

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

**September 14, 2020 at 10:00 A.M.**

**By Zoom Teleconference**

**Present:** Greg Higel, President; Armando Valdez Vice-President; Dwight Martin, Secretary/Treasurer; Peggy Godfrey, Director; Cory Off, Director; Bill McClure, Director; Mike Kruse, Director; Steve Keller, Director; and, Zeke Ward, 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; Michael Carson, Database Administrator; and April Mondragon, Administrative Assistant.

**Guests:** Deb Sarason

**CALL TO ORDER**

President Greg Higel called the meeting to order at 10:16 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 Dwight Martin to approve the agenda as presented. The motion was seconded by Bill McClure and unanimously approved.

**PUBLIC COMMENT**

President Higel asked for public comment. There were none.

**REVIEW AND CONSIDER ADOPTION OF THE RESOLUTION TO APPROVE THE PARTIAL YEAR ANNUAL REPLACEMENT PLAN FOR SPECIAL IMPROVEMENT DISTRICT NO. 6 OF THE RIO GRANDE WATER CONSERVATION DISTRICT**

President Higel asked for the review and consider adoption of the resolution to approve the partial year Annual Replacement Plan for Special Improvement District No. 6 of the Rio Grande Water Conservation District. Cleave Simpson thanked everyone that worked to put together the Annual Replacement Plan. Mr. Simpson mentioned the complexity of the Plan and congratulated staff on a job well done. Amber Pacheco presented a summary overview of the Subdistrict No. 6, 2020 partial year Annual Replacement Plan. Mike Kruse questioned the payout of forbearance agreements. Mr. Kruse reported he would meet with Ms. Pacheco to discuss the handling of special water at a later date. Armando Valdez highlighted the challenges and uniqueness of Subdistrict No. 6 and recognized Amber Pacheco and staff for demonstrating good team work and leadership. Peggy Godfrey reported she opposes the resolution and provided her reasoning. Mike Kruse stated the Subdistricts should strive to wean themselves off the Closed Basin Project use, Steve Keller agreed.

A motion was made by Dwight Martin to adopt the Resolution to approve the partial year Annual Replacement Plan for Subdistrict No. 6 of the Rio Grande Water Conservation District. The motion was seconded by Bill McClure. Peggy Godfrey voted nay; the motion passed.

**REVIEW AND CONSIDER ADOPTION OF CLOSED BASIN PROJECT ALLOCATIONS**

President Higel asked for the review and to consider adoption of a resolution making a Closed Basin Project Allocation to Subdistrict No. 6 in the amount of 3,097 acre-feet of water.

A motion was made by Dwight Martin to adopt and approve the Closed Basin Project allocation for Subdistrict No. 6. The motion was seconded by Zeke Ward; Peggy Godfrey voted nay; the motion passed. President Higel requested staff to provide the total distribution of the Closed Basin Project for all Subdistricts up to date.

**DIRECTOR REPORTS**

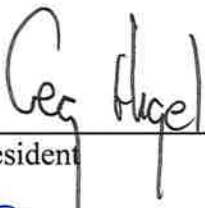
President Higel asked for Director reports. Cleave Simpson reported receiving a letter from John Mattingly, which he read into record. (copy attached) Mr. Simpson stated that Mr. Mattingly is going to publish the letter in a newspaper in Salida, he stated he would provide the Board with a copy. Dwight Martin reported he would oppose the Rio Grande Water Conservation District Board of Directors offering a response to the letter. Bill McClure commended individuals for putting their thoughts forward, whether the Board agrees with them or not. David Robbins reported it would only be a conversation if the Board chooses to engage in a response to Mr. Mattingly's letter.

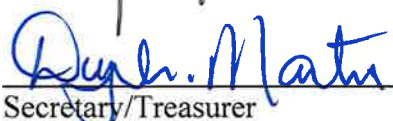
Cleave Simpson reported a special meeting will be held prior to the next quarterly meeting in October. Mike Kruse highlighted a potential conflict in schedules were that to occur.

The next scheduled quarterly meeting will be held on October 20, 2020.

**ADJOURN**

Meeting was adjourned at 11:25 a.m.

  
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President

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

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Cleve, this is an article that will appear in the September issue of Colorado Central monthly magazine published out of Salida by Mike Rosso. He has agreed to publish your response, if you so choose. I appreciate that you are in political position, and it would be awkward, to say the least, for the District to change course on this matter, but I encourage you to give it a chance, and a look. If you become a State legislator, your influence, having been GM of RGWCD and then a State Senator could be immense.

