

RRWCD's Role In Mandatory Well Shutdowns

By Stan Murphy, General Manager

I often hear this question asked: “Will the Republican River Water Conservation District Water Activity Enterprise (District) compensate producers in the event of a mandatory well shutdown?” This question reflects a major misconception about the role of the District. The District was created to assist the State of Colorado in achieving compact compliance, and the District will not compensate well owners in the event of a mandatory well shutdown in the future. The District only provides compensation to a well owner when the well owner agrees to enroll irrigated land and the well into a federal retirement program, such as the CREP or EQIP, and the conversion occurs prior to the issuance of a curtailment order. The District provides supplemental payments to well owners as an incentive to convert irrigated land to non-irrigated use under certain federal retirement programs. If the well has been shut down due to a mandatory curtailment order, there is no reason for the District to compensate the producer.

There are two entirely separate water issues within the boundaries of the District. The first -- and maybe the most time sensitive -- results from the petition filed with the Colorado Ground Water Commission by the Pioneer Irrigation District of Colorado and certain owners of the Laird Ditch water right. They petitioned the Commission to un-designate all ground water shown to be hydrologically connected to the surface flows of the North Fork of the Republican River, and to order a sufficient number of wells to cease diversions to protect their vested water rights on the river. The Commission dismissed the petition, but the Pioneer and Laird owners have filed an appeal with the District Court for Yuma County.

Subsequent to the dismissal of the Pioneer-Laird petition, the Colorado Supreme Court ruled on the “Gallegos case,” where surface water owners were also seeking relief from the claimed effects of pumping by wells located in the Upper Crow Creek Designated Ground Water Basin. That ruling stated that if the surface right holders proved that pumping of ground water within the designated basin has more than a de minimis impact on their water rights and is causing injury to those rights, the Colorado Ground Water Commission is required to redraw the boundaries of the designated basin to exclude the ground water and wells in question. That ruling could have a significant impact on wells located near rivers in the Northern High Plains Designated Ground Water Basin.

If the boundaries of a designated basin are redrawn, wells excluded from the boundaries of a designated basin because they have more than a de minimis impact on surface waters and are causing injury to surface water rights would then be under the jurisdiction of the State Engineer and the water court and could be required to curtail pumping without compensation if replacement water is not available or an augmentation plan cannot be approved, similar to what happened in the South Platte River Basin. This issue has nothing to do with compact compliance, and the District is in no way a part of this issue.

The District, however, has a major role in assisting the State to comply with the compact dividing water of the Republican River between Colorado, Kansas, and Nebraska. To meet its responsibility to assist the State in complying with the limitations of that compact, the District

does offer compensation, in the form of supplemental payments, to producers who voluntarily enroll their irrigated land and wells into federal retirement programs, such as EQIP and CREP. These are not mandated programs. They are strictly voluntary. However, well owners who are located close to surface rivers and whose wells would be subject to curtailment if the boundaries of the Northern High Plains Basin were redrawn have an incentive to enroll in these programs before any mandatory shutdown occurs.

One of the conditions for enrolling into the CREP program is that the well must be able to physically, and legally, irrigate the next year. With that in mind, a producer cannot wait until a curtailment order has been issued and then expect to enroll into the CREP program to receive payments from the federal government and supplemental payments from the District.

Do not confuse the issues. The District will not compensate producers in the event of a mandatory curtailment of pumping. It does, however, provide supplemental payments to producers who enroll irrigated lands and wells into federal retirement programs to help meet compact compliance.

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