

**RIO GRANDE WATER CONSERVATION DISTRICT  
BOARD OF DIRECTORS QUARTERLY MEETING**

**April 21, 2020 at 10:00 A.M.**

**By Zoom Teleconference Only**

**Present:** Greg Higel, President; Brian David, Vice-President; Dwight Martin, Secretary/Treasurer; Peggy Godfrey, Director; Cory Off, Director; Armando Valdez, Director; Mike Kruse, Director; and, Steve Keller, Director.

**Absent:** Bill McClure, Director; and Mike McClure, Director.

**Staff and Consultants:** David Robbins, Hill & Robbins. P.C.; Cleave Simpson, General Manager; Clinton Phillips, District Engineer; Amber Pacheco, Program Manager; Marisa Fricke, Program Manager; Chris Ivers, Program Manager; Rose Vanderpool, Program Assistant; Linda Ramirez, Program Assistant; Tim Carden, HCP Coordinator/Program Assistant; Cheryl Anderson, Office Manager; Michael Carson, Database Administrator; and April Mondragon, Administrative Assistant.

**Guests:** Monica McCafferty, Becky Brooks, Kathy Gardner, David Hofmann, Rio Del la Vista, Craig Cotton, Morgan Garcia, Heather Dutton, Daryl Kohut, Emma Ressor, Christine Arborgast, Brenda Felmler and Ryan Unterreiner.

**CALL TO ORDER**

President Greg Higel called the meeting to order at 10:15 a.m. There was a quorum present for the meeting.

**INTRODUCTION OF STAFF AND GUESTS**

President Greg Higel welcomed all those present and asked for introductions.

**APPROVE AGENDA**

President Higel asked for amendments or a motion to approve the agenda. A motion was made by Armando Valdez to approve the agenda as presented. The motion was seconded by Dwight Martin and unanimously approved.

**APPOINT NEW DIRECTOR FROM RIO GRANDE COUNTY**

President Higel welcomed Steve Keller and thanked Brian David for his time and service to the Board of Directors. President Higel asked for the appointment of the new director from Rio Grande County. David Robbins swore in Steve Keller as the new Board of Director representing Rio Grande County. Steve Keller as well as the existing Board of Directors thanked Brian David for his service.

**ELECTION OF OFFICERS**

President Higel asked for the election of officers and turned the meeting over to David Robbins. Mr. Robbins opened up the floor for nominations for President of the Board of Directors currently held by Greg Higel. A motion was made by Dwight Martin to nominate Greg Higel as President of the Board of Directors. The motion was seconded by Armando Valdez. Armando Valdez made motion for nominations to cease. The motion was seconded by Dwight Martin and unanimously approved. Greg Higel was nominated President by acclamation.

The meeting was turned over to President Higel. President Higel asked for nominations for Vice President currently held by Brian David. A motion was made by Cory Off to nominate Armando Valdez as Vice President. The motion was seconded by Dwight Martin. Cory Off made a motion for nominations to cease. The motion was seconded by Dwight Martin and unanimously approved. Armando Valdez was elected Vice President by acclamation.

President Higel asked for nominations for Secretary/Treasurer. A motion was made by Armando Valdez to nominate Dwight Martin as Secretary/Treasurer. The motion was seconded by Cory Off. Armando made a motion for nominations to cease. The motion was seconded by Cory Off and unanimously approved. Dwight Martin was elected Secretary/Treasurer by acclamation.

## **APPROVE THE CONSENT AGENDA ITEMS**

President Higel asked for a motion to approve the consent agenda items:

- January 21, 2020-Quarterly Meeting Minutes
- February 24, 2020-Special Meeting Minutes
- February 24, 2020-Special Meeting Executive Session Minutes

Cleave Simpson reiterated the importance of the Board of Directors using their microphones during meetings to insure an accurate record.

A motion was made by Mike Kruse to approve the consent agenda items. The motion was seconded Dwight Martin and unanimously approved.

## **PUBLIC COMMENT:**

President Higel asked for public comment. There were none.

## **FINANCIAL REPORT**

President Higel asked for the Financial report. Cleave Simpson highlighted the profit and loss statement, the balance sheet details and reported the status of Subdistrict No.'s 4 and 5 approved Plans of Water Management as well as the plan moving forward. Mr. Simpson highlighted the check register which included routine costs, Sigler Communication costs and expenses for pressure transducers from HRS Consultants.

