

**QUARTERLY MEETING OF THE BOARD OF MANAGERS  
OF SPECIAL IMPROVEMENT DISTRICT #1  
OF THE RIO GRANDE WATER CONSERVATION DISTRICT  
March 3, 2020 at 1:30 p.m.  
Rio Grande Water Conservation District Conference Room  
Alamosa, Colorado 81101**

**Present:** Brian Brownell, President; Carla Worley, Vice-President; Jamie Hart, BOM; Miguel A. Diaz, BOM; Sheldon Rockey, BOM; Clay Mitchell, BOM; Chris Miner, BOM; Les Alderete, BOM; Tony Holcomb, BOM; Asier Artaechevarria, BOM; and Brian David, Ex-Officio.

**Staff and Consultants:** Pete Ampe, Hill & Robbins P.C.; Cleave Simpson, General Manager; Marisa Fricke, Program Manager; Linda Ramirez, Program Assistant; Clinton Phillips, Davis Engineering and April Mondragon, Administrative Assistant.

**Guests:** Mike Kruse, Jake Burris, Cheryl Santi, Donnie Batista, Shawn Schulz, John Kretsinger, Dave Hoffman, Jim Erlich, Dale Barte, John Slane Ernie Myers, Willie Myers, Judy Jolly, Deb Sarason, Chad Spearman, Jay Young, Luke Johnson/Cross Creek Farms, Brian Rue and Andrea Rue.

**Meeting Called to Order**

President Brownell called the meeting to order at 1:40 p.m. A quorum was present.

**Approval of the Agenda**

President Brownell asked for amendments or an approval of the agenda. A motion was made by Sheldon Rockey to approve the agenda as presented. The motion was seconded by Jamie Hart and unanimously approved.

**Oath of Office for Les Alderete**

President Brownell asked for the oath of office for Les Alderete. Pete Ampe swore in Les Alderete.

**Approval of Minutes**

President Brownell asked for the approval of the following meeting minutes:

- August 28, 2019-Corrected
- December 11, 2019
- December 11, 2019

A motion was made by Sheldon Rockey to approve the minutes as presented. The motion was seconded by Clay Mitchell and unanimously approved.

**Election of Officers**

President Brownell asked for the election of officers. Pete Ampe opened up the election with nominations for president, including self-nominations or a motion to retain current officers.

A motion was made by Jamie Hart to retain the current officers. The motion was seconded by Miguel Diaz and unanimously approved.

Jamie Hart thanked Brian Brownell for all of his hard work on Subdistrict. No. 1.

**Public Comment**

President Brownell asked for public comment. There was none.

**Program Manager Report**

President Brownell asked for the Program Manager's Report. Marisa Fricke thanked those involved with completing the Annual Replacement Plan and reported the Subdistrict is working on Contracts. Ms. Fricke stated the injury is being replaced with water from the closed basin, she also reported being approached by Subdistricts' 2, 3 and 6 to lease Santa Maria shares. Ms. Fricke also reported Wayne Brown has requested to lease the West Medano property to put 1,000 head of sheep on it in May or June.

- Financial Report:

Ms. Fricke presented the financial report which included the Balance Sheet, Administration, CREP Balance Sheet, Variable Balance Sheet and the Statement of Cash Flows.

A motion was made by Sheldon Rockey to approve the Financials. The motion was seconded by Carla Worley and unanimously approved.

- 2019 Annual Report Update

Marisa Fricke provided the date the Annual Report was due, a summary of the pumping and water recharge for 2019. Ms. Fricke stated the report has been filed. The table from in the Annual Replacement Plan was presented. Ms. Fricke stated she would like direction from the Board regarding the credit the Subdistrict gained on the lower reach of the Rio Grande and asked if they would like her to approach the Division Engineer to discuss it. The Board consensus was for Ms. Fricke to contact Craig Cotton to see if a credit would be available.

- 2020 Annual Replacement Plan

Ms. Fricke presented the 2020 Annual Replacement Plan and reported that a letter went out regarding coverage of nonexempt wells. Ms. Fricke showed a calendar and highlighted the dates the contracted wells would have coverage from the Subdistrict. Discussion was held on a few domestic wells, potato wells, and the options available to be covered by the Subdistrict. Pete Ampe explained how a temporary certificate through San Luis Valley Conservancy District may get them through the year. Discussion was held on how to get the potato wells covered as well as some not signing up until the very end due to not understanding. Ms. Fricke reported she would be working on the Annual Replacement Plan including the projected pumping amount. Ms. Fricke asked for guidance from the Board to predict pumping for 2020. Discussion was held on the projected amount. Judy Jolly reported on the reduction in barley allotments. Ms. Fricke presented the irrigated ag map and highlighted the grain acres from last year. She also presented the 2019 Conservation Program Acres map which included prevent plant, CREP and Fallow acres. Ms. Fricke reported going with the 230 range and stated she would monitor through the season. Discussion was held on how to remedy injurious depletions using either forbearance agreements or wet water and which would save on storage fees.