It may be that what I propose is simply not doable, even if rational. But I suggest it would be a mistake to overlook a chance to do this, now that the value of the water has reached a new zenith, and is likely to increase over time. The prior exporters, RWR included, now appear to be visionary, but also guilty of attempted larceny. With this kind of value at stake, and the preposterous ratio of water value to the value of the Valley's ag product, it's a new game in town, and a chance to use this current crisis as a way to bring about a real change in the flawed structure of the ag economy, a change that will take 20 to 30 years, but there is no time like the present to take the first step in a journey of 1000 miles.

I am not a political person, as you probably know. I have, however, farmed for almost 50 years in both the Valley and the Front Range. I have seen water issues from both sides of the Divide. During a stretch of surgeries in Boulder, I studied water law at the CU school, taking Water Law up through the curriculum under Jim Corbridge, Charles Wilkinson, David Getches, and Larry McDonald. I once told Ray Moses that there wasn't an irrigator alive who hadn't stolen water in the dead of night when his crop was burning up, and he told me there wasn't a water lawyer alive who hadn't done the same on paper.

Note, I changed the value of water to SLV ag product from \$150 to \$1 to \$170 to \$1 after re-doing the calculation as shown below. The data on diversions and consumptive use and ag economic product came from District facts sheets.

Good luck in your pursuit of the State Senate.



John Mattingly

## Buy-and-Bank: A Path To a New Agriculture

Ideas often appear simple from outside the political curtain. When that curtain is pulled back, the concealed complexity of those ideas is revealed. Anyone who has ever campaigned for public office at any level, and been elected, knows this well.

A citizen looking at the water situation in the San Luis Valley and having ideas about what to do is deeply different from serving on the Board, or the staff, of the Rio Grande Water Conservation District (District). Acknowledging that, in this case, I live outside the political curtain, and my knowledge is therefore limited, it still appears to me that the District has a chance to do something both needed and extraordinary. And it needs to do it soon.

Instead of putting more resources into fighting water export projects in the Valley, the District should take control of the prospect and the process. Meaning: The District should purchase senior water rights in the Valley from farmers and ranchers, serving in the role of Project Manager for the sale of that water to the Front Range. And then ~~then~~ the District should administer some of the return flows of capital to the Valley to encourage a New Agriculture and bring financial support to the Valley broadly.

The District has the authority to take on such a project and has done so in the past. In 1967, the Valley needed help meeting a large water debt to lower basin states under terms of the Interstate Compact on the Rio Grande. The District joined forces with the federal government to build the Closed Basin Project. The Project filed for and received a salvage decree to pump 117,000 acre feet of ground water (later reduced to around 70,000 a/f) from a hydrologically closed basin between Moffat and Hooper. The District then exported that water to New Mexico, Texas,

and Mexico in an exchange that benefitted Valley irrigators on the Rio Grande and Conejos.

It is now time for the District to join forces with Front Range cities to help pay off a longstanding debt to the Valley's agricultural community that has, for too long, converted valuable resources of land and water into cheap food. The ag economy has created new wealth every year for the Valley economy, taking all the risks of production, only to then take it in the shorts.

The #StopWaterExport industry is run mostly by well-meaning people who have well-paying jobs in water bureaucracies and action groups, not by farmers and ranchers who actually divert water to make a living. The District has put out a fact sheet stating some four basic reasons for #StopWaterExport.

*1. Water export is bad for the SLV economy.*

This is only a defense against selling water to the Front Range if you think the current economy is good. For many, especially with the knock-on effects of the virus, the economy is shaky. And ag business today is not good. Ag commodities have not received parity since the early 1900s and young farmers are bucked off in cactus when they try to start out in the current financial system of top heavy capital formation, rising production costs, machinery prices through the roof, and unreliable revenue.

Ag production today is systemically structured to convert valuable resources into cheap food: at the expense of those resources. It is time for the District to take action to actually conserve those resources, to create a New Agricultural economy. One way this conservation action can happen is for some—approximately 10%—of the Valley's valuable water to be sold to the Front Range, with return flows of capital distributed broadly in the SLV economy in a way that funds local food production, CSA, First Farmer loans, and vertical integration. The ag sector brings new wealth to the Valley every year that has a multiplier effect throughout the economy, but the ag sector currently does not share in the effect, except in a few cases of operators who have vertically integrated.

