

**Minutes of the Special Meeting of the  
Board of Directors of the  
Republican River Water Conservation District**

**January 9-10, 2020  
Hilton Garden Inn  
Thornton, Colorado**

The Board of Directors of the Republican River Water Conservation District convened a special meeting, pursuant to notice required by statute and the District's By-Laws, at the Hilton Garden Inn, Thornton, Colorado.

Present were:

**Board Members:**

Rod Lenz, President  
Greg Larson, Vice President  
Aaron Sprague, Treasurer  
Gil Anderson, Secretary  
Tim Pautler  
Wil Bledsoe  
Jim Hadachek  
Stan Laybourn  
Kevin Penny  
Kenny Helling  
Steve Kramer  
Wayne Skold  
Rod Mason  
Steven Meakins  
Roger Seedorf  
Brent Deterding

Deb Daniel, RRWCD General Manager  
Suzanna Baker, RRWCD Administrative Assistant  
David Robbins, RRWCD General Counsel, Hill & Robbins, P.C.  
Peter Ampe, RRWCD General Counsel, Hill & Robbins, P.C.  
Randy Hendrix & Ayrton Hendrix, RRWCD Engineer, Hendrix WAI Engineering Inc  
Tim Davis, RRWCD Program Consultant, TJD/LLC  
Christine Arbogast, Federal Lobbyist, Kogovsek & Associates  
Scott Meiklejohn, State Lobbyist, Meiklejohn

A sign-in sheet listing the members of the public attending the meeting is attached as Exhibit 1.

**STATEMENT OF QUORUM**

President Rod Lenz called the meeting to order at 1:30 PM, the pledge and a prayer were said. Secretary Gil Anderson took roll and declared a quorum present. Brooke Campbell was absent but excused. Rod Lenz then welcomed all guests and asked them to introduce themselves.

**AGENDA AND APPROVAL OF MINUTES**

President Lenz asked for any amendments to the agenda for the meeting. There were two additions to the agenda, at 2PM today Les Owen from the Colorado Department of Agriculture will make a presentation to

the Board and tomorrow under new business the board will discuss a question about how the bank servicing the District's checking account is chosen. A motion to approve the agenda as amended was seconded and approved unanimously with the changes.

Prior to this meeting, the directors had received, electronically, a draft of the minutes of the Board teleconference held December 13, 2019. Those documents were also included in the Board packet. President Lenz asked if there were any changes or corrections to the minutes. With the no corrections there was a motion to approve the minutes from the December 13, 2019. The motion was seconded and approved unanimously.

### **PRESENTATIONS**

- Mr. Phil Weiser, Colorado Attorney General, was the first speaker of the day. AG Weiser had attended the last meeting of the Board and President Lenz thanked him for coming again today to keep building a relationship with the RRWCD. President Lenz stated that he hopes that there can really be some constructive conversation today. AG Weiser followed by stating that we all have a responsibility to leave behind our earth better than it was. The decisions we are making here are about our future. He said that he wishes to be a partner with the District. AG Weiser then acknowledged Scott Steinbrecher, who was sitting with him, and announced that Scott has been promoted to Assistant Deputy Attorney General for the Natural Resources section with responsibility for all water issues. President Lenz congratulated Scott.

