

**Minutes of Third 2009 Regular Quarterly Meeting of the
Republican River Water Conservation District**

**July 9, 2009
Haxtun, Colorado**

The Board of Directors of the Republican River Water Conservation District convened a regular meeting, pursuant to notice required by statute and the District's By-Laws, at the Community Center, Haxtun, Colorado.

Present were:

Board Members:

Dennis Coryell, President
Kim Killin, Vice President
Rick Seedorf, Treasurer
Eugene Bauerle
Grant Bledsoe
Jack Dowell
Garry Kramer
Greg Larson
Stan Laybourn
Bruce Latoski
Wayne Skold

Stan Murphy, RRWCD General Manager
Dana Barnett, RRWCD Administrative Assistant
Jennifer Hunt, General Counsel, Hill & Robbins, P.C.
Jim Slattery, District Engineer, Slattery Aqua Engineering
John Willard, District Accountant, Premier Account
Tim Davis, District Program Consultant, TJD LLC

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 10:12 a.m. and welcomed the public. Vice President Kim Killin conducted a roll call of Board members. Eleven directors were in attendance; therefore, a quorum was declared. Tim Pautler, Ray Enderson, Steve Kramer, and Larry Zion were the Directors that were absent, and President Coryell noted that they were all excused.

AGENDA AND APPROVAL OF MINUTES

President Coryell requested any changes to the agenda for the meeting. Jennifer Hunt, legal counsel, requested that the Harsh litigation be added to the topics for the executive session. A motion to approve the agenda with the addition to the description of the executive session was made, seconded, and passed unanimously.

Prior to this meeting, the directors were able to access the Board packets on the District's website, including a draft of the minutes of the May 18, 2009 special Board meeting, the June 18, 2009 special teleconference Board meeting, and the minutes of the executive session held at the May 18, 2009 special Board meeting. There, they could retrieve all documents that were pertinent to this meeting; hard copies were also provided at the meeting. President Coryell asked if there were any changes or corrections to the May and June Board minutes. There were none, and a motion to approve the minutes of the May 18, 2009 and June 18, 2009 special Board meetings, as well as the minutes of the executive session held on May 18, 2009, was made, seconded, and approved unanimously.

GENERAL MANAGER'S REPORT

At 10:16 a.m., General Manager Stan Murphy presented the financial report and the disbursements for the second quarter of 2009, ending June 30, 2009, which were previously available to the directors on the website as well as being included in the Board packet. A motion to approve the financial report and the disbursements for the second quarter of 2009 was made, seconded, and approved unanimously.

Mr. Murphy then reviewed balances in the checking and savings accounts and in certificates of deposit. He also commented that even though the District had assembled vast amounts of information on the web-site and also sent a brochure last month to all irrigators in the basin which reviewed frequently asked questions, there were still remarks from the public that the District does not put out enough information.

PROGRAM UPDATES AND REPORTS

At 10:20 a.m., Jim Slattery, District Engineer, updated the Board on the status of the Compact Compliance Pipeline. He reported that the Corsica Land & Cattle easement agreement would be signed sometime this week, and that the State Land Board easement should follow shortly thereafter. He also noted that since initial design of the pipeline by GEI Consultants, the price of steel had dropped enough to warrant a second look by GEI at using steel pipe instead of PVC. Mr. Slattery informed the Board that during the construction bidding process, contractors will submit bids using PVC, but can include an "alternative bid" using steel. The District will have the final decision on what materials will be used.

At 10:30 a.m., Ms. Hunt gave a brief report on the Cure Land water rights purchase and lease closing which took place on June 19 in Wray. She also reported that the Harsh lawsuit answer and disclosure statement had been submitted and that a trial date had not been set yet. The trial date is supposed to be set by tomorrow (June 20), but she had no knowledge of the Harshs' attorneys contacting Hill & Robbins to inquire about available dates.

At 10:32 a.m., President Coryell recognized Mac Magraw in the audience, representing Senator Bennet's office.

Tim Davis, Program Consultant to the District, started his report with the plans for an upcoming trip to Washington, D.C., to meet with the Office of General Counsel (OGC) of the U.S. Department of Agriculture (USDA). He asked Christine Arbogast, District Lobbyist, to inform the Board of the details for the proposed trip. Ms. Arbogast reported that she and Mr. Davis had been working through Representative Markey's office to try to set a meeting with the OGC to discuss the "target area" issues holding up the approval for the CREP amendment. The meeting has finally been set for July 15 in Representative Markey's office in Washington, D.C. She also stressed the importance of Peter Ampe, representing the Colorado Attorney General's Office, and representatives of the District meeting face-to-face with representatives of the OGC prior to any issuance of a letter rejecting the "target area" portion of the CREP amendment. Discussion and Board approval of this trip were scheduled during "Board Action Items" of the agenda.