A motion was made by Mike Kruse to approve the financial report. The motion was seconded by Armando Valdez and unanimously approved.

## **MANAGER'S REPORT**

President Higel asked for the Manager's report. Mr. Simpson reported on the following:

- *Consider Memorandum of Understanding with Alamosa County for payment in lieu of taxes for property acquisitions made in Alamosa County.*

Cleave Simpson highlighted the details of an MOU with Alamosa County for payment in lieu of taxes for property acquisitions made in Alamosa County. David Robbins provided further clarification. Mike Kruse commented on permanent CREP and the effect on the value of the property.

A motion was made by Mike Kruse to approve the Memorandum of Understanding with Alamosa County for payment in lieu of taxes for property acquisitions made in Alamosa County. The motion was seconded by Cory Off and unanimously approved.

- *Consider Ex-Officio appointments to all Subdistricts*

A motion was made by Cory Off to appoint Mike Kruse as the Ex-Officio to Subdistrict No. 1. The motion was seconded by Peggy Godfrey and unanimously approved.

Mike Kruse asked for clarification of ex-officio duties and voiced his concern of not being able to be an influence. David Robbins explained the duties of an ex-Officio. Peggy Godfrey reassured Mr. Kruse his experience would be encouraging to Subdistrict No. 1. Armando Valdez further explained the active role of the liaison between the District and the Subdistrict. Mr. Kruse reiterated he did not want to lose his ability to speak up. Mr. Robbins stated the ex-officio would be representing the District Board, not speaking for the District but as an individual.

The motion was voted on and passed unanimously.

- *Consider interest in District partnership with NRCS on RCPP-AFA application*

Cleave Simpson provided the background information regarding the potential partnership application. Mr. Simpson stated the proposal would focus on the confined aquifer withdrawals. Mr. Simpson further explained how the funding would potentially function and asked for the Boards input. The amount per acre foot was discussed as well as how the potential aquifer conservation program could be structured. Discussion was held on the innovative idea and how

the valuation per acre foot would be calculated. Further discussion was held on whether or not the Board could financially get involved and how the Subdistricts could participate.

Rio de la Vista updated the Board on her engagement with the Colorado Film Commission regarding a thirty (30) minute documentary film regarding water in the San Luis Valley. Mr. Simpson stated this was not a funding request at this point but wanted to bring it to the Board. David Robbins stated if the Board agrees to do the video, they may want Lisa Sigler to coordinate with Rio de la Vista in order to keep our message consistent. Peggy Godfrey reported why she would have a difficult time supporting the video. Discussion was held on the cost, Mr. Simpson stated he would work with Ms. De la Vista on a funding request for formal proposal in May.

President Higel thanked Mr. Simpson for his report.

### **PROGRAM MANAGER'S REPORTS**

President Higel asked for the Program Manager's reports.

- ***Subdistrict No. 1- Marisa Fricke:*** Marisa Fricke highlighted the Potato Grain Conference, the 2<sup>nd</sup> Annual Subdistrict No. 1 Summit as well as a survey they sent out. Ms. Fricke reported receiving seventy-seven (77) contracts for wells seeking inclusion on this year's Annual Replacement Plan. Ms. Fricke also reported three (3) Board of Manager terms expiring and requested Board re-appointment. She provided an update on the CREP and Fallow programs as well as meter readings and farm units.

A motion was made by Mike Kruse to re-appoint Jamie Hart, Chris Miner and Miguel Diaz to Subdistrict No. 1 Board of Managers. The motion was seconded by Dwight Martin and unanimously approved.

President Higel thanked Ms. Fricke for her report.

- ***Subdistrict No.'s 2, 3 and 6-Amber Pacheco:*** Amber Pacheco reported participating in the Annual Ag Conference. Ms. Pacheco reported on Subdistrict No. 2 operations, contracts and reported submitting the Annual Replacement Plan on time. Ms. Pacheco provided the status of the model in west Del Norte and the complexity of having two (2) response functions. Ms. Pacheco updated the Board on Subdistrict No. 3. She provided the number of forbearance agreements they were able to secure and thanked the Board of Managers and Armando Valdez for all his efforts. Ms. Pacheco reported on the preliminary water report that was due March 1<sup>st</sup> and explained how an overpayment occurred. Ms. Pacheco also provided a report on Subdistrict No. 6 and stated they were finalizing their first Annual Replacement Plan. She reported working on contracts as well as a project to construct a permanent structure which will allow the Subdistricts to utilize the Monte Vista Canal shares more efficiently, she thanked Chris Ivers and Clinton Phillips for their assistance with the project. Armando Valdez thanked Amber Pacheco for her leadership.

