

**RIO GRANDE WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS SPECIAL MEETING
February 17, 2023 at 10:00 A.M.
Rio Grande Water Conservation District Conference Room
And By Zoom Teleconference**

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

Staff and Consultants: David Robbins and Pete Ampe, Hill & Robbins, P.C.; Cleave Simpson,
General Manager; Amber Pacheco, Deputy General Manager; Chris Ivers, Program Manager; Angelo
Bellah, Program Manager; Wylie Keller, Water Resource Specialist; Rose Vanderpool, Program
Assistant; Linda Ramirez, Program Assistant; Kylie Gregg, Office Manager; and April Mondragon,
Administrative Assistant.

Guests: Rio de la Vista, Heather Dutton, Lewis Entz, David Frees, Rosalie Martinez, Leroy Martinez,
Willie Hoffner, Owen Woods, Jason Lorenz, Michelle Lanzoni, Cheryl Santi, Sara Miller, Sara
Parmar, Tyler Faucette, Jeremy Uhlenbrock, Charles Stillings, Cary Aloia, Marcie Schulz, Jenny
Nehring, Laura Spann, Austin Miller, Cindy Medina, Sarah Jones, Cameron Barr, Chayito Espinoza,
Kenneth Reynolds, Todd Doherty, Virgil Valdez, Monty Smith, Nathan Coombs, Ryan Unterreiner,
Dee Greeman.

CALL TO ORDER

President Greg Higel called the meeting to order at 10:01 a.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

A motion was made by Dwight Martin to approve the agenda as presented. The motion was seconded by Doug Gunnels and unanimously approved.

PUBLIC COMMENT

President Higel asked for public comment. Willie Hoffner described his water right on Carnero Creek and his commitment to the San Luis Valley. He also said he is opposed to Subdistrict No. 5.

REVIEW AND POSSIBLE ACTION ON RESOLUTION TO ACCEPT CWCB LOAN FOR SUBDISTRICT NO. 4

President Higel asked for review and possible action on resolution to accept CWCB loan for Subdistrict No. 4. Chris Ivers updated the Board on the Subdistrict No. 4 Board of Managers approval and unanimous vote in favor of a CWCB loan. He provided the loan amount, interest rate, payment amount and how the project money would be used.

A motion was made by Cory Off to approve the Resolution to accept the CWCB loan for Subdistrict No. 4. The motion was seconded by Dwight Martin and unanimously approved.

CONSIDER APPOINTMENT OF JEFF REGENOLD TO SUBDISTRICT NO. 4 BOARD OF MANAGERS

President Higel asked to consider the appointment of Jeff Regenold to Subdistrict No. 4 Board of Managers. Chris Ivers reported on the vacancy on the Board and expressed interest from Jeff Regenold to serve on the Subdistrict No. 4 Board of Managers.

A motion was made by Cory Off to appoint Jeff Regenold to the Subdistrict No. 4 Board of Managers. The motion was seconded by Steve Keller and unanimously approved.

REVIEW AND POSSIBLE ACTION ON RESOLUTION TO ACCEPT CWCB LOAN FOR SUBDISTRICT NO. 5

President Higel asked for review and possible action on resolution to accept CWCB loan for Subdistrict No. 5. Chris Ivers reported on the Subdistricts loan approval in 2021. He explained the non-ability of the Subdistrict to meet some of the conditions associated with the original loan contract.

Mr. Ivers reported re-writing the loan request, he provided the loan amount, terms of the loan and how the loan proceeds would be used. Peggy Godfrey read her notes into record (copy attached). David Robbins responded to Ms. Godfrey's letter. Discussion was held on remedying depletions, amount of groundwater withdrawals, and the action that would be taken in the event of default on the loan. Mr. Ivers highlighted the Subdistrict's goal to continue to set groundwater allocations in an effort to manage the aquifer. Willie Hoffner spoke out in opposition and thanked the past water commissioners. Cory Off commented on sustainability once depletions are paid. President Higel highlighted the amount of scrutiny on Subdistrict No. 5. David Frees provided Subdistrict No. 4's perspective on the project.

A motion was made by Dwight Martin to approve the Resolution to accept the CWCB loan for Subdistrict No. 5. The motion was seconded by Cory Off, roll call vote was taken:

Zeke Ward: yes
Doug Gunnels: no
Dwight Martin: yes
Peggy Godfrey: no
Cory Off: yes
Steve Keller: yes
Mike Kruse: no
Armando Valdez: yes
Greg Higel: yes

There were five (5) yes's and three (3) no's, the motion passed.

