

**QUARTERLY MEETING OF THE BOARD OF MANAGERS  
OF SPECIAL IMPROVEMENT DISTRICT #5  
OF THE RIO GRANDE WATER CONSERVATION DISTRICT  
April 20, 2022 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; Kit Caldon, Manager; Corey Hill, Manager and Dale Gerstberger, Manager

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

**Staff and Consultants:** Pete Ampe, Hill & Robbins, P.C.; Chris Ivers, Program Manager; Wylie Keller, Water Resource Specialist; Clinton Phillips, Davis Engineering; Rose Vanderpool, Program Assistant; and, April Mondragon, Administrative Assistant.

**Guests:** David Hofmann, Deb Sarason, William Myers, Steve Keller, Ryan Unterrainer, James Stephens, Kim Wheeler, Cody Redden, John Gerstle, Robert, Tony Windham, Mike Dill.

**Meeting Called to Order**

President Schmittel called the meeting to order at 5:05 p.m. A quorum was present for the meeting. The Pledge of Allegiance was recited.

**Approval of the Consent Agenda**

President Schmittel for approval of the consent agenda items:

- Agenda
- January 19, 2022-Quarterly Meeting
- January 19, 2022-Executive Session
- January 27, 2022-Special Meeting
- January 27, 2022-Executive Session
- February 10, 2022-Special Meeting
- February 10, 2022-Executive Session
- February 17, 2022-Special Meeting
- February 17, 2022-Executive Session
- February 24, 2022-Special Meeting
- February 24, 2022-Executive Session
- March 2, 2022-Special Meeting
- March 2, 2022-Executive Session
- March 9, 2022-Special Meeting
- March 9, 2022-Executive Session

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

**Election of Officers**

President Schmittel asked for Election of Officers. Pete Ampe opened up the floor for nominations including self-nominations for President of the Subdistrict Board of Managers and or nominations to maintain the current slate of officers.

A motion was made by Dale Gerstberger to keep the current slate of officers. The motion was seconded by Kit Caldon and unanimously approved.

**Public Comment**

President Schmittel asked for public comment. There were none.

**Attorney's Report**

President Schmittel asked for the Attorney's report. Pete Ampe reported working on various real estate matters and assisting staff with Annual Replacement Plans (ARP's). He highlighted the seven (7) day waiver to extend the time to file the Subdistrict No. 5 Annual Replacement Plan was approved by the State Engineers office. Mr. Ampe provided the date the ARP would need to be

submitted by and gave a brief update on the other Subdistricts. He reported all Subdistricts continue to seek permanent water supplies for remedies.

### **Program Manager's Report**

President Schmittel asked for the Program Manager's report. Chris Ivers presented the financial report which included the Tracking Sheet, Balance Sheet, Statement of Accounts and the Profit and Loss Statement. He highlighted the administration and groundwater total expenses.

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

Mr. Ivers reported working with legal counsel on potential purchases and updating the ARP.

### **Fee Calculation Discussion**

President Schmittel asked for fee calculation discussion. Chris Ivers reported there was some confusion on how fees are calculated, complaints from producers on not enough time to prepare when fees were raised last year. He explained what time of year the budget process begins and highlighted the discussion of setting the fee earlier in the year. Discussion was held on how the Subdistrict could set the groundwater withdrawal fee prior to producers pumping. Different scenarios were discussed.

### **Appeals**

President Schmittel asked for the appeals. Chris Ivers presented the Kim Wheeler appeal and proposed refund amount. He reported the Farm Unit has Rio Grande Canal shares, which were not included in the fee calculation and that the staff recommendation is to approve the appeal.

A motion was made by Kit Caldon to approve the appeal and grant a refund in the amount of \$226.31 and incorporate their shares of Rio Grande Canal going forward. The motion was seconded by Dale Gerstberger and unanimously approved.

### **Review and Consider Revisions to the Groundwater Allocation Rules**

President Higel asked for review and consider revisions to the Groundwater Allocation Rules. Chris Ivers presented the latest draft of the Groundwater Allocation Rules. He reported the document had been reviewed by the District's attorney and engineer. Mr. Ivers explained the allocation changed from an ARP year to a water year eliminating the need for a May 1<sup>st</sup> meter reading for the wells in the Subdistrict. He also reported changing the ten (10) year average to the five (5) highest years in the ten-year period and any year the well was inactive will not count. Mr. Ivers reported the variance requests can be made on a case-by-case basis and allocations may be carried over into the following water year.

A motion was made by Kit Caldon to approve the changes to the revised Rules and Regulations Governing Groundwater Withdrawal Allocations for Subdistrict Wells.

A discussion was held on filling a well as inactive vs. a zero reading.

Kit Caldon withdrew his motion.

David Hofmann explained what his office will be enforcing in connection with well meters.

A motion was made by Corey Hill to change the inactive to one (1) acre foot. The motion was seconded by Kit Caldon and unanimously approved.

A motion was made by Corey Hill to approve the Rules and Regulations Governing Groundwater Withdrawal Allocations for Subdistrict Wells with all of the changes as discussed. The motion was seconded by Kit Caldon and unanimously approved.

### **Executive Session**

President Schmittel asked for a motion to enter into executive session to receive legal advice concerning the lease/purchase of real property. A motion was made by Corey Hill 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 receive legal advice concerning the lease/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.

A motion was made by Kit Caldon to accept the purchase and sale agreement for the Hazard property and water rights at the current terms and request the Board of Directors do the same, with staff and consultants to have the ability to make any minor corrections or changes as necessary to complete the transaction. The motion was seconded by Corey Hill and unanimously approved.

**Approval of the 2022 Annual Replacement Plan**

President Schmittel asked for approval of the 2022 Annual Replacement Plan (ARP). Chris Ivers presented the ARP, he highlighted the number of wells, total projected annual diversions, historical groundwater withdrawals, NRCS forecast stream flows on Saguache Creek and the Rio Grande. Mr. Ivers provided the projected net groundwater consumptive use, projected injurious depletions, the MOU with Subdistrict No. 4 for Well Injury Payment agreements as well as the total stream depletions for the plan year. He highlighted the Closed Basin Project allocation and reported the Subdistrict would be filing an SWSP once the Hazard purchase was finalized.

A motion was made by Kit Caldon to approve the ARP and present it to the Board of Directors. The motion was seconded by Corey Hill and unanimously approved.

**Direction for Staff**

President Schmittel asked for direction for staff. There were none.

**New Business**

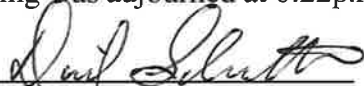
President Schmittel asked for new business. There was none.

**Next Meeting**

The next quarterly meeting is scheduled for July 20, 2022.

**Adjournment**

The meeting was adjourned at 6:22p.m.



President



Vice-President/Secretary/Treasurer