

**RIO GRANDE WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS SPECIAL MEETING
June 2, 2021 at 12:30 P.M.
8805 Independence Way, Alamosa CO 81101
And By Zoom Teleconference**

Present: Greg Higel, President; Armando Valdez, Vice-President; Dwight Martin, Secretary/Treasurer; Peggy Godfrey, Director; Steve Keller, Director; Zeke Ward, Director; Mike Kruse, Director; Cory Off, Director; and Bill McClure, Director.

Staff and Consultants: David Robbins, Hill & Robbins, P.C.; Amber Pacheco, Program Manager; Marisa Fricke, Program Manager; Chris Ivers, Program Manager; Rose Vanderpool, Program Assistant; Linda Ramirez, Program Assistant; Michael Carson, Database Administrator; and April Mondragon, Administrative Assistant.

Guests: Brian Rue.

CALL TO ORDER

President Greg Higel called the meeting to order at 12:41 p.m. There was a quorum present for the meeting. The Pledge of Allegiance was recited.

INTRODUCTION OF STAFF AND GUESTS

President Greg Higel welcomed all those present and asked for introductions.

APPROVE AGENDA

President Higel asked for amendments or a motion to approve the agenda. A motion was made by Dwight Martin to approve the agenda as presented. The motion was seconded by Steve Keller and unanimously approved.

PUBLIC COMMENT

President Higel asked for public comment. There were none.

REVIEW AND CONSIDER RESOLUTION FOR APPROVAL TO AFFIRM THE RESOLUTOIN TO APPLY FOR A LOAN FROM THE CWCB FOR SPECIAL IMPROVEMENT DISTRICT NO. 5 OF THE RIO GRANDE WATER CONSERVATION DISTRICT

President Higel asked for review and consider resolution for approval to affirm the resolution to apply for a loan from the CWCB for Special Improvement District No. 5 of the Rio Grande Water Conservation District. Chris Ivers reported seeking the Board of Director's permission to enter into a contract to accept the terms of the CWCB loan. He highlighted the interest rate, what the loan would be used for, the amount of the loan, the terms of the loan and further explained that the Subdistrict would only have a certain number of years to use the money from the loan. David Robbins highlighted that the Subdistrict legally does not have authority to borrow the money on their own. Discussion was held on the possibility of some issues that may arise with the repayment schedule of the loan in connection with the revenue for 2020 pumping. Mr. Ivers reported the Board of Managers of Subdistrict No. 5 voted unanimously in favor the night before, with one member absent, to approve the resolution. Peggy Godfrey voiced her concerns Mr. Robbins politely and professionally responded to those concerns. Armando Valdez highlighted Subdistrict No. 5's efforts to strategize and seek alternatives to the challenges they continue to face. Mr. Ivers reported how the pipeline idea was introduced to the Board of Managers as a last resort when every other idea was exhausted. Discussion was held on the economic impact to the Saguache community with the wells shut off.

A motion was made by Cory Off to approve the resolution to apply for a loan from the Colorado Water Conservation Board and accepts the terms of the loan contract. The motion was seconded by Armando Valdez and unanimously approved.

Mr. Ivers thanked the Board.

REVIEW AND CONSIDER STATEMENT OF OPPOSITIONS TO CURRENT WATER COURT RESUME

President Higel asked for review and consider statement of opposition to current water court resume. Amber Pacheco reported on a filing in the May water court resume from one of the Board of Directors

for an augmentation plan. Ms. Pacheco highlighted the importance of making the Board aware and giving them the opportunity to decide if they would like to file a statement of opposition or not. Mike Kruse announced recusing himself from speaking as a Board of Director. David Robbins further explained the plan for augmentation filed by Mike Kruse and what it is designed for. Mr. Robbins highlighted that it would be appropriate for the Board to file a statement of opposition in order to get things worked out as did Pete Ampe for Subdistrict No. 1. Mike Kruse commented on his proposed plan of augmentation. Mr. Robbins explained the difference between a plan for augmentation and plan of water management.

A motion was made by Dwight Martin to file a statement of opposition in case number 21CW3010 concerning the application for water rights of Mike and Jim Kruse Partnership. The motion was seconded by Peggy Godfrey and unanimously approved.

