

**MINUTES OF SECOND 2008 REGULAR QUARTERLY MEETING OF THE  
REPUBLICAN RIVER WATER CONSERVATION DISTRICT**

**April 18, 2008**

**Yuma, Colorado**

The Board of Directors of the Republican River Water Conservation District convened a continued regular meeting, pursuant to notice required by statute, at the Church of the Nazarene, 505 East Beatty Avenue, Yuma, Colorado.

Present were:

Board Members:

Dennis Coryell, President  
Kim Killin, Vice President  
Tim Pautler, Secretary  
Rick Seedorf, Treasurer  
Grant Bledsoe  
Eugene Bauerle  
Raymond Enderson  
Garry Kramer  
Steve Kramer  
Greg Larson  
Bruce Latoski  
Stan Laybourn  
Wayne Skold  
Greg Terrell

Stan Murphy, RRWCD General Manager  
David Robbins, General Counsel, Hill & Robbins, P.C.  
Dennis Montgomery, General Counsel, Hill & Robbins, P.C.  
James Slattery, District Engineer  
John Willard, District Accountant  
Tim Davis, District CREP Consultant

A sign in sheet listing the members of the public attending the meeting is attached as Exhibit 1.

**STATEMENT OF QUORUM**

President Dennis Coryell called the meeting to order at 10:15 a.m. President Coryell welcomed the public and explained that the meeting had been continued due to the snowstorm on April 10, 2008. Secretary Tim Pautler conducted a roll call of Board members, noting that Director Jack Dowell was absent. With fourteen Directors attending the meeting, Secretary Pautler declared that a quorum of the Board was present. President Coryell noted that Director Greg Larson had been appointed to replace Jay Harris and was attending his first meeting.

## **AGENDA AND APPROVAL OF MINUTES**

President Coryell asked for any amendments to the agenda. There were two amendments, and a motion to approve the agenda as amended was made, seconded, and approved unanimously.

Prior to this meeting, the directors had received drafts of the minutes of the February 22, 2008 Board meeting, including minutes of executive sessions held at Board meetings on January 10, 2008, and February 22, 2008, and corrected minutes of the January 8, 2008 Board meeting, as well as being included in the Board packet. President Coryell requested any changes or corrections to the minutes. There were no changes or corrections noted. Legal counsel Dennis Montgomery explained that the correction to the January 8, 2008 minutes was merely to correct an error in the first sentence regarding the date of the meeting. A motion to approve the minutes of the February 22, 2008 Board meeting, the corrected minutes of the January 8, 2008 Board meeting, and the executive sessions was made, seconded, and approved unanimously.

## **GENERAL MANAGER'S REPORT**

At 10:25 a.m., General Manager Stan Murphy presented the financial report and the disbursements for the quarter ending March 31, 2008, which were previously sent to the entire Board electronically as well as being included in the Board packet. Mr. Murphy reported that as certificates of deposit had matured, they had been used to repay the loan from Farm Credit of Southern Colorado. He also said the financial report had added some new accounts, such as the Pipeline account under fixed assets, which includes engineering fees. A motion to approve the financial report and the disbursements for the first quarter of 2008 was made, seconded, and approved unanimously.

Next, Mr. Murphy reported that the District's legal counsel and accountant felt that the Pipeline Coordinator position should be a full-time employee, who would be responsible to the General Manager and trained by the District's Engineers and engineering consultants. Vice President Killin asked when this person would start. District Engineer Jim Slattery said he thought this person should start in June and that there were already a couple of items this person could handle. A discussion then took place regarding the salary that should be offered for this position. After the discussion, a motion to proceed with advertising the Pipeline Coordinator position at a salary of \$30,000 to \$40,000 per year, depending upon experience, was made, seconded, and approved unanimously.

Finally, Mr. Murphy said that the auditor, Winfrey and Comfrey, will be at the District office on May 14, 2008.

## **PROGRAM UPDATES AND REPORTS**

At 10:40 a.m., Mr. Murphy gave a report on EQIP. He said that 39 applications had been received, all for permanent retirement. Fourteen applications were within one mile of a surface river, primarily the South Fork of the Republican River. Mr. Murphy said that the additional money the Enterprise had offered had a major impact in obtaining applications.

