

Minutes of 4th 2006 Regular Quarterly Meeting of the
Republican River Water Conservation District

October 12, 2006

Wray, Colorado

Present were:

Board Members:

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

Stan Murphy, General Manager
John Willard, District Accountant
Dennis Montgomery, General Counsel, Hill & Robbins, P.C.
Tim Davis, District Consultant
Ken Knox, Chief Deputy State Engineer
Scott Richrath, State Engineer's Office
Dave Keeler, State Engineer's Office
Joel Schneekloth, Colorado State University Cooperative Extension
Deb Daniel, Plains Ground Water Management District
Danyel Brenner, Office of US Senator Wayne Allard

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 10:08 a.m. President Coryell welcomed the public and introduced Mr. Ken Knox and Mr. Scott Richrath from the Colorado Division of Water Resources, Mr. Tim Davis, the District's consultant on the Conservation Reserve Enhancement Program, John Willard, the District's accountant, Deb Daniel from the Plains Grand Water Management District, and Danyel Brenner, from Senator Allard's office. Secretary Tim Pautler conducted a roll call of Board members, noting that Director Jerry Sonnenberg was absent and that a quorum of the Board was present. President Coryell stated

that Director Sonnenberg had been excused to participate in a water tour with the State legislators.

AGENDA AND APPROVAL OF MINUTES

President Coryell proposed an amendment to the agenda to add the adoption of a resolution for a special meeting at the Radisson Southeast Denver in Aurora, Colorado, beginning at 1 p.m. on November 15 and ending at 3 p.m. on November 16, 2006. A motion to amend the agenda as proposed by President Coryell was made, seconded, and approved unanimously. President Coryell observed that the Directors had received drafts of the minutes of the July 13, 2006 regular quarterly meeting and the executive session for their review. A motion to approve the minutes of the July 13, 2006 regular quarterly meeting and the executive session was made, seconded, and approved unanimously.

GENERAL MANAGER'S REPORT

At 10:15 a.m., General Manager Stan Murphy noted that former administrative assistant Monica Newton had departed, that a process to seek a replacement had been completed, and that Dana Barnett of Wray had been selected. She has accepted the position and will begin November 1.

General Manager Stan Murphy presented the financial report and the disbursements for the quarter ending September 30, 2006. Mr. Murphy reported that a savings account had been created for the Enterprise at the Bank of Colorado in Yuma, and that \$1 million has been transferred to the savings account. Mr. Murphy also reported that \$995,000 had been deposited by Mr. Murphy, President Coryell, Secretary Pautler, and Treasurer Seedorf at nine different banks in the District in accordance with the Board's direction at the July 2006 meeting.

Mr. Murphy recommended that the District's accountant John Willard be delegated responsibility to prepare the budget for next year.

Mr. Murphy reported that the Enterprise has a lease for 2006 with Gary Earl for three wells near the Arikaree River and has made its second and final payment. He noted that the wells had not been operated this year and that pumping water from the wells this year would result in an additional \$30/acre payment under the lease. Additionally, he stated that the Enterprise paid the Soehner Cattle Co. for 3/7ths of one year on approximately 117 acres for not irrigating in 2006 pursuant to the lease agreement with the Soehner Cattle Co. to lease the Company's interest in the Laird Ditch water right for part of 2006 and 2007, 2008, and 2009. Mr. Murphy reported that one-year groundwater leasees will be paid their second payment in March 2007 or upon CREP enrollment, if sooner.

President Coryell asked whether anyone had any questions with regard to the financial statements. Director Grant Bledsoe clarified that \$4.6 million is currently held in cash. A motion to approve the financial reports and disbursements for the quarter ending September 30, 2006, was made, seconded, and approved unanimously.

Mr. Murphy noted that Board appointments were due for the W-Y, Central Yuma, and Plains Ground Water Management Districts, as well as Washington, Sedgwick, and Lincoln

Counties, and that confirmations had been received for reappointments of Directors Jack Dowell, Bruce Latoski, Stan Laybourn, Raymond Enderson, and Steve Kramer. No action had been taken to appoint a director from Sedgwick County, and in accordance with section 37-50-104(3)(a), C.R.S., Director Wayne Skold will remain in office until a successor is duly appointed and qualified.