*2. There is no unappropriated water in the SLV.* While this is true, it is not a real threat. No informed lawyer, entity, or person would even consider filing for groundwater based on there being unappropriated water available. This is not only true in the Valley, it is true throughout Colorado, where all the water is over appropriated.

The real possibility (or threat, depending on your point of view) is that the investment farmers and ranchers in the Valley, who represent a majority of existing operations, will eventually run out the depreciation and income offset advantages of owning an investment farm or ranch, and then want to cash out by selling the historic consumptive use of their water rights.

Investors did not come to the Valley for the economic opportunities of growing alfalfa for \$200 a ton, or potatoes for \$18 a hundred, or barley for \$10 a hundred, prices that are so far off parity that they can rightly be called ridiculous. The investment farmer or rancher bought the deal for the water. They can, and will, sell it in the future.

By slaying paper tigers, like “no unappropriated water in the Valley” the District is ignoring the real possibility that export projects will eventually go forward and the District will spend millions objecting in a futile attempt to stop the inevitable.

*3. Front Range entities have already said they do not want Valley water.* Again, this may be true for some Front Range municipalities, but certainly not all. And the reason those entities may not want Valley water currently is that they do not want to tap into an unsustainable source. With Valley aquifers in decline, and trying to recover in a drought, it's no wonder Front Range municipalities don't want to invest in a draining pool. The project I propose would alleviate that issue by causing the Front Range municipalities to pay it forward: to buy and bank the water until the aquifer is sustainable. This will be a twenty to thirty year project, timelines that water planners and organizations are comfortable with on both sides of the Divide.

Also, it's worth keeping in mind that if the Front Range cannot supply its projected water needs of some 500,000 acre feet in the next twenty years or so, some of those people will come to the Valley. Would you rather sell 100,000 acre feet to the Front Range, or have 250,000 people move to the Valley seeking well permits?

*4. Once a few acre feet of water leave the Valley, there will be rush to sell more and more until the Valley dries up.* Exactly. The value of water on the Front Range is so high that unless there is a responsible entity like the District in charge of the export process, sponsoring necessary legislation and overseeing and directing the return flows of capital back to the Valley's ag sector, the Valley will dry up and we'll all be left to breath dust until our sweat turns brown.

Alternatively, consider:

SLV WATER

1,000,000+ acre feet (a/f) diverted by ag annually  
+/-800,000 a/f consumed annually by crops

!  
!

SLV ag product is	<.....>	Every \$1 SLV ag product
+/- \$400,000,000 annually		requires +/- \$170 worth of SLV water *
◦ Front Range Water is		◦ With no parity for Ag commodities
+/- \$85,000 per a/f		◦ Not sustainable

!  
!

RGWCD (District)		FRONT RANGE (FR) MUNIS
Manager of BUY-and-BANK	<.....>	Contract for SLV water, 100K a/f limit
<b>No middlemen</b>		Issue 30 year water bonds

!  
!

BUY-and-BANK

- District purchases farms w/senior water rights
- District has this authority and has used it: Closed Basin
- District has best water attorneys to structure the transactions
- Purchase is on installment contract with royalties tied to the farmland
  - Farms dry over 3-year phase out to establish cover crops
  - Water is banked for 10-15 years or until aquifer is sustainable**
- By legislation: limit of 100,000 a/f sold to FR after sustainability is reached
- By legislation: banked water qualifies as beneficial use, 70% consumptive
- Administrative protection for banked water through Division 3 and Subdistricts
- Munis assured of sustainable supply, something not available with buy-and-dry
  - Munis get carbon credits for cover crops, to help cover carrying costs
  - District administers the infrastructure of water transport, and trades**
- Consider tunnel through Sangres to gravity feed the Arkansas rather than pipelines
  - District administers the return flows of capital to the Valley
  - Return flows of capital broadly distributed in SLV economy
- Capital to ag businesses, CSA, First Farmer loans, Admin, Infrastructure

The District should appoint a steering committee of relevant professionals to evaluate Buy-and-Bank with an open mind. Though it seems oxymoronic to sell water to conserve water, this is a case—given the totality of circumstances—where it is a necessary, extraordinary, and rational choice.

