

**SPECIAL MEETING OF THE BOARD OF MANAGERS
OF SPECIAL IMPROVEMENT DISTRICT #4
OF THE RIO GRANDE WATER CONSERVATION DISTRICT
February 17, 2021 at 4:00 p.m.
By Zoom Teleconference**

Present: David Frees, President; Jan Waye, Manager; Pete Stagner, Vice-President/Secretary/Treasurer; Jeremy Uhlenbrock, Manager and Peggy Godfrey, Ex-Officio Member.

Staff and Consultants: Pete Ampe, Hill and Robbins, P.C.; Chris Ivers, Program Manager; Rose Vanderpool, Program Assistant; Clinton Philips, Davis Engineering; Michael Carson, Data Base Administrator; and April Mondragon, Administrative Assistant.

Guests: David Hofmann, Deb Sarason, Tyrell Mares, Cody Redden, John Mattingly, Chris Schaeffer.

Meeting Called to Order

President Frees called the meeting to order at 4:07 p.m. A quorum was present.

Approval of the Agenda

President Frees asked for amendments or a motion to approve the agenda. Chris Ivers asked to add consideration of the Taylor White, Valley Wide and Chokuri participation contracts. A motion was made by Jeremy Uhlenbrock to approve the agenda as amended. The motion was seconded by Jan Waye and unanimously approved.

Review and Consider Participation Contracts

President Frees asked for review and consider of the following participation contracts:

- ***US Fish & Wildlife Service (USFWS)***

Chris Ivers presented the USFWS participation contract. He reported amending the fee section and provided an update on the Well Injury Payment agreement.

A motion was made by Jan Waye to approve the USFWS participation contract. The motion was seconded by Jeremy Uhlenbrock and unanimously approved.

- ***Kiana Holdings II, LLC***

Chris Ivers presented the Kiana Holdings II, LLC participation contract. Mr. Ivers explained they have quite a few production wells which would raise the Subdistrict's sustainability metric and have not yet signed Well Injury Payment agreements.

A motion was made to table the Kiana Holdings, II, LLC participation contract. The motion was seconded by Jeremy Uhlenbrock and unanimously approved.

- ***Valley Wide***

Chris Ivers presented the Valley Wide participation contract and reported this contract was the same contract that was approved last week with the ownership dispute. Mr. Ivers highlighted the provisions contained in the contract.

A motion was made by Jan Waye to approve the Valley Wide participation contract. The motion was seconded and unanimously approved.

- ***Taylor White and Gregory Wells***

Chris Ivers presented the Taylor White and Gregory Wells participation contract. Mr. Ivers highlighted the gallons per minute the well pumps and how the fees will be structured. Discussion was held on the historical use and David Hofmann provided the decreed pumping amount.

A motion was made by Jeremy Uhlenbrock to approve the Taylor White and Gregory Wells participation contract. The motion was seconded by Jan Waye and unanimously approved.

- ***Chokurei, LLC***

Chris Ivers presented the Chokurei, LLC participation contract. He highlighted the number of wells, gallons per minute and the historical use of the wells. Discussion was held on located the water right owner to regarding a potential Well Injury Payment agreement. Mr. Ivers provided the decreed uses, terms of the contract and highlighted the pending SWSP.

A motion was made by Jeremy Uhlenbrock to approve the Chokurei, LLC participation contract. The motion was seconded by Pete Stagner and unanimously approved.

Review and Possible Consideration of Memorandum of Understanding

President Frees asked for review and possible consideration of Memorandum of Understanding. Pete Ampe presented the proposed memorandum as it was discussed at the last meeting and highlighted the terms of the agreements. Discussion was held on how the funds for Subdistrict No. 5 are going to be raised.

A motion was made by Pete Stagner to approve the Memorandum of Understanding between Subdistrict No. 4 and Subdistrict No. 5 regarding remedy of injurious depletions with San Luis Creek Response Area. The motion was seconded by Jan Waye and unanimously approved.

