

**ANNUAL MEETING OF THE BOARD OF MANAGERS
OF SPECIAL IMPROVEMENT DISTRICT #5
OF THE RIO GRANDE WATER CONSERVATION DISTRICT
April 19, 2023 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; Dale Gerstberger, Manager; and Kit Caldon, Manager.

Absent: Corey Hill, Manager; and Doug Gunnels, Ex Officio Member.

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

Guests: William Myers, Sally Weir, David Hofmann, Terri Kelling, Lynne Thompson, Tim Lovato, Michelle Lanzoni, Jeff Phillips, Kaylee Schrek, and Tom McCracken.

Meeting Called to Order

President Schmittel called the meeting to order at 5:03 p.m. A quorum was present for the meeting. The Pledge of Allegiance was recited.

Approval of the Agenda

President Schmittel asked for changes, additions or a motion to approve the agenda. A motion was made by George Whitten to approve the agenda as presented. The motion was seconded by Kit Caldon and unanimously approved.

Approval of the Consent Agenda

President Schmittel asked for approval of the consent agenda items:

- October 19, 2022-Quarterly Meeting Minutes
- November 2, 2022-Special Meeting Minutes
- November 21, 2022-Special Meeting Minutes
- November 29, 2022-Special Meeting Minutes
- December 12, 2022-Special Meeting Minutes
- December 20, 2022-Special Meeting Minutes
- January 23, 2023-Quarterly Meeting Minutes
- January 23, 2023-Executive Session Minutes
- January 27, 2023-Special Meeting Minutes
- January 27, 2023-Executive Session Minutes
- February 9, 2023-Special Meeting Minutes
- March 21, 2023-Special Meeting Minutes
- March 21, 2023-Executive Session Minutes
- March 25, 2023-Special Meeting Minutes

A motion was made by George Whitten to approve the consent agenda as presented. The motion was seconded by Kit Caldon 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 Subdistrict No. 5 Board of Managers and or nominations to maintain the current slate of officers.

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

Public Comment

President Schmittel asked for public comment. There was none.

Attorney's Report

President Schmittel asked for the attorney's report. Pete Ampe updated the Board on the success and submittal of the Annual Replacement Plan. He provided an update on the other Subdistricts and asked the Board to begin to consider the timing to file a change case on the Hazard water.

Program Manager's Report

President Schmittel asked for the Program Manager's report. Chris Ivers presented the financial report. He highlighted the total professional, other expenses, payroll, the total owed to the District as well as the amount paid back. Mr. Ivers presented the Balance Sheet and the Profit and Loss statement. He reported on the balance in the checking account and accounts receivable. Mr. Ivers explained the new column added to track the augmentation well expenses.

- *CWCB Loan Update*

Chris Ivers provided an update on when the loan proceeds would be available in order to pay off the Case loan and submit payment on the power line.

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

- *Augmentation Update*

Chris Ivers reported on the augmentation well operation. He highlighted the total gallons per minute and the water level at the well. Mr. Ivers provided an update on the winter water and how it may help with the revegetation and dry up of the property. He also provided an update on the Subdistrict No. 4 Peachwood Farms purchase.

Groundwater Allocation Rules-Review and Consider Variance Request

President Schmittel asked for groundwater allocation rules-review and consider variance request.

- *Jeff Phillips*

Jeff Phillips explained the issues he experienced with his well and requested a variance on his allocation. He highlighted the year he purchased and first irrigated the property. Mr. Phillips provided the acre foot amount he went over on his allocation, the number of acres being irrigated and his calculated average. Chris Ivers provided last year's allocation amount and the acre foot over pumped.

- *Terri Kelling*

Terri Kelling explained owning two (2) wells under fifty (50) gallons per minutes. Chris Ivers reported on the requirement to have meters installed. David Hofmann explained the winter time flow variance option. Ms. Kelling provided the date the meter was installed on the well and why she was requesting a variance.

- *George Whitten and Virginia Sutherland*

Chris Ivers described a metering issue which had been resolved, no action was needed.

- *Kaylee Schreck*

Chris Ivers reported on a meeting he attended with DWR and the Schreck's. He highlighted the request for a variance on the historic diversion on their allocation. Discussion was held on potential errors in past pumping records. Kaylee Schreck explained the issues with the meter and what they propose be changed.

George Whitten announced he has water available to lease.

