

Tuesday, September 12, 2023

## Farmers Union Ditch Meeting

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### Board Present:

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

Dale Wood – Ditch Rider

Rosalie Cope, Secretary/Bookkeeper

Andrew Waldera, Attorney for FUD

Guests: Jonathan and Rebecca Grellas - 4600 N Park Lane; Roger Foster and Ron Sedlacek – New Dry Creek Ditch Co.

Sam Rosti called the meeting to order at 5:33 p.m.

### NEW DRY CREEK DITCH CO.

Several members of the Farmer's Union Board drove the New Dry Creek canal and Sam stated they could not access the intake structure in the River. Ron Sedlacek said the first point of access for New Dry Creek is approximately 200 yards south of the River where Ulmer road comes in, by the church on State Street. The rock structure in the river was installed by the Developer in the early '80's for flood control and the only time New Dry Creek accesses is in the spring to pull or set boards. Otherwise the Development takes care of that area. Andy asked if New Dry Creek has any type of agreement with the Development related to the rock structure. Ron is in the process of trying to locate documentation of the agreement. Ron said New Dry Creek carries water for New Union to the first three diversions. The first headgate for New Dry Creek is behind St. Lukes. New Union rebuilt the first diversion and split the cost with New Dry Creek to rebuild the third diversion which is the main diversion. The second diversion is a pump station going to a subdivision.

Ron thinks Mike Meyer and Mike Demick need to contact the Army Corps of Engineers to get information on the rock structure as to when and how it was approved and installed. Ron stated New Dry Creek strongly opposed the structure and it was approved by all of the agencies. He said the rock structures are built on a levee. Bert asked about the walking path near the headgates. Garden City or the homeowners are going to have to fix the area where the path has sunk.

The Farmer's Union Board is of the opinion silt needs to be cleaned out and the concrete abutments have slipped and some work needs to be done in the river. Roger stated there is a fallen tree that will be removed once water is out this fall. The weed

situation is out of hand and New Dry Creek has been spraying and plans to rent equipment to mow/beat the weeds down. New Dry Creek plans to utilize contract labor to address major maintenance issues and is looking to Farmer's Union for general maintenance and water delivery. Sam stated the cost per acre for New Dry Creek to operate is currently \$44 vs. \$84 it cost Farmer's Union to operate. New Dry Creek is looking at a significant increase in assessments in order to hire quality help and take care of some of the maintenance issues that exist on the canal.

John Schram's concern is maintaining Farmer's Union help. The Board does not want to put staff in a situation where they would be overwhelmed. The New Dry Creek Board would not plan to interfere with directing staff. The Farmer's Union Board is of the opinion New Dry Creek needs to hire one to two ditch riders and pay them well rather than trying to contract with Farmer's Union. Roger asked if Farmer's Union would consider hiring out the brush hog with a driver this fall to help cut down the tall weeds.

Andy Waldera will look into the New Dry Creek water rights to find out if there is any value to Farmer's Union in taking over the New Dry Creek Ditch Company.

#### JONATHAN AND REBECCA GRELLAS - 4600 N PARK LANE

The Grellas' purchased their property 7 years ago and the vinyl fence was installed prior to them owning the property. The fence runs along the canal for approximately 600 ft. They have added wire to the fence to keep their kids out of the canal. Moving the fence would be cost prohibitive for them. Sam is going to do a site visit and the Board will talk to Seth to see if a smaller piece of equipment can be used to dip and slope and re-set the rip rap. The Grellas' would be willing to pay for equipment rental if that is an alternative to removing the fence.

Andy would like to find out when the fence was installed. In looking at Google Earth the fence on the house side of the driveway was there in 2003 and assumes the rest of the fence was put in at the same time. In 2006 the prescriptive period went from 5 years to 20 years. Assuming the fence was installed in 2003 they are on the edge of being able to claim a prescriptive easement.

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

#### ATTORNEY'S REPORT

Andy sent the Board a draft of the Veolia storage water license agreement for review. The lease agreement is for a 10 year term for 1,000 acre ft. Veolia is not obligated to take the water every year and Farmer's Union gets to determine the amount within 10 days of allocation. The Board approved the agreement. John Schram moved to authorize Sam to sign the agreement; motion was seconded by Corey Blaine. Motion was unanimously approved.

In July the Engineer for Carrara Estates sent Andy signed letters from approximately 55% of the lateral water users stating they agree with the piping plan. As part of the zoning process in 2021 Jerry sent a response letter to the City of Eagle notifying them Farmer's Union delivers water to the property through a lateral off headgate 57. In order to pipe the lateral they would need to get at least 51% of the lateral water users to sign off. The engineer asked Andy if anything else was needed from Farmer's Union. If the plans involve piping the entire lateral they would need to pipe to the box outside of the Farmer's Union right-of-way. Andy will get the plans from the Engineer for review.