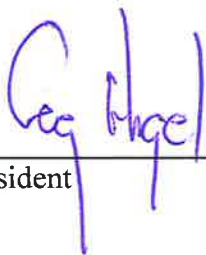
Mike Kruse rejoined the Board and reported on a case in the May water court resume concerning a drainage ditch down south that may be of concern. Mr. Robbins stated his view and recommended opposition. Zeke Ward reiterated the mission of the Board of Directors of the Rio Grande Water Conservation District and suggested filing opposition.

A motion was made by Mike Kruse to file a statement of opposition in case number 21CW3009. The motion was seconded by Peggy Godfrey and unanimously approved.

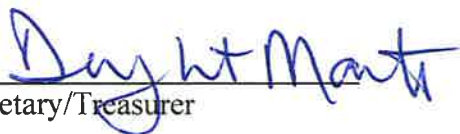
ADJOURN

The meeting was adjourned at 2:16 p.m.

The next scheduled quarterly meeting will be held on July 20, 2021.



President



Secretary/Treasurer

<p>DISTRICT COURT, WATER DIVISION NO. 3 COLORADO</p> <p>Alamosa County Courthouse 8955 Independence Way Alamosa, CO 81101 (719) 589-9107</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>CONCERNING THE APPLICATION FOR WATER RIGHTS OF</p> <p>MIKE AND JIM KRUSE PARTNERSHIP</p> <p>IN HINSDALE COUNTY</p>	
<p>David W. Robbins, # 6112 Peter J. Ampe, # 23452 Hill & Robbins, P.C. 1660 Lincoln St., Suite 2720 Denver, CO 80264 Phone: (303) 296-8100 Fax: (303) 296-2388 E-mail: davidrobbins@hillandrobbins.com peterampe@hillandrobbins.com</p>	<p>Case Number: 21CW3010</p> <p>Ctrm/Div: _____</p>
<p>STATEMENT OF OPPOSITION</p>	

1. Name, mailing address, and telephone number of Objector:

Rio Grande Water Conservation District
8805 Independence Way
Alamosa, Colorado 81101
Telephone: 719-589-6301

Special Improvement District No. 1 of the
Rio Grande Water Conservation District
8805 Independence Way
Alamosa, Colorado 81101
Telephone: 719-589-6301

2. State facts as to why the application (“application”) should not be granted or why it should be granted only in part or on certain conditions:

3. State facts as to why the application (“application”) should not be granted or why it should be granted only in part or on certain conditions:

- a. The Objector, Rio Grande Water Conservation District (“District”), was established pursuant to C.R.S. § 37-48-101, *et. seq.*, for the express purpose of safeguarding the waters of the Rio Grande, and its tributaries, to which Colorado is equitably entitled by the Rio Grande Compact, C.R.S. § 37-66-101, *et. seq.*
- b. The District is charged with, among other things, the conservation and management of the waters of the Rio Grande and its tributaries.
- c. The Rio Grande Compact has a principal purpose of defining and limiting the amount of consumptive use of the Rio Grande and its tributaries that can occur in each of the compacting states under a variety of hydrologic conditions. The waters of the Rio Grande and its tributaries that Colorado is entitled to consume for beneficial purposes have long been over-appropriated. *State Engineer v. Bradley*, 53 P.3d 1165, 1167 & n.2 (Colo. 2002).
- d. Applicant should be placed on strict proof that the claimed historical use has legally occurred and that and the proposed uses will not cause material injury to other water users in the Rio Grande Basin, including water rights held by the District and will fully comply with all rules and regulations of the Colorado Division of Water Resources.
- e. If the Amended Application in this case is to be granted, it should contain terms and conditions to insure that no material injury results to other water users in the Rio Grande Basin through increased pumping or increased consumption beyond that historically occurring or permitted by the original decree.
- f. This statement of opposition is filed because the District does not yet have sufficient engineering facts to form a judgment as to whether or not the requested changes will result in expanded use or additional drawdowns and depletions to the aquifer systems.
- g. The District reserves the right to withdraw its statement of opposition should subsequent review of this application suggest that the statement of opposition is unnecessary.

- h. The District reserves the right to state additional, more specific grounds for objection as more information becomes available. This statement of opposition is continuing in nature, until withdrawn, and shall apply equally to any other amended applications that may be filed herein, so that the filing of separate statements of opposition by the District to any such amended applications will be unnecessary.
- i. The District states affirmatively that it has directed its attorney to file this statement of opposition in order to do so within the statutory period.

