RIO GRANDE WATER CONSERVATION DISTRICT
SPECIAL BOARD OF DIRECTORS HEARING
August 16, 2018 at 1:30 P.M.
RIO GRANDE WATER CONSERVATION DISTRICT CONFERENCE ROOM

Present: Greg Higel, President; Brian David, Vice-President; Dwight Martin, Secretary/Treasurer; Peggy Godfrey, Director; Mike McClure, Director; Lewis Entz, Director; Cory Off, Director; and Armando Valdez, Director.

Excused: Bill McClure, Director.

Staff and Consultants: David Robbins, District Attorney; Pete Ampe, District Attorney; Cleave Simpson, General Manager; Cheryl Anderson, Office Manager; Allen Davey, District Engineer; Clinton Phillips, District Engineer; Marisa Fricke, Program Manager; Linda Ramirez, Program Assistant; Amber Pacheco, Program Manager; and April Mondragon, Administrative Assistant.

Guests: Deb Sarason, David Hofmann, Sheena Moran, Brian Brownell, Jamie Hart, Les Alderete, Mike Kruse, Sheldon Rockey, Mike Mitchell, Carla Worley, Toney Holcomb, David Bradley and Daniel Davis.

CALL TO ORDER
President Greg Higel called the meeting to order at 1:35 p.m. The Pledge of Allegiance was recited. There was a quorum present for the meeting.

INTRODUCTION OF STAFF & GUESTS
President Higel welcomed all those present and asked for introductions.

APPROVE AGENDA
President Higel asked for any changes or additions to the agenda. A motion was made by Peggy Godfrey to approve the agenda as presented. The motion was seconded by Armando Valdez and unanimously approved.

PUBLIC COMMENT
President Higel asked for public comment. Sheena Moran addressed the board on behalf of Skyview Cooling and Farming Tech and requested they grant them ten days to submit their position. Ms. Moran reported not having enough time to discuss Judge Kuenhold’s summary of the facilitated discussion (copy attached to these minutes) with her clients as well as not receiving adequate notice of the hearing. Cleave Simpson stated the notice of the hearing was posted and published according to the required statute. David Robbins stated if the board agreed to give them ten days, a final vote could not be taken until the final information was in hand. The Board heard from some of the Board of Managers of Subdistrict No. 1 who were all in favor of taking a vote at this time. Mr. Robbins provided the Board with the steps that would follow if the Board adopts the plan, rejects the plan or sends the plan back to the Board of Managers with requests for changes.

Mike Kruse reported and pointed out the reasons he was in favor of an increase in the variable fee.

Pete Ampe clarified by stating the purpose of the hearing was to decide whether or not to grant the Subdistrict the power to raise the variable fee as part of the budgeting process.

REVIEW AND POSSIBLE ACTION/ADOPTION OF THE THIRD AMENDED PLAN OF WATER MANAGEMENT FOR SPECIAL IMPROVEMENT DISTRICT #1
President Higel asked for the review and possible action/adoPTION of the Third Amended Plan of Water Management for Special Improvement District #1. Cleave Simpson read statute C.R.S. 37-48-126 in regards to the notice procedure. Peggy Godfrey read her letter into record (copy attached to these minutes). David Robbins reiterated the purpose of the Third Amended Plan of Water Management of Subdistrict No. 1. Mr. Simpson stated he and the staff of Subdistrict No. 1 support the Third Amended Plan of Water Management.

A motion was made by Cory Off to adopt the Third Amended Plan of Water Management for Special Improvement District #1. The motion was seconded by Peggy Godfrey and unanimously approved.
ADJOURN
Meeting was adjourned at 2:22 p.m.

The next scheduled quarterly meeting will be held on October 16, 2018, at 10:00 a.m.