DISCUSSION AND POSSIBLE ACTION ON SB 22-028 PROGRAM

President Higel asked for discussion and possible action on SB 22-028 program. Steve Keller presented his thoughts on a two (2) prong approach in order for people to be able to submit customized offers. David Robbins explained the reasoning for the current structure set up and highlighted that it could be changed if the Board provided him with significant details. Doug Gunnels highlighted the Board of Directors responsibility to set the criteria. Amber Pacheco presented the draft Groundwater Compact Compliance and Sustainability Fund; they went through the document by section. Cory Off highlighted the importance of the value of water. Zeke Ward reported on an option to work with Colorado Open Lands to identify water values. Mr. Robbins reiterated the purpose of the fund and importance of the timeline. Leroy Martinez commented on the different values of land and water and the need to retire the lease productive ground. Tyler Faucette asked the Board to consider using the amount of reduction of pumping rather than using a base payment on a quarter section of land. Discussion was held on surface water credit and recharge decrees tied to wells. Cheryl Santi commented on surface water owners and how she feels they are being ignored. President Higel had to step out of the meeting; Armando Valdez conducted the rest of the meeting. Discussion was held on the cap and base payment amounts. The consensus of the Board was to set the cap payment at \$650,000. Zeke Ward stated the amount was too high. Mike Kruse was not in the room. Discussion was held on Subdistrict fees after wells become retired and the qualifications/disqualifications of wells already in conservation programs. Mr. Robbins explained an opportunity for wells that do not qualify initially to submit proposals in the second round. Steve Keller suggested accepting proposals through the duration of the program. Zeke Ward commented on the intention to make the program simple and fair. Discussion was held on revegetation and the associated costs, evaluation of proposals, the complexities and nuances. Heather Dutton highlighted a comment made by Nathan Coombs to strike out complexity and have no cap.

A motion was made by Cory Off to adjourn the meeting. The motion was seconded by Peggy Godfrey.

Cleave Simpson reported on the risk to not get enough participation without a base payment and the complexity of paying per acre-foot withdrawn with recharge decrees and surface water credits.

A motion was made by Mike Kruse to go back to Cleave's idea to set it at \$2,500. Mike Kruse withdrew his motion.

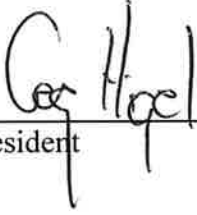
The motion to adjourn was voted on and passed unanimously.

ADJOURN


The meeting was adjourned at 2:27 p.m.

A special meeting was scheduled for February 28, 2023 at 1:00 p.m.

The next quarterly meeting was scheduled for April 18, 2023 at 10:00 a.m.



President



Secretary/Treasurer

**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)*

RECITALS

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 San Luis Creek basin and section 37-48-123, the District filed a Petition to establish Special Improvement District No. 4 of the Rio Grande Water Conservation District (“Subdistrict No. 4”) in the District Court, Saguache County and the District approved said petition on July 21, 2017; and,

WHEREAS, Subdistrict No. 4 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. 4 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. 4 previously directed Enterprise staff and consultants to pursue and apply for a loan from the Colorado Water Conservation Board in the amount of three million, four hundred ninety thousand, five hundred and sixty dollars (\$3,490,560.00); 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. 4 and its water activity enterprise is a subset of the District itself and all contracts entered into by Subdistrict No. 4 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. 4 Enterprise Board has previously authorized Enterprise staff and consultants to request a loan in the amount of three million, four hundred ninety thousand, five hundred and sixty dollars (\$3,490,560.00).

2. The Board of Directors, acting for and on behalf of Subdistrict No. 4 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 __ day of February 2023, at the office of the Rio Grande Water Conservation District, 8805 Independence Way, Alamosa, CO.

ATTEST:

BOARD OF DIRECTORS OF THE
RIO GRANDE WATER CONSERVATION
DISTRICT


Secretary


President

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

*(To Affirm the Resolution to Apply for a Loan from the
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RECITALS

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 six million, eighty thousand, two hundred dollars (\$6,080,200.00); 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 six million, eighty thousand, two hundred dollars (\$6,080,200.00).