Rod Lenz brought up a letter that had been sent by State Engineer Kevin Rein to the Board of Managers of Subdistrict #1 of the Rio Grande Water Conservation District in which Mr. Rein had warned that a failure to meet the sustainability goals in the Subdistrict's Plan of Management would risk having wells in the Subdistrict curtailed. AG Weiser stated that he, and his staff are the attorneys for the State and its agencies, but separate from that he also represents the people of the State of Colorado. He recognized that the State Engineer also plays an important role. He commented that the State Engineer's requirements are different for the RRWCD and for Subdistrict No. 1 of the Rio Grande Water Conservation District. Rod Lenz said that the Board understands that the Rio Grande and RRWCD are very different. But, Rod Lenz emphasized that if the RRWCD operates outside of our compact compliance obligations (regarding water) that we will be held to what is expected by the State Engineer and may receive a similar letter. Kevin Penny brought up the requirement to remove up to 25,000 acres of irrigated land in the South Fork by 2029 that was part of the 2016 RRCA Resolution with KS and NE and questioned how much time the State spent informing the public before it was signed. Scott Steinbrecher explained the State thought that they had spent adequate time with the public regarding the potential options that were being considered to reach a settlement with KA and NE, included the Kansas suggestion that Colorado retire the 25,000 acres in the South Fork Focus Zone. Scott went on to say that the State is trying to be as helpful as possible with this goal and has committed \$2 Million to the RRWCD to help fund retirements in the South Fork Focus Zone. Another question from the Board was what if we get close to the end of 2029 and have not been able to withdraw the entire 25,000 acres, will we also get a similar letter from the State? Steinbrecher assured the board that before a letter to the RRWCD would be considered, the State will be in contact with the RRWCD Board, and with KS and NE, in trying to find a solution. The Board continued to ask questions and engage with AG Weiser and Scott Steinbrecher about what the expectations of the RRWCD Board would be in different situations coming in the future. Rod Lenz asked for assurance from AG Weiser that the relationship currently being built between the RRWCD and AGs office would continue, and they will work together if we reach 2029 and not enough acres have been retired in the South Fork Focus Zone. Mr. Weiser assured the board that conversations and meetings would continue.

Roger Seedorf asked about the 2024 interim deadline in 2016 RRCA Resolution, when the district needs to have 10,000 acres retired. He went on to ask if there are sustainability standards that the States are looking at with this resolution, similar to the Rio Grande? David Robbins responded that the sustainability metrics for the Rio Grande shallow unconfined aquifer(s) had been set by the irrigators themselves, recognizing the need to improve the management of these tributary and renewable aquifers. He went on to explain that there is a sustainability metric in state legislation that seeks to protect the deeper artesian aquifers in order to insure that they are also sustainable. He stated that we will be hearing from Cleave Simpson, the General Manager of the Rio Grande Water Conservation District later tomorrow. Mr. Robbins went on to state that the situations in the RRWCD and the Rio Grande are really quite different.

Tim Pautler suggested that if we don't reach the goal of retiring 25,000 acres by the end of 2029, then Colorado would have to negotiate with KS and NE on an acceptable water conservation plan that would be implemented in Colorado. He said that he understood that the Kansas' goal is to have increased flows in the South Fork Republican River. Rod Lenz asked AG Weiser for a partnership with the Attorney General's office when we get to the point of evaluating our progress in reaching the milestones.

Aaron Sprague described how much time and money the RRWCD has spent on other projects aimed at meeting Compact compliance including the CREP and EQIP programs, and the CCP, in addition to the 25,000 acres requirement. Aaron said: "We always hear about a next step when we thought we were on the final steppingstone. We want to know where the finish line is and not see it moving. Currently we are limited to the retirement of irrigated acres in the South Fork, we need to start conversation of what our plan is going to be to see this is done by 2029." AG Weiser said he does not see a plan working if the RRWCD isn't behind the plan.

Kenny Helling had a question. He felt the public could have been given more time or a better opportunity to add their input regarding the retirement of 25,000 irrigated acres in the South Fork Focus Zone. He would like reassurance that what we have done and what we are going to do will be recognized and the reassurance that Colorado will talk to KS and NE and use the results of what we have done in the past in future negotiations. AG Weiser said he will do everything he can while he is in office to protect the irrigators in the District. But he emphasized that when dealing with disputes with the other States in the Republican Basin it is much more complicated than the Rio Grande.

Discussion continued how the AGs office and the District can continue to work together and keep a strong relationship for the future.

Rod Lenz thanked AG Phil Weiser for coming to this meeting so soon after our last meeting with the AG's office. Rod expressed the District's appreciation of AG Weiser's efforts to start and continue cultivating a relationship with the RRWCD.

- Reagan Waskom, Meagan Schipanski, CSU –Ogallala Water Coordinated Agriculture Project Update. Reagan Waskom started by describing their project. He also stated that the Colorado Master Irrigator program in Colorado is starting this spring. He informed the Board that the Colorado Innovation Consortium, that investigates different ways to irrigate more effectively, are going into their 5<sup>th</sup> year. They have submitted a proposal to the USDA for the continuation of the program. Reagan and Meagan also presented on a couple of irrigation efficiency competitions in neighboring states. Farmers are able to compete against each other for highest yield, highest net value, lowest water usage, etc. The competitions really interested the RRWCD Board, with the members wondering if something similar would be possible in our area.

