than that will require additional Board approval. Paul Akins moved to approve with the conditions; motion was seconded by John Schram. Motion was unanimously approved. Jerry Kiser will issue an authorization letter.

Steve Noyes with the City of Eagle and Sam Blaine, Parks & Pathways Commissioner provided the Board with a copy of Eagle's proposed pathway system maps and a sample Master Pathway License Agreement. The City would like to know if Farmer's Union is interested in entering into an agreement with the City to formalize pathways. Lloyd stated the Farmer's Union easement is for maintenance and repair of the ditch and administration of the water only; it is not a path for public recreation. Farmer's Union can't enter into an agreement with any other entity to use the easement because Farmer's Union does not own the land. The Board has always been opposed to any non-ditch company related activity on the ditch road because of liability. The easements are statutory. Mr. Noyes stated that recently Legislature made changes to State Bill 1020 36-1604 to indemnify owners of property entering into agreements to open their properties to recreation. Jerry stated the statute was amended for the purpose of protecting irrigation entities from liability from others using properties where canal companies have easements. Mr. Noyes believes the bill removes liability from the canal companies. The City of Eagle currently has 9 miles of pathway agreements in place based on the assumption that the changes to the bill further protect canal companies. Mr. Noyes stated the license agreement also speaks to indemnification by the City for many other purposes. Lloyd stated he personally is not interested in entering into any agreement opening the easement. John Schram stated he believes the City would need to approach each landowner and enter into an agreement with them rather than the canal companies. As a landowner he would not be interested in opening his property for recreation. Lloyd stated Farmer's Union does not want to allow or encourage people traveling on the ditch bank. Once foot traffic is allowed it then becomes bicycles, motorcycles, utv's, dogs, horses, etc. The traffic disturbs access for the ditch riders. Lloyd stated if the City was interested in covering the canal there might be the possibility for another discussion. John Schram reiterated the City would still need to enter into agreements with individual property owners. Mr. Noyes stated Spring Valley subdivision with 3,000-6,000 homes is under development in northwest eagle adjacent to BLM land. There is also a BLM reclamation project to develop 1,600 acres which will cultivate recreation along with Terra View subdivision which is designed with a built in equestrian trail head onto the BLM land, J&M is an

equestrian focused development and New Dry Creek ditch project in which the City of Eagle and four developments are putting in a pathway. Mr. Noyes stated the City would take over responsibility for traffic in areas where they have an easement. They have the right to enter with police, fire, etc. and patrol on a daily basis. Jerry stated the landowner can enter into an agreement with the City for an easement on their property provided it does not interfere with the Farmer's Union right-of-way. Lloyd stated J&M is a good example of where the City acquiring an easement may not be disputed by the Board. The canal is above ground for a mile in a sandy bank. For that property to be developed he thinks the Farmer's Union Board will require them to either concrete or encase the canal. At the point the canal is encased the Farmer's Union easement is not as important because the canal will require less maintenance. Lloyd then pointed out through Hanson's property where there is ditch bank on each side pathways would not work. Mr. Noyes stated the City wants an easement allowing public access if and when the canal companies sign off. It is not on their plan to force the issue. Paul asked if the other ditch companies have worked with landowners before entering into this agreement with the City. Mr. Noyes replied the agreements are not recorded and completed yet. They are working on a subdivision by subdivision basis and working with developers. The City has not entered into any agreements with individual landowners. At this time they are acquiring the easement with new subdivision applications. The New Dry Creek project is 1.3 miles which involves four subdivisions between Floating Feather and Beacon Light. New Dry Creek has a road on both sides of the canal in that area. The concrete pathway will be on the north and west side. New Dry Creek's access road will be on the east and south side. One of the developments is to build a diversion and a long portion of the ditch will be piped. A wrought iron fence is to be installed between the pathway and top of bank. Mr. Noyes addressed the Board's concern of the canal bank being unstable and pedestrian traffic further undermining the stability. He stated pathways are engineered to a standard that exceeds ACHD's road construction with sub base, base, vertical weed barrier, compaction testing, etc.

GRETCHEN HOYT – 8914 LANDER STREET

Gretchen Hoyt provided the Board with an aerial map of where she resides, across State Street from the proposed homeless shelter in the old Salvation Army building. She stated residents are required to leave the shelter at 7 a.m. and she and her neighbors believe they will be crossing State Street and using the canal road from Willow to Lander to access the park. The homeowners in that area would like to install two gates; one at Lander and one at Willow by Burger & Brew. One of the homeowners owns a landscaping company and is willing to install one of the gates. Lloyd explained the property owner, not the ditch company can file a complaint for trespassing. He explained the property owner needs to give one warning then can call the police with a complaint. He suggested they take a picture and date it upon first contact. He also stated Farmer's Union utilizes game cameras and suggested they install something like that also. Lloyd stated the Boise Valley headgate is in that area and the ditch riders need access to check that portion of the ditch daily. Lloyd would like to discuss options to help alleviate the problem with the full Board and will get back to Ms. Hoyt.

