

Tuesday, September 8, 2021

## Farmers Union Ditch Meeting

---

### Board Present:

Sam Rosti, Lloyd Akins, Paul Akins, John Schram, Mike McGowan

Seth Kettering, Dale Wood – Ditch Riders

Rosalie Cope, Secretary/Bookkeeper

Jerry Kiser, Attorney for FUD

Guests: Andrew Waldera – Sawtooth Law

Sam Rosti called the meeting to order at 5:34 p.m.

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

### DITCH RIDER REPORT

Seth Kettering reported that if the canal continues to run at the same level there should be enough storage water to keep water in until October 2<sup>nd</sup>.

Seth and Dale have applied Bentonite in several spots including Seamans Gulch and the leaks seem to have dried up. Seth spoke to Linda Overman and she will be available around the end of October or first of November to deliver a large load of Bentonite. He would like to apply more prior to winter so it can settle. Sam said if applying while water is in the canal is working then maybe they should continue with that approach. Farmer's Union also does not have enough covered storage for large quantities.

Seth has started making a list of fall/winter projects including:

- 1) Repair landslide between Ritter's and Vine Estates. While they are working in that area Seth would like to rebuild the rock wall with eco blocks in Vine Estates where the road is really narrow. There are also a few trees hanging over the canal that need to be dealt with.
- 2) Install an eco block wall, two high, along Eagle Hills Golf Course for approximately 300'. Seth is confident he and Dale can build the wall in Vine Estates but may need to hire Wagner for the larger project. He said one of the issues is the road is too narrow to get large loads of block in.
- 3) Rene Place is going to install the headgate and Seth is going to oversee. Jerry Kiser stated according to the agreement Farmer's Union is to install the headgate. The Board would like to modify future agreements so the developer

is responsible for installation of headgates and Farmer's Union will just inspect and oversee installation.

- 4) Seth reported Healthy Tree Service has been doing tree work for property owners along the canal and he would like to talk to them about chipping brush if the Ditch Riders cut trees down and remove the big wood. Sam suggested contracting all of the tree work out as the Ditch Riders have plenty of work to do and Farmer's Union doesn't have the equipment needed to do the job. That way they will have more time to work on the walls.

Seth reported he ordered 50 additional "No Trespassing" signs.

#### ATTORNEY'S REPORT

Jerry Kiser provided the Board with a draft letter for approval of the pump station for Rene Place.

The Board received copies of a response letter from the City of Boise in regards to the letter outlining the Board's concerns regarding Veteran's Park. On the second page is the response to the three issues regarding public access, notice and signage. The City would still like to have further discussion and Jerry is of the opinion there is still discussion to be had.

- 1) There is a provision in the lease allowing the City to keep people out for public safety.
- 2) There is a methodology in the statute where the City has the ability to convert the right of way by finding substitute land that is suitable for public use. The Parks service does have to approve however it is a means for the City to comply with what they have agreed to.
- 3) There is a sign on the Farmer's Union end of the right of way where the trail starts around the rocks facing the wrong way. It needs to be turned so it is facing the traffic coming onto the right of way. Another sign could be added so it is facing both ways. The Board would like to put more signage on the other side where they are more visible.

Item number two is the rock wall. The response states "The barrier as it currently exists is precisely as depicted on the plans and the project notes indicate the parties contemplated a design of spaced, large boulders." Jerry provided the Board with a copy of the plans and there is no spacing between the boulders. He suggested the Board review the plan with the City Attorney.

Item five is failure to survey and record the right-of-way for the Box Culvert. The City is researching why this has not been done. Jerry stated it does not matter why it has not been done it just needs to be taken care of.

If the City will agree to clean up sediment after flood flows there may not be much of an issue regarding the River bank. Lloyd stated that may be correct however the River bank is not in the position it is supposed to be and the channel is not running

according to what was agreed upon by the Board. The curve of the River bank creates an eddy which causes deposit of sediment.

Jerry is going to schedule a meeting with the City Attorney. If the City refuses to address any of the Board's concerns Farmer's Union may need to file an action for specific performance.

There is an additional letter from the City of Boise regarding termination of the Treated Wastewater Discharge and Use Agreement. Jerry is going to send a response letter acknowledging the City of Boise has given notice of intention to terminate. Termination is not effective for ten years. Farmer's Union expects to be notified if the City intends to take any action regarding sale or use of the water. Under the agreement they are prohibited from using any other irrigation entity, canal company or irrigation district to distribute the water.

Jerry and the Board met with the City last week to review plans for the pipe under the canal. The plans have a discharge point in the spillway channel. Jerry received a call from Chris Bromeley following the meeting asking what the Board's opinion would be if instead they went under the canal by the Fish and Game headgate. Jerry is of the opinion that would be a much better solution. They would still need a discharge permit into Veteran's Pond. The water would go through the outlet of Veteran's Pond and into the river rather than into the spill. Lloyd stated the 35 cfs would significantly increase the outflow which may cause flooding on the Greenbelt where the bridge is. Jerry stated the only disadvantage is the water would not flow all the way to the tail of the pond before it is discharged so there might be a small stagnant area in the pond.

