

Minutes of 2nd 2006 Regular Meeting of the
Republican River Water Conservation District

April 13, 2006

Yuma, Colorado

Present were:

Board Members:

Dennis Coryell, President
Kim Killin, Vice President
Tim Pautler, Secretary
Rick Seedorf, Treasurer
Eugene Bauerle
Kelly Burr
Jack Dowell
Raymond Enderson
Garry Kramer
Steve Kramer
Bruce Latoski
Stan Laybourn
Wayne Skold

Stan Murphy, General Manager
Monica Newton, Administrative Assistant
Dennis Montgomery, General Counsel, Hill & Robbins, P.C.
Ken Knox, Chief Deputy State Engineer
Scott Richrath, State Engineer's Office
Dave Keeler, State Engineer's Office
Tim Davis, Colorado Division of Wildlife
John Deering, and Joel Schneekloth, Colorado State University Cooperative Extension
Randy Hendrix, Helton & Williamsen

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 10:10 a.m. President Coryell welcomed the public. Secretary Tim Pautler conducted a roll call of Board members, noting that Grant Bledsoe, Bruce Latoski and Jerry Sonnenberg were absent and that a quorum of the Board was present. President Coryell stated that Director Bledsoe had asked to be excused. Director Latoski appeared shortly after the roll call was completed.

MINUTES

A motion to approve the agenda was made, seconded, and adopted unanimously. President Coryell observed that the Directors had received a draft of the minutes of the 3-9-06 regular meeting and executive session for their review. A motion to accept the 3-9-06 regular meeting and executive session minutes was made, seconded, and approved unanimously.

GENERAL MANAGER'S REPORT

General Manager Stan Murphy reviewed the financial report for March 2006 and noted that income for the 1st quarter came from fees collected by county treasurers and water use fees from feedlots and municipalities.

At 10:14 President Coryell noted board member Bruce Latoski's arrival.

Dennis Montgomery discussed the two years of outstanding invoices for the annual use fee on the consumptive use of water for the evaporation off of Bonny Reservoir. Mr. Montgomery stated the invoice for the use fee was sent to the Bureau of Reclamation, which sent back a letter stating the contract between the United States and the State of Colorado requires such fees to be paid by the State of Colorado. Mr. Montgomery agreed with the Bureau's position and asked Mr. Ken Knox for his opinion. Mr. Knox had reviewed the Bureau's position and concurred that it is the State's obligation to pay the use fee. Mr. Montgomery recommended that the invoice be sent to the State of Colorado, Department of Natural Resources, to the attention of Executive Director Russ George. Mr. Knox agreed and suggested the letter be copied to Bruce McCloskey and Lyle Laverty, directors of the Divisions of Wildlife and Parks, respectively.

Mr. Murphy reported that the technical educational meeting held on March 18th in Wray, Colorado, presented by Mr. Knox and Dr. Willem Schreüder had been well attended by 45- 50 people. At that meeting, Mr. Knox explained the history of the Republican River Compact and the Republican River Compact Administration accounting procedures, while Dr. Schreüder explained the Republican River Compact Administration groundwater model. Mr. Murphy noted it was very well presented.

Mr. Murphy and Mr. Montgomery discussed the audit report by Bondi & Co., LLC. Mr. Montgomery noted the Board should review and consider the recommendations made in the audit report. He said for the first year of operations the audit report is good.

PROGRAM UPDATES AND REPORTS

At 10:20 a.m., Mr. Murphy gave a report on the 1-year lease program. He reported that the District had received 18 applications, all of which are on South Fork and are being processed. Mr. Murphy noted some producers on the North Fork had contacted him, but due to timing of the program, they were not interested.

No report was given on the Colorado Water Congress.

President Coryell asked Mr. Murphy to report on the Environmental Quality Incentive Program (EQIP). Mr. Murphy indicated to date the District had received 44 applications, with the majority of the applications being for permanent well retirement. Secretary Pautler stated, due to the significant number of EQIP applications, federal funding for this year could be exhausted. Mr. Pautler acknowledged the evaluation process that Mr. Murphy had developed is serving the District well.