- Les Owen, CO Dept of Agriculture, Conservation Services Division Director, reported on the Senate Bill 186 groundwater protection program which brought the Colorado Department of Agriculture into the surface water quality realm. This also brought to the forefront the issue of point source pollutants into surface water. He said that CDOA wants to prove that best management practices are being used through voluntary programs. These programs are creating data to prove that. Pesticides and fertilizer prices have gone up to help fund the program.

Les Owen also talked about CREP. He had a conversation with USDA recently trying to get them to reconsider the dryland option for CREP. They said it wasn't an option for this year but that the District should keep trying. Currently, the USDA director feels that dryland farming is not compatible with what is currently required for CREP by USDA. He said that the Farm Bill has to say 'shall' and not 'may' which would make it more of a requirement for USDA to offer. It currently says 'may'. Mr. Owen wants to keep working with the RRWCD to make dryland farming available through CREP. He would like to get numbers together on what the economic impact dryland farming of CREP acres would have. He would like to get a game plan ready with the RRWCD, especially with the 25,000-acre deadline approaching. David Robbins made it clear that the CRP/CREP program is for land conservation, to restore farm land to native vegetation. If the program could be changed by the Congress so a water conservation CREP was permitted then dryland might become an option. It was pointed out that EQIP is an option for dryland but it is very hard financially on the RRWCD. A new program would be needed and approved in a timely fashion in order to be helpful in reaching the deadline of 25,000 irrigated acres retired by 2029. Aaron Sprague also made the point that from the beginning of CREP to now, we have made significant changes in our practices to conserve the land that we are using. Aaron gave a comparison of grassland vs. cropland on the Sprague farms. He said that they did a soil analysis of CRP grass land that the Sprague family owns and compared the soil nutrients to the farmland that they own next to the CRP acres. The farmland was in better soil health than the CRP grass land, proving farming practices can actually improve soil health over restoring land to native grass.

## **PROFESSIONAL REPORTS**

- Darlene Carpio, Senator Gardner's office, explained how she works with Christine Arbogast, RRWCD federal lobbyist. She started off by explaining staff communication and how the Senator receives public comments, etc. There are eight Gardner offices in Colorado, 18 employees in the state and 24 employees in Washington DC. There is a daily notice of what meetings everyone is going to go to. Every Friday she must write a report about who she met with and the highlights from each meeting. Every Friday she has a staff teleconference. On Monday's they have a call with the entire staff, including Senator Gardner. Here she has to answer questions like, 'Why are you meeting with the RRWCD?' and 'What does the Senator need to know?' Dustin Shearer, out of DC, is the lead for policy work in Agriculture. He has a call every Friday morning and Darlene tries to be on that call as well.

Darlene also had a report of notable achievements for Gardner in 2019. Darlene will share this 6 page list with us. She also gave us a drone update. There currently is no criminal activity, but it is serious, and Senator Gardner has taken action to get more information on the issue.

- Tim Davis, Program Specialist, TJD, LLC —started his report apologizing for the mix up over when the CREP sign-up period was open. There are 30 million acres enrolled in CRP nationwide and he does not believe that we are going to be able to dryland farm CREP, ever. The Annual report is done for the RRWCD CREP. CREP currently had 22,000 acres retired in the Basin and over 13,000 acres in EQIP. In order to make EQIP a more viable option for the RRWCD in the future they have requested that the NRCS pay \$120/acre over 5 years.

Tim Davis then described the payments that might be possible for Kit Carson County producers for CREP, EQIP and Proposed RCPP (Regional Conservation Partnership Program). Kansas and Nebraska are very interested in this program. The Conservation Committee will look into the RCPP program.

- Christine Arbogast, RRWCD Federal Lobbyist, Kogovsek & Associates – started out by saying that not all of DC is negative right now. Congress just passed the appropriations bill, this included a ‘plus up’ of water accounts for NRCS, BOR, and the Army Core of Engineers, pushing to add those funds to actual infrastructure. This would include things like dam safety, rural water projects, etc. The House has passed the new NAFTA and soon it will go to the Senate. There has also been a lot of talk on farm worker visa programs, seasonal vs. year-round. In 2020, there is not a lot coming up except for Senator Gardner’s bill on drought resiliency S19-32. It could benefit the RRWCD and allows BOR to work with non-reclamation districts to help with infrastructure. However, that is also why it hasn’t passed. The ranking Democrat on the committee believes it takes jurisdiction away from the committee. It would let the BOR act on its own. She hopes the SFRRC project could fit into the program. Christine continued, that she has resent the letter to Clarice Navarro, head of the Colorado Farm Services Agency, from the RRWCD. She suggests that if we don’t hear from her, then we send a letter from the RRWCD in support of the CREP amendment.

