

ABOUT THE REPUBLICAN RIVER WATER CONSERVATION DISTRICT



The Republican River Water Conservation District (RRWCD) was created in 2004 by Colorado statute to cooperate with and assist the State of Colorado to carry out the State's duty to comply with the Republican River Compact. The RRWCD was given such powers as may be necessary to safeguard for Colorado all water to which the State is equitably entitled.

The RRWCD Board of Directors is currently focused on the construction of a \$71,000,000 pipeline project to deliver groundwater from a well field north of Laird, Colorado, to the North Fork of the Republican River to assist the State of Colorado with compact compliance. The Colorado Water Conservation Board (CWCB) and the Colorado Legislature have approved a \$60.6 million loan to the RRWCD Water Activity Enterprise (WAE) at two percent interest per year over 20 years to finance the project. The remaining funding for the project, and the money to repay the CWCB loan, will come from water use fees collected annually by the RRWCD Water Activity Enterprise. Projected completion of the Compact Compliance Pipeline is in late 2010.

FREQUENTLY ASKED QUESTIONS

Why is the pipeline project needed?

The simple answer is that the pipeline project is needed to avoid having wells in the District shut down for compact compliance. Colorado has been out of compliance with the Republican River Compact since 2003. For the five-year period 2003-2007, Colorado's beneficial consumptive use exceeded its compact allocations by an average of about 10,000 acre-feet per year, although the amount has gone down recently due to the RRWCD Water Activity Enterprise's lease of surface water rights in the North Fork drainage basin and the retirement of approximately 30,000 irrigated acres under the CREP and EQIP programs. However, projections of stream depletions from past well pumping indicate that stream depletions -- and the beneficial consumptive use charged to Colorado under the compact accounting as the result of such pumping -- will increase in the future. (This is sometimes called the "legacy" effect of past pumping.) Therefore, if no pipeline is built, it is expected that Nebraska or Kansas will sue Colorado for an injunction to stop pumping in the basin until Colorado is in compliance with the Compact, which would take many decades according to current projections. The pipeline project is therefore needed to allow water users in the District to continue to use water without the risk of compact curtailment.



Why is Colorado out of compact compliance?

In 1965, the Colorado Legislature passed the Colorado Ground Water Management Act, which allows the Ground Water Commission to determine designated ground water basins. In 1966, the Ground Water Commission established the Northern High Plains Designated Ground Water Basin (the "NHP Basin"), which included Ogallala Aquifer groundwater in the Republican River Basin in Colorado. At that time and for many years thereafter, no one in Colorado thought that Ogallala Aquifer groundwater was included in the water supply allocated by the Compact. After the NHP Basin was established, several thousand permits to appropriate designated ground water in the Basin were issued and an economy developed relying on groundwater. In 2000, a U.S. Supreme Court Special Master ruled that consumption of groundwater had to be included in compact accounting to



the extent that it depleted streamflow. That ruling had the effect of significantly increasing the beneficial consumptive use charged to Colorado under the Compact. The States then entered into a Final Settlement Stipulation in which they agreed to develop a groundwater model to determine the streamflow depletions caused by well pumping. The good news is that consumption of groundwater has a very small impact on stream flows compared to the amount of groundwater pumped in the NHP Basin. However, the "legacy" effect of past pumping means that shutting down wells in the Basin will not get Colorado within its compact allocations for decades.

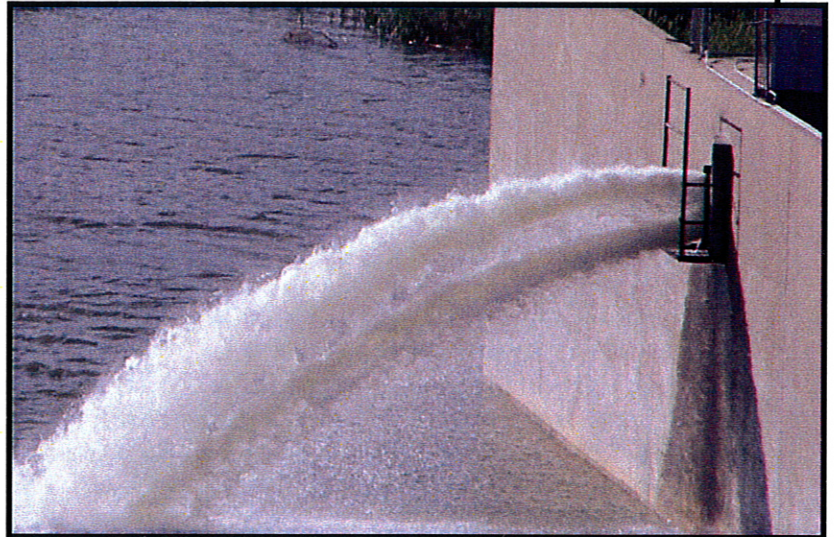
What is the pipeline project?

