

**QUARTERLY MEETING OF THE BOARD OF MANAGERS  
OF SPECIAL IMPROVEMENT DISTRICT #5  
OF THE RIO GRANDE WATER CONSERVATION DISTRICT  
October 16, 2019 at 1:00 p.m.  
Rio Grande Water Conservation District Conference Room  
Alamosa, Colorado 81101**

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

**Staff and Consultants:** Pete Ampe, Hill & Robbins, P.C.; Amber Pacheco, Program Manager; Rose Vanderpool, Program Assistant; Clinton Phillips, Davis Engineering; and, April Mondragon, Administrative Assistant.

**Guests:** Cody Redden, Tim Lovato, Deb Sarason, Paul Macklin, Tom Corzine, Dee Greeman, and Mark Allen.

**Meeting Called to Order**

President Schmittel called the meeting to order at 1:14 p.m. A quorum was present. The Pledge of Allegiance was recited.

**Approval of the Consent Agenda**

President Schmittel asked for additions or a motion to approve the consent agenda which included the following minutes:

- July 24, 2019- Quarterly Meeting
- September 4, 2019- Special Meeting
- September 4, 2019- Executive Session Meeting

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

**Attorney's Report**

President Schmittel asked for the attorney's report. Pete Ampe reported Subdistrict No. 6's Plan of Water Management was approved by the Board of Directors and the State Engineer and will be adopted by the District Board in November. Mr. Ampe highlighted a potential change to Subdistrict No. 5's Plan of Water Management regarding benchmarks and suggested directing staff to develop those benchmarks. Discussion was held on how those benchmarks may read and staff was asked to put together language to present to the Board for approval.

**Program Manager's Report**

President Schmittel asked for the Program Manager's report. Amber Pacheco provided the Board with a financial update which included a profit and loss statement and a draft 2020 budget. Discussion was held on the number of wells in the Subdistrict and the year the assessments will start. Amber Pacheco stated the goal is to get the Plan and Rules and Regulations both in place. Tom Corzine wrote a letter to the Subdistrict; he was present and asked to read the letter into record (copy attached).

**Discussion on the Rules and Regulations**

President Schmittel asked for discussion on the Rules and Regulations. Amber Pacheco provided the types of contracts the Subdistrict will offer. Discussion was held on those contracts and the fees for the contracts. Ms. Pacheco provided the Board with the changes that had been made to the language in the Rules and Regulations since the last meeting. Pete Ampe stated the Rules and Regulations can be modified easily and during the first year the deadline for accepting contracts may need to be changed. The different types of wells that could contract into the Subdistrict were discussed as was the tier-based system for fees.

**Discussion on Well Injury Payment Agreements and Other Replacement Sources**

President Schmittel asked for a discussion on Well Injury Payment Agreements and other replacement source ideas. Amber Pacheco explained the term "forbearance" was confusing and hard for some of the attendees at Subdistrict meetings to understand. Ms. Pacheco stated they will now use a different term "Well Injury Payment". She explained the new term and how it

works. Ms. Pacheco presented a preliminary run of the Saguache Response Function and stated the Subdistrict would ask to use Closed Basin water in the winter months on the Rio Grande. Ms. Pacheco presented an example of an administrative call analysis which showed the ditches that could be owed depletions from the Subdistrict. She explained how she would track the calling rights and identify the depletions every day. Ms. Pacheco also explained how she administers the Rio Grande daily and described the information she sends to the State monthly.

**Paused for a break: 3:10 p.m. and resumed at 3:21 p.m.**

**Executive Session**

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

Mr. Ampe stated the Board was entering into executive session. All discussion would relate to the instructions to negotiators concerning the purchase of real property. The Board would take no formal position.

**Action on Executive Session Discussion**

Pete Ampe stated the Board was in executive session and had voted to come out. Discussion was related to receiving legal advice and instructions for negotiators concerning the purchase of real property.

A motion was made by Dale Gerstberger to continue to investigate the possibilities of the purchase of real property. The motion was seconded by Kit Caldon and unanimously approved.

**New Business**

President Schmittle asked for new business. Discussion was held on locations of other potential real property purchases, easements or ponds. The Board also discussed a potential pipe line to the creek. Dale Gerstberger asked if Regional Conservation Partnership Program (RCPP) funds could be sought to add measuring devices in the creek. Pete Ampe and staff directed Ms. Pacheco to reach out to Tim Davis and ask him to provide the Board with a list of information that would be needed in order to apply for RCPP.

**Adjournment**

A special meeting was scheduled for November 12, 2019, at 9:00 a.m. The next quarterly meeting will be January 15, 2020, at 1:00 p.m.

The meeting was adjourned at 4:38 p.m.

  
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President

  
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Vice-President/Secretary/Treasurer

From Tom Corzine  
To : SD #5 Board  
Oct. 16, 2019

9/30/2019

Subdistrict #5 is required to address the problem of over pumping and the solution needs to be perceived by the State Water Engineer as fair and equitable.

I was on the Subdistrict #1 Board for several years and Subdistrict #5 seems like a simple problem to solve.

My example is this: If the damage to the surface water right is 10%, then the solution should be to curtail pumping by 10%.

Obviously, the surface right owners should not be taxed, harassed or interfered with in any way.

A well owner, then, could pump 90% of his past pumping history.

The pumping history on a well could be an average of the top 4 out of 5 previous years pumping, according to their meters. The Subdistrict #5 Board could assess a fee on the pumping history of each well to fund the operational expenses of the Subdistrict.

Farm units would include all of the farms or wells under each farming operation.

If a farm unit exceeded their 90% maximum production allowance, a HUGE extra water fee would be assessed for each acre foot of water pumped. If the penalty is great enough, the overuse would be minimal.

And, any money for overuse should be given directly to the surface water owners, no strings attached, just payment for annual damage.

We can certainly learn from Subdistrict #1, a bureaucracy, with many rules, was created and their water problem isn't any better. Politics and money did not solve the problem. Next year, I understand, that the over pumping fee will be \$150 per acre foot. The only thing that will prevent people from pumping is when pumping is unprofitable.

I hope that Subdistrict #5 can not think about the past, forget about getting even and deal with the future.

Hopefully a simple solution to the problem can be created, and I think, if it is fair, the State Water Engineer will approve.