It was announced that Christine has been elected the National President of the NWRA (National Water Resources Association).

- At 3:29 PM, Scott Meiklejohn, RRWCD State Lobbyist, reported that the state legislature convened yesterday. It is only allowed to sit for 120 days. If they aren’t done, then it doesn’t matter, they have to adjourn. They will have about 800 bills to be read. There is a link on a website to see all bills that could affect the RRWCD- HYPERLINK  
"<https://statebillinfo.com/SBI/index.cfm?fuseaction=Public.Dossier&id=27408&pk=181>" \t  
" \_blank"<https://statebillinfo.com/SBI/index.cfm?fuseaction=Public.Dossier&id=27408&pk=181>

At 3:45 the board took a 10 min break.

- Randy Hendrix and Ayrton Hendrix, RRWCD Water Engineers, reported the change of use application for the Larson well and the CCP orphan well has been filed but with no further updates yet. Ayrton has updated maps for the district and for the website.
- David Robbins and Pete Ampe, Legal Counsel for RRWCD, gave their reports. Pete started the application for the change of use of the wells Randy reported on was filed. They are waiting for the GWMDs approval of the change of use.

Pete also reported on the CREP boundary expansion process to cover the land included in the District by HB-1029. He also reported that Mike Sullivan was able to get the EQIP acres to be retired in the South Fork Focus Zone approved for the incentive payment from the State. Pete indicated that the Colorado Parks and Wildlife trade for land and water rights is still in the works. The Compact Rules trial set to begin January 31<sup>st</sup>, 2022. The East Cheyenne Ground Water Management District is the only entity still seriously objecting to the rules but the State now has a year to try and work with them to resolve its objection.

Pete also reported that Subdistrict No. 1 of the Rio Grande Water Conservation District is looking into starting a Master Irrigator program in their area.

Mike Cruz, who is an interested irrigator from the San Luis Valley and has become a member of the RGWCD Board, was introduced. He explained that the RGWCD would help put the Master Irrigator program together. He also explained that the letter from Kevin Rein to the Board of Subdistrict #1 states that State Engineer Rein wants to enforce a provision of a program that the irrigators put together themselves. There are 7 sub-districts in the Rio Grande Basin, that can each assess themselves additional fees to insure that the requirements of their approved plans can be achieved. They did it that way to accommodate the hydrologic differences in the Rio Grande Basin. The subdistricts, with all the irrigators from a specific area of the San Luis Valley, are more likely to work together than expecting them to work closely with those who live 60 miles away. He explained that Cleave Simpson will be able to describe what is going on in each of the 7 sub-districts. Currently one of the sub-districts charges \$150 per acre-foot pumped but that fee can be offset on an acre foot basis by surface water that is diverted in to the sub-district from the Rio Grande. This is how they are incentivizing conservation. David Robbins made it clear that the establishment of the program to increase conservation and create a sustainable aquifer had been done voluntarily but the irrigators and before Kevin Rein takes any action, as described in his letter, the RGWCD will seek the guidance of the water court and make it clear to the Water Judge that these irrigators did the best that they could without having any state intervention so an order to curtail their wells would be inappropriate.

The RRWCD does not have subdistricts because the GWMDs were already in place and had jurisdictional authority before the RRWCD statute was put into place.

The Rio Grande needs to gain 600,000 acre-feet in the next 9 years to meet the current sustainability metric. The problem they face is emphasized by the fact that the net condition of the aquifer over the last 2 years with one year of above average snowpack was a loss of 100,000 acre-feet in net aquifer storage.

#### **PUBLIC COMMENT**

At 4:29 PM, President Lenz invited comments from the public.

At 4:29 PM, there being no requests from the public to comment, public comment ended.

At 4:30 PM, Executive Session was entered.