The pipeline project will deliver groundwater pumped from wells located 8 to 15 miles north of Laird, Colorado, to the North Fork of the Republican River just above the streamflow gage at the Colorado-Nebraska state line. The groundwater will be collected in a storage tank at the upper end of the pipeline, then will be delivered by gravity approximately 12.7 miles to an outfall at the river near the state line. The pipe diameter will be 42" at the upper end of the pipeline, reducing to 30" in the lower section of the pipeline near the river. The pipeline will be capable of delivering up to 25,000 acre feet of water per year.

GEI Consultants, Inc., of Centennial, Colorado, prepared a feasibility study for the pipeline project with a \$50,000 grant from the CWCB and did the engineering design for the project. The project engineering design, which cost \$1.2 million and was paid for by the RRWCD Water Activity Enterprise, is complete. GEI will assist in the construction of the pipeline project.

How were the wells chosen for the pipeline?

The feasibility study determined that the North Fork of the Republican River was the best location for a pipeline project because the compact streamflow gage is located at the Colorado-Nebraska state line. To minimize transit loss in the river, water delivered by the pipeline needs to be discharged as close as practical above a compact streamflow gage. Once it was determined that the groundwater should be delivered to the North Fork, the study then focused on areas north and south of the river to determine where the Ogallala Aquifer has the greatest saturated thickness. Also, the wells for the project need to be located at a sufficient distance from the river so that any stream impacts from pumping are minimal. After it was determined that the area with the greatest saturated thickness was north of the river and a minimum distance from the river was established, wells were identified to minimize pipeline construction costs. The wells under contract for the pipeline project range from 8 to 15 miles north of the river, which ensures a long-term water supply for the pipeline, and are located near the Colorado-Nebraska state line, which minimizes pipeline construction costs.



The groundwater rights for the pipeline plus easements for well sites, well connector pipelines, the storage tank, a maintenance storage yard, a building with controls for pipeline operations, and the main pipeline alignment for over half of the length of pipeline are under contract with a single landowner.

Has the State of Colorado contributed anything to the pipeline project?

The CWCB provided a \$50,000 grant to prepare a feasibility study for the pipeline project, and State officials assisted with the preparation of the feasibility study. The CWCB and the Colorado State Legislature have approved a \$60.6 million loan to the RRWCD WAE at the very low interest rate of 2% per year over a twenty-year repayment term. This low interest CWCB loan reduced the cost of the pipeline project by approximately \$30 million in interest, compared to a loan from a financial institution at a normal commercial interest rate.

Is it a Fee or a Tax?

The legislation creating the RRWCD authorized the District to establish a water enterprise pursuant to state law and to impose a use fee on the diversion of water within the District. In 2004, the RRWCD Board of Directors established the RRWCD Water Activity Enterprise and imposed a use fee on the diversion of water within the District. Use fees are used to pay for operations of the Water Activity Enterprise and to pay for programs to assist the State of Colorado to comply with the Compact. State law allows county treasurers to collect use fees with property taxes. If you own an operating large capacity well, a use fee is included on your property tax notice each year. It is a use fee, however, not a tax. **By law, an enterprise established by a district is excluded from the provisions of and cannot levy a tax, subject to Section 20 of Article X of the State constitution (The Taxpayer's Bill of Rights).**

Who pays use fees?

All post-compact diversions of water within the District are subject to a use fee, with the exception of diversions by certain small capacity wells not exceeding fifty gallons per minute. Diversions of groundwater for municipal and commercial use are assessed a use fee of \$11.60 per acre foot based on the amount diverted in the preceding calendar year. Diversions of groundwater for irrigation are assessed an annual use fee of \$14.50 per assessed irrigated acre. Diversions of surface water are assessed an annual use fee of \$13.45 per acre foot of consumptive use, which includes evaporation and seepage consumptive use from reservoirs.

Why did use fees increase this year?