Next, Director Tim Pautler provided an update on the Conservation Reserve Enhancement Program (CREP) and future meetings with the NRCS. Tim Davis, the District's CREP consultant, provided an update on the status of the 2008 Farm Bill. Christine Arbogast of Kogovsek and Associates reported that House and Senate conferees have been meeting pretty regularly on the 2008 Farm Bill and discussed the issues they were trying to resolve. She said that elimination of the county cap limitation will require some conversations because there is some concern about making it nationwide, but the alfalfa change appears encouraging. Ms. Arbogast thanked Tim Davis for his help on technical issues and said he was very respected by the Colorado congressional delegation.

At 11:00 a.m., legal counsel David Robbins gave a report on the status of acquisition of easements for the Compact Compliance Pipeline. He said Yuma County had requested that the Enterprise seek easements from landowners adjoining the County road before it would consider a request to locate the pipeline in the County road easement. He said letters would be sent to the adjoining landowners. He also said there have been conversations with Rex and Jody Buck, but the final alignment for the pipeline across their property would have to be determined and a survey completed before they could be sent a letter. Mr. Robbins said he had consulted with Robert Duncan of the law firm of Duncan, Ostrander & Dingess, P.C., to advise on condemnation procedures, but he hoped that easements could be acquired without condemnation proceedings.

At 11:20 a.m., Dick Westmore and Steve Townsley of GEI Consultants, Inc., made a presentation on the status of the final engineering design for the Compact Compliance Pipeline and the possibility of including hydropower in the design. Mr. Townsley said there were three primary technical issues that needed to be resolved: 1) sizing the pipeline; 2) hydropower potential; and 3) pressure versus non-pressurized pipeline. He said two pipe sizes have been considered. The Pipeline Technical Advisory Committee (PTAC) had recommended going with the larger 42-inch diameter pipe. Mr. Townsley said the larger size pipe was still within the initial budgeted cost, and GEI concurs with the larger capacity. Mr. Westmore then discussed the potential for adding hydropower to the Pipeline design. He said GEI had developed an estimate of \$2.4 million for the addition of hydropower, but that did not include the cost to upgrade the lower section of the pipeline, which was an additional \$1.1 million, for a total cost to develop hydropower of \$3.5 million. That would put the cost a little over the \$21 million budgeted for the pipeline construction. He also said the hydropower operations could conflict with operation of the pipeline for compact compliance, that hydropower would add significant additional O&M expense by the Enterprise because the Enterprise would need a trained hydroelectric operator, and that the economic results of adding hydropower were marginal. Mr. Westmore said the PTAC had recommended that GEI not proceed with hydropower and that GEI

concluded. Mr. Townsley then said eliminating hydropower would minimize the amount of lower pipe that is pressurized and would minimize cost. Board members then asked questions about the cost of pressuring the pipeline for hydropower, the price at which electricity generated by a hydropower plant could be sold, and the need for a permit from the Federal Energy Regulatory Commission (FERC).

At 11:55 a.m., Rob Wawrzynski of the Colorado Department of Agriculture gave a presentation on a water quality monitoring program.

At 12:10 p.m., the Board recessed for lunch.

At 1:10 p.m., the Board re-convened, and President Coryell opened the meeting for public comment before continuing with program updates and reports.

### **PUBLIC COMMENT**

Nate Midcap, Manager of the Central Yuma and Sandhills GWMDs, asked what an acceptable loss rate was from the top of the pipeline to the river. He said the Board needs to be sure that the loss rate is kept to a minimum. He also asked about the warranty for the pipeline and said the Sandhills GWMD is interested in water level measurements at the 15 existing well sites and measurements outside those 15 wells. Mr. Westmore said GEI will specify an acceptable seepage rate from the pipeline and said there probably wouldn't be any significant leakage. He said the pipeline would probably be under warranty for a year from the contractor. Mr. Murphy said the RRWCD would coordinate with the Sandhills GWMD to obtain well measurements.

Sue Jarrett, a Yuma County farmer, said she felt surface right owners were treated poorly and expressed concern about borrowing \$60 million to deliver water across the state line. Vice President Killin asked what other alternatives she saw.

Alan Welp, Secretary of CAPA, said he had heard a report about the Republican River Compact Administration meeting from Bethleen McCall of CAPA, and appreciated President Coryell's presentation at the RRCA meeting and the Board's efforts to purchase water rights for compact compliance. President Coryell said Kansas had raised the issue of impairment to its South Fork allocation and said the District was prepared to talk to Kansas about that issue. Mr. Welp concluded by saying he really appreciated the Board's efforts at compact compliance.