Director Bledsoe reported that Rex Buck had spoken with soil scientists from CSU and had begun discussions with an engineering firm regarding water storage. Mr. Murphy has received a packet and is looking into this.

Scott Richrath stated that President Coryell had been selected to receive the Vern Haverstick Groundwater Hero award and presented a letter of support from Senator Greg Brophy and Representative Cory Gardner. President Coryell said the award was a recognition of the entire Board and thanked everyone for their support for the award.

2007 BUDGET HEARING

At 10:28 a.m., President Coryell announced that the Board would hold a hearing to consider adoption of the proposed 2007 budget. District accountant John Willard presented the Budget Committee's proposed 2007 budget. The District budget includes a \$1.3 million allocation for the 2007 Environmental Quality Incentive Program (EQIP), with a maximum of \$300,000 allotted to temporary retirement. This budget also provides for necessary fund set-aside for future Conservation Reserve Enhancement Program (CREP) water retirement payments.

Mr. Willard raised a question of whether payments could be made from checking and savings accounts rather than liquidating certificates of deposits, which have a penalty for early withdrawal. The Board agreed and concluded that there was sufficient money in the checking and savings accounts to make payments without liquidating certificates of deposit.

President Coryell invited the public to comment on the proposed 2007 budget. There were no comments from the public and no objections to the proposed budget.

A motion to adopt the proposed 2007 budget and to make appropriations of necessary monies for 2007 was made, seconded, and approved unanimously. Budget and appropriation resolutions were signed by President Coryell and Secretary Pautler.

Mr. Murphy recommended that the Board delegate responsibility for future budget preparation to Mr. Willard. After discussion, President Coryell appointed Mr. Willard as the person to prepare future budget estimates for the District and the Enterprise.

PROGRAM UPDATES AND REPORTS

At 10:50 a.m., President Coryell asked Mr. Knox to report on the Republican River Compact Administration (RRCA) meeting in August 2006. Mr. Knox reported that Mr. Murphy, President Coryell, Vice President Killin, and legal counsel David Robbins attended the RRCA meeting in August in Phillipsburg, Kansas, along with State staff.

Mr. Knox reported that Colorado was 10,420 acre-feet out of compact compliance in 2005 and that the State is working diligently to reduce that number in its entirety in the future. Mr. Knox said that Kansas Chief Engineer, David Pope, recognized the drought and recognized Colorado's efforts to achieve Compact compliance, but Mr. Knox paraphrased Mr. Pope's statement to the RRCA as "We want our water." Mr. Pope said that Kansas would monitor compact compliance and take whatever actions it deems necessary to ensure compliance. Although Mr. Knox said that the deficit had been reduced from the prior two years, Mr. Knox said that further work must be done by the State and District to achieve compact compliance.

Director Eugene Bauerle said that David Barfield, who works for Mr. Pope, will make a presentation to the Upper Nebraska Natural Resources District in Imperial, Nebraska, in about two weeks.

Mr. Montgomery reported that the Pioneer Irrigation District and owners of the Laird Ditch water right had filed an appeal of the Colorado Ground Water Commission's (GWC) dismissal of their petition to de-designate the Northern High Plains Designated Ground Water Basin and that the defendants had filed a motion to dismiss portions of the appeal as not ripe for appeal. The defendants' position is that if the District Court disagrees with GWC dismissal, then the petition must be remanded back to the GWC rather than the Yuma County District Court holding a *de novo* hearing on the petition. The Yuma District Court judge recused himself, and a former Denver District Court judge has been appointed to hear this appeal.

At 10:55 a.m., President Coryell noted that there was nothing new to report regarding the Colorado Water Congress because Director Sonnenberg was not present, but Director Sonnenberg had provided a draft of proposed legislation to increase the per diem compensation for directors.