Ms. Arbogast took a few minutes to also update the Board on other pertinent issues happening in Washington, D.C. Senator Isgar has been appointed as Colorado's rural development director for the USDA and Trudy Kareus was appointed as Colorado's executive director for the Farm Service Agency (FSA). Ms. Arbogast urged the Board to set up a meeting with Ms. Kareus as soon as practicable to develop a relationship with her office. Ms. Arbogast and Mr. Davis provided a short Farm Bill update as well as a short description of the Clean Water Restoration Act which has had recent language changes that could now potentially present difficulties to some agriculture activities.

Mr. Davis reiterated that the 2006 CREP program was still in place and active. The issue with the OGC is related to the "target area" (10,000 acres where the Compact Compliance Pipeline is to be built). The CREP amendment includes the addition of 30,000 acres, but does not have anything to do with changing the cropping years, the Lincoln and Washington counties cap, and the alfalfa issue. Those are all part of the Farm Bill. Changing CREP requirements on a national level will require an environmental assessment that will take 9-16 months (per USDA sources). In fact, the approval of an AWEP program will also be subject to an environmental assessment. However, CREP is under the FSA jurisdiction and the AWEP program is under the NRCS jurisdiction, so they will be done according to different time schedules. Mr. Davis commented that, should the "target area" be removed from the amendment, it is possible that the CREP amendment could be approved sooner. More discussion regarding the timetable ensued. For budgeting purposes, John Willard, District Accountant, will use October of 2011 as a target for the Enterprise to make its first payments under the CREP amendment.

At 11:00 a.m., General Manager Murphy reported on the 2009 EQIP sign-up. There are three contracts in Kit Carson County for a total of 486 acres and two in Yuma County for a total of 350 acres, which together will be close to the amount of \$300,000 that the Board set as the limit for the 2009 program (one-third by October 1, 2009 and two-thirds in 2010, for a total commitment of \$1,000,000). The total amount for the first payments to be paid this year will be \$65,000.

Mr. Davis reported that Mr. Tim Carney, NRCS Chief in Lakewood, Colorado, will announce that the request for AWEPP proposals was successful and that the Enterprise will receive program funding this year. Also, pursuant to working with the NRCS on future conservation programs, the NRCS wants a representative from the RRWCD for a two-day online training to assist producers in a new program that converts irrigated ground to dryland farming or grazing. Mr. Davis said he would get more information on the program and how much of a commitment it would require.

At 11:09 a.m., Peter Ampe from the Colorado Attorney General's Office gave a report on recent activities of the State of Colorado and the Republican River Compact Administration (RRCA). Mr. Ampe said that he has been cleared to travel to Washington, D.C., on July 15th to assist the District in discussing the CREP amendment with the OGC. As far as Compact Compliance Pipeline approval by the RRCA, he said that the discussions among the States were still confidential and the RRCA would meet next on August 11 and 12 in Lincoln, Nebraska. State Engineer Dick Wolfe will present the Compact Compliance Pipeline resolution for a final vote at the meeting. If the resolution is not approved by the RRCA, Colorado will begin the non-binding arbitration process under the Final Settlement Stipulation.

Mr. Ampe then updated the Board on the Arbitrator's final decision in the non-binding arbitration that had just been issued regarding the disputes between Kansas and Nebraska. He was questioned by the Board as to whether he thought the two States will accept the decision. Mr. Ampe said the States can accept portions of the decision and litigate the portions they don't accept. He said that if the accounting aspect of the decision is accepted, there may be final accounting numbers for the year 2007. He also said either State can ask the US Supreme Court to hear its case, and the Supreme Court can decide if it will take all, part, or none of the case.

At 11:26 a.m., Treasurer Rick Seedorf, who serves as the RRWCD representative with the Colorado Water Congress (CWC), reported that the CWC was concerned that the CWCB loan funds were at risk and is monitoring state legislative activities on the subject. Mr. Seedorf also confirmed that he would be attending the CWC Summer Conference in Steamboat Springs in August.

Director Gene Bauerle, who represents the RRWCD Board on the South Platte Roundtable (SPRT), reported that he was unable to attend the joint meeting of the three roundtable boards and felt that the next SPRT meeting was not pertinent to RRWCD issues.