Byron Weathers, President of the Colorado Corn Growers Association, said he also wanted to reiterate his appreciation for the Board members. He said that while power generation may not be 100-percent cost-effective right now, he felt the sooner it is installed, the better. He also said some costs had been attributed to hydropower that shouldn't be.

Mike Adamson, a landowner in the Pioneer Irrigation District, asked if the District could use the hydropower against what the District is paying.

Philip Kettleon, a contractor from Wray, asked if GEI was set on using PVC pipe for the pipeline. He encourage GEI to look at HVC, which he said was a little more expensive but is designed not to leak.

At 1:40 p.m., public comment ended.

Joel Schneekloth then gave a report on the research and demonstration project for the CIG grant and responded to questions from Board members and the public.

At 2:05 p.m., the Board returned to program updates and reports. President Coryell reported on the Republican River Compact Administration (RRCA) meeting in Kansas City, Missouri, on March 11 and 12, 2008. Seven Board members had gone to Kansas City for the RRCA meeting. He said Colorado's and his presentations on the application for approval of an augmentation plan and accounting procedures for the Republican River Compact Compliance Pipeline were well received, and Kansas and Nebraska said they agreed with the proposal in concept, although there is an issue about the timing of the RRCA action. President Coryell said a second RRCA meeting had been scheduled on April 11, 2008, in Kansas City, Missouri, and he and legal counsel David Robbins attended the meeting as observers. Kansas raised an issue about impairment of its South Fork Sub-basin allocation. He said a RRCA Engineering Committee meeting is scheduled in Denver on May 1 and 2, 2008, and a RRCA meeting is scheduled in Lincoln, Nebraska, on May 15 and 16, 2008. In addition, a Colorado Ground Water Commission meeting is scheduled on May 16, 2008, at which there will be a hearing on the District's variance requests.

Legal counsel David Robbins provided an update on House Bill 08-1346 to approve the CWCB loan for the Republican River Compact Compliance Pipeline. Mr. Robbins reported that the Colorado House of Representatives had approved the bill and thanked Byron Weathers and his son for testifying in support of the bill. Director Terrell asked about the time frame for passage of the bill. Mr. Robbins said he thought the bill would be on the Governor's desk for approval by early May.

Mr. Montgomery then reported on the Water Rights Report for the purchase of water rights from Cure Land, LLC, for the Compact Compliance Pipeline. He said the Water Rights Report had been received on March 10, 2008, that it had disclosed two title defects, and that counsel for Cure Land, LLC, had proposed ways to cure the title defects. The Enterprise had given notice of two title defects on April 9, 2008; but, Mr. Montgomery said he thought the title defects could be cured.

General Manager Murphy gave a report on use fee collections and the status of the efforts to collect the use fee for Bonny Reservoir from the Colorado Division of Wildlife (DOW). After a discussion of DOW's position regarding the use fee and the amount of evaporation from the reservoir, Director Terrell said that Kansas wants water down the South Fork, but he and the manager of the Arikaree GWMD had ridden all the way down to Benkelman, Nebraska, and at the last road they crossed, there was a tremendous flow of water. He said there were large gravel ponds constructed, and many have irrigation pumps in them. He said Colorado needs to hold Kansas accountable for gravel pits.

President Coryell reported on the meeting of the Board of Directors with county commissioners. He said 16 of the 21 county commissioners of the counties within the District had attended and there had been a lively discussion, including the use fee structure and

conservation. President Coryell said the county commissioners appreciated being brought into the dialogue and it was very important to get their input.

Director Gene Bauerle reported on the South Platte Roundtable. He said \$750,000 had been allocated to the South Platte Roundtable, and requests totaling \$600,000 had been made for the remaining \$400,000. He said \$19,000 was all that was requested for projects in the Republican River basin and said the District has one representative to the Roundtable and each county in the District has two representatives.

### **BOARD ACTION ITEMS**

At 2:45 p.m., the first matter was to consider a resolution to approve limits on the Compact Compliance wells. President Coryell said that after the last PTAC meeting, Dave Keeler, Jim Slattery, and Grant Bledsoe had met with neighboring well owners to discuss any potential injury they would see from the change of water rights and pumping from the Compact Compliance Wells. After discussion with neighboring well owners, it was agreed that any concern about injury would be satisfied if the District agreed to a limit of 2,500 acre-feet per year per well. A motion to authorize limits on the change of rights to designated ground water for Republican River Compact Wells had been drafted and included in the Board packet. A motion was made to approve Resolution No. 08-06 to agree to limit pumping from the fifteen existing wells that will be Republican River Compact Wells to a maximum of 2,500 acre-feet per year per well was made, seconded, and approved unanimously.