- Deb Daniel and Suzanna Baker left the executive session. The Board discussed personnel matters, including the annual review and salary. After this discussion, Ms. Daniel and Ms. Baker returned to the executive session.
- Discussed acquiring water rights.

At 5:09 a motion to leave executive session was made, seconded and approved unanimously.

#### **BOARD ACTION ITEMS**

- Roger Seedorf presented the personnel committee's recommendations for staff salaries for the year 2020. He started with General Manager Deb Daniel. The committee recommends the 2020 salary to be \$90,000. There was a motion to approve the Personnel Committee's recommendation. The motion was seconded and approved with Stan Laybourn in opposition. Next, Mr. Seedorf presented the Personnel Committee's recommendation that Administration Assistant Suzanna Baker's salary for 2020 be \$51,000. There was motion to approve the Personnel Committee's recommendation, the motion was seconded and approved with Stan Laybourn in opposition.

- The board then discussed Resolution 20-01. This resolution approves the acceptance and execution of a \$5.515M loan from CWCB. There was a motion to approve the Resolution, the motion was seconded and approved unanimously.
- The board discussed allowing new EQIP contracts to become eligible for a \$200/irrigated acre incentive for wells located inside the SFFZ. Upon motion which was seconded the eligibility was approved unanimously.

### **PRESIDENT'S REPORT**

There was motion to amend the agenda and move the president's report to tomorrow before Training. The motion was seconded and approved unanimously.

At 5:15 PM, the board recessed the meeting until the next day.

### **DAY 2**

At 8:02 AM, President Lenz reconvened the meeting. The pledge of allegiance and prayer were said. Rod Lenz welcomed all guests. Gil Anderson took the roll call noting that a quorum was present. Brooke Campbell was absent but excused.

- Kevin Rein, Colorado State Engineer, ADAG Scott Steinbrecher and AAG Dan Steuer joined him. Kevin Rein opened the report. He thanked the Board for approving the IGA for the incentive payments for EQIP sign-ups. He then reported on the status of the Basin Rules. The rules are to insure compact compliance. The State Engineer filed the rules with the Water Court about a year ago. The Court set a trial to resolve any outstanding objections to the Rules which will commence on January 31, 2022. There is only one party in the case that is still opposing the Rules, that is the East Cheyenne Ground Water Management District. He said that the State officials are dedicated to working with the people of East Cheyenne and answering their questions. If that last objector withdrew, then the state would ask the Court to accept the rules without a trial. This would speed up the timeline, but he only gave a rough estimate of how fast that timeline would be sped up.

Rod Lenz asked, how will the State handle it if the basin is out of compliance with the Compact? Will the State be selective in deciding what wells are curtailed? Mr. Rein explained that currently the rules require everyone to be covered by an approved replacement plan. If the plan fails to keep the basin in compliance, then the plan is not working sufficiently to meet the requirement of the rules and wells are not in compliance anymore. That is when the rules will take effect and, if required by the circumstances the wells in the Basin are at risk of curtailment.

David Robbins clarified that the compact compliance pipeline is the current approved plan of the District to cover all the wells in the District. But if the pipeline fails or is not operated and the District cannot afford to get it operating again, the State would have to act under the Rules. Mr. Rein indicated that the State would not have a selective enforcement of wells. All the wells in the basin would all be treated the same. There was more discussion on compact compliance and what happens if the Basin is ever out of Compliance.

Discussion continued with board members asking Mr. Rein questions regarding the basin rules. Kevin Penny asked about the 25,000 acres that needed to be withdrawn in the SFFZ. He said: "If we don't have the 25,000 acres retired by 2029 what will happen at that point? The rules are about compact compliance but then there is the 2016 RRCA resolution designed to settle Kansas concerns on the South

Fork. It is hard for the rules to say what is going to happen with unknown future circumstances, but the rules say we must be in compliance or face curtailment as a Basin. Is that right?"