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

DITCH RIDER REPORT

Seth Kettering spoke with the River Master and he estimates there to be 71 days of water left which would be September 22nd for the end of the season. Lloyd reported Rex Barrie stated we are currently on 1877 water rights and will be dropping to 1876 water rights in the next week which is approximately a 3 cu. ft. diversion that will have to be made up with storage water. Lloyd estimates the end of the season to be in approximately 60 days.

Seth reported the tail is at 3" and there is no spill at the Klondike.

Paul Akins asked how the Bentonite is working. Seth reported he applies Bentonite one or two times per week and it seems to be working well. Lloyd directed Seth to continue with the applications.

Seth reported the City of Boise has done two chemical applications to treat moss which did not work as they had hoped. They are now going to be treating on Wednesdays and Fridays until the end of the season. Representatives from the City have been communicating with Seth.

The Board asked Seth if he is current on the chemical applicator's license. Seth stated he was due for re-certification and because of COVID they are only offering one test per month and there are only 10 slots per testing. He needs re-certification of his license and will keep trying to get on the list.

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

ATTORNEY'S REPORT

As per the discussion at the June meeting Jerry did some research regarding which water rights are subject to cutbacks. There are only two non-cutttable water rights; Jacobs and Developed. Water is returned to the river in exchange for delivery upstream. The Developed water right is 1.8 cfs with a priority date of May 20, 1926. Farmer's Union is getting return credit for total return flow which comes from drain ditches that are returning water to the river.

Jerry Kiser reported he met with Andy Waldera with Sawtooth Law. He and Katie Vandenberg-Van Vliet are willing to take over the Farmer's Union account upon Jerry's retirement.

Jerry reported he has a copy of the Legislative Summary put out by AMG. He can get copies to the Board upon request.

Discussion was held regarding the 2021 Annual Meeting. There are still COVID 19 restrictions in place and at this point it is near the end of the water season. The Board will discuss further but would like to send a letter to shareholders to let them know that rather than holding a special meeting we will defer to the regular scheduled meeting time and resume business at that time. The letter may be able to be timed to also serve as notice of the end date for the season.

Jerry Kiser reported he sent a letter to the lender and beneficiary on Brower's deed of trust letting them know Farmer's Union has filed a lien on the property.

Jerry Kiser reported Roger Batt is requesting irrigation entities submit proposals for aging infrastructure projects that can be presented to Legislature in order to give them an idea of how much Federal Funding Idaho should be requesting. He would like estimates by the end of the month. The Board discussed and agreed that several projects should be estimated and submitted.

- 1) Green Meadow Spill
- 2) Main Headgate
- 3) Flume

Jerry spoke to Justin Friedan and ACHD is still looking into whether or not they use the Green Meadow spill.

Jerry also requested a copy of the bid request to review. Jerry would like language to be included in the bid package to the effect that this bid will be the final amount. There are to be no add-ons, back charges, extras, etc. Farmer's Union also wants the option to use the contractor of their choice and not be subject to using the lowest bidder. ACHD will provide Jerry with a copy of the bid package that was used last time.

5727 HILL RD.

Jerry received a call from the owner of 5727 Hill Road. He is developing the property and does not have sewer access. The property is on the north side of the canal and he is requesting to pipe under the canal. Jerry asked the property owner to get elevations and do due diligence prior to any more discussion. Jerry sent him a copy of the Belmar crossing agreement as a sample. If the elevations look like they will work then they can put plans together and bring before the Board for approval.

CREEKSIDE SUBDIVISION

Jerry sent the standard development letter to Ada County regarding development of Creekside Subdivision. The property is the McPeak property south of Homer Road and the portion north of the canal is not in the Farmer's Union service area.

Jerry received a call from Laurent Stubbs working with GWC Capital on the Spring Valley subdivision. He is requesting a crossing agreement. The development access will be further up Highway 16 than what M3 was proposing but they are proposing a gravel road coming down into Big Gulch for access to a facility. Jerry said the normal requirement is a box culvert. Jerry sent an approved crossing agreement as an

example. He told them to draw plans and bring before the Board for approval. Lloyd stated they do not own property where the access road to the existing homes is nor to the highway. They own the property on the east side of the home by the bridge. The road off Hwy. 16 that goes to Brian Harm's previous home is the canal right-of-way road.

PESCARA ESTATES SUBDIVISION

Jerry received a development application for Pescara Estates Subdivision at 801 E Beacon Light Road to the west of Los Luceros subdivision. They are developing 16 acres on the south side of the canal. Jerry issued the standard development letter to the City.

Paul Akins moved to adjourn the meeting; motion was seconded by John Schram. Motion was unanimously approved. Meeting adjourned at 9:41 p.m.