A motion was made by Jamie Hart to use wet water to remedy injurious depletions. The motion was seconded by Carla Worley and unanimously approved.

### Attorney's Report

President Brownell asked for the attorney's report. Pete Ampe provided an update on Subdistrict Nos. 2 and 3, he stated they are operating on last year's Annual Replacement Plans and have been successful with forbearance agreements. Mr. Ampe provided the number of forbearance agreements received between the two Subdistricts and provided the reasons for their success. Mr. Ampe reported Subdistrict No. 6 plans to be operating by October 1<sup>st</sup> at the latest and are looking for wet water. Subdistrict No. 4 and 5 approved their Plan of Water Managements and have submitted them to the St. Engineer and will operate on a partial Annual Replacement Plan. Mr. Ampe also provided an update on the upper Rio Grande model for the Rio Grande above Del Norte. Mr. Ampe stated the ongoing budget litigation would be discussed in executive session.

### Engineer's Report

President Brownell asked for the Engineer's report. Clinton provided the change in the unconfined aquifer storage, the current aquifer level, the current five (5) year average and the acre feet needed to get to the -400,000.00 level. Mr. Phillips presented a graph including the next eight (8) years of data which showed to be over two (2) million-acre feet which may be too steep for the state to approve an Annual Replacement Plan. Mr. Phillips presented the total canal diversions, the number of sprinklers needed to be retired for aquifer recovery and the amount of water needed for recovery.

### Board of Managers Open Discussion

President Brownell asked for the Board of Mangers open discussion. President Brownell began the discussions with a report on a meeting held with Clinton Phillips from Davis Engineering. Jamie Hart stated change was needed if the Subdistrict was going to succeed. Carla Worley suggested the Subdistrict develop a plan for the dry years. Discussion was held on what options are available within the Plan of Water Management. Sheldon Rockey questioned the sustainability goal and why it is set where it is. Jay Young asked if the Board has considered purchasing the Wolf Creek Ranch water rights. Asier Artaechevarria asked for a discussion and clarification on the 80,000-acre feet of water that was cut. The Board agreed to continue to work on the lease of Santa Maria water to other Subdistricts as well as work on a contract to renew the sheep lease on the Subdistrict owned property. Discussion was held on other storage options. Ms. Fricke provided an update on new CREP interests.

### Review and Possible Action Items

- Non-Exempt Consumptive Use Table

Marisa Fricke presented the table she and Clinton Phillips developed for the different types of wells.

A motion was made by Clay Mitchell to use the Non-Exempt Consumptive Use Chart. The motion was seconded by Miguel Diaz and unanimously approved.

- ½ Usage Contracts

Marisa Fricke presented six (6) ½ Usage Contracts for consideration (list attached). Ms. Fricke reported staff recommendation is to approve all six ½ Usage Contracts.

A motion was made by Asier to approve all six (6) ½ Usage Contracts as presented. The motion was seconded by Sheldon Rockey and unanimously approved.

- Fallow Contracts

Marisa Fricke presented five (5) Fallow Contracts for consideration (list attached). Ms. Fricke reported staff recommendation is to approve all five (5) Fallow Contracts.

A motion was made by Sheldon Rockey to approve five (5) Fallow contracts as presented. The motion was seconded by Asier Artaechevarria and unanimously approved.

- Participation Contract (s)

Marisa Fricke presented nine (9) Participation Contracts (list attached). Ms. Fricke highlighted the historical use, consumptive use, and the estimated future use of the wells. Pete Ampe provided a legal update on the 2<sup>nd</sup> Amended Plan of Water Management. Ms. Fricke also presented the location of the wells. Discussion was held on the following contracts:

- ❖ Delmer Rochelle
- ❖ Colorado Gators, Inc.
- ❖ Connie Eastman
- ❖ Brian and Andrea Rue
- ❖ Hooper Swimming Pool-Donnie Batista was present and reported on the pool's operation.
- ❖ Compost Technologies
- ❖ Cloud Co Farm-Luke Johnson was present, he reported on the farm operation.
- ❖ Pelotas Farms
- ❖ Hooper Trailer Park/Patricia Stoops/Ray Newmyer.

A motion was made by Carla Worley to accept the Compost Technologies, La Rue, Alligator Farm, Hooper Swimming Pool and Delmer Rochelle each for one (1) year inclusion contracts.

A motion was made by Sheldon Rockey to accept all of the participation contracts except the four (4) contracts with increasing use which are Pelotas Farms, Connie Eastman, and, Hooper Trailer Park each for one (1) year inclusion contracts. The motion was seconded by Carla Worley and unanimously approved.

For clarification, Pete Ampe paraphrased the motion: A motion to accept the four (4) contracts contingent upon their providing evidence that they have purchased or have contracts to purchase surface water credit in an amount sufficient to cover their pumping, essentially paying no variable fee.

The motion was amended to limit the contracts to one (1) year. The motion was seconded by Jamie Hart and unanimously approved.