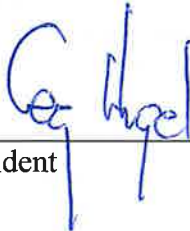
2. The Board of Directors, acting for and on behalf of Subdistrict No. 5 and its water activity enterprise hereby accepts the terms of said loan as provided by the Colorado Water Conservation Board and authorizes the acceptance of the loan on behalf of the Enterprise.

RESOLVED this __ day of February 2023, at the office of the Rio Grande Water Conservation District, 8805 Independence Way, Alamosa, CO.

ATTEST:

BOARD OF DIRECTORS OF THE
RIO GRANDE WATER CONSERVATION
DISTRICT


Secretary


President

Notes read into the minutes of RGWCD Feb. 17, 2023 meeting by Peggy Godfrey

In the earliest days of Subdistrict 1's formation, the State Engineer sent a letter requiring them to guarantee they had money or water to replace all their present and past depletions to the river. This has not been the case for Subds 2,3,5, and 6. A December 2022 letter from the current SE essentially said the "water in/water out" [Plan 4] of Subd 1 sounded like it might work to restore the aquifer. The 4th Plan did not address two obvious external entities bleeding the borders of Subd 1's unconfined aquifer: un-augmented production wells in Subd 5 land and the trans-basin water mining operation delivering to downstream states. Russell Lakes, in Subd. 5, does not have to abide by Subd 5 allocation rules, nor does it pay fees to Subd 5 because wells are owned by the trans-basin water mining operation as mitigation for the project's footprint. This is 40-year old history operating in a much dryer, 20-year period since 2000.

Currently and very likely for the past 35 years, Division 3 requests "water to pay compact." Subdistrict formation was intended for each to pay its own debts to streams and rivers. Priority 4 of the trans-basin delivery system's enabling federal legislation requires groups or individuals using this export water to pay its production costs. This is not happening. Currently all subdistricts with winter depletions to the Rio Grande and Conejos, as calculated by the state's groundwater model are signing a Memorandum of Understanding agreeing to pay their pro-rata share of this trans-basin delivery, on their behalf, to Subd 5 to cover Subd fees for Russell Lakes mitigation wells, required mitigation for the continued use of the project's footprint, which dried up natural wetlands. RGWCD is selling this export water for around \$16 per acre foot to Subds 1,2,3,5, and 6 at the expense of the north valley's unconfined aquifer and Sangre and San Juan creeks that feed this aquifer and serve the senior surface water rights on these streams.

How can Subd. 1 meet its sustainability goals when its aquifers and sources are being mined both for trans-basin export as well as mitigation withdrawals servicing Alamosa Refuge, Blanca Wetlands, and Russell Lakes Wildlife Area?

Subd. 5 board of manager choices have been creating an enormous debt with no effort to retire wells or develop conservation easements. Since the SE's December letter shows favor to Subd 1's "water in/water out" proposal after the past ten years of many other efforts to reduce groundwater use in an over-appropriated aquifer and in the long absence of state rules while expansion of use prevailed, why do we pretend that all the other subdistricts should spend a decade to learn the exact same truth?

At the Ag Conference, panel members Erin Nissen and Mike Jones shared family stories of changes to deal with their issues of less water. Nathan Coombs, on that panel, from a different subdistrict, expressed what folks in every subdistrict have had to deal with: "any incentives to cut back on water have to make sense." He said, "we're just kind of starting the process...nowhere near as advanced as Erin and Jeff McCullough," who described changes that his family has made in the past 20 years to be good stewards and see farming survive.

By approving the expanded Subd 5 loan, we, the district board, are inadvertently committing to support the continuation of the trans-basin delivery system and its required mitigation, a currently annual 16-18,000 acre foot deficit to the north valley aquifers and the 24/7 pumping effects on native streamflow. This locks in the funding stream for Subd 5 from the district's sale of project water to subdistricts, who are not paying their own stream/river obligations, as was required for Subd 1.

I cannot support the un-augmented pumping of Subd 5 wells and the huge loan which will fall on their family members to repay, or the county if delinquent tax sales of lands no one wants to buy, or any district obligation to make good on this debt. The "water in/water out" plan to save Subd 1 would find Subd 5 hard-pressed to justify its injuries to Saguache Creek Water Users and Subd. 1.

With \$16/acre foot water to pay depletions, who would be interested in well retirement from the senate bill funding?