Discussion on Well Injury Payment Agreements

President Frees asked for discussion on Well Injury Payment Agreements. Chris Ivers updated the Board on the Steve McDowell, Lee Ridgley, Little Rivers Property and Crestone Creek Well Injury Payment agreements.

Executive Session

President Frees asked for a motion to enter into executive session to receive legal advice concerning a potential purchase of real property. A motion was made by Jan Waye to enter into executive session. The motion was seconded by Jeremy Uhlenbrock and unanimously approved.

Mr. Ampe stated the Board was entering into executive session to discuss a potential real property purchase. The Board would take no formal action or position during the executive session.

Action on Executive Session Discussion

President Frees asked for action on executive session. Pete Ampe reported staff has received instructions and no formal decisions have been made at this point.

New Business:

President Frees asked for new business. There were none.

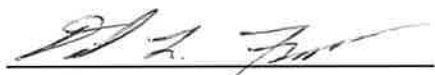
Next Meeting

The next quarterly meeting is scheduled for March 2, 2021 at 9:00 a.m.

Adjournment

A motion was made by Pete Stagner to adjourn the meeting. The motion was seconded by Jan Waye and unanimously approved

The meeting was adjourned at 5:59 p.m.



President



Vice-President/Secretary/Treasurer

**MEMORANDUM OF UNDERSTANDING BETWEEN SUBDISTRICT NO. 4 AND
SUBDISTRICT NO. 5 REGARDING REMEDY OF INJURIOUS DEPLETIONS WITHIN
SAN LUIS CREEK RESPONSE AREA**

February 17, 2021

Groundwater withdrawals from Wells included within Special Improvement District No. 5 (“Subdistrict No. 5) may cause injurious stream depletions to San Luis Creek or other streams within the San Luis Creek Response Area, as that area is defined by the Colorado Division of Water Resources. Subdistrict No. 5 and Special Improvement District No. 4 (“Subdistrict No. 4”) agree that it will be more efficient for Subdistrict No. 4 to provide a remedy for injurious depletions to streams within the San Luis Creek Response Area caused by groundwater withdrawals from Wells included in the Subdistrict No. 5 Annual Replacement Plan than have Subdistrict No. 5 attempt to find independent sources to remedy those injurious depletions within the San Luis Creek Response Area.

Subdistrict No. 4 agrees it will provide the remedy for injurious depletions within the San Luis Creek Response Area from Subdistrict No. 5 Well’s groundwater withdrawals under the terms contained in this Memorandum of Understanding.

Subdistrict No. 4 and Subdistrict No. 5 anticipate that the vast majority of the injurious depletions within the San Luis Creek Response Area will be remedied through the application of Well Injury Payment contracts between surface water rights and the individual Subdistricts. Subdistrict No. 5 will be responsible for all payments to surface water right holders for any due under any Well Injury Payment Contract and Subdistrict No. 4 will not be responsible for any such payments.

Within 60 days of the end of each ARP Year, Subdistrict No. 4 will determine the total costs it incurred in remediating injurious depletions under its ARP within the San Luis Creek Response Area, not including costs under Well Injury Payment contracts. Subdistrict No. 4 will also determine the calculated depletions within the San Luis Creek Response Area due to groundwater withdrawals from wells within its ARP and the total calculated depletions due to Wells within the Subdistrict No. 5 ARP. Subdistrict No. 4 will then determine Subdistrict No. 5’s pro-rata share of the injurious depletions and apply that pro-rata share to its costs incurred as determined above. Subdistrict No. 4 will supply an invoice of that pro-rata share of remedy costs to Subdistrict No. 5 and Subdistrict No. 5 will pay said costs as invoiced within 60 days of receipt.

Term: This Memorandum of Understanding will remain in effect until revoked in writing by either Subdistrict No. 4 or Subdistrict No. 5. Such notice of revocation must be provided at least 180 days prior to the start of an ARP Year.

Signed:

Subdistrict No. 4

By: 
David Frees, President

Date

Subdistrict No. 5

By: _____
David Schmittel, President

Date