[Signature]
President

[Signature]
Secretary/Treasurer
PLAN OF WATER MANAGEMENT
Special Improvement District No. 1 of the Rio Grande Water Conservation District

Budget Based Variable Fee

4.5.1.3. A Variable Fee based on a Water Value per acre-foot of Net Groundwater Pumped from the wells on each farm or Farm Unit to provide revenue for Subdistrict improvements, including, permanent retirement and/or annual fallowing of the required acreage, protection of senior surface water rights and to develop necessary infrastructure improvements. The Board of Managers will set the Water Value as limited by the reasonable requirements of those budget items funded in whole or in part by the Variable Fee, not to exceed a value of $150.00 per acre-foot of groundwater per year (as adjusted annually in accord with the consumer price index applicable to the Alamosa County region), and as approved by the Board of Directors of the Rio Grande Water Conservation District through the required annual budgeting process, with the following exceptions:

4.5.1.3.1 If the Board of Managers desires to raise the Water Value by more than $15.00 per acre-foot in any one year or if the Board of Managers desires to raise the Water Value up to or exceeding $100.00 per acre-foot, in addition to the regular required budget process, the Board of Managers must:

4.5.1.3.2 Provide public notice that the Board of Managers will hold a public hearing on the intent to raise the Water Value, in the same manner as required to provide public notice for the budget hearing of the Board of Managers; and

4.5.1.3.3 Said notice must be provided at least 35 days prior to the date of the public hearing required in paragraph 4.5.1.3.2; and

4.5.1.3.4 Said public hearing must allow public comment on the intent to raise the Water Value; and

4.5.1.3.5 Said public hearing must be completed at least 35 days prior to the date of the required budget hearing of the Board of Managers.

4.5.1.3.5 Any change in the Water Rate remains subject to approval by the Board of Directors of the Rio Grande Water Conservation District through the required annual budgeting process.
Observations on the Facilitated Discussion

Early this year I was approached by David Robbins, Peter Ampe, John McClure and Bill Hillhouse inquiring if I would be willing to “facilitate” a conversation between the Subdistrict Board of Managers, Farming Technology Corporation (“FTC”) and Skyview Cooling CO. (“Skyview”).

It was ultimately agreed that the Board of Managers would host a public “conversation” at Adam State University. I understood it would focus on the proposed amendment of the Plan of Water Management increasing the Variable Fee, the challenges the Subdistrict faces in meeting its express goals and potential alternative approaches in addition or in the alternative to an increase in the Variable Fee. My role was to moderate the discussion to ensure a positive give and take around the agreed upon challenges in the Subdistrict.

Prior to the two-day discussions at Adams State, the attorneys provided me with memos outlining their respective concerns and hopes for the upcoming discussion. I spoke by phone with counsel individually as well to get a good understanding of the various participants points of view.

In offering “observations” I am very respectful of the process and the vision that has brought the Subdistrict to this point. I admire the farmers, engineers and attorneys who have participated for decades in thinking through this unique method for self-management of the aquifer by the water users. It is admired throughout the state and beyond. If successful, it will be a model followed widely. I looked to keep the conversation and subsequent discussion focused on achievement of the overall goal of the Plan which is stated as:

\[
\text{to provide a water management alternative to state-imposed regulations that limits the use of irrigation wells within the Subdistrict, that is, a system of self-regulation using economic-based incentives that promote responsible irrigation water use and management and insure the protection of senior surface water rights. OP.2.4.3}
\]

My role in moderating the discussion and in these “observations” is (hopefully) to help the Board of Managers and the water users in Subdistrict #1 to choose wisely their next steps to achieve their goals. Everyone who attended the meetings recognized that the status quo is not acceptable. Everyone spoke with the understanding the choices are hard. Everyone was wise enough to acknowledge that they do not need to come to complete agreement on all issues and all participants have strong reason to move forward together as a subdistrict.

**OBSERVATION 1: ALL THE PARTICIPANTS IN THE DISCUSSION ARE PAINFULLY AWARE OF THE FACTS ON THE GROUND AND THE CHALLENGES THOSE FACTS PRESENT**

It was evident that everyone approached the discussion with a sober understanding of the impact of the prolonged drought and that Nature has made very difficult the achievement of the Plan goal:
“to achieve the recovery of sustainable aquifer levels measured by Unconfined Aquifer storage at levels between 200,000 and 400,000 acre-feet below the storage level that existed on January 1, 1976 within 20 years after judicial acceptance of this Plan.”