President Coryell asked Division of Water Resources representative Scott Richrath to report on the Conservation Reserve Enhancement Program (CREP). Mr. Richrath noted with regret that Mr. Tim Davis will be retiring from State service after 30 years, leaving the Division of Wildlife sometime between June 30th and August 31st.

Mr. Richrath noted that he is expecting a formal press release from FSA regarding an upcoming CREP signing ceremony date and that invitations are to be sent out to Board members and other parties following the announcement. Mr. Richrath said that the State had just received recommended changes to the Federal-State agreement from FSA legal counsel. The final Federal-State agreement will be signed at the signing ceremony and will formally put the contract in place. Mr. Richrath noted that Mr. Pete Ampe, Mr. Montgomery, Mr. Davis, and he had reviewed the changes to the Federal-State agreement and collaborated on a response to FSA. Mr. Richrath noted both parties must agree on the final document and thought this would occur within the next few business days. Mr. Richrath stated that the representative from Attorney General's office, Mr. Peter Ampe, requested that a State-Enterprise agreement be in effect upon signing of the Federal-State agreement, as the State obligations are essentially Enterprise financial obligations. Mr. Richrath noted that appropriate signatures need to be obtained on the Federal-State agreement, and that logistics need to be finalized to have the State-Enterprise agreement signed by all necessary parties prior to the signing ceremony. Mr. Montgomery suggested the Board authorize the Executive Committee to approve the agreement with the State unless the entire Board wants to review it. The agreement will not involve any change in the amount of money committed but may involve changes in the language regarding the responsibility of the Enterprise to assure retirement of well permits or surface rights. A motion was made to authorize Mr. Coryell to execute the agreement if legal counsel concludes that any changes are minor; allowing for Executive Committee review and approval if legal counsel determines that any changes are more substantive. The motion was seconded and approved unanimously.

Mr. Richrath noted the application date for CREP is June 12th and would be promoted in the press release announcing the CREP signing ceremony for the Republican River and High Plains CREPs. Mr. Richrath noted that in the near term, he and Mr. Davis would need to work with Mr. Murphy on a press release from the District, noting a need for producers to come to Mr. Murphy and Ms. Newton before the June 12th application date for an acreage eligibility meeting. He noted the meeting is not for application sign-up. Mr. Richrath also stated that the 2- CRP handbook, which will include the sign-up procedure, is still being completed. Mr. Davis noted that the 2-CRP handbook had an amendment noting the CRP maintenance fee is now \$4 per acre, instead

of \$5 per acre, effective in the current general CRP sign-up and in CREP. Mr. Murphy noted that if a producer has an EQIP contract and wants to apply for a CREP contract, the producer must first terminate the EQIP contract in order to apply for CREP. Mr. Richrath and Mr. Davis suggested that the Board review the CREP allocations in October to determine any re-allocation of acres for applications waiting to be funded.

President Coryell asked Vice President Killin, the Republican River Basin's representative to the South Platte Roundtable (SPR), to discuss recent activities of the SPR. Vice President Killin reported that at the last SPR meeting held on 3-14-06, State representatives to the Interbasin Compact Committee (ICC) adopted a charter. Vice President Killin stated she is not certain what direction the ICC will take.

Mr. Murphy noted that he had visited with William Burnidge of the Nature Conservancy and he had nothing to report at this time.

Mr. Murphy acknowledged Mr. Dave Keeler, the new Republican River Basin water commissioner. Mr. Knox introduced Mr. Keeler, noting he has many challenges and opportunities as Republican River Basin water commissioner under supervision of Mr. Richrath. Mr. Knox noted that Mr. Keeler's primary responsibility is groundwater compliance. Mr. Knox said his first task will be to determine if individuals are pumping water in compliance with Water Court decrees or well permits. Mr. Knox noted this will be addressed vigorously, and permits will be compared with actual irrigated acreage. Mr. Knox noted the first step toward compact compliance is to target illegally irrigated acres.