President Higel thanked Ms. Pacheco for her report.

- ***Subdistrict No.'s 4 and 5-Chris Ivers:*** Chris Ivers reported the Board of Managers of Subdistrict No.'s 4 and 5 are working to discuss Well Injury Payments with surface water owners. Mr. Ivers stated Subdistrict No. 5 plans to possibly purchase water rights or build a reservoir because they do not believe Well Injury Payments would work in that area. He also reported both Plans of Water Management were approved by the State Engineer and explained a public hearing held by the District would be the next step. Mr. Ivers stated Subdistrict No. 5 has two (2) Board Members up for reappointment, Corey Hill and Dale Gertsberger, who express interest in continue serving.

A motion was made by Peggy Godfrey to reappoint Corey Hill and Dale Gertsberger to the Subdistrict No. 5 Board of Managers. The motion was seconded by Armando Valdez and unanimously approved.

President Higel thanked Mr. Ivers for his report.

**DISTRICT ENGINEER'S REPORT**

President Higel asked for the District engineer's report. Clinton Phillips reported on the change in the unconfined storage for April 2020, the change between April 2019 and April 2020 and provided the current five (5) year average.

President Higel thanked Mr. Phillips for his report.

**DISTRICT ATTORNEY'S REPORT**

President Higel asked for the District attorney report. David Robbins updated the Board on the publication of the final rule of the Waters of the United States. Mr. Robbins reported they are working with the Rio Grande Water Users and the Conejos Water Conservancy District to use common experts in a couple water cases that all three entities are involved in as a way to save money and avoid duplication, no formal agreement has been entered in. Mr. Robbins updated the Board on Justice Samor's supreme court Santa Maria Appeal case in which the Court sustained Judge Swift's ruling including attorney's costs against Mr. Warner. Mr. Robbins reported on all of the research and work done by Justice Samor prior to his ruling. The opinion would be forwarded to the Board of Directors.

President Higel thanked Mr. Robbins for his report.

**STEALEY II-BECKY BROOKS**

President Higel asked for the Stealey II report. Becky Brooks provided an update on the legislature. Ms. Brooks reported the legislatures executive committee discussed reconvening on May 18<sup>th</sup> and would continue to observe the directive of social distancing. They will be looking to pass a budget, school finance bill and receive direction on how the federal money could be utilized. Ms. Brooks reported the state budget was in dire condition and there would not be an interim committee this year as they are trying to limit meetings with more than ten (10) people. Ms. Brooks also reported on a number of bills not being looked but being laid over to next year.

President Higel thanked Ms. Brooks for her report.

**KOGOVSEK AND ASSOCIATES-CHRISTINE ARBOGAST**

President Higel asked for the Kogovsek and Associates report. Christine Arbogast updated the Board on the appropriation process and stated staff continues to write bills. Ms. Arbogast reported on the bills that are likely to remain dormant due to the circumstance related to COVID-19. She also reported on the infrastructure package, small business loan programs as well as relief funding.

President Higel thanked Ms. Arbogast for her report.

**DIVISION (3) ENGINEER'S REPORT**

President Higel asked for the Division (3) Engineer's Report. Craig Cotton presented a power point presentation which showed the estimated annual flow at Del Norte, the obligation amount to the downstream states as well as the current curtailment. Mr. Cotton provided the Division three (3) groundwater use rules compliance date and reported Michael Gonzales is the new Chief District and Water Judge. Mr. Cotton provided an update on the Rio Grande Compact Article seven (7) restrictions and the status of the Rio Grande Reservoir outlet works repair. Mr. Cotton presented the snow pack summary, the Colorado SNOTEL Snow Water Equivalent for the Colorado basins as well as the precipitation outlook for May- July 2020. Mr. Cotton thanked the Rio Grande Water Conservation District staff and his staff for their work on the Annual Replacement Plans. Mr. Cotton reported on an open position but due to possible budget cuts was told not to fill the position.

President Higel thanked Mr. Cotton for his report.

David Robbins updated the Board on the Texas vs. New Mexico rulings.