This goal was set in recognition that the water level in the Unconfined Aquifer is far below the optimal level for sustainability described above. The Plan requires that “in order to restore balance between available supplies and current levels of use it will be necessary to permanently reduce the amount of consumptive use per year from the Unconfined Aquifer by up to 80,000 acre-feet per year, which is represented by the reduction of approximately 40,000 acres.” OP 2.3.3. The Subdistrict’s 2017 report stated that the December 1, 2017 storage value is 733,890 acre-feet below the lowest goal level. The July 31, 2018 newsletter state the aquifer level at -1,084,576 acre-feet and as of August 15, 2018 it is -1,134,000. (As bad as that is, it shows significantly less decline this year as opposed to 2002.)

The meeting took place before pumping began this summer and fear of how much the aquifer might drop if pumping were to repeat past patterns. Everyone was aware of the state of the snowpack, the flow at Del Norte and the state line as of the meeting and the grim forecast for the summer.

The Board of Managers is considering adjustment of the fees and charges “within the economic means of the irrigators” as well as “other steps.” The discussion follows many public meetings of the Board discussing these issues.

There was also a common concern that the CREP Programs and the Fallowing Program had not attracted sufficient participation to “reduce the number of acres irrigated in the Subdistrict by 40,000.” Considerable time was devoted to how to improve the CREP Programs to make them more attractive.

On the other hand, there was pride in the success of the Plan in addressing the injurious depletions to senior surface water rights caused by pumping. There was pride that in spite of the continuing drought, the Subdistrict has reduced pumping and has the further stopped and slightly reversed the decline in the Unconfined Aquifer. There was an attitude of determination and the conversations were both respectful and earnest.

OBSERVATION 2: THERE WAS BROAD PARTICIPATION IN THE DISCUSSION AND CONSIDERABLE EFFORT TO PROVIDE CONCRETE IDEAS AND HELPFUL INFORMATION AND NOT SIMPLY REPEAT OLD DIFFERENCES

The face-to-face meetings were held March 30 and 31, at Adams State University. It was well attended. The Subdistrict Board of Managers identified its chair, Brian Brownell and Jamie Hart as spokespersons along with Steve Vandiver whose played an important role in the development of the Subdistrict. David Robbins and Peter Ampe participated as legal counsel. Other members of the BOM were present and participated in the conversation including Mike Mitchell, Chris Miner, Tony Holcolm, Asier Artaechvarria and Sheldon Rocky. Cleave Simpson, hosted the meeting in his dual role as General Manager of the Rio Grande Water Conservation District and Trustee of Adams State University.
Several members of the Board of Directors of the RGWCD were also present and participated in the conversation including Lewis Entz and Peggy Godfrey (who graciously gave us several poems to celebrate the occasion.) Mike Kruse, Dan Davis, Deb Sarason, Dick Smith, Judy Jolly (Miller Coors) and Kevin France also participated. Division Engineer Craig Cotten was present and observed. Linda Ramirez from the RGWCD staff also attended. (I hope I have not left anyone out.)

Farming Technology was represented by its Vice President, Mark Steakley and counsel Bill Hillhouse. Skyview Cooling (and Skyline Potato) were represented by Victor Smith, Les Alderete and its counsel John McClure and Sheena Moran. The consultants brought by FTS and Skyview included Darren Fillmore and Ben Palen and Ben Stollar from SWIIM, Harold Groll and Ed Harvey.

FTC and Skyview spent a good deal of time and effort to bring to the meeting these experts to support their ideas on how the Subdistrict can move forward to address the challenges described above. FTC and Skyview (and others who rely entirely or significantly on wells without a recharge credit) wanted to find other alternatives to raising the Variable fee paid, minimizing the increase if one occurs, finding other additional sources of revenue more broadly based than the variable fee as well as using other means like increased water efficiency to achieve sustainability as defined in the Plan.

