

**QUARTERLY MEETING OF THE BOARD OF MANAGERS  
OF SPECIAL IMPROVEMENT DISTRICT #6  
OF THE RIO GRANDE WATER CONSERVATION DISTRICT  
November 3, 2020 at 1:30 p.m.  
By Zoom/Teleconference**

**Present:** Tyler Faucette, President; Virgil Valdez, Vice-President; Ronald Reinhardt, Secretary/Treasurer; Kenneth Reynolds, Manager; Gerald Faucette, Manager; Rodney Reinhardt, Manager; Ted Heersink, Manager; Peter Clark, Manager; Mario Curto, Manager; and, Armando Valdez, Ex-Officio Member.

**Absent:** Rodney Archer, Manager.

**Staff and Consultants:** Pete Ampe, Hill & Robbins, P.C.; Cleave Simpson, General Manager; Amber Pacheco, Program Manager; Rose Vanderpool, Program Assistant; Cheryl Anderson, Office Manager; Clinton Phillips, Davis Engineering; Michael Carson, Database Administrator; and, April Mondragon, Administrative Assistant

**Guests:** Virginia Christensen; Deb Sarason, David Hofmann, and Craig Cotten, DWR.

**Meeting Called to Order**

Vice President Valdez presided over the meeting; he called the meeting to order at 1:30 p.m. A quorum was present.

**Approval of Agenda**

Vice-President Valdez asked for changes, amendments or a motion to approve the agenda. A motion was made to approve the agenda as presented. The motion was seconded and unanimously approved.

**Approval of the Minutes**

Vice-President Valdez asked for changes or a motion to approve the following minutes:

- August 4, 2020-Quarterly Meeting
- September 14, 2020-Special Meeting
- October 7, 2020-Special Meeting

A motion was made to approve the minutes as presented. The motion was seconded and unanimously approved.

**Public Comment**

Vice-President Valdez asked for public comment. There was none.

**Attorney's Report**

Vice-President Valdez asked for the Attorney's Report. Pete Ampe reported he is assisting Clinton Phillips with an Alternate Transfer Mechanism and working with Amber Pacheco on continuing to seek replacement sources. Mr. Ampe reported all of the other Subdistricts are up and running except for Subdistricts No. 4 and 5 who continue to work on finding water remedies and to secure Well Injury Payment agreements.

**Program Manager's Report**

Vice-President Valdez asked for the Program Manager's Report.

- **Financial Report**

Amber Pacheco presented the Subdistrict No. 6 financial report. She highlighted the amount owed to the Rio Grande Water Conservation District. Ms. Pacheco presented the Balance Sheet and Profit and Loss Statement. Ms. Pacheco provided an update on forbearance costs, reservoir storage costs, and the treasurer fees from the counties.

A motion was made to approve the financial report. The motion was seconded and unanimously approved.

- **Update on Replacement Operations**

Amber Pacheco provided the date the Annual Replacement Plan was approved and when the Subdistrict began making replacements on the Alamosa, Conejos and Rio Grande rivers. Ms.

Pacheco reported the Subdistrict was in forbearance the majority of the time, with the exception of one (1) day. Ms. Pacheco updated the Board on the amount of water being stored, where it is being stored, and the projected total amount of replacements including forbearance.

#### **Discussion and Possible Action on Long-term Storage Agreement with San Luis Valley Irrigation District**

Vice President Valdez asked for the discussion and possible action on a long-term storage agreement with San Luis Valley Irrigation District. Cleave Simpson provided the background information on the concept of a long-term storage agreement with the Rio Grande Water Conservation District and the Subdistricts. Mr. Simpson highlighted the amount of storage being offered and the dollar amount per acre-foot. Mr. Simpson reported the Rio Grande Water Conservation District as well as Subdistrict No. 1 and 2 are interested in pursuing an agreement and asked if Subdistrict No. 6 would also be interested. Mr. Simpson reported the storage would be allocated through a Memorandum of Understanding and could also be used for post-plan impacts. Discussion was held on the water being stored at the bottom of the reservoir and if the Taos Valley No. 3 water could be transferred into the reservoir.

A motion was made to proceed with the concept of a long-term storage agreement. The motion was seconded and unanimously approved.

#### **Discussion and Possible Action on Purchase of Water Currently Stored in Platoro Reservoir**

Vice-President Valdez asked for the discussion and possible action on purchase of water currently stored in Platoro Reservoir. Amber Pacheco updated the Board on an offer from the Richfield Canal to purchase stored project allocation water. President Faucette reported on the potential amount of evaporation loss. Ms. Pacheco provided the dollar amount per acre-foot for the proposed water and the total amount of depletions the Subdistrict owes on the Conejos River.

A motion was made to purchase the water from the Richfield Canal Company. The motion was seconded and unanimously approved.