Jerry provided the Board with an email from Andrew Waldera regarding un-contracted storage space in Lucky Peak reservoir. Several clients of Sawtooth Law would like to "free" up some of the storage space under long-term repayment contracts rather than spend time and money on the Anderson Ranch dam raise project. Mr. Waldera asked if the Board would be interested in purchasing some of the space if the opportunity arises. The Board agreed they would definitely be interested and asked Mr. Waldera to keep them informed as the discussion moves forward.

Debbie Foster is interested in selling 5 acres to Farmer's Union for approximately \$100,000. Jerry Kiser provided the Board with a map from the Assessor's office with property lines. Lloyd met with Craig Johnson who lives in Camadre Height subdivision which is adjacent to the subject property to discuss allowing Farmer's Union access to the property with their road. The original discussion with Mrs. Foster was to give Farmer's Union an easement through the property she is putting into a conservatory for access. Mr. Johnson stated the bridge in Camadre Heights that crosses the canal is deteriorating and wondered if Farmer's Union would repair the bridge along with the canal wall where the canal makes a sharp bend. They also would like Farmer's Union to contribute to the annual cost of road maintenance which would be approximately \$500 per year.

There is a drain ditch that may need to be piped or moved over to the property line in order to utilize the entire property.

Deb Foster has 1.25 shares of Farmer's Union water and would like to retain the water and deliver to the property where she is building a house. Jerry Kiser stated the location of her new house is not in the Farmer's Union service area therefore the water can't be delivered there. Also, there would be too much conveyance loss to leave her with much water anyway. The Board asked Lloyd to talk to Mrs. Foster and explain the situation with the water shares. Jerry stated there are several items that need to be addressed:

- 1) Access – explore other options for access in the event an agreement can't be reached with Camadre Heights. Willis Road runs all the way to the property but is currently Mike McGowan's driveway. The Assessor's office shows Willis Road as a County Road however Mike explained the County has never maintained the road.
- 2) Zoning – find out what the property can be zoned for and which City or County has the zoning authority.
- 3) The Board directed Jerry Kiser to draft a purchase and sale agreement with contingencies regarding access and zoning.

Paul Akins moved to enter into a purchase and sale agreement with contingencies with Debbie Foster; motion was seconded by Mike McGowan. Motion was unanimously approved.

Idaho Power intends to replace the box across from the Thomas property on Beacon Light Rd. The box is currently in the Farmer's Union right-of-way. Jerry Kiser will issue a license agreement.

Jerry received a proposal for a three lot subdivision on Beacon Light Rd. The plans include pump station calculations, etc. The Board would like Jerry to ask him to attend the October meeting to explain the plans.

Jerry pointed out the delivery agreement Boise Valley shareholders enter into with Farmer's Union allows Farmer's Union 1/3 of the water for Farmer's Union use in consideration for carrying the water. At this time the headgate book does not have any notations regarding the conveyance loss and shows delivery of the full amount. Jerry encouraged the Board to update the headgate book to account for conveyance loss for those with signed delivery agreements and those moving forward with delivery agreements.

Lloyd Akins moved to update the headgate book to reflect the conveyance loss for those with existing delivery agreements or new delivery agreements; motion was seconded by John Schram. Motion was unanimously approved.

Jerry reported he sent a letter to Ilyas and Elizabeth Colombowala at 1250 W Meander Drive regarding their pond overflowing allowing the canal bank to slough off into the

canal. When the water is out and Farmer's Union can repair the damage they will be billed for the repairs. They only have 0.3 share of Farmer's Union which does not seem like enough water to fill the ponds. Jerry is going to look into requiring them to install a flow meter.

#### GREEN MEADOW SPILL

Lynette Davis received an email from Steve Price with ACHD stating he would get a response to her when he got up to speed on the issue. Mr. Price is replacing Justin Friedan as the Attorney for ACHD. The property owners on each side of the spillway have been getting flooded when the sprinklers are on at Summerhill Estates. Ms. Davis expressed her frustration. She stated she was making progress with Mr. Friedan. ACHD had acknowledged it was their drain; they are currently using it and were looking into piping the drain. It appears we are starting over.

The Board will not agree to deliver 1.0 share of water from Scott Larson on pump 6A to Mr. Candau. Although Mr. Larson says he is not irrigating his entire property there may be a new property owner in the future that wishes to irrigate the full property and there is not enough water there to sell a share off. If Mr. Larson is willing to install an approved flow meter the Board might reconsider their position.

Mike McGowan accepted the appointment of Treasurer.

The Board directed Rosalie Cope to advertise the end of the water season as September 20<sup>th</sup>.

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

Paul Akins asked if the October meeting could be moved to the 13<sup>th</sup>. He and Lloyd will not be available on the 12<sup>th</sup>.

John Schram reported he looked into options for employee retirement contributions. He explained there are basically three options; a 401K which is designed for larger companies, an IRA which would be managed by the employee or a Simple IRA which is a hybrid of the 401K and IRA and is designed for small employers. In order to qualify employees must have annual salaries of \$5,000 or more. Farmer's Union can contribute a fixed 2% or match up to 3%. Employees under 50 years of age can contribute up to \$13,500 per year. The Board agreed the Simple IRA seems like the best option and would like to implement beginning in 2022.

John Schram moved to adjourn the meeting; motion was seconded by Paul Akins. Motion was unanimously approved. Meeting adjourned at 9:00 p.m.