The materials and the presentations focused on 1) achieving improved irrigation efficiency as a partial means to reduce water withdrawal and achieve the sustainable aquifer goal in the Plan, 2) evaluating the economic pricing of water to make the CREP and the Fallowing Programs more successful, and 3) offering suggestions for alternative ways to increase funds for the CREP and Fallowing Programs including a new fee, increased CREP fee and a mill levy. Vic Smith also offered to use his role in the Western Growers Association to work together with the Board of Managers to improve the CREP Program funding and try and eliminate administrative problems for the participants.

**OBSERVATION 3: ALL THE PARTICIPANTS IN THE DISCUSSION WANT THE PLAN OF WATER MANAGEMENT TO SUCCEED**

It was obvious in every conversation prior to, during and since the two-day meeting that all the participants support the Subdistrict goal of:

“a water management alternative to state-imposed regulations that limits the use of irrigation wells within the Subdistrict, that is, a system of self-regulation using economic-based incentives that promote responsible irrigation water use and management and insure the protection of senior surface water rights.” OP 6.15.2009

This should be no surprise as the development of this *Grand Idea* for self-management through subdistricts is the product of many years of discussion within the Rio Grande Conservation District and countless hours of discussion around the challenges of such self-management. There is a strong commitment to make this work even in the face of unprecedented drought. The internal tensions between those with substantial surface water rights and those without are only exasperated by the drought and its consequence of pumping at levels that prevent the recovery of the Unconfined Aquifer to the levels desired under the Plan.
There is a common commitment to take whatever steps are necessary to bring about the aquifer recovery to a sustainable level but a sober concern that the twenty-year goal set out above will be a very difficult one to meet without relief from the drought.

The underlying tensions within the Subdistrict between those with high priority surface rights, those with no surface rights and those with limited surface rights, have been discussed from the first discussions within the RGWCD about a subdistrict. The fact that all of the participants in the conversation remain committed to the subdistrict concepts and values attests to the thoughtful, open process that led to the original Plan of Management and its operation to date. The fact that Nature has not been kind and that the foreseeable future is challenging has not altered the commitment to the vision of the Subdistrict.

The debate over the amount and role of the Variable Fee as a primary way to finance the reduction in acres under cultivation was argued at length for years before the Subdistrict was approved, so it is no surprise that the proposal to raise the fee at this time is a continuing source of conflict. This disagreement is at the heart of the engagement between the parties but no one is suggesting the various interests in the Subdistrict should go their own way. To the contrary, in individual comments as well as in formal discussion, the consensus is now as it was a decade ago that the farmers in Subdistrict #1, the farm communities and the San Luis Valley are all best served by making this Plan successful.

The parties in the discussion did not agree on everything a decade ago and they will continue to disagree in the future. There will be disagreement whether or not the Variable Fee is raised. But it is important to see that the ideas brought to the table were brought with the understanding that the water users are in this together and working to reach the Subdistrict goals together is the best path for all.


As noted at the beginning of the document, there was a justified sense of pride in the success of the Plan in addressing the injurious depletions to senior surface water sources caused by pumping. In spite of the continuing drought, the Subdistrict has reduced pumping and has stopped and slightly reversed the decline in the Unconfined Aquifer. This has been accomplished without the CREP Program succeeding in the way hoped for but the acres presently in CREP and the Fallowing Program have been essential to being in this position.

As 2018 proves to be yet another of the worst water years on record and the gains of the past few years in aquifer recovery are in jeopardy yet again, it would be easy to be pessimistic.
But the fact that the aquifer has had small recovery in the past few years, albeit at a level hundreds of thousands of acre-feet below the goal, and the fact there is reduced pumping even in the face of the drought are a source of rightful pride.

**OBSERVATION 5: ALL THE PARTICIPANTS RECOGNIZE THE CREP PROGRAMS AND OTHER FALLOWING EFFORTS HAVE FALLEN SHORT OF THE GOAL OF REMOVING 40,000 ACRES FROM PRODUCTION WITHIN SUBDISTRICT #1 AND THAT GAINING MORE PARTICIPATION IS CRITICAL TO ACHIEVEMENT OF THE SUBDISTRICT GOALS.**

The Subdistrict goals include:

- Enroll up to 40,000 acres of irrigated cropland into the CREP and establish native grasses, forbs and other habitat;
- Reduce the irrigation water use by approximately 60,060 acre-feet per year.