\*  $800,000 \text{ a/f} \times \$85,000 = \$68,000,000,000 / \$400,000,000 = \$170 \text{ water value for } \$1 \text{ ag product}$

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

**September 14, 2020**

**APPROVING 2020 PARTIAL YEAR ANNUAL REPLACEMENT PLAN  
OF SPECIAL IMPROVEMENT DISTRICT NO. 6  
OF THE RIO GRANDE WATER CONSERVATION DISTRICT**

The Board of Directors of the Rio Grande Water Conservation District (“District”) at a special meeting held on September 14, 2020 in Alamosa, Colorado does hereby resolve that:

WHEREAS, Special Improvement District No. 6 of the Rio Grande Water Conservation District (“Subdistrict No. 6”) was created to conserve and stabilize the water supply and groundwater storage for irrigation, domestic, municipal and other beneficial uses for the water users within the boundaries of Subdistrict No. 6 and remedy injurious depletions caused by groundwater withdrawals from Subdistrict Wells; and


WHEREAS, Subdistrict No. 6 is operating under an approved Plan of Water Management which requires the development of an Annual Replacement Plan showing, among other things, the predicted injurious depletions caused by Subdistrict Well groundwater withdrawals and the manner in which the Subdistrict will remedy those depletions, and the status of the sustainability of the Confined Aquifer underlying Subdistrict No. 6; and


NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the District on the 14<sup>th</sup> day of September 2020 that:

The District hereby accepts and approves the Subdistrict No. 6 2020 Partial Year Annual Replacement Plan to run from September 26, 2020 through April 30, 2021.

ATTEST:

RIO GRANDE WATER CONSERVATION  
DISTRICT

By:   
Dwight Martin  
Secretary/Treasurer

By:   
Greg Higel,  
President



COUNTY OF ALAMOSA            )  
  ) ss  
STATE OF COLORADO            )

Subscribed and sworn to me this 14th day of September, 2020, by Greg Higel, President,  
Board of Directors of the Rio Grande Water Conservation District

Witness my hand and seal.

My commission expires: 6-15-21



April Mondragon  
Notary Public

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

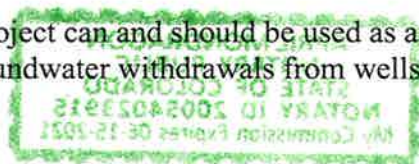
**TO ALLOW SPECIAL IMPROVEMENT DISTRICT NO. 6 TO USE A PORTION OF  
THE PRODUCTION OF THE CLOSED BASIN PROJECT FOR THE REPLACEMENT  
OF INJURIOUS DEPLETIONS UNDER ITS 2020 ANNUAL REPLACEMENT PLAN**

The Board of Directors of the Rio Grande Water Conservation District at a special meeting held on September 14, 2020, in Alamosa, Colorado does hereby resolve that:

WHEREAS, Special Improvement District No. 6 of the Rio Grande Water Conservation District (“Subdistrict No. 6”) was created to conserve and stabilize the water supply and groundwater storage for irrigation, domestic, municipal and other beneficial uses for the water users within the boundaries of Subdistrict No. 6 and to remedy injurious depletions caused by groundwater withdrawals from Subdistrict Wells; and

WHEREAS, Subdistrict No. 3 is operating under an approved Plan of Water Management which requires the development of an Annual Replacement Plan (“ARP”) showing, among other things, the predicted injurious depletions caused by Subdistrict Well groundwater withdrawals and the manner in which the Subdistrict will remedy those depletions; and

WHEREAS, the production from the Closed Basin Project can and should be used as a source of water to remedy injurious depletions caused by groundwater withdrawals from wells included in the Subdistrict’s 2020 Partial ARP.



**RESOLUTION**

NOW, THEREFORE, be it resolved by the Board of Directors of the Rio Grande Water Conservation District that:

1. The District anticipates that the vast majority of this Project Water will be used to replace non-irrigation season depletions from November 1 through March 31. There may be circumstances during the irrigation season when Subdistrict No. 4 cannot deliver water to the Rio Grande below the Chicago Ditch due to intervening dry stream reaches or excessive losses in deliveries. In those circumstances, the District believes Project Water is an appropriate replacement source, but intends that its use during the irrigation season be minimized.

2. The inclusion of 3,097 acre-feet of water from the production of the Closed Basin Project as a source of supply in the Subdistrict No. 6, 2020 Annual Replacement Plan in the amount of 1,700 acre-feet to the Rio Grande River and 1,397 acre-feet to the Conejos River and the use of said water under the 2020 ARP to remedy injurious stream depletions is approved.