At 10:56 a.m., President Coryell asked Secretary Pautler to report on the Environmental Quality Incentive Program (EQIP). Secretary Pautler reported that over 3,000 irrigated acres had been retired as a result of EQIP during 2005, based on 30 contracts (15 Kit Carson, 12 Yuma, 1 Phillips, 2 Washington). Secretary Pautler reported EQIP retirement totals for 2006 as follows: 7,144 irrigated acres, composed of approximately 5,300 acres enrolled in permanent retirement and 1,800 acres enrolled in 5-year retirement based on 55 contracts (37 Kit Carson, 5 Phillips, 2 Sedgwick, 2 Washington, 9 Yuma). The federal expenditure for EQIP contracts in 2005 was \$875,000; the federal expenditure in 2006 is \$2.1 million.

Secretary Pautler stated that the Natural Resource Conservation Service strongly supports EQIP in the Republican River Basin. At the NRCS State Technical Committee meeting in Golden on September 27, the District requested NRCS support in 2007 comparable to that in 2006. The District noted that \$1.3 million would be made available by the Enterprise in 2007, with up to \$300,000 available for 5-year retirement and the balance available for permanent retirement.

Secretary Pautler reported that State Conservationist Allen Green had told him that he would allow the Enterprise to mandate 2007 water retirement in 2007 as a condition to the Enterprise contracts to supplement EQIP contracts, although the NRCS will permit postponement of water retirement into 2008 under the federal EQIP contracts. Mr. Richrath

pointed out that Mr. Green was not prepared to commit any level of funding for EQIP ground and surface water retirement beyond 2007.

President Coryell asked Mr. Murphy to report on the Conservation Reserve Enhancement Program (CREP). Mr. Murphy reported that the Budget Committee had re-allotted CREP acres to accommodate as many lottery-week applicants as possible. The Kit Carson County cap for CRP will limit the total signups available in Kit Carson County. It is therefore likely that Kit Carson applicants outside of four miles will soon be turned away due to the cap.

Mr. Murphy also said that some producers are currently sitting on CREP contract offers and recommended that the Board require that applicants be given a time limit for contacting the District office to initiate the process of entering into CREP contracts. Mr. Murphy said that the Enterprise is still processing 2006 EQIP applications.

Mr. Tim Davis reported that amendments to reallocate acres and to allow producers to cancel an EQIP contract if they enter into a CREP contract had been approved by FSA in Washington, DC. Mr. Davis has asked that the District be represented in the coalition that presents 2007 farm bill recommendations.

Mr. Ken Knox reported that the Rio Grande basin and the South Platte River basin would be pursuing CREP proposals.

Mr. Murphy reported that producers were concerned that they may be required to irrigate grass at 3 inches per acre for two years under a CREP contract and asked the Board whether it wanted to work on behalf of producers with utility companies in an effort to try to reduce the hook-up charge for producers who must maintain irrigation capability for minimal water usage. Discussion ensued about the benefits and drawbacks of attempting to influence electric co-op policy. Mr. Montgomery recommended that a letter from the Board signed by President Coryell to the three co-ops would be appropriate in an effort to ease the financial burden on producers entering into CREP. President Coryell directed Mr. Murphy to prepare a letter to the electric co-ops.

At 11:18 a.m., 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 she had been unable to attend the South Platte Roundtable meeting the previous night and asked Joel Schneekloth of CSU to report. Mr. Schneekloth reported that the meeting had been a joint meeting of the Metro and South Platte Roundtables and had discussed the absence of the Republican River Basin in the roundtable studies. HB 1400 requests funding for a study for the Republican River Basin. Tamarisk and hydrology funding could also become available. Mr. Schneekloth said that the focus of the Roundtables is on finding available appropriations for municipal water supplies and looking for unappropriated water. The Roundtables also want to consider growth beyond 2030 because that is a pretty short window. Mr. Knox stated that the Republican River Basin is fully appropriated.