The level of participation in the CREP (Conservation Reserve Enhancement Program) is significantly below what is required by the Plan. The 2017 Annual Report records 55 CREP contracts with only 6,681 acres withdrawn from production. Only 2585 acres were in the Permanent CREP Program. The cost in incentives for the CREP programs was $995,708.12. 2018 has brought some additional enrollment and as of April 5, 2018, some progress was made with 3,253.6 acres in Permanent CREP and 4,777.6 acres in Temporary CREP. (The total in both CREP programs as of August has increased to 8,689 acres) This is still far from what had been hoped for or what is required under the Plan. There are additional actions to benefit sustainability in the Fallowing program and the permanent land and water purchases of the West Medano Rach and the White, McConnell and Lacy acres (2120 irrigated acres).

As of April 2018, combining all the programs, there were 21,509 acres credited against the withdrawals of land necessary to achieve sustainability with 5,374 in permanent withdrawal and 16,135 acres in a temporary withdrawal. (This later number includes 944 acres in the new Fallowing Program, the Temporary CREP acres and voluntary fallowing by farmers some of whom have Prevent Plant insurance policies).

The CREP programs are attractive to the Subdistrict as they rely upon economically driven choices by the participants and they directly result in reduction of acres under productions and water removed from the aquifer. The economic incentives are described on the CREP page in the RGWCD website. A lot of thought and effort has gone into trying to get broader participation.

The disappointing level of CREP participation meant that everyone was listening closely when economist Ed Harvey discussed his ideas on why the programs had not succeeded and discussed a detailed economic analysis of the pricing of water and the economic impact of the CREP and Fallowing programs. His discussion of “price elasticity” and view that increasing the
Variable Fee might not increase revenue and thus not help reach the goals of the Subdistrict and improve the state of the Unconfined Aquifer. While Mr. Harvey’s presentation was flawed by a misunderstanding of the effects and accounting for recharge and surface water credits are handled, there was recognition that understanding price elasticity and not valuing water correctly is at the heart of the failure to obtain broader participation in the CREP and Fallowing programs.

His subsequent written submission is also instructive. His conclusion that “a reduction in variable fee pumping will only have a marginal effect on improving aquifer sustainability” seems to discourage an increase in the Variable Fee, but others looked at his Table 2 and Exhibit 3 and concluded that Harvey’s examples show that the impact of the Variable Fee from 2011 to 2017 has in fact contributed to a reduction in pumping. Harvey makes points that should be carefully considered. His suggestion that design of the CREP program be reevaluated to get broader participation was agreed with by most. That will require more money bringing the discussion squarely back to the proposed increase in the Variable Fee and the suggestions from others for a new fee or increased CREP Fee.

Harvey supported the suggestions from FTC and Skyview (best summarized in the memo from John McClure and Bill Hillhouse in their April 19, 2018 Memorandum) that more emphasis should be placed on the 15-year temporary CREP program and that the emphasis on the bonus zone is unsuccessful. These are points worth consideration. The Temporary CREP program has been more attractive to farmers than the Permanent CREP. With revised incentives there ought to be new enrollment in both CREP programs and additional participation in both programs is needed. The BOM acted earlier this year to boost the 4-year Fallowing Program for much the same reasons. In a May 2018 presentation, staff suggested a long-term goal of a permanent reduction of 21,509 acres and a temporary reduction of 17,536 acres to achieve both aquifer recovery to the desired range and aquifer sustainability.

FTC and Skyview also argue that when the Unconfined Aquifer is stabilized in the range sought, it ought to be possible to resume farming on some land and that is another strong reason to emphasize Temporary CREP. They point out the benefits for the entire San Luis Valley of a robust farm economy that supports the towns and businesses as well as the farms. At the time the 40,000 acre goal was set, there was a twenty year timeframe. The timeframe is now half that and the urgency to obtain clear progress in raising the level of the Unconfined Aquifer is greater than ever. If this argument helps persuade someone to participate in Temporary CREP there is clear gain for the Subdistrict Plan. From the beginning, it was understood there would need to be a flexible response to changed circumstances such as the continuing drought, the high price of land and the relatively good crop prices.