**OTHER REPORTS OR COMMENTS**

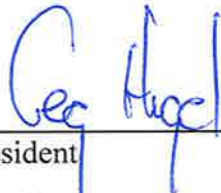
President Higel asked for other reports or comments. Brian David thanked the Board of Directors and Steven Keller for stepping into the position on the Board. Cleave Simpson stated they would work out a date and time for the Subdistrict No. 4 and 5 Plan of Water Management public hearing and would publish the notice accordingly. Discussion was held on how the July

quarterly meeting would be conducted, further discussion to come. Cory Off suggested having a gathering in honor of Brian David after COVID-19 restrictions are lifted.

**ADJOURN**

Meeting was adjourned at 12:44 p.m.

The next scheduled quarterly meeting will be held on July 21, 2020.

  
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President

  
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Secretary/Treasurer

Memorandum of Understanding Between the  
Rio Grande Water Conservation District  
and  
Alamosa County, Colorado

April 21, 2020

This Memorandum of Understanding (MOU) is entered by and between the Rio Grande Water Conservation District (RGWCD), acting through its Board of Directors and Alamosa County, Colorado (County), acting through its Board of County Commissioners.

**I. FINDINGS**

A. The County was established pursuant to Colorado law as the general government having jurisdiction over the unincorporated land within its boundaries. The County is governed by three elected Commissioners.

B. The County, through the County Treasurer, collects ad valorem property taxes on all privately owned real estate within the County's jurisdiction that have been levied by itself and other units of local government providing services to the County's residents. Examples of public institutions supported through the taxes collected are school districts, water conservancy districts, the RGWCD, special districts and the County.

C. The RGWCD is a political subdivision of the State of Colorado established by the General Assembly for the conservation, use and development of the water resources of the Rio Grande Basin in Colorado (Basin). Its geographical area of authority encompasses some or all of five (5) Counties located within the Basin. The RGWCD is governed by a Board of Directors consisting of nine (9) individuals appointed by the Commissioners of the five (5) Counties.

D. The RGWCD, as a political subdivision of the State of Colorado, is exempt from the obligation to pay ad valorem taxes on real property which owns.

E. Among the responsibilities that have been assumed by the RGWCD is to lead the effort to reduce the amount of consumptive use of water within the Basin in order to achieve long term sustainability of the Basin's water resources in order to secure and protect the social and economic life of the residents of the Basin and the County.

F. The RGWCD's initial efforts to secure a reduction in consumption relied on voluntary acts by the agricultural producers within the Basin. That strategy has not proved to be sufficient and the RGWCD has found it necessary, under some circumstances, to buy farms, individual farm fields and ranches in order to remove the land from irrigation and change the use of the water rights from irrigation to recharge or replacement of stream depletions. This transfer of land from private ownership to public ownership removes the land from the County's tax rolls and reduces the revenue available to the County and the other units of government dependent on ad valorem tax collections.

G. The County supports the RGWCD's efforts to protect the water resources in the Basin to ensure the long-term success of the agricultural sector upon which the economic health of the Basin depends but is concerned about the reduction in ad valorem tax collections cause by the RGWCD's acquisition of irrigated land within the County.

H. In order to offset any loss in tax revenue to the County and the other public agencies supported by ad valorem taxes, the County and the RGWCD have agreed to a 'Payment in Lieu of Taxes' (PILT) policy that will be followed until revoked or modified by either party.

## **II. AGREEMENTS AND COMMITMENTS**

1. The RGWCD will provide the County Treasurer and the Commissioners with a list of the lands that have been acquired by the RGWCD as part of the on-going program to achieve sustainability. The list will include the parcel number, the number of acres in the parcel, and the current land use classification. If and when additional lands are acquired by the RGWCD it will provide the information to the County officials within 10 days of closing on the new parcel.

2. On or before November 10th of each year the County Treasurer will provide a letter to the RGWCD, attention the General Manager, that lists each of the parcels owned by the RGWCD by Parcel Number together with the current Actual Value and the current estimated Assessed Value from the Treasurer's records. The letter will also provide a list of each of the Taxing Authorities legally entitled to impose a mill levy on the listed parcels in the current tax year and the estimated amount of each authorized mill levy.

3. Using the information provided by the County Treasurer the RGWCD will compute the amount of the tax that would be assessed by the County and paid by the property owner if the land were not in public ownership. That computation will involve multiplying the estimated Assessed Value by the total estimated Mill Levy. This calculation will provide a value that represents a fair and equitable PILT for the County to replace any taxes formerly collected from each agricultural parcel acquired by the RGWCD as part of its efforts to achieve sustainability.