Erpelding has agreed to accept a Quit Claim from Farmer's Union for the Green Meadow spill property. Andy is working on the documentation.

Andy made minor revisions to the Capital View agreement. Capital View is prepared to sign the agreement. Under the new agreement they have to let Farmer's Union know on or before June 1<sup>st</sup> if they intend to use storage water and have to declare the amount. Flow rate shall remain constant and not fluctuate throughout the season. Water will go in within 72 hours of them ordering it and will remain in for up to 72 hours of them telling Farmer's Union to turn it off. They are only allowed to turn it on and off one time during the season. They will be charged the Farmer's Union per inch assessment. Water District 63 fees and Bureau of Reclamation storage water O&M will be backed out of the assessment. Capital View has 350 inches of Jacob's water less conveyance loss equates to 290 miner's inches at the pump station. Capital View's base assessment is 32 shares.

John Schram moved to sign the Capital View agreement; motion was seconded by Paul Akins. Motion was unanimously approved.

Brad Candau contacted Corey to see where Farmer's Union is in regards to the Addendum. At the August meeting Mr. Candau's engineers were asked to get a finalized design to Andy so he could draft the Addendum to the original license agreement. Andy sent an email to Ardurra, Mr. Candau's engineer and Mr. Candau asking if there are going to be joint trench design modifications installed during the off season or if Mr. Candau is not planning to do anything different than what is already licensed under the prior agreement. Andy has not received a response. Installation of the new headgate is not outlined in the original license agreement.

The Board would prefer for Farmer's Union to install the new headgate and 25' of pipe stubbed to the pump station pad and bill Mr. Candau. He will be responsible for installing a flow meter. The seepage issue still needs to be addressed and Mr. Candau's engineer told Corey they are not planning to do anything to address the seepage. Under the license agreement they are to leave things in a safe condition and Andy is of the opinion since the seepage is an unforeseen issue caused by their improvements they are obligated to address the situation. The Board agrees a liner needs to be installed and backfilled with a Bentonite/Clay mixture which is what Ardurra agreed needs to be done. Corey suggested having Ardurra work with Mr.

Candau's engineer to determine what the solution to the seepage is and who is going to do the work.

Eagle Sewer District commissioned preliminary feasibility engineering and cost analysis of the different options for getting rid of their affluent water. The City of Eagle can see the benefit of utilizing Farmer's Union for the reason reuse is a valuable resource to supplement long term water resiliency and irrigation opportunities within the Eagle area. Continuing to send the water to west Boise is a less viable alternative option than expected even with the rate increases. The second alternative would be for Eagle Sewer to add some of their own back end treatment processes and then send the water to Boise. The treated water would be better quality which would require less processing by Boise in turn lowering their rates. The second option is the cheapest. The option to discharge the water to Farmer's Union during the irrigation season is approximately \$10 million more expensive. Discharging the water to Farmer's Union year-round with infiltration and working with DEQ is quite a bit more expensive due to some of the regulatory issues during the winter season. The Eagle Sewer District Board does not like the option of continuing to send the water to west Boise because they would like some autonomy and more flexibility. Even though sending the water to Farmer's Union during off-season is more expensive they like the idea. The water would still be sent to Boise during the winter but their rates are less expensive in the winter. The preferred route would be to discharge the water into the canal at old Horseshoe Bend Road. They already have a main line in the State Street corridor with expanded capacity. The Board would like to see some sort of financial benefit along with the additional water in order to consider an agreement. Andy reported the City of Boise may also want to discharge Class A recycled water to Farmer's Union via the City of Eagle's infrastructure.

Andy reported in late 2022 the EPA adopted the Tribal Reserve Water Right Water Quality rule. Now the state of Idaho may pursue litigation against the Federal Government over the rule. The rule was designed to set water quality standards based on tribal reserve water rights and their purpose of use. The government may be able to require the state to adopt a water quality standard to meet safe drinking water act standards in areas affected by a tribal reserve. Tribal reserve water rights occur off reservation all over the place based on old treaties. This is a water quality rule that interferes on the State's primacy in determining water rights issues. The second issue is this is nothing more than imposing endangered species act obligations through a water quality standard to protect fish and wildlife habitat.

Pre-lien letters to shareholders with delinquent accounts have not been sent yet.

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

John Schram asked the Board for approval to hire someone to draft a water management plan needed for the grant application for piping the tail of the ditch. The

Board agreed to hire someone and Andy will make some recommendations. John stated the application needs to be submitted by spring.

IWUA sent out an email notifying members of an assessment increase over the next three years. Dues are to increase by \$0.02 cents in 2024 (from \$0.18 to \$0.20 per acre) and an additional \$0.01 cent in both 2025 and 2026.

Paul Akins moved to adjourn the meeting; motion was seconded by John Schram. Motion was unanimously approved. Meeting adjourned at 9:15