The next matter for consideration was proposed contracts to acquire water rights on the South Fork of the Republican River. General Manager Murphy explained proposals to acquire surface water rights. These included water rights decreed to the Austin Ditch and the Tuttle Ditch No. 4 owned by Ken McArthur. Mr. Murphy recommended that the Board approve the acquisition of these surface water rights in connection with CREP or EQIP contracts under conditions approved by the Executive Committee, legal counsel, and the District's engineer. Vice President Killin said that it was important to acquire these water rights now. President Coryell agreed, especially in light of Kansas' position regarding the South Fork. A motion to authorize the Executive Committee, legal counsel, and the District's engineer to approve entering into these contracts was made, seconded, and approved unanimously.

Next, General Manager Murphy discussed proposed contracts with Homm Ranch, Inc., for the Ragan Ditch and the Republican Ditch water rights, with Don Andrews for one-third of the Hale Ditch water rights, and with Bill Langendoerfer for the Shepard & Cook and Nannie Boden Ditch water rights. A motion to authorize the Executive Committee, legal counsel, and the District's engineer to approve entering into these contracts was made, seconded, and approved unanimously.

General Manager Murphy then described a proposal to purchase a ground water right owned by Jim Smith based on payment of EQIP rates for less than one mile from the river. A motion to approve the agreement with Jim Smith was made, seconded, and approved unanimously.

The next matter for consideration was the purchase of a flume on the Laird Ditch to help with compact accounting. A motion to approve the expenditure for the flume for no more than \$10,000 was made, seconded, and approved unanimously.

The next matter for consideration was a policy on a time period for electronic mail storage and retention of electronic recordings of Board meetings. After discussion, a motion to establish a Board policy that electronic recordings will be deleted upon approval of Board minutes and that electronic recordings of Executive Committee meetings will be retained for 90 days or until minutes have been approved was made, seconded, and approved unanimously. With regard to retention of e-mails, John Willard suggested that e-mails be retained for a minimum of 24 months. A motion to maintain e-mails for a minimum of 24 months was made, seconded, and approved unanimously.

The final matter for consideration was an amendment to the agreement with Cure Land, LLC, to address the transfer of ownership of the water rights to Cure Land II, LLC. Mr. Montgomery said that the Board had previously directed the Executive Committee and legal counsel to approve the agreement with Cure Land, LLC, with such minor changes as they approved; but, Mr. Montgomery said he concluded that the transfer of ownership was possibly more than a minor change and recommended that the full Board approve the amendment to the agreement to address the title issue. A motion to authorize the Executive Committee and legal counsel to approve an amendment to the agreement with Cure Land, LLC, to address the transfer of title to Cure Land II, LLC, and to authorize the President to sign the amendment was made, seconded, and approved unanimously.

### **EXECUTIVE SESSION**

At 4:05 p.m., a motion was made pursuant to section 24-6-402(4), C.R.S., to enter into executive session to develop a strategy for negotiations to acquire water rights and property for the Compact Compliance Pipeline and to develop a strategy for negotiations for the purchase, acquisition, or lease of water rights and to receive legal advice from District's legal counsel related to such issues. The motion was seconded and approved unanimously. President Coryell stated that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall occur in executive session. Before entering into executive session, President Coryell thanked the public for attending the meeting.

At 6:05 p.m., the executive session ended.

### **OLD BUSINESS**

There was no old business.

### **NEW BUSINESS**

Tim Pautler, as Chair of the PTAC, reported that the recommendation of the committee was not to include hydropower as part of the Compact Compliance Pipeline project. He made a motion on behalf of the PTAC not to include hydropower as part of the Compact Compliance Pipeline. Director Bruce Latoski seconded the motion. Director Terrell requested that the votes be recorded. Directors Grant Bledsoe, Gene Bauerle, Garry Kramer, Steve Kramer, Bruce

Latoski, Dennis Coryell, Kim Killin, Tim Pautler, Rick Seedorf, and Wayne Skold voted in favor of the motion. Directors Jack Dowell, Greg Larson, Stan Laybourn, Greg Terrell voted against the motion. Director Raymond Enderson abstained. With 10 votes in favor of the motion, 3 opposed, and 1 abstention, the motion was approved.

There being no further business, at 6:10 p.m., President Coryell adjourned the meeting.

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Timothy Pautler  
Secretary

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Date