#### **Discussion and Possible Action on BLM Lovato Lease Rate Increase for 2021**

Vice-President Valdez asked for the discussion and possible action on BLM Lovato lease rate increase for 2021. Amber Pacheco updated the Board on a meeting she had with the BLM and discussions around a rate increase for the Lovato water they make available to the Subdistricts. Ms. Pacheco reported how the Subdistrict offsets the BLM's pumping fee in exchange for a lease of the Lovato water. Cleave Simpson provided some suggested language to include in the agreement and reported challenging the BLM to pump less water. Discussion was held on placing a cap to limit their pumping and the threatening nature of the letter submitted by the BLM.

A motion was made to accept \$80 per acre-foot for 2021 BLM Lovato lease. The motion was seconded and unanimously approved.

#### **Discussion and Possible Action on Appeal of 2019 Subdistrict Groundwater Withdrawal Fees**

Vice-President Valdez asked for the discussion and possible action on appeal of 2019 Subdistrict Groundwater Withdrawal Fees. Amber Pacheco reported receiving an appeal filed by Tyler Faucette on fees assessed to his well in 2019 and paid in 2020. Tyler Faucette reported being overcharged and felt the error occurred in the consumptive use calculation in the modeling. Ms. Pacheco explained how the fee calculations are done. Craig Cotten reported he is working with the modelers to come up with a resolution. Cleave Simpson highlighted the possibility of Mr. Faucette's well being measured incorrectly and what the best way to remedy it would be. Discussion was held on treating fish wells equally, how different types of wells are being measured, and the need to handle each on a case-by-case basis. Ms. Pacheco reported Mr. Faucette has paid his fees and has met the eligibility requirements to file an appeal.

A motion was made to approve the Tyler Faucette appeal and issue a refund based on Mr. Faucette's submitted calculations. The motion was seconded and unanimously approved. Tyler Faucette abstained.

#### **Update from Joint Subdistrict Work Group Meeting**

Vice-President Valdez asked for the update from the joint Subdistrict work group meeting. Tyler Faucette provided an update on the work session. Mr. Faucette highlighted the process, the discussions on what they wish to accomplish and how to avoid competition. Cleave Simpson suggested including Subdistrict No. 1 in the conversations and work sessions. Mr. Faucette

encouraged other Board of Managers to get involved and provided the date of the next joint Subdistrict work session.

**Direction for Staff**

Vice-President Valdez asked for direction for staff. Amber Pacheco highlighted the directions she was given as well as the routine tasks she would be working on. Ms. Pacheco provided the names of the Board of Managers that are up for re-appointment and reported she has submitted letters to the ditch companies.

**Next Meeting**

A Special Meeting was scheduled for November 24, 2020, at 7:30 a.m. The annual meeting was scheduled for February 10, 2021, at 1:30 p.m.

**Adjournment**

A motion was made to adjourn the meeting. The motion was seconded and unanimously passed. The meeting was adjourned at 3:00 p.m.

  
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President

  
\_\_\_\_\_  
Secretary/Treasurer

11/9/2020

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**GROUNDWATER WITHDRAWAL FEE- INFORMATION:**

Parcel Number	WDID	Meter Number	Assessed Pumping Fee	Appellant's Requested Change
555519300032	2205022	19-08455 GP07-8-1251	\$39435.48	\$22831.63

Explanation of change:

See attached

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11/9/2020

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### REQUEST FOR APPEAL OF SUBDISTRICT NO. 6 ASSESSED FEES

Return To: Rio Grande Water Conservation District  
C/O Subdistrict No. 6  
8805 Independence Way  
Alamosa, CO 81101

Telephone: 719-589-6301  
Fax: 719-992-2026

#### CONTACT INFORMATION:

	Owner	User
Name:	Tyler Faucette	Tyler Faucette
Address:	22862 CR 24 Sanford, CO	
Telephone:	(719) 588-2200	
E-Mail:	Tyler@coloradocatch.com	
Farm Unit No.	401820	
Parcel No(s).	555519300032	

PLEASE CHECK BOXES OF FEES BEING APPEALED: (For each requested change please provide explanation and supporting documentation.)

**ADMINISTRATION FEE**

Parcel No.	WDID	Shared Wells on one meter

Explanation of change:

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Subdistrict 6 board of Managers,

This letter is to explain the information and background of the appeal of assessed fees that I am filing. I have been in prolonged discussions with the state concerning the flawed response function for my fish farm well WDID# 2205024. The State has set my CU at 35% of my average pumping, which for 2014-2018 was 4621.32 acre feet. Using the response function provided the subdistrict then multiplies 4621.32 acre ft. by 35% and then divides it by .83 to adjust back to what the necessary withdrawals would be to achieve the calculated CU. When the state provided the response function for my well, they forgot to give me any credit for the 18 Shares of the Commonwealth ditch system that I own and divert onto my farm. The state allocated 100% of the consumptive use of my crop to my well, which is not correct. While water from the commonwealth is available, I use it on my crops first and then make up any difference that exists with my well water. I am limited to pumping 2800 gpm which is short of supplying a full water supply to all 630 acres that I farm, so the withdrawal limitation is further proof that the state is over charging me for the CU associated with my well. All of the well water that is not consumed by the crops on my farm is discharged into the 20 ft lateral and/or the Norton Drain and as such, belongs to the System at that point as a surface return. The legal precedent set by the state with the wells in the Other category is that once the original owner of the pumped water loses dominion and control of that water there is no further CU attributed to that well, even if it is available for diversion by subsequent water users.

