

**RIO GRANDE WATER CONSERVATION DISTRICT  
SPECIAL BOARD OF DIRECTORS HEARING  
May 28, 2020 at 10:30 A.M.  
By Zoom Teleconference**

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

**Staff and Consultants:** David Robbins, Hill & Robbins P.C.; Pete Ampe, Hill & Robbins, P.C.; Cleave Simpson, General Manager; Chris Ivers, Program Manager; Rose Vanderpool, Program Assistant; Michael Carson, Data Base Administrator; Clinton Phillips, Davis Engineering; and April Mondragon, Administrative Assistant.

**Guests:** George Whitten, David Frees, David Hofmann.

**CALL TO ORDER**

President Greg Higel called the hearing to order at 10:30 a.m.

**APPROVE AGENDA**

President Higel asked for any changes or additions to the agenda. A motion was made by Bill McClure to approve the agenda as presented. The motion was seconded by Dwight Martin and unanimously approved.

**PUBLIC COMMENT:**

President Higel asked for public comment. Cleave Simpson reported receiving written comments regarding the Plan of Water Management of Subdistrict No. 5 from Thad and Sue Englert which will be part of the official record as public comments (COPY ATTACHED). Mr. Simpson stated he received a set of comments from Tim Lovato who is not a member of the Subdistrict No. 5. David Robbins reported reviewing the comments from Tim Lovato which do not state objections to the Plan of Water Management, but his comments and concerns related to the way the State has modeled and kept record on the Saguache Creek. Armando Valdez requested a copy of the letter from Tim Lovato.

**REVIEW AND POSSIBLE ACTION/ADOPTION OF PLAN OF WATER MANAGEMENT FOR SPECIAL IMPROVEMENT DISTRICT #5**

President Higel asked for the review and possible action/adoption of Plan of Water Management for Special Improvement District #5. Mike Kruse questioned the Englert's measurements and what they were referring to. Mr. Simpson stated he invited the Englert's to attend this hearing. Mr. Kruse also commented on the misconceptions of the Subdistrict's role and the role of the Division of Water Resources in the Englert's comments. George Whitten provided his perspective on the Englert's comments. David Robbins stated he appreciated Mike Kruse's and George Whitten's comments. Mr. Robbins reported looking over both letters and does not read them to be objections to the Plan of Water Management. Mr. Whitten requested a copy of the Englert's comments. Mr. Simpson stated he would ask Chris Ivers to forward a copy to the Board of Managers of Subdistrict No. 5.

A motion was made by Peggy Godfrey to adopt the Plan of Water Management of Subdistrict No. 5. The motion was seconded by Armando Valdez and unanimously approved.

Cleave Simpson and President Higel thanked George Whitten and staff for their work in getting to this point.

**ADJOURN**

The meeting was adjourned at 10:45 a.m.

The next scheduled quarterly meeting will be held on July 21, 2020 at 10:00 a.m.

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President

\_\_\_\_\_  
Secretary/Treasurer

April 20, 2020

Rio Grande Water Conservation District Board

Sub District #5

Here are a few questions and concerns that I have concerning the Conceptual Plan for Sub District # 5:

There are farm plans in place that was agreed upon by court decrees (1979), how are they incorporated into the conceptual plan and will they still abide by the original decree? Shouldn't those decrees be amended before acceptance of the plan?

Has there been a Historical Use Analysis done on each of the surface rights that will be part of the Sub District and the land that is irrigated? How is that factored into the model?

Replacement water, should it not be replaced at the west boundary of the sub district to Saguache Creek and the response functions should be from the west boundary east not 9 miles west of Saguache at the Saguache Creek gauging station? There is substantial benefit from the recharge from the measuring station east to the west boundary on Saguache Creek?  
If not, why?

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Statement is made on the wells (180 – exhibit C) in the proposed sub-district. The land that they are irrigating legally decreed for that land and has each well been verified to be used on the land other than by the land owner (decrees)? I know of some land on some of the wells that they are irrigating shouldn't due to expansion of use, including some of the surface rights that are potentially to be used to offset depletions.

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Saguache Creek does not have any obligations to the Rio Grande Compact.

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Credit - how do you factor the surface water that is not used for irrigation from November 1<sup>st</sup> to April 1<sup>st</sup> as part of the recharge and helps offset depletions? How much is natural recharge and how much is given credit for the wells in the model?

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How will the Sub District contract with the land owners that have conservation easements to compensate them as the water is tied to the land for the benefit of the land owner and the conservation easements?

Without good information on ground water in the Saguache Creek Drainage how do you know what the sustainable water levels are and how will they be brought back to the historic level? Has the district found out what the natural stream loss are for a given period of time on Saguache Creek? If so I would like to see the information.

I agree with the need for good and accurate records, call sheets, verification of actual diversions on a regular basis and gain loss studies. I still don't see how the district can do well to well augmentation without have and naming the senior surface water that will be used to offset the depletions and compensate the surface users on Saguache Creek.

As for the impact to Saguache Creek from the wells pumping during the growing season, to me the impact is greater on a dry year (cone of depression), the reverse from what has been stated the meetings. Over pumping has caused a severe impact to Saguache Creek and I have not seen or heard of any mention of lag time. Saguache Creek has not reached its natural level on stream loss in years plus surface users do not have a ready water supply as do the wells. What is the amount of natural stream loss used in your calculations?

I would like the response in writing to the questions that I have presented.

Respectfully,  
Tim Lovato

Comments On  
**Plan of Water Management**  
Special Improvement District No. 5

1.0 Definitions

1.2 and 1.11: Sounds like 2 different user fees. Also is the "Groundwater Withdrawal Fee" to cover Board of Managers fees and what is meant by "Net Groundwater Withdrawal"?

1.17 Too loosely worded. The appropriate Response Function is based on what criteria? Does the "Response Function" vary year to year?

2.0 BACKGROUND AND BASIS..... There's nothing written in this section.

2.1 Current Situation

2.1.1 ....The RGDSS Ground Water Model has calculated stream depletions occurring to surface water streams by wells ..... We would like to see these calculations and the parameters involved.

2.2 Subdistrict Land

2.2.2 Sounds like "government entities" could include Douglas County!

2.3 Plan Goals and Overall Objectives

2.3.3 "...ensures protection of senior surface water rights." What about rights of old wells affected by new neighboring wells?

2.4.6 Are we sure the new "agriculture" activity is abiding by the water rules?

3.0 Description of Plan of Water Management

3.1 General Plan Description

3.1.1 ".....calculated to occur to senior surface water rights as the result of groundwater withdrawals..." Such calculations cannot depend upon any kind of estimate including "model" results. Such calculations MUST come from actual measurements.

3.2 Acts and Improvements

2..1.5 "Calculations of increases...." Not sure why a 2.1.5 section is here...typo?? Anyway such "calculations" must absolutely depend upon "hard" data..that is measurements! If the subdistricts or the Rio Grand Water Conservation district cannot provide reliable "hard" data the question is mute!!

3.2.1.9 Data collection to verify RGDSS predictions CANNOT be made by the predictor...RGDSS must use outside sources to verify or deny RGDSS predictions...let's adhere to scientific practices!!

### 3.4 Protection of Senior Surface Water Rights

3.4.2 This is a criticism of the reliance on computer modeling: Calculations based on results generated by the same computer, Response Functions, are scientifically unreliable. There is no substitute for measurement!

#### General comments

It is not clear to me how these rules effect non-members . It looks as if members are sole supporters of the conservation efforts.

  
Thad J Englert

  
Sue Ellen Englert