Director Jack Dowell, who attends the Yuma County Pest District (YCPD) meetings on behalf of the RRWCD, reported that the tree removal project on the North Fork of the Republican River was complete and the YCPD would be receiving more funds to start those efforts on the South Fork and the Arikaree in the fall. There were opinions that more wildlife was being seen due to the tree removal. Mr. Dowell also reported that he had asked David Barfield, Chief Engineer for the State of Kansas, if Kansas had a tree removal project on the South Fork. Mr. Barfield said Kansas was doing a study to determine the benefits of such a program.

At 11:30 a.m., President Coryell announced that the meeting was ahead of schedule according to the agenda and asked if the public had any comments at this point in the meeting. He said that the official Public Comment at 1:00 p.m. was still on the agenda, but the Board could hear some comments at this time.

PUBLIC COMMENT

Joe Newton, CAPA Board member, asked if there were any new developments regarding the possibility of Bonny Reservoir being drained to potentially meet sub-basin Compact compliance. He also asked if the District's lobbyist was pursuing this effort at the State level and what the Department of Natural Resources is doing. He also asked if CAPA or community members can do anything to help the effort. Mr. Ampe reported that Dick Wolfe had issued a release order to bring the water level in Bonny Reservoir down to 11,000 acre feet and was monitoring that level for recreational use as well as compact compliance. There will potentially be another release in the fall and, with the current precipitation, the release may not be on a dry stream bed. Mr. Newton asked what the evaporation from the reservoir is. Mr. Ampe answered that, on average, it has been 3,500 acre feet. Vice-President Killin reminded the audience that the RRWCD Board had asked the State for a letter guaranteeing a solution for the sub-basin issue. President Coryell said that Scott Meiklejohn, the District's State lobbyist, has been working primarily on keeping the CWCB loan funds secure for the District. He said the District has asked the State to solve Kansas' concerns on the South Fork. He said that even though the abnormally high amounts of rainfall this summer has affected the South Fork stream flow, when rainfall returns to normal, the State will be out of compliance with Kansas' interpretation of the sub-basin non-impairment test again. Mrs. Killin also stated that the District has retired or is in the process of retiring several surface water rights on the South Fork, and the District believes the State of Colorado needs to negotiate with Kansas to solve the sub-basin issue. President Coryell assured the audience that the District echoes these concerns, not only through the District's legal counsel, who has bi-weekly conversations with Dick Wolfe and Alex Davis, but also through the Colorado Ground Water Commission, which has directly questioned Mr. Wolfe at its meetings. John Willard, District Accountant, asked Mr. Newton if CAPA had sent a letter to the State addressing these concerns. Mr. Newton said that CAPA had not and was considering hiring a lobbyist to pursue these issues on behalf of the community and CAPA members. President Coryell added that when the agriculture community speaks out, they can draw attention to the issues. Mr. Ampe concluded the discussion by informing Mr. Newton that the State will release all inflows after the recreation season has ended.

At 11:55 a.m., President Coryell recessed the meeting for a one hour lunch break. Treasurer Seedorf left the meeting at this time.

At 1:10 p.m., President Coryell re-convened the meeting and, again, opened the floor for public comment. There was none.

PROGRAM UPDATES AND REPORTS - CONTINUED

President Coryell asked John Willard, District Account, to report on the 2008 audit report status. Mr. Willard reported that he had seen a draft of the audit and explained that the auditors

did not allow the bookkeeping entry of the 2009 Water Use Fee Receivable as originally presented to them by Mr. Willard. This change results in a negative net worth. Mr. Willard also commented that the District, once again, received a letter from the auditors noting the lack of internal controls which is due to the fact that the District only has two employees. Mr. Willard was going to ask the auditors to take into consideration that Premier Accounting checks over the bookkeeping detail several times throughout each month. He felt the auditors are a quality firm, located locally, that did the audit in a timely manner and charged the District a fair price.

At 1:20 p.m., President Coryell asked Jim Slattery, District Engineer, to refresh the Board's memory on the construction schedule for the Compact Compliance Pipeline. Mr. Slattery reported that the design of the pipeline is complete and paid for and can go out for bid upon Board approval. GEI Consultants, the pipeline design firm, is still estimating the cost to be \$21,000,000. Mr. Slattery informed the Board that the construction bids can come in higher or lower than that estimate. The bid process can take from three to six months, and construction could take six to nine months depending on the size and experience of the contractor that is awarded construction of the project. Also, the price of steel, which is lower than it was in the past, is now a consideration that the Pipeline Technical Advisory Committee will have to investigate and decide if it wants to change the materials used in the construction of the pipeline. Another issue to complete is the easements so that the Yuma County Land Use Permit can be obtained. President Coryell commented that the timetable needs to be monitored closely to get the project moving depending on the RRCA annual meeting in August in Lincoln, Nebraska.

