

**QUARTERLY MEETING OF THE BOARD OF MANAGERS  
OF SPECIAL IMPROVEMENT DISTRICT #5  
OF THE RIO GRANDE WATER CONSERVATION DISTRICT  
January 17, 2024 at 5:00 p.m.  
Rio Grande Water Conservation District Conference Room  
And by Zoom/Teleconference**

**Present:** David Schmittel, President; George Whitten, Vice-President/Secretary/Treasurer; Corey Hill, Manager; Dale Gerstberger, Manager; and Kit Caldon, Manager.

**Absent :** Doug Gunnels, Ex Officio Member.

**Staff and Consultants:** Pete Ampe, Hill & Robbins, P.C.; Chris Ivers, Program Manager; Michael Carson, Database Administrator; Crystal Benevidez, HCP Coordinator/Program Assistant; Wylie Keller, Water Resource Specialist; Clinton Phillips, Davis Engineering; and April Mondragon, Administrative Assistant.

**Guests:** William Myers, David Hofmann, Tim Lovato, Chris Schaefer, Sean Rooney.

**Meeting Called to Order**

President Schmittel called the meeting to order at 5:00 p.m. A quorum was present for the meeting. The Pledge of Allegiance was recited.

**Approval of the Consent Agenda**

President Schmittel asked for changes, additions or a motion to approve the consent agenda items:

- Agenda
- October 4, 2023-Special Meeting Minutes
- October 4, 2023-Executive Session Minutes
- October 18, 2023-Quarterly Meeting Minutes
- November 14, 2023-Special Meeting Minutes
- November 29, 2023-Special Meeting Minutes
- November 29, 2023-Executive Session Minutes

A motion was made by Kit Caldon to approve the consent agenda as presented. The motion was seconded by George Whitten and unanimously approved.

**Public Comment**

President Schmittel asked for public comment. There was none.

**Attorney's Report**

President Schmittel asked for the attorney's report. Pete Ampe reported working on contracts and updated the Board on Subdistrict No. 1's Plan of Water Management No. 4. He highlighted a meeting to be held by Subdistrict No. 3 to consider an allocation system similar to Subdistrict No. 5.

**Engineers Report**

President Schmittel asked for the Engineers report. Clinton Phillips was not present, Chris Ivers provided the aquifer update. He presented the Saguache monitoring wells map and data. Mr. Ivers went over the changes compared to the 2015 baseline and 2022 Rio Grande Water Conservation District confined aquifer monitoring well measurements preliminary data. He highlighted the increase in feet on most and presented the hydrographs.

**Program Manager's Report**

President Schmittel asked for the Program Manager's report. Chris Ivers presented the financial report. He highlighted the costs and expenses covered by the District since formation and the total costs remaining. Mr. Ivers presented the Balance Sheet and the Profit and Loss Statement. He highlighted the account balance, accounts receivable, loan payable, water leases/loan payment, interest expense on loan payment, utilities for the power line installation, the miscellaneous expenses for the pipeline and the total expenses for last year.

A motion was made by Kit Caldon to approve the financial report as presented. The motion was seconded by Corey Hill and unanimously approved.

Chris Ivers updated the Board on the attempted purchase of three (3) quarters from North Star Farms. He reminded them of the requirement set by the owner to allow for it to be acquired only through a

“friendly condemnation”. He reported the Board of Directors voted in favor of beginning the process of friendly condemnation on the North Star quarters. Pete Ampe reminded the Board of their approval of a resolution for the District Board to take those actions.

#### **Review and Consider Participation Contract**

President Schmittle asked for review and consider of a Participation Contract. Chris Ivers presented the Canterbury contract that was approved by the Board in or around 2021. He reported the property has since been sold to Shui Yuan He & Nana Zhang who have requested to continue to have their well covered in the Subdistrict. Mr. Ivers presented a map showing the location of the well, how it was decreed and provided the gallons per minute. His recommendation was to approve.

A motion was made by Kit Caldon to approve the Participation Contract as presented. The motion was seconded by Corey Hill and unanimously approved.