At 11:25 a.m., Director Rick Seedorf reported that he, Secretary Pautler, and Mr. Murphy met with Ms. Grant Leslie of Senator Ken Salazar's office at the office of RRWCD lobbyist Doug Flanders. They discussed funding for one-time programs in addition to existing RRWCD

programs. Secretary Pautler added that Ms. Leslie hoped to have the 2007 farm bill preparation consider whether CREP should be subject to the FSA county CRP cap because CREP is to solve compact compliance.

Mr. Richrath noted that some of the applied acres for EQIP are the same acres under application for the CREP program. He noted that producers are being faced with a decision of which program to enter while considering if liquidated damages will have to be paid on an EQIP contract to enter into a CREP contract.

PUBLIC COMMENT

At 11:28 a.m., the meeting was opened for public comment. No public comment was made.

At 11:30 a.m., President Coryell raised the issue of notifying impacted governmental entities in the District of well retirements. Some ground water management districts have special assessments in place of or in addition to a mill levy and are experiencing reduced revenue as a result of well retirement. Mr. Murphy added that school, fire, and hospital districts are also impacted. Discussion ensued. Director Wayne Skold said he felt comfortable cooperating with other government entities, but was opposed to providing mailing lists to private entities seeking to profit from this information. President Coryell directed Mr. Murphy to investigate further with assistance from legal counsel and make a recommendation.

At 11:43 a.m., Mr. Murphy reported that legislation may be introduced in the next session of the State Legislature that would raise the per diem for directors of water conservancy and water conservation districts to the level of the Colorado River Water Conservation District.

At 11:44 a.m., President Coryell noted that after a recess for lunch, the Board would reconvene to consider entering into executive session.

At 11:46 a.m., the Board recessed for lunch

At 12:25 p.m., the Board reconvened and 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 personnel matters pursuant to section 24-6-402(4), C.R.S. 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.

At 1:35 p.m., the executive session ended and the Board took a short recess.

At 1:55 p.m., President Coryell called the meeting back to order and stated that no formal action or decisions were taken during executive session.

BOARD ACTION ITEMS

President Coryell raised the issue of changing the months for the regular quarterly Board meetings, which currently fall during wheat harvest and corn harvest. This would require

amendment of existing legislation governing the Board's meetings (section 37-50-108, C.R.S.). After discussion, the directors concluded that there was no need to change the dates and agreed to leave the months as established in the legislation.

Mr. Murphy recommended that the Board consider establishing a time limitation for producers to accept or refuse offers to enter into a CREP contract with the Enterprise. After discussion, a motion to give applicants 14 days notice by certified mail to initiate the process to accept the Enterprise's CREP contract was made, seconded, and approved unanimously. President Coryell instructed Mr. Murphy to work with Mr. Montgomery to draft a letter to be used by the Enterprise.

At 2:15 p.m., Mr. Davis noted that the Farm Service Agency (FSA) had amended the CRP contract for the Republican River CREP to permit up to six inches of irrigated water to be applied per acre to establish a cover crop as part of an approved conservation plan within 24 months of the contract execution date rather than 12 months of the contract execution date. Mr. Davis suggested that the Board may want to consider waiving the provision in the Enterprise's contract to be consistent with the FSA contract. A motion was made to waive the provision of the Enterprise's current contract limiting irrigation to the first 12 months and replace it with a provision to allow for irrigation up to 24 months, consistent with FSA's amended contract. The motion was seconded and approved unanimously.

Mr. Murphy raised the issue of the impact of prolonged irrigation under CREP contracts to establish a cover crop to compact compliance and to fee assessments. Mr. Knox said that he would have to consider the effect on compact compliance. A motion to waive the fee assessment for years when irrigation was necessary only to establish a CREP-approved conservation practice was made, seconded, and approved unanimously.