These discussions were positive because they showed everyone present committed to the success of CREP and Fallowing and the need to get the incentives right. There was consensus that more money will be necessary to support this and that the need for more money is urgent. Refining these programs to provide financial incentives that enlist greater
participation was identified as a high priority. The path to a sustainable in the Unconfined Aquifer requires the permanent and temporary CREP and the Fallowing Program each succeed.

**OBSERVATION 6: EVERYONE AGREED THAT IRRIGATION EFFICIENCY IS DESIREABLE AND THAT THE SUBDISTRICT SHOULD ENCOURAGE AND EDUCATE AROUND IT. THERE WAS NOT AGREEMENT ON THE EXTENT OF THE BENEFIT POSSIBLE NOR ON THE PROPOSAL THAT FARMERS SHOULD BE REWARDED FOR BECOMING MORE EFFICIENT.**

Most of the first day was spent with presenters brought in by Skyview Cooling Co. Skyview spent a good deal of time and money bringing experts in irrigation efficiency to the meeting. FTC and Skyview argued there and in subsequent conversation that if the Subdistrict farmers utilize water savings practices there can be a win-win situation for the farmer and the aquifer.

As mentioned above, the group heard presentations from:

1. Ben Palen from SWIM System Ltd. Made both an oral and written presentation regarding the use of LESA (Low Energy Spray Application) and LEPA (Low Energy Precision Application) to dramatically improve efficiency.

2. Harold Groj, a farmer and director of the North Plains Water Conservation District in Texas came all the way to Alamosa to share his story of success using LEPA and LESA to reduce pumping and obtain better crop efficiency. Harold supported “innovation not regulation” and thus was aligned with the underlying farmer-controlled philosophy of the Subdistrict.

3. Bob Stollar from SWIIM submitted a report on effective recharge practices and Skyview offered to have him work with the Subdistrict to evaluate the recharge practices in the Closed Basin to improve efficiencies in recharge practices. John McClure reports Field studies using San Luis Valley Irrigation District surface water were deferred this year due to the drought conditions yet are targeted to take place in 2019 when conditions are hopefully better. SWIIM is using modeling efforts through the faculty at the Colorado State University Geoscience Department. Some preliminary modeling has been completed. Dr. Ronayne has prepared a presentation demonstrating how water moves through the unsaturated zone to recharge the shallow aquifer with the amount and timing of recharge shown under different scenarios. As developed, Skyview and SWIIM intend to provide the completed studies and background information to Cleave Simpson and David Robbins for the Board of Managers of Subdistrict #1 review and consideration. (hn did forward sample Water Balance Full Reports from kevin France at showing the analysis they are using.)

4. Ed Harvey, an economist, submitted a Review and Observations to the group. There was lively interchange with him and he later submitted a second revised report responding to the critiques of his views at the meeting. The economics of CREP and the debate around how to improve CREP are discussed in a previous section.
The presentations and follow-up actions reflect considerable thought and effort to present information and suggestions for greater water efficiency as one of the means to achieve the Plan of Water Management goals. People responded with appreciation and respect. At the same time, conversations at breaks and lunch and after the sessions, included pushback that there are many subdistrict farmers using the techniques and practices described and that what was described is familiar to the group. It is also true there are farmers in the subdistrict who are not using efficient practices. Everyone agreed there are gains for the aquifer and economic benefits for the farmers if efficiency is improved.

The Plan of Water Management list of Acts and Improvements states at:

3.2.1.6 education and research into water conservation, water use efficiency, improved water management, and public education on agricultural water use;

While it was evident in the discussion that there are already farmers in the Subdistrict who have tested and are utilizing the practices discussed, it was acknowledged that there are a significant number of farmers who are not using efficient practices. There was agreement, if not enthusiasm, for the need to better educate the farmers who are not moving to improve efficiency. The value of the experiences of those who have and are trying LESA and/or LEPA to their fellow farmers cannot be overstated. In keeping with the promise of 3.2.1.6, there is clearly room for more aggressive educational programs led by the Subdistrict and for mentoring by the farmers who have adopted practices that do in fact yield greater efficiency. The Board of Managers and the RGWCD through its Water Activity Enterprise have entered into an incentive program for water users who participate in the USDA Regional Conservation Partnership Program (RCPP).