Dated: June __, 2021.

Respectfully submitted,

signed original on file at Hill & Robbins, P.C.

s/ Peter J. Ampe

Peter J. Ampe

**VERIFICATION AND ACKNOWLEDGMENT OF APPLICANT OR OTHER PERSON
HAVING KNOWLEDGE OF THE FACTS STATED IN THIS APPLICATION**

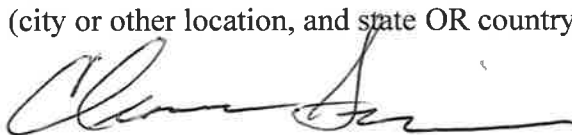
VERIFICATION

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the 24th day of June 2021, at Alamosa, Colorado

(city or other location, and state OR country)

Cleave Simpson
Printed Name



Signature

The person signing this verification is: General Manager, Rio Grande Water Conservation District.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the ___ day of June 2021, service of the foregoing **STATEMENT OF OPPOSITION** was made CCE to all parties of record.

signed original on file at Hill & Robbins, P.C.

/s Peter J. Ampe

Peter J. Ampe

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE RIO GRANDE WATER CONSERVATION DISTRICT**

*(To Affirm the Resolution to Apply for a Loan from the
Colorado Water Conservation Board)*

RESOLUTION NO. 21-03

R E C I T A L S

WHEREAS, the Rio Grande Water Conservation District was created pursuant to section 37-48-102, C.R.S.; and,

WHEREAS, pursuant to section 37-48-108, C.R.S., the Rio Grande Water Conservation District is authorized to establish special improvement districts; and

WHEREAS, pursuant to the request of certain water users in the Saguache Creek basin and section 37-48-123, the District filed a Petition to establish Special Improvement District No. 5 of the Rio Grande Water Conservation District (“Subdistrict No. 5”) in the District Court, Saguache County and the District approved said petition on December 18, 2017; and,

WHEREAS, Subdistrict No. 5 as a local government entity is authorized to establish a water enterprise pursuant to Article 45.1 of Title 37 of the Colorado Revised Statutes and Subdistrict No. 5 has established such enterprise; and,

WHEREAS, the Enterprise is authorized to borrow money and incur indebtedness pursuant to section 37-50-107(1)(c), C.R.S.; and,

WHEREAS, the Board of Managers of Subdistrict No. 5 previously directed Enterprise staff and consultants to pursue and apply for a loan from the Colorado Water Conservation Board in the amount of four million, eight hundred and ninety-two thousand, four hundred and forty dollars (\$4,892,440.00); and,

WHEREAS, the Board of Managers, after consultation with Enterprise Staff and consultants determined its current fee structure and revenue is sufficient to meet the repayment terms of such a loan; and,

WHEREAS, Enterprise staff and consultants did apply for such loan and such loan application was approved by the Colorado Water Conservation Board; and,

WHEREAS, the Enterprise Board has affirmed the request to apply for and approve such loan from the Colorado Water Conservation Board by written resolution; and,

WHEREAS, Subdistrict No. 5 and its water activity enterprise is a subset of the District itself and all contracts entered into by Subdistrict No. 5 and/or its water activity enterprise must be approved by the Board of Directors of the District.

RESOLUTION

NOW, THEREFORE, be it resolved by the Board of Directors of the Rio Grande Water Conservation District that:

1. The Subdistrict No. 5 Enterprise Board has previously authorized Enterprise staff and consultants to request a loan in the amount of four million, eight hundred and ninety-two thousand, four hundred and forty dollars (\$4,892,440.00).

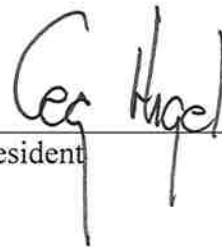
2. The Board of Directors, acting for and on behalf of Subdistrict No. 5 and its water activity enterprise hereby accepts the terms of said loan as provided by the Colorado Water Conservation Board and authorizes the acceptance of the loan on behalf of the Enterprise.

RESOLVED this 2nd day of June 2021.

ATTEST:

BOARD OF DIRECTORS OF THE
RIO GRANDE WATER CONSERVATION
DISTRICT


Secretary


President