4. The value determined to be a fair and equitable PILT by the process set forth in paragraph 3 will be included in the RGWCD draft annual budget and submitted to the Board of the RGWCD for review and approval as part of the budget. When the budget is approved, the RGWCD will transmit the PILT payment to the County Treasurer by March 1. If for any reason the portion of the Budget containing the PILT payment is not approved, the RGWCD will promptly write the County Commissioners and explain the reasons and offer to meet and resolve any concerns.

5. It is agreed and understood by the RGWCD and the County that it is contemplated that the PILT herein described will apply only to the lands described by the RGWCD in the manner set forth in paragraph 1 above. It is the intent of the RGWCD that the County and the other taxing entities should rely on the annual PILT payment in preparing their annual budgets and that the burden is on the RGWCD to justify any deviation from the terms of this MOU.

## **III. GENERAL CONDITIONS**

6. This MOU shall be valid only upon the approval of the Board of Commissioners of the County and the Board of Directors of the RGWCD.

7. This MOU may not be altered or amended in any respect without the written approval of both parties.

8. The terms of this MOU constitute the entire agreement of the two parties pertaining to the subject matter hereof and those terms may only be interpreted and enforced as between the County and RGWCD without granting or affording any right or authority in third parties to interpret or enforce the terms of this MOU.

9. The term of this MOU shall be for ten (10) years but it shall be extended for additional consecutive terms of ten (10) years until such time as one of the parties seeks to cancel or modify it.

10. This MOU may be terminated by either party at any time upon giving notice to the other party no later than October 1 of any year. Termination shall be a matter of right, taking in to account the public purpose sought to be achieved by the parties.

11. Communications related to this MOU shall be sent in writing, either by mail or by electronic e-mail to:

COUNTY TREASURER  
8999 Independence Way / Suite 104  
Alamosa, Colorado 81101

RIO GRANDE WATER CONSERVATION DISTRICT  
General Manager  
8805 Independence Way  
Alamosa, Colorado 81101


12. This MOU shall be governed by the laws of the State of Colorado.

DATED: This 13 day of May, 2020

Alamosa County

Rio Grande Water Conservation District

  
Michael Yohn – Chair of the Board of Commissioners

  
Greg Higel – President of the Board of Directors



## **Rio Grande Watershed Conservation & Education Report**

Spring Programs have been cancelled due to the COVID-19 restrictions. These included:

- Waterfest on the Rio on May 15, 2020
- Envirothon Regional Competition at Adams State
- Envirothon State Competition at Pueblo Fairgrounds

All class, field trips, and afterschool programs after March 15, 2020 and extending until June 2020.

Before spring cancellations, we hosted a winter field site at the 4UR Ranch with High Valley Community Center, taught in Del Norte High School about water administration and history in the San Luis Valley, and were preparing for the Rio Grande Water Leaders Course. In fun news, Bethany was accepted into the Water Education Colorado's state water leaders course, which was supposed to begin in April. The first session was postponed until late May, and will run through October.

### **Summer Programs**

Youth Conservation Camp has been postponed from the original scheduled dates of June 9-11 until August 10-12. Registration is now open online at [www.rgwcei.org](http://www.rgwcei.org). Ages 8-12, capacity set at 60 campers.

Teen Outdoor Stewardship Camp is still scheduled for June 24-27 in partnership with Adams State Adventure Programs. This program is for teens ages 13-16 who are comfortable with somewhat strenuous outdoor activities (hiking, camping, paddleboarding, etc.) This year's theme is Land and includes recreational activities like rock climbing and mountain biking to help teens explore the Rio Grande Watershed's geological features and soil make up. Capacity is set at 20.

### **Quarantine Activities**

During this isolation period, RGWCEI staff are creating digital lessons and online content for use during the school year. We are also currently creating and posting quick videos to illustrate current natural resource-related activities which can be viewed at our Facebook page each week. We have covered the beginning of irrigation season, ditch clearing, and have upcoming topics with field preparation, wildlife using agricultural areas, and will continue to create content around the planting and growing season into harvest. Let us know if you are willing to host us at your farm or ranch to film any agriculturally related topic (we are maintaining social distances of 6 feet, and staff travel alone to the site). Bethany is working in the northwest to central part of the Valley, while Hannah is covering the northeast to south end of the Valley. You can email [rgwcei@gmail.com](mailto:rgwcei@gmail.com).

Thank you for your support of RGWCEI. We are grateful to work in the San Luis Valley and be part of this amazing community.