FTC and Skyview argued that farmers who become more efficient should be rewarded by an incentive that grants credit against the variable fee for pumping. This was not a majority view in the meeting as many responded that water efficiency brings direct economic benefit to the farmers who use it and that should be reason enough to do so. The RCPP program incentives may partially serve this same purpose. It was also expressed that the discussion of the value of water and the need to price water correctly to get broader participation in CREP and other fallowing programs will require more money and granting a reduction in fee for doing what should already be done will reduce the money supply available to make CREP work.

I also heard clearly that the best way forward is leadership by example in daily farm practices. A strong commitment and concrete actions from those urging more efforts towards water efficiency would be a healthy and positive step. Vic Smith indicated Skyview would do so by moving to the more efficient sprinklers and by helping fund the study of the recharge practices. There is no question that a 100% commitment from Skyview and FTC to improve their own efficiency through the methods their presenters suggested would be good for their farms and encourage others to do the same.
It is not clear exactly how much aquifer gain can be achieved by more efficiency. Greater water efficiency may provide a small part of the goal of reducing withdrawals by 80,000 acre-feet per year. Given the current circumstances, every drop is important if the Subdistrict is going to achieve the 20-year goal.

OBSERVATION 7: OPPONENTS TO HIGHER VARIABLE FEES DID NOT DISPUTE THE NEED TO FIND MORE MONEY TO MAKE CREP AND FALLOWING SUCCEED.

Bill Hillhouse was very straightforward in his view that more money is required if the Plan of Water Management is to succeed. He argued that “fairness” requires the burden be shared more broadly than simply by those without surface water rights. He suggested a new fee on all irrigated acreage and/or an increase in the CREP Fee.

In reality, even if the limit for the Variable Fee is doubled, it seems unlikely that the Board will raise the Variable Fee to the new limit in the near future. In this drought, many water users with junior surface rights are receiving little or no surface water.

As already noted, there is a need for more money if the Plan is to have a chance to succeed. The Board need to look at all the ways additional funding can be found now to support the CREP and falling programs. The Board has been able to purchase some land and water rights and in a perfect world this would be a favored path but there are insufficient funds to do this as a prime way to reduce pumping. Suggested means to raise additional funds were borrowing money or by a more general fee to all water users. These are very unpopular idea for the members with priority surface water rights. At the very outset of the discussions around the subdistrict idea, the stark example of wells being shut down on the South Platte was fresh in everyone’s mind. There was a keen awareness of the pain being caused to good farmers and to the farm community. There was a strong sense that farmers managing their own aquifer can do better for fellow farmers and for the broader community. That sentiment is as correct today as it was when first articulated. David Robbins articulated that the Board needs to take every possible step to meet the goals approved by the water users and the court. Every possible step means nothing should be rejected out of hand. With the water level going backwards this year, the needed average increase in the Unconfined Aquifer over the next ten years is going be even greater. Exploring sources revenue to incentivize CREP participation sufficiently to obtain the desired level of participation is an urgent task.

OBSERVATION 8: ALTERNATE CROPS, LIMITS ON WATER USE AND POLICE POWERS

The main group did talk briefly about alternative crops that require less water. Alfalfa requires significantly more water than the other crops traditionally grown in the Subdistrict. Reducing the number of acres in alfalfa would have an immediate benefit to the aquifer. But alfalfa has been a very profitable crop and finding an alternative crop or crops that water users are willing to grow as an alternative is a challenge. The Plan of Water Management for Subdistrict #1 does not have any provisions that allow the Board to restrict crops or limit water use in a way that would influence crop choice. There were conversations on the side and
outside the meeting regarding ways that might influence water users to choose less water intense crops. The Plan relies on economic incentives and free choices by the water users. There may be gain in exploring how to incentivize the growing of less water intense crops. As is true with conservation education, the RGWCD and Subdistrict #1 can explore education and technical assistance for those looking to try new less water intensive crops.