Mr. Knox noted that the annual Republican River Compact Administration meeting will be on August 10th in Phillipsburg, Kansas, which will be preceded by an engineers' work session on the 9th. Mr. Knox also stated that Nebraska is continuing to work toward compact compliance with its CREP proposal and other enforcement actions. He noted that below Harlan County Lake there is a mutual irrigation company known as the Bostwick Irrigation Company that is a source of water supply for Nebraska and Kansas water users. Mr. Knox stated that Nebraska Bostwick irrigators have decided to forgo water diversion this year and receive compensation of \$100 per acre, for a total of \$25.1 million, to deliver water to Kansas.

President Coryell noted that after returning from break, the Board would enter into executive session, including a working lunch. At 11:20 a.m., the Board recessed for a break. Following the break, a motion was made to enter into executive session to discuss interruptible water supply agreements and for determining positions and instructing negotiators, receiving legal advice on legal questions related to such agreements, and to discuss personnel matters. The motion was seconded and approved unanimously. President Coryell stated that no motions are to be made or approved in executive session.

At 2:30 p.m., the executive session ended. No policy, position, resolution, rule or other formal action was taken during the executive session.

SURFACE WATER REPORT

Mr. Rex Buck, from Laird, Colorado, reported on behalf of the Pioneer Irrigation District of Colorado (Pioneer) and the owners of the Laird Ditch water right (Laird). Mr. Buck stated that this would be the last time he will report at the RRWCD Board meetings as depositions are beginning in the case filed by the Pioneer and Laird with the Colorado Groundwater Commission and things are starting to heat up. Mr. Buck stated that Dr. Schreüder's presentation on the Republican River Compact Administration groundwater model was very good and thanked the Board for making him available to answer questions on the model. Mr. Buck noted that maybe an interruptible supply agreement is not meant to be. Mr. Buck stated he would be receptive to any offer the Board did have and would present it to the Pioneer and Laird. Mr. Montgomery thanked Mr. Buck for coming to the RRWCD Board meetings and reporting on behalf of surface water users. President Coryell and Mr. Murphy thanked Mr. Buck for giving the surface water report and welcomed him back at any time.

PUBLIC COMMENT

At 2:40 p.m., the meeting was opened to public comment. There were no comments from the public.

BOARD ACTION

President Coryell discussed the Board's intentions to do an annual performance review for General Manager Stan Murphy. President Coryell asked Director Rick Seedorf to chair a staff review committee, also consisting of Board members Grant Bledsoe and Jack Dowell. President Coryell stated that Mr. Seedorf, Mr. Bledsoe, and Mr. Dowell will be responsible for the performance review and will look at the compensation package for Mr. Murphy. President Coryell stated that Mr. Seedorf has the forms and is authorized to incorporate the forms in the review. President Coryell stated that Mr. Murphy will be responsible for Administrative Assistant Monica Newton's performance review. A motion to authorize Mr. Murphy to deal with personnel medical issue situations as he deems appropriate, meaning sick leave and time off, subject to review by the Executive Committee, and to authorize Mr. Murphy to hire part-time help, if necessary to get the District through the busy time in light of CREP applications, subject to Executive Committee approval, was made, seconded, and approved unanimously.

Mr. Murphy reported that after reviewing website proposals from five companies, he recommended that the District accept the proposal by Tier 1 Innovation, LLC, which is a nationwide company. Mr. Murphy stated that the proposal is \$4,800 to design the website, \$30 a month to maintain the website, and \$60 per hour for any additional website work. A motion to hire Tier 1 Innovation, LLC, to construct the website was made, seconded, and approved unanimously. President Coryell noted that the District is able to obtain the Republican River domain from Colorado State Cooperative Extension per his conversation with Dennis Kahn.