At 2:26 p.m., Mr. Murphy suggested removing the Enterprise's 20% liquidated damages provision for producers who terminate an EQIP contract to enroll in CREP. Mr. Murphy noted that the Enterprise would actually save money if the producers were to switch from EQIP to CREP. Mr. Montgomery pointed out that allowing producers to change from EQIP to CREP without penalty could have the effect of exhausting CREP acres that would have otherwise been utilized by another producer, thereby reducing the total number of acres enrolled in federal programs. Director Skold and Director Garry Kramer noted that in counties that were approaching FSA CRP limitations, this would have negative impacts on the total of enrolled acres. President Coryell stated that he felt that producers had been confused by the change in the FSA sign-up procedure and that aligning policies with the United States Department of Agriculture (USDA) was the appropriate policy. A motion to waive the liquidated damages provision in the Enterprise's supplemental EQIP contracts upon successful enrollment in CREP was made and seconded. Further discussion ensued. The motion passed unanimously.

At 2:41 p.m., Mr. Murphy raised the issue of permitting producers to consider years in federal conservation programs as irrigated years for purposes of qualifying for subsequent federal programs. Mr. Knox and Mr. Davis noted that existing FSA policy would not grant such an exemption. The Board deferred any action at this time.

At 2:46 p.m., Mr. Murphy presented four bids to provide auditing services for the annual audit of financial statements required by statute. Bondi & Co., which had conducted last year's audit and filed for an exemption in the prior year, was one of the four bidders. Mr. Murphy stated that Mr. Willard had no recommendation. Vice President Killin recommended that the District retain a firm with an office within the District. After discussion, a motion to select Winfrey & County was made, seconded, and approved unanimously.

At 2:53 p.m., President Coryell raised the issue of whether the District should enter into a lease agreement for Gary Earl's wells for 2007. Discussion ensued regarding the cost and benefits of leasing the wells for another year. A motion not to renew the lease for 2007 was made, seconded, and approved unanimously.

At 2:56 p.m., President Coryell noted that by-laws had been amended in April to elect officers at the regular quarterly meeting in the month of October and opened discussion for nominations. He noted that the By-Laws only required the Board to elect a President and Vice-President each year, but the Board had a policy of electing the Secretary and Treasurer as well. A motion was made to cast a unanimous ballot to retain the current officers. The motion was seconded and approved unanimously.

At 2:58 p.m., Mr. Murphy reminded Board members to submit final expense sheets for 2006 by December 15th.

At 3:00 p.m., President Coryell asked the Board to consider a resolution to waive the provisions of section 37-50-108, C.R.S., governing the location of Board meetings for the purpose of holding a special meeting at the Radisson Denver Southeast in Aurora, CO, on November 15 and 16 to meet with the District's engineers, Helton & Williamsen, and counsel. A motion to adopt the resolution was made, seconded, and approved unanimously.

At 3:02 p.m., no old business was discussed.

At 3:03 p.m., under new business, Secretary Pautler stated that the Budget Committee had recommended that the Enterprise provide no 2007 supplemental funding for 3-year EQIP retirement and that the Enterprise only fund supplemental EQIP contracts for 5-years and permanent retirement. Secretary Pautler also recommended that producers be required to retire wells at the beginning of 2007 to be eligible for the 2007 Supplemental EQIP funding.

A motion not to provide supplemental funding for 3-year EQIP retirement contracts in 2007 and to maintain 5-year and permanent supplemental funding at the recommended rates for 2007, allowing the District to round the annual payment to the nearest dollar, was made, seconded, and approved unanimously.

A motion to require producers to eliminate water use by April 1, 2007, in order to receive an Enterprise supplemental EQIP contract was made and seconded. Discussion followed. Mr. Richrath pointed out that occasionally federal funding for EQIP might not become available for additional producers until after the producers had begun irrigation. Secretary Pautler withdrew his motion.

At 3:14 p.m., a motion to express the Board's appreciation for Mr. Richrath's assistance in setting up the District and for his services in assisting the District to carry out its duties to cooperate with and assist the State of Colorado to comply with the Republican River Compact by assisting the development and implementation of CREP and EQIP was read by President Coryell. A motion to approve a resolution was made, seconded, and approved unanimously.

At 3:22 p.m., a motion to adjourn the meeting was made, seconded, and approved unanimously.

Secretary

Date