David Robbins pointed out that the initial Kansas position was that Colorado needed to construct a pipeline to add water to the South Fork or come up with another plan. On the South Fork a pipeline simply wasn't viable both from a water supply basis and a cost basis. That is why the 25,000-acre retirement plan was decided on to try to improve the river flow of the South Fork. KS wanted guaranteed flows and Colorado had concerns about a guarantee. The question was asked: "How was 25,000 acres decided on?" The response from Mr. Rein was that the District had already applied for an amended CREP program which would provide sufficient additional acres under the program to provide cost share for the 25,000 acres so it seemed to be a solution that would not be too onerous for the District and this option was discussed several times by State officials with the RRWCD Board before it was agreed to by the State. However, many of the negotiations occurred under a confidentiality agreement between the states. David Robbins stepped in and explained that he had not be a party to the interstate negotiations but, based on many years of experience he suspected that KS probably started by demanding that 50,000 acres be withdrawn and CO probably started by offering 5,000 acres and the negotiation went from there.

Mr. Rein was asked: "What if we get 25,000 acres retired but the streams flows don't increase at Benkleman?" He responded that according to the terms of the 2016 agreement Colorado will be in compliance because the metric is that we have to remove 25,000 acres from irrigation, not that we guarantee a certain level of stream flow increase.

The next question was "How will KS and NE verify the 25,000?" The answer was "Probably by aerial photos." And the next question "What happens in 2024 if we don't have 10,000 acres retired?" was answered by Scott that they would ask for leniency with the CREP program being closed for so long. He explained that Colorado had already received a 2-year extension and stated that we would ask for another based on the CREP closure. At the close of the discussion President Lenz thanked Kevin, Scott and Dan for their presentation.

- William Burnidge, The Nature Conservancy, gave an update report on the South Fork Republican Restoration Coalition. He stated that TNC has a long-standing commitment to improving outcomes for people and nature in the Republican River watershed. The coalition had a few options to choose from for the project but has decided on the cheapest option given by the engineers. This option was chosen because it is the most viable option right now. It will lower the outlet works of the dam and it will also leave the door open for additional improvements in the future. This gives the coalition the option to see how 'initial' steps work and what the best next steps will be. Mr. Burnidge did reference the Hale Ditch water rights, and that we would need to resolve those issues because they could impact the next steps of the SFRRC project.
- David Carter, First Financial Investments, gave a quick update on the District's investments with First Financial. The returns are currently about 2%. Only time will tell how those rates will adjust. The investments that David Carter has for us last 3-5 years. When we started with First Financial many of the banks in the basin did not want the District's money because of liability issues.
- Russ Sands with CWCB and Kara Sobieski with Wilson Water Group, gave a technical update on the State Water Plan presentation. They thanked the board for letting them present today. He also stated that meeting with the RRWCD in Wray was a great experience and they wanted to maintain a relationship with the RRWCD. Sands and Sobieski then went through their powerpoint presentation outlining the SWASI report and results. It was promising to see agriculture considered for the State water plan.

At 10:00 AM, the board took a break.  
At 10:13 AM, the meeting reconvened.

**PRESIDENT’S REPORT**

RRWCD President Rod Lenz then gave the president’s report reflecting on the past five years. Rod Lenz reflected on highlights of the past 5 years and commended the board for a job well done. He also reflected on projects and goals that the Board has not yet achieved. Lenz stated that the Board’s job is not done yet. Rod Lenz then went over several graphs that illustrate pumping use in the Basin as well as annual flows from the North Fork and South Fork of the Republican River and the Arikaree River.

10:35AM Chairman Rod Lenz recessed the meeting for board training.

2:00 PM, Chairman Lenz reconvened the Board meeting.

Greg Larson left the meeting at 2:08PM  
Aaron Sprague left the meeting at 2:32PM

**PUBLIC COMMENT**

At 3:00 PM, there were no public attendees, so public comment was not entertained.

**DISCUSSION & ACTION ITEMS**

- Suzanna Baker presented to the Board the options of going digital. There are several tablet choices to go with. The biggest concern of going digital was using public WiFi, Suzanna Baker will look into getting a mobile hotspot for the board to use. It was decided that the Board will try going digital with their own devices at the next Quarterly meeting in February to get a better idea if this would be something they would like to go forward with.

**OLD BUSINESS**

There was no old business

**NEW BUSINESS**

The board then discussed the RRWCD’s checking account. Several banks have approached the district asking for the chance at the RRWCD’s checking account. After discussion there was a motion to establish a document or letter to leave the RRWCD’s checking account at its current location. The motion was seconded and approved unanimously.

3:28 PM There was a motion to adjourn the board meeting, the motion was seconded and approved unanimously.

  
\_\_\_\_\_  
Secretary

  
\_\_\_\_\_  
Date