In 2007, it became very apparent that voluntarily retiring irrigated acreage through the Environmental Quality Incentives Program (EQIP) and Conservation Reserve Enhancement Program (CREP) would not get Colorado into compliance with its compact allocations. The RRWCD Board of Directors concluded that augmenting stream flow through a pipeline project was the only feasible solution to get Colorado into compact compliance. The Board then developed a \$71 million project, consisting of \$49 million for the purchase of groundwater rights and easements and \$22 million for pipeline construction and related costs. To pay for the pipeline project, the Board applied to the CWCB for \$60.6 million loan to be repaid over 20 years at an interest rate of 2% per year. The CWCB and the Colorado Legislature approved the loan last year. The remaining \$11 million for the project will come from water use fees that have been collected or will be collected in the next few years. To pay for the pipeline project and repay the CWCB loan, in addition to repaying a \$4.5 million CWCB loan that was used to pay for the lease of surface water rights and continuing to make supplemental payments under the EQIP and CREP programs to conserve Ogallala Aquifer groundwater, the use fees had to be increased to the present level.

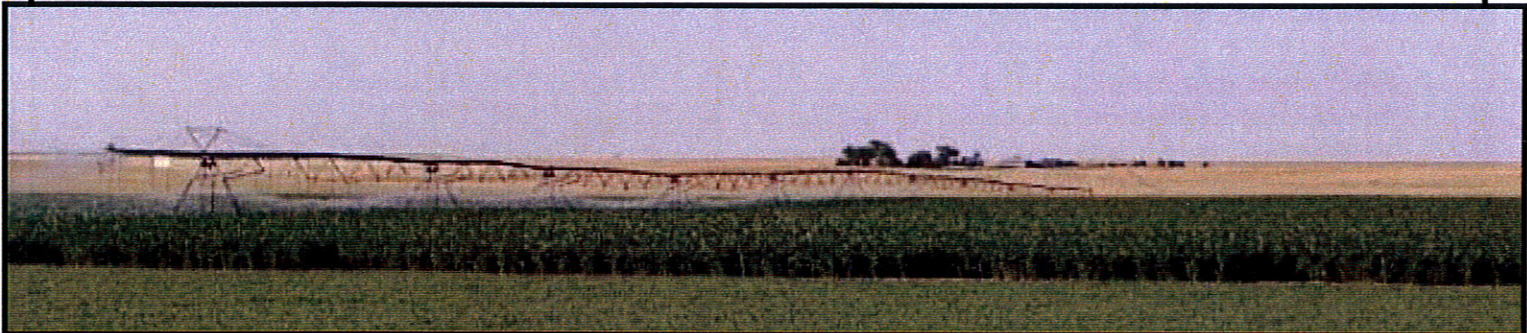
What is the status of the pipeline project?

The Final Settlement Stipulation (Stipulation) signed by the States of Kansas, Nebraska, and Colorado as of December 15, 2002, states that an augmentation plan and accounting procedures for a pipeline project to offset stream depletions to comply with a State's compact allocations shall be approved by the Republican River Compact Administration (RRCA) prior to implementation. The State of Colorado and the RRWCD WAE submitted an augmentation plan and accounting procedures to the RRCA in March 2008. The State of Colorado then entered into negotiations with the other two States to try to get approval of the augmentation plan and the accounting procedures. At a special RRCA meeting on April 28, 2009, the Nebraska and Kansas RRCA members voted not to approve a resolution offered by Colorado to approve the augmentation plan and the accounting procedures, although negotiations are continuing. If the negotiations are unsuccessful, the Stipulation allows Colorado to submit the dispute to non-binding arbitration. Because of concern that the CWCB loan funds may not be available in the future to purchase the pipeline project wells, the District could be at risk of being shut down for compact compliance. Therefore, the RRWCD Board has determined that it will proceed to closing on the purchase of the groundwater rights and easements for the pipeline project.



If the pipeline is not built, will water use fees be refunded?

If no pipeline is built, Colorado will not be in compliance with its compact allocations. Without some type of project to offset stream depletions to comply with Colorado's compact allocations, it is expected that Nebraska or Kansas will sue Colorado for an injunction to stop pumping in the basin until Colorado is in compliance with its compact allocations. Therefore, if the pipeline project is not built, the RRWCD Board would need to consider other possible projects to offset stream depletions to comply with Colorado's compact allocations. But, assuming no project can be built and the collected use fees are not needed to assist the State of Colorado to comply with the Compact, unused fees would be refunded to water users in the District.



If you have any questions regarding the contents of this brochure, please feel free to contact Stan Murphy, General Manager, at the District Office: 410 Main Street, Suite 8, Wray, Colorado 80758, Telephone: (970) 332-3552, e-mail: rrwcd@centurytel.net. For more information go to the District's web-site: www.republicanriver.com



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*Maintaining the tradition of Conservation
while aiding in Compact Compliance*