

**SPECIAL MEETING OF THE BOARD OF MANAGERS  
OF SPECIAL IMPROVEMENT DISTRICT #5  
OF THE RIO GRANDE WATER CONSERVATION DISTRICT  
June 1, 2021 at 5:30 p.m.  
8805 Independence Way, Alamosa, CO 81101  
And by Zoom/Teleconference**

**Present:** David Schmittel, President; George Whitten, Vice-President/Secretary/Treasurer; Kit Caldon, Manager; Dale Gerstberger, Manager; and, Peggy Godfrey, Ex-Officio Member.

**Absent:** Corey Hill, Manager.

**Staff and Consultants:** Pete Ampe, Hill & Robbins, P.C.; Chris Ivers, Program Manager; Allen Davey and Clinton Phillips, Davis Engineering; Michael Carson, Database Administrator; and, April Mondragon, Administrative Assistant.

**Guests:** Deb Sarason, David Hofmann, William Myers, Daryl Dinkla, Tim Lovato, Steve Lewerenz, Westly Entz, Craig Perrin, CJ Weis, Mike Kruse, and Trent Lund.

**Meeting Called to Order**

President Schmittel called the meeting to order at 5:40 p.m. A quorum was present.

**Approval of the Agenda**

President Schmittel asked for any changes, additions or a motion to approve the agenda. A motion was made by George Whitten to approve the agenda as presented. The motion was seconded by Kit Caldon and unanimously approved.

**Update on Groundwater Restrictions Meetings**

President Schmittel asked for an update on the groundwater restriction meetings. Chris Ivers reported on the comments made at the meeting by Ed Nielsen. Mr. Nielsen stated he wanted nothing other than wet water to make up injuries and for the wells to remain shut off. President Schmittel commented on how the graphs of the monitoring wells Mr. Ivers presented corresponded with the trends mother nature has set. George Whitten highlighted the importance of acquiring additional monitoring wells moving forward and offering to reduce pumping by 30%. Discussion was held on Mr. Nielsen's continued lack of willingness to cooperate with the Subdistrict and the large influence he plays as a surface water holder.

**Review Proposal for Facilitated Discussions from Smoyer and Associates**

President Schmittel asked for review of the proposal for facilitated discussions from Smoyer and Associates. Chris Ivers updated the Board on the conversation he had with the representative from Smoyer and Associates. Discussion was held on whether or not surface water owners would be willing to participate in a facilitated discussion and the impact to the community and economy if the wells remain shut off.

A motion was made by George Whitten to reach out to the Saguache Creek Water Users to see if they would participate in a facilitated discussion. The motion was seconded by Kit Caldon and unanimously approved.

**Discussion on Saguache Creek Remedies**

President Schmittel asked for discussion on Saguache Creek remedies. Chris Ivers reported he was informed the owners of the Tarbell Ditch water do not want to lease water to the Subdistrict and want the wells to remain shut down. Pete Ampe highlighted the owners have cut all communication with their attorney as well. Mr. Ampe updated the Board on the Groundwater Withdrawals Allocation Rules he drafted. David Hofmann highlighted some of the Subdistricts replacement options. Allen Davey suggested they continue to work through the 1041 regulations in order to secure an easement for the pipeline. Dale Gerstberger asked about the possibility to haul water in semi-trucks and dump the water into Saguache creek. Discussion was held on the amount of gallons per day, number of trucks it would take as well as the cost to rent the trucks.

**Review and Consider Resolution to Enter into CWCB Loan Contract**

President Schmittel asked to review and consider a resolution to enter into CWCB loan contract. Chris Ivers explained the terms contained in the resolution concerning the CWCB loan and

reported on some of the issues with the repayment schedule and revenue for 2020 pumping going forward.

A motion was made by Kit Caldon to approve the resolution to apply for a loan from the Colorado Water Conservation Board. The motion was seconded by George Whitten and unanimously approved.

Mr. Ivers explained the terms of the loan.

**Discussion on Saguache County 1041 Regulations**

President Schmittle asked for discussion on Saguache County 1041 regulations. Pete Ampe reported the 1041 regulation process would be started and explained how it would proceed forward. Chris Ivers highlighted the table of contents and special exemptions contained in the regulations. Discussion was held on constructing a permanent and/or temporary pipeline and which one would occur first. Mr. Ampe received instruction to proceed with the 1041 regulations.

**Executive Session-to Receive Legal Advice Concerning the Potential Purchase of Real Property**

President Schmittle asked for a motion to enter into executive session to receive legal advice concerning the potential purchase of real property. A motion was made by George Whitten to enter into executive session. The motion was seconded by Kit Caldon and unanimously approved.

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

**Direction for Staff**

President Schmittle asked for direction for staff. Staff reported receiving directions.

**New Business**

President Schmittle asked for new business. There was none

**Next Meeting**

A special meeting was scheduled for June 4, 2021 at 4:00 p.m.

The next quarterly meeting is scheduled for July 21, 2021.

**Adjournment**

The meeting was adjourned at 8:10 p.m.

  
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President

  
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Vice-President/Secretary/Treasurer

**RESOLUTION OF THE BOARD OF MANAGERS OF SPECIAL IMPROVEMENT  
DISTRICT NO. 5 OF THE RIO GRANDE WATER CONSERVATION DISTRICT  
WATER ACTIVITY ENTERPRISE**

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

RESOLUTION NO. 21-

**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 Board wishes to memorialize said previous request, application, and approval in a written Resolution.

**R E S O L U T I O N**

NOW, THEREFORE, be it resolved by the Board of the Enterprise that:

1. The 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 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 1<sup>th</sup> day of June 2020.

ATTEST:

  
Secretary

BOARD OF MANAGERS SPECIAL  
IMPROVEMENT DISTRICT NO. 5 OF THE  
RIO GRANDE WATER CONSERVATION  
DISTRICT WATER ACTIVITY  
ENTERPRISE

  
President