**OBSERVATION 9: IF**

Shortly after the discussion, the State Engineer Kevin Rein visited the Valley and was asked what will happen if the goals for the Plan of Management are not met. The Valley Courier reports our Division Engineer, Craig Cotten responded that (hopefully) new rules will be applied --- exactly the outcome the Subdistrict wants to avoid.

The focus for everyone at this time is rightly on making the Plan of Management succeed. But if five years from now there is not significant progress or if the progress is incremental, the Board needs to continue thinking through what it can do. If the drought continues, or we start to think of these arid conditions simply as the new normal for an indefinite arid future, there is a very difficult path to achieving a sustainable aquifer at the 1976 level.

People have asked if the selection of 1976 is the right base level to seek in the foreseeable future? Can the Plan be extended over a longer period given the drought? Could a new goal for sustainability at a lower level with a continued push to slowly raise it higher incrementally to the 1976 levels or some new goal? It would be wise to be thinking about a path other than either/or. I noted that there has been success in redressing the injurious depletions and there has been a significant reduction in pumping. Most people view the efforts by the Subdistrict efforts as “successful” given the drought and that there will be broad support to adjust and continue the effort in light of the extreme challenge of extended drought.

**CONCLUSION**

I have tried to summarize the information and ideas I heard before, during and since the two-day conversations at Adams State. I have tried to pose the questions the Board of Managers are addressing in neutral terms. Obviously, I support the consensus view that the Subdistrict is a better alternative to management by rules but I have not tried to express personal views on which choices the Board should make. I have also tried to remind everyone of the benefits of mutual commitment of all the water users to one another. I would highlight two of the points set out above.

FTC and Skyview are correct that there is little cost and much to gain if the Board actively educates water users on how to achieve greater efficiency. FTC and Skyview should lead by example. As two of the largest farms in the Subdistrict their public commitment to adopt and model LESA and/or LEPA methods and share what they learn will help the Subdistrict to bring the least efficient water users over to more efficient practices.
There was agreement that it is urgent to get more participation in CREP and find the money to make it succeed. The discussions around how to set the incentives to a level that significantly increases the number of acres withdrawn from production and thus significantly reduces withdrawals from the aquifer need to translate into choices that in fact get greater participation in both CREP Programs and the Fallowing Programs. If the determination to succeed evidenced at the facilitated discussion can be translated into a multitude of individual and collective actions by all the water users, the determination can change to confidence and success.

I hope my role in moderating the discussion and trying to summarize the thinking I heard is helpful to the Board of Managers and the water users.

Sincerely,

[Signature]
Facilitated discussions were held March 30 and 31, 2018, with Judge Kuenhold between Subdistrict 1 and objectors to the 3rd amended plan of water management regarding raising the variable fee cap from $75 per acre foot to $150.

My history: I have attended most Subdistrict 1 regular and special meetings and some work sessions since Sept. 2010, when the original fee and cap was set. In April, 2014, I was appointed to the Rio Grande Water Conservation District board. I attended the full day and a half of facilitated discussions and offered these remarks during “public comment” to the Subdistrict 1 Board of Managers at the annual meeting on April 10, 2018.

To me, it is an indisputable reality that you need to be able to raise the variable fee, setting the cap high enough to insure success in aquifer recovery.

Your objectors’ display of presentations and follow-up may have been designed to demonstrate what they thought were your oversights. Your responses clearly emphasized that the problem is not in availability of conservation practices and programs with incentives but lack of interest and application by most of the broader farming community.

I applaud your patience and attention during Friday and Saturday’s meetings as well as your informative corrections and responses.

Perhaps those who resist increased fees will sponsor or co-sponsor conservation training and demonstrations to target those who depend solely or partially on groundwater pumping.

Drought and the potential for increased fees will likely sharpen everyone’s focus toward economy and conservation.

You’ve done good work. Thank you all.
Peggy Godfrey