I have prepared a spreadsheet that details my crop history, pump withdrawals and commonwealth deliveries from 2014-2018. My crop history is verifiable through FSA, the withdrawals and total commonwealth diversions can be verified with the Colorado Dept of Water Resources. I have owned the 18 shares of Commonwealth for all the years in question.

The original fee that was assessed was as follows:

5 yr pumping average	4621.32
CU percentage provided by State X	35%
Total CU	1617.462
Subdistrict correction factor to	/
Adjust to total withdrawals	.83
Total withdrawals for CU	1948.749
Fee of 20.20 per acre foot	20.20
Withdrawal fee	\$39364.74
Admin fee	\$ 430.00
Total fee	\$39794.74

My actual fee was \$39435.48 so there must be rounding in the actual response function that I am not accounting for.

I feel that the following fee calculation follows the precedents set by the state with the other wells in the "other" category and is a fair representation of what actually occurs on my farm. I have used the following assumptions for crop CU, I believe that I am being more than fair.

Alfalfa 30", Barley 20", Canola 20", Oats 18", new Alfalfa 24", and Sorghum 20"

Average Crop CU 2014-2018	1322.05
Adjustment for total Water needs	/.83
Total Applied Water	1592.8341
Average Commonwealth received	
2014-2018	792.3963
Net Well requirements	800.4378
New fee	\$16603.84 Includes admin fee of \$435.00
Fee paid 2020	\$39435.48
Refund	\$22831.63

In the future I would propose that my fee be calculated as proposed to avoid needing to file an appeal each year.

Thank you for your consideration,

Tyler Faucette

Well WDID # 2205024

Parcel # 555519300032

Tyler Faucette Wiesbart Farm CU and Commonwealth information

I own 18 Shares of the Commonwealth irrigation system, all 18 shares are diverted and used on the acreage listed below

Field	Acres	2014 Crop	2014 CU	2015 Crop	2015 CU	2016 Crop	2016 CU	2017 Crop	2017 CU
W1	202.15	alfalfa	505.375	alfalfa	505.375	alfalfa	505.375	alfalfa	505.375
W2	214.56	alfalfa	536.4	alfalfa	536.4	barley	357.6	barley	357.6
W3	108.78	Barley	181.3	Barley	181.3	barley	181.3	new alfalfa	217.56
W4	39.9	new alfalfa	79.8	alfalfa	99.75	alfalfa	99.75	alfalfa	99.75
W5	72.43	sorghum	120.7	Barley	120.7	barley	120.7	new alfalfa	144.86
Total Cu			1423.6		1443.5		1264.7		1325.1

Assumed CU

Alfalfa	30"	Sorghum	20"
Barley	20"		
Canola	20"		
Oats	18"		
New Hay	24"		

Common Wealth Water

	2014	2015	2016	2017
Total Diversions	55562.5	57380.5	62780.5	75264.9
60% delivery/40% ditch loss	33337.5	34428.3	37668.3	45158.94
Acre ft/share 732.1625 shares	45.532924	47.022757	51.448009	61.678848
My delivery 18 shares	819.59264	846.40964	926.06409	1110.2196
Net difference to be covered by well	604.0	597.1	338.7	214.9

Well diversions from State records

2019	3978.94 AF	Approved
2018	4814.39 AF	Approved
2017	4478.38 AF	Approved
2016	4818.93 AF	Approved
2015	4646.12 AF	Approved
2014	4348.78 AF	Approved
2013	4400 AF	Approved
2012	4124.75 AF	Approved
2011	4188.25 AF	Approved
2010	4430.09 AF	Approved
2009	4440.37 AF	Approved

Average pumping

Response function calculations (Avg div)X

Average farm CU adjustment to be equal to sprinkler calculations

Commonwealth Diversions

New fee basis Adjusted CU less Commonwealth Diversions



sted below.

2018	2018	2019	2019
Crop	CU	Crop	CU
forage oats	303.2	barley	336.9
barley	357.6	alfalfa	536.4
oats/alfalfa	272.0	alfalfa	272.0
alfalfa	99.8	alfalfa	99.8
barley	120.7	canola	120.7
	1153.2		1365.7

2018	2019
17605.5	75171.1
10563.3	45102.66
14.4275348	61.601980
259.695627	1108.8350
893.5	256.9

2014-2018 4621.32

(.35)/(.83) 1948.75 this is what my 2020 fee was based on

2014-2018 1322.05  
ons 1592.83413 CU/.83

2014-2018 792.396250

alth Diversion 800.437880 acft  
Fee \$16,603.85 includes \$435 admin fee  
Paid \$39,435.48  
Refund \$22,831.63