BOARD ACTION ITEMS

The first item for Board action was to hire an auditor for calendar year 2009. A motion to hire Winfrey & County to conduct the 2009 audit was made, seconded, and passed unanimously.

The next action item concerned the Purchase and Sale Contract for the water right owned by Habitat For Wildlife, LLC (HFW). During previous conversations with the General Manager and legal counsel, the District had been advised that a proposed amendment to the contract was being considered by the seller in an attempt to enroll adjacent land into a federal program. Mr. Jim Smith of HFW was present at the meeting and stated that he was not requesting an amendment to the contract. Ms. Hunt, legal counsel, informed the Board that if HFW was not requesting an amendment to the contract, no other party was authorized to propose such an amendment; therefore, the Board has no action in the matter and could move towards the closing within thirty days pursuant to the terms of the contract. Mr. Ron Koberstein of the Phillips County FSA office reported to the Board that he had reviewed the eligibility of the proposed application and found it is not eligible for either the EQIP or CREP programs. Therefore, President Coryell said that there was no action to take, and legal counsel was instructed to move ahead with the closing to take place on or before July 30, 2009.

The next item on the agenda was the option to extend the surface water lease with Soehner Cattle Company. The option to extend the lease for another three-year term is part of the current lease, and all that is necessary is that Mr. Soehner be notified in writing that the District wishes to extend the lease agreement. It was reported that Mr. Soehner was interested in

extending the lease with the District. A motion to exercise the option to extend the surface water lease with Soehner Cattle Company for a three-year term under the current lease agreement was made, seconded, and passed unanimously.

The negotiating committee that had been appointed to negotiate with the Hale Ditch water right owners reported that they were still in negotiations with the owners and there were no contracts to act upon at this time.

Jennifer Hunt reported that the easement agreement with Corsica Land & Cattle Company (CLLC) that the Board had previously approved had undergone some language changes requested by CLLC. Due to a printing problem, the Board did not have a copy of the new proposed agreement, so Ms. Hunt read the requested changes and answered questions from the Board. A motion to accept the changes as described by Ms. Hunt to the Corsica Land & Cattle Company easement agreement was made, seconded, and passed unanimously. Ms. Hunt left her copy of the agreement for the District's files.

The final item for discussion was the proposed legislative trip to Washington, D.C., as described earlier in the meeting. The Board determined that getting the OGC to make a final decision on the "target zone" for the proposed CREP amendment would allow the District to move forward with the amended CREP program, with or without the "target zone." The Board concluded that a face-to-face meeting with the OGC might accomplish this goal. A motion to authorize Dennis Coryell, Tim Davis, David Robbins, and Peter Ampe to travel to Washington, D.C., for a meeting with the OGC was made, seconded, and passed unanimously.

EXECUTIVE SESSION

At 2:09 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 for the purchase, acquisition, or lease of water rights, discuss recent litigation, and to receive legal advice from the 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 2:55 p.m., Vice-President Killin left the meeting.

At 3:30 p.m., the executive session ended.

OLD BUSINESS

Director Garry Kramer asked a question to clarify the lease agreement with Cure Land LLC as to number of acres, dollar amount and term of the lease.

NEW BUSINESS

Jennifer Hunt reported to the Board that because Mr. Dennis Montgomery may be called as a witness in the Harsh case, he could not represent the District at trial, although he can

participate in pre-trial litigation activity and other attorneys in the firm could represent the District at trial if the Board approved. Therefore, she said the Board needed to approve retaining the firm of Hill & Robbins, P.C., specifically David Robbins and Jennifer Hunt, to represent the District in the lawsuit at trial. A motion to retain Hill & Robbins, P.C., as proposed by Ms. Hunt, for legal representation in the Harsh lawsuit was made, seconded, and passed unanimously.

General Manager Murphy instructed the Board to review the brochure in the Board packet regarding The Greeley Guest House, Greeley, Colorado, as a possible location for the Board Retreat on November 18 and 19. Mr. Murphy and administrative assistant, Dana Barnett, had done some preliminary pricing and found The Greeley Guest House to be considerably less costly than some locations in Denver. A motion to waive the location of special meeting provision and approve the Greeley Guest House, Greeley, Colorado as the location for the special board meeting in November, 2009 was made, seconded, and passed unanimously.

At 3:45 p.m., there being no further business, a motion was made to adjourn the meeting, seconded and passed unanimously.

Secretary

Date