Chris Ivers presented the Mark Allen Participation Contract which was under contract with Sean Rooney. He highlighted the WDID and presented a map showing the location of the well. Mr. Ivers reported on the request for a variance on the groundwater allocation. George Whitten described the well as unconfined sitting right on the creek. Sean Rooney was present and available for questions. He reported on his plan to irrigate a portion of the property. Kit Caldon highlighted all the hard work and amount of money it has taken the Subdistrict to get where they are. Discussion was held on how long the well had not been used, why the owner had not gotten the well into the Subdistrict earlier, and the impact the well would have on the Subdistrict depletions. Mr. Ivers explained how the well would increase depletions, post plan depletions and the amount of surface water on the property. Dale Gerstberger suggested additional research be done and asked how the well would fit with no consumptive use. Pete Ampe reported the well could legally contract into the Subdistrict, at the Board’s discretion, or pursue an augmentation plan. Mr. Whitten commented on the impact the well would have on the north branch of the stream and on water users. Corey Hill agreed. Mr. Ivers highlighted the near by water rights. Discussion was held on the number of wells not part of the Subdistrict or not contracted into the Subdistrict and the precedence of assessing back fees.

A motion was made by Dale Gerstberger to table the Participation Contract and consider it at the next meeting. The motion failed to get a second and did not pass.

A motion was made by George Whitten to deny the approval of the Mark Allen Participation Contract. The motion was seconded by Kit Caldon and unanimously approved.

#### **Review and Consider Surface Water Inclusion Contract**

President Schmittle asked for the review and consideration of a Surface Water Inclusion Contract. William Myers reported leasing shares of the Rio Grande Canal for the last three (3) years and running it through an SWSP. Pete Ampe explained how a surface water inclusion agreement could benefit the Subdistrict and allow for Mr. Myers to reduce his pumping fees. Chris Ivers reminded the Board of a similar contract approved a few years back.

A motion was made by Kit Caldon to approve the Surface Water Inclusion Contract with William Myers. The motion was seconded by Dale Gerstberger and unanimously approved.

#### **Discussion on Additional Data Collection to Support the RGDSS Groundwater Model**

President Schmittle asked for a discussion on additional data collection to support the RGDSS Groundwater Model. George Whitten reported on an email he sent to the Board regarding monitoring wells used during the AWDI case. He reported it would be a good place to start to add to the current monitoring wells. Chris Ivers presented a map with the well locations and reported the wells stopped being measured in the early 2000’s. Tim Lovato reported on the County Commissioners interest in obtaining measurements and the potential to collaborate. Mr. Ivers reported on the wells the modelers thought would be beneficial. Pete Ampe highlighted the high costs associated with transducers and asked the Board if this was something they were interested in pursuing.

A motion was made by George Whitten to move forward with the Groundwater Study. The motion was seconded by Dale Gerstberger and unanimously approved.

#### **Executive Session to Receive Legal Advice Regarding Potential Litigation and to Discuss Potential Purchase of Real Property**

President Schmittle asked for executive session to receive legal advice regarding potential litigation and to discuss potential purchase of real property. A motion was made at 6:03 p.m. by Kit Caldon to enter into executive session. The motion was seconded by Corey Hill and unanimously approved.

Mr. Ampe stated the Board was entering into executive session pursuant to section 24-6-402(4)(a) to receive legal advice regarding potential litigation and to discuss potential purchase of real property. The Board would take no formal action or position during the executive session.

**Possible Action from Executive Session**

President Schmittel asked for possible action from executive session. There was none.

**Direction for Staff**

President Schmittel directed staff continue as discussed.

**New Business**

President Schmittel asked for new business. There was none.


**Next Meeting**

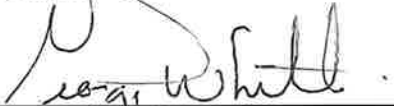
A joint work session was scheduled with the Saguache County Commissioners, Subdistrict No. 1 as well as Subdistrict No. 4 and 5 for January 30, 2023 at 5:30 p.m. at the Saguache Road and Bridge.

The next quarterly meeting is scheduled for April 17, 2024 at 5:00 p.m.

**Adjournment**

The meeting was adjourned at 6:13 p.m.

  
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President

  
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Vice-President/Secretary/Treasurer