- Appeals

Marisa Fricke reported on the appeals which were previously provided to the Board. Ms. Fricke's recommendation is to approval of the appeals.

A motion was made by Chris Miner to approve the seven (7) appeals (list attached) based off of Marisa Fricke's recommendation. The motion was seconded by Jamie Hart and unanimously approved.

Mike Kruse provided some of the highlights of his appeal and asked for any questions from the Board. Mr. Kruse reported the water has a Sutron Meter and flume in order to record the water that comes in.

A motion was made by Jamie Hart to approve the Mike Kruse appeal. The motion was seconded by Clay Mitchell and unanimously approved.

- Subdistrict No. 1 Non-Exempt Wells

Marisa Fricke asked the Board to table the consideration of Subdistrict No. 1 Non-Exempt Wells in order to collect more information.

- Excelsior Ditch water within Subdistrict No. 1-Harold Scidmore

Marisa Fricke reported how the matter came up and explained the augmentation plan briefly. Ms. Fricke asked for direction from the Board on how to treat the extra shares of Excelsior water. Deb Sarason explained how the shares should be used. Pete Ampe clarified the question was if the Subdistrict classifies the shares of surface water credit as direct recharge or flood irrigation. Mr. Ampe stated the water would be classified as how it is being used.

### New Business

President Brownell asked for new business. Jamie Hart reported receiving a call from the Rhoads regarding the lease with the Subdistrict and the discussion they had on how it operates. Ms. Fricke reported working with Shawna Rhoads on the calculation based off of the five (5) year average and verified it was communicated prior.

### Executive Session

President Brownell asked for a motion to enter into executive Session to receive legal advice. A motion was made by Sheldon Rockey to enter into executive session. The motion was seconded by Miguel Diaz and unanimously approved.

Mr. Ampe stated the Board was entering into executive session. All discussion would relate to receiving legal advice regarding the potential purchase of real estate. The Board would take no formal position while in executive session.

### Action on Executive Session

Pete Ampe Stated the Board was in executive session and had voted to come out. Discussion was related to receiving legal advice on legal questions and litigation concerning ongoing litigation, discuss and determine positions, develop strategies, and instruct negotiators concerning the purchase or lease of water rights and/or other real property.

### Next Meeting

A special telephone meeting will be held in April to approve the ARP. The next quarterly meeting is scheduled for June 2, 2020 at 1:30.

### Adjournment

The meeting was adjourned at 5:50 p.m.



President



Secretary/Treasurer

## ½ USAGE CONTRACTS

1. Lynn McCullough

12 Fields

2. Mitchell Farms

6 Fields

3. Tom Corzine

1 Field

4. Patrick Crowder

2 Fields

5. Lester Farms

1 Field

6. Deacon Farms

1 Field

## FALLOW CONTRACTS

**1. Steve & Karen Davis**

(1 Field ~ 4 Years)

**2. James E. Bradley**

(1 Field ~ 4 Years)

**3. Helen Whitten**

(1 Field ~ 4 Years)

**4. Scott and Mary Davis**

(1 Field ~ 4 Years)

**5. Steve Davis**

(1 Field ~ 4 Years)

## PARTICIPATION CONTRACTS

1. Compost Technologies
2. Ed Kulp
3. Cloud Co
4. Pelotas Farms
5. Connie Eastman
6. Delmer Rochelle
7. Alligator Farm\*
8. Great Sand Dunes Park\*
9. Hooper Swimming Pool\*

\* Contracts have not been finalized but in the process.

## NON-LARGE CAPACITY WELLS

1. Arthur Holland
2. Triple M Farms
3. Zapata Seed
4. Lobo Farms
5. Martinez Farms
6. Tedd Hennigh
7. Palmgren Farms
8. Hansen Ranches
9. Steve and Karla VanTreese
10. Patricia Stoops
11. Zapata Seed
12. Mark Iness- Compost Tech
13. Charles Versaw
14. Kenneth and Beth Davis



## LARGE CAPACITY WELLS

1. Sheldon Rockey/White Rock
2. Gary Seger
3. Rierson Farms
4. Palmgren Farms
5. Martinez Farms
6. Sheldon Rockey/White Rock
7. Worley Family Farms
8. Norman Slade
9. Jake Burris/Aspen Produce
10. Kenneth and Beth Davis
11. Canon Spud Growers
12. Matt Seger

## 2019 APPEALS

1. GHG

Meter Issue \$4,058.10

2. Kyffin

Meter Issue \$18,273.60

3. Mendel

Reported Meter Reading Incorrectly \$7,599.86

4. Scidmore

Meter Issue \$5,196.60

5. JC Farms

Variance miscalculated \$ 4,793.49

6. Kruse

Requesting SWC for Rcky Hills Seepage 72 acft

7. Jeff McCullough

5 year average on Prairie D & L miscalculated – No dollar amount associated with appeal.

8. Skyline

Meter was not included on state spreadsheet – No dollar amount associated with appeal.