A motion was made by Kit Caldon to approve the Jeff Phillips variance request for an average up to 269 acre feet. The motion was seconded by George Whitten and unanimously approved.

A motion was made by George Whitten to approve the Terri Kelling variance request to amend the allocation to waive the penalty and recommend she put a valve on the well in the winter time and shut it down just enough so that it does not freeze/collapse and have an allocation of 40 acre-feet for the summer and 5-acre feet in the winter for a total of 45-acre feet. The motion was seconded by Kit Caldon and unanimously approved.

A motion was made by George Whitten to approve the Kaylee Schreck variance request to set the historical average at 720-acre feet. The motion was seconded by Kit Caldon and unanimously approved.

Lynn Thompson suggested a joint work session with the Saguache County Commissioners.

Consider Resolution to Add Deputy General Manager as Signatory on the Checking Account

President Schmittel asked for consider Resolution to add Deputy General Manager as signatory on the checking account. Chris Ivers presented the Resolution and explained the necessity to add the Deputy

General Manager Amber Pacheco as a signatory on the Subdistricts checking account. He reported the account would require two (2) signatures and are audited continuously.

A motion was made by Kit Caldon to add and approve the Resolution to add Amber Pacheco as a signatory on Subdistrict No. 5's bank accounts. The motion was seconded by George Whitten and unanimously approved.

Consider Letter of Support-Yvonne Morfit Saguache County

President Schmittel asked for the consideration of a letter of support for Yvonne Morfit of Saguache County. Chris Ivers reported the consideration was tabled at the last meeting. Tom McCracken gave some information on what the letter would be supporting, however he did not have the full details. The Board of Managers requested more information and stated they would confer with the Board of Directors on the request.

Discussion on Remedies for Injurious Stream Depletions

President Schmittel asked for discussion and remedies for injurious stream depletions. Chris Ivers provided the projected stream flows. He highlighted the calculations based on a dry year and on an average year.

Executive Session to Receive Legal Advice Concerning the Potential Purchase of Real Property

President Schmittel asked for executive session to receive legal advice concerning the potential purchase of real property. A motion was made by George Whitten 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 potential purchase of real property. The Board would take no formal action or position during the executive session.

Direction for Staff

President Schmittel asked for direction for staff. Staff was directed to continue negotiations.

New Business

President Schmittel asked for new business. Chris Ivers asked for discussion on a revegetation plan and ideas for funding. Kit Caldon described some of his experiences with revegetation on property in New Mexico. Mr. Ivers explained how other Subdistricts have approached revegetation projects. Discussion was held on the type of seed to plant, the amount of water that would be needed, cow grazing and the management of the project. Mr. Ivers reported he would reach out to Colorado Open Lands for suggestions. Mr. Ivers explained a request from Warren Collins to re-route the ditch on the northern part of the property. He presented a map showing the location of the ditch and culverts. The Board suggested a work session to tour the site. Mr. Ivers reported traveling to the site daily to refuel the generator.

Next Meeting

A special meeting was scheduled for May 17, 2023 at 5:00 p.m.

The next quarterly meeting is scheduled for July 19, 2023 at 5:00 p.m.

Adjournment

The meeting was adjourned at 7:20 p.m.



President



Vice-President/Secretary/Treasurer



Rio Grande Water Conservation District

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Protecting & Conserving San Luis Valley Water

RESOLUTION

Whereas, the Special Improvement District No. 5 of the Rio Grande Water Conservation District wishes to do banking with local banks in the San Luis Valley, and

Whereas, Cleave Simpson, the General Manager of Rio Grande Water Conservation District, shall be a signatory on all bank accounts held by the Subdistrict, and

Whereas, the Board of Managers of Special Improvement District No.5 of the Rio Grande Water Conservation District desire to have: Amber Pacheco, Deputy General Manager; Chris Ivers, Program Manager; the President, David Schmittel; and the Vice-President/Secretary/Treasurer, George Whitten, as signatories on all bank accounts held by the Subdistrict, and

Therefore, be it resolved, that Special Improvement District No. 5 Board of Managers request that banks allow the General Manager, Deputy General Manager, Program Manager, President, Vice-President/Secretary/Treasurer to discharge the banking business of the Rio Grande Water Conservation District Special Improvement District No. 5.

Signed on this 19th day of April 2023, at the annual meeting of the Rio Grande Water Conservation District Special Improvement District No. 5.

David Schmittel, President

George Whitten, Vice President/Secretary/Treasurer