At 2:49 p.m., a motion was made to amend Article IV, Section 2, of the District's By-Laws to read that the Board of Directors shall elect a President and Vice-President

each year at the regular quarterly meeting of the Board held in the month of October. The motion was seconded, and approved unanimously.

President Coryell stated, per the audit report, a time limit needs to be established for expense forms to be turned in. A motion was made that expense reports shall be submitted within 90 days, with the exception of the last quarter of the year, when expense reports shall be submitted to the District office by December 15th. The motion was seconded and approved unanimously.

President Coryell noted, per the audit report, that a District purchase plan or purchase policy should be developed. Mr. Montgomery recommended the issue be deferred until the next meeting so the Board has time to review the auditor's recommendations. A motion to table developing a purchase plan or purchase policy based on the audit report until the next meeting was made, seconded, and approved unanimously.

Mr. Murphy noted that during the January meeting, legal counsel David Robins had suggested that a fee be established for copies of the RRWCD minutes. Mr. Montgomery recommended that the Board table this item until the next meeting so that Mr. Robbins could further explain his suggestion. President Coryell noted that establishing a fee for RRWCD minutes be tabled to the next Board meeting.

Mr. Murphy noted that he had received two bids from two different businesses for providing copying machines. He recommended purchasing the Sharp copier from Journal Office Supply for \$6,489 with an extended maintenance program of .017 cents per copy black and .084 cents per color copy billed monthly on actual copy/print use and a \$25.00 per month minimum charge, which is within the Enterprise's budget for office start-up. A motion to purchase the Sharp MX2300n color and black copier from Journal Office Supply based on the informational sheet provided to the Board was made, seconded, and approved unanimously.

In the matter of purchasing irrigation pipe, Mr. Murphy stated that local producer Ken Helling has inline irrigation pipe available for the Gary Earl well pumping project and recommended that the item be tabled to the next meeting as he has been unable to get in contact with Mr. Helling for information.

Mr. Murphy noted that after visiting with Mr. Richrath and considering the limited number of water lease agreement applications submitted to the District, it is not necessary to adjust line items within the 2006 budget.

Mr. Murphy stated producers have expressed an interest in a possible deferred payment program for well retirement payments for tax purposes. Mr. Murphy noted that the District could benefit from interest earnings on money if payments were deferred. A motion to establish a deferred payment program, within the limitation of any IRS rules and subject to the first year July 1st payment schedule, was made, seconded, and approved unanimously..

President Coryell noted that at the last meeting held in March, the Board addressed the Pioneer and Laird response to the Enterprise's water lease and option agreement offer. The Board did not take any action on the item and did not respond to the counteroffer from the Pioneer and Laird. Mr. Montgomery stated, per the letter from Pioneer and Laird attorney Steve Bushong, it was not necessary to submit a written response unless a counter proposal is made by the Enterprise. A motion to not pursue the Pioneer and Laird response to the water lease and option agreement at this time was made, seconded, and approved with no opposing votes and one Board member abstaining. Mr. Montgomery recommended that the Board defer considering a written response to the next meeting. President Coryell stated that discussion of a written response to the Pioneer and Laird could be deferred to the next Board meeting.

Mr. Murphy noted that Monte Uyemura is interested in leasing his surface water right to the District. It was noted that the water right has not been used in recent years. President Coryell recommended not purchasing or leasing the water right based on advice from the District's engineers and legal counsel. A motion to reject the offer by Monte Uyemura was made, seconded, and approved unanimously.

President Coryell noted that Larry Homm had withdrawn his surface water right offer.

At 3:45 p.m., no old business was discussed.

No new business was discussed.

President Coryell noted that the next quarterly Board meeting is scheduled for July 13, 2006, in Holyoke at a place to be determined.

President Coryell stated in the past a donation has been made for use of the Nazarene Church building and it would be the intention of the Executive Committee to do so again for the same dollar amount, and also for the Wray Ambulance Building in Wray. The Board concurred with making these donations.

At 4:00 p.m., a motion to adjourn the meeting was made, seconded, and approved unanimously.

Secretary

Date