

Minutes of the 1<sup>st</sup> 2006 Special Meeting of the  
Republican River Water Conservation District

February 09, 2006

Wray, Colorado

Present were:

Board Members:

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

Stan Murphy, General Manager  
Monica Newton, Administrative Assistant  
Dennis Montgomery, General Counsel, Hill & Robbins, P.C.  
Scott Richrath, State Engineer's Office  
Tim Davis, Colorado Division of Wildlife

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

MINUTES

President Coryell called the meeting to order at 9:12 a.m. President Coryell welcomed the public and introduced Les Gelvin. The agenda was amended to include under new business the draft of a proposed House Bill regarding directors' fees and Senate Bill 06-156. A motion to approve the agenda was made, seconded and adopted unanimously. Secretary/ Treasurer Tim Pautler conducted a roll call of Board members, noting that Rick Seedorf and Kelly Burr were absent. President Coryell stated Directors Seedorf and Burr were excused and that a quorum of the Board was present.

At 9:18 a.m., a motion to approve the 01-12-06 Executive Session minutes and to approve the regular meeting minutes as amended on page 8 to read "*gather information on the Gary Earl wells and Curt Soehner surface water rights*" was made, seconded and approved unanimously.

At 9:20 a.m., General Manager Stan Murphy reviewed the financial report and noted that no revenue was collected in the month of January from use fees. It was noted by Mr. Murphy that the Republican River Water Conservation District (RRWCD)'s accounting firm and audit firm had recommended that the RRWCD Board authorize its general manager use of a District credit card. Mr. Montgomery recommended that \$5,000 would be an adequate credit limit amount on the credit card. A motion was made, seconded, and passed unanimously authorizing Mr. Murphy to obtain a credit card in name of the RRWCD Water Activity Enterprise with a \$5,000 credit limit, and that Mr. Murphy be required to obtain authorization from an Executive Committee member prior to any purchase that exceeds \$1,000.

Mr. Murphy reported that the 2005 audit performed by Jeremy Sparlings of Bondi & Co. LLC seemed to be positive. Mr. Murphy indicated that RRWCD should have a final report on the audit by the April Board meeting. Mr. Murphy noted he had received copies of aerial photo maps from Helton & Williamsen, P.C., to help determine illegal acres being irrigated and that the approximate total cost of the maps will be \$2,000.00. Mr. Murphy reported that he has received an approximate proposal by Bob Bond of \$3,700 for designing a website. Director Sonnenberg stated the price quoted for website design seemed appropriate and that Ms. Newton was capable of updating the website for RRWCD. President Coryell suggested that the responsibility of updating the public on RRWCD activities rests with RRWCD and that a RRWCD website was appropriate to do that. President Coryell said that Dennis Kaan from Colorado State University Extension would be willing within the next few months to relinquish the republicanriver.com domain address to RRWCD. A motion to instruct Mr. Murphy and Ms. Newton to advertise via e-mail and in newspapers to solicit bids from website designers for RRWCD website designs and to provide bids at the next meeting was made, seconded and approved unanimously.

At 9:40 a.m., President Coryell asked Director Sonnenberg, the RRWCD's representative to the Colorado Water Congress (CWC), to give an overview on the CWC activities. Mr. Sonnenberg reported that the bill concerning fallowing or crop rotation management is being amended, and that he voted in favor of the bill on behalf of RRWCD. The bill was moving through the legislative process. Director Sonnenberg noted that on behalf of RRWCD, he had voted to oppose House Bill 1208, requiring additional compensation above fair market value to property owners whose property is taken through exercise of eminent domain. As a result of voting opposed to this bill, eminent domain would continue to require fair compensation at current market value. Director Sonnenberg reported on a recently introduced bill requiring that executive sessions be recorded. Director Sonnenberg indicated that CWC chose not to take a position on this bill. Director Sonnenberg reported on Representative Cory Gardner's proposed bill concerning limitations of powers of eminent domain by public entities. An amendment was asked by Representative Gardner to ensure that water districts would not be included in the restrictions of this bill. Representative Gardner said he would ensure that water districts would not be impacted. Director Sonnenberg did state that Representative Gardner's bill was tabled so that all proposed eminent domain legislation could be collectively evaluated.

President Coryell asked Secretary Pautler to report on Environmental Quality Incentive Program (EQIP). Mr. Pautler noted that the NRCS is still processing applications and committed to the timeline of the process. Mr. Pautler reported that there are 93 applications being evaluated, with 75 considered by NRCS to be solid applications. Secretary Pautler indicated

EQIP will likely experience higher participation if the Conservation Reserve Enhancement Program (CREP) continues to be delayed.

At 9:52 a.m. President Coryell asked Mr. Richrath to report on CREP. Mr. Richrath and Tim Davis of the Colorado Division of Wildlife reported that they have been working closely with the FSA representatives on the sign-up process and that legal agreements have returned from Washington, D.C., for review. Mr. Richrath requested that the District's legal counsel review the Federal-State agreement. President Coryell directed legal counsel to review the agreement. Mr. Richrath noted that the 2-CRP handbook will detail CREP guidelines as well as sign-up procedures. Mr. Richrath reported that the tentative sign-up date is June 12 with a contract effective date of October 1 unless deferred to the next year and that there will not be any acreage in CREP in 2006. Mr. Richrath suggested that the Board discuss leases of lands for 2006. President Coryell said that would be discussed during the executive session. Mr. Davis reported that the programmatic EIS for CREP was in pre-draft and should be approved without a problem.

At 10:30 a.m., Vice President Kim Killin, RRWCD's representative to the South Platte Roundtable (SPR) reported that the SPR determined there will be no more studies and that it will rely on the Statewide Water Supply Initiative (SWSI) studies. Vice President Killin noted that the SWSI – which predicts water needs and shortages for the next 30 years – had excluded the Republican River basin. Vice President Killin stated that there will be three educational courses on the SWSI report to assist in making decisions. Vice President Killin noted that Mike Shimmin and Eric Wilkinson are SPR representatives for the State Roundtable.

At 10:35 a.m., the Board recessed.

At 10:50 a.m., the Board returned from break, and President Coryell noted communication between the Executive Committee and the other directors on the RRWCD's Board may present a concern and that the Board might consider splitting the current secretary/treasurer position into two positions. President Coryell believed this would allow better communication among the directors. Vice President Killin noted that the new position should be represented by a director from Yuma County, so that Yuma County would be represented on the Executive Committee. President Coryell stated that a Treasurer can be appointed under the RRWCD statute and By-Laws, but said he would prefer to have the Treasurer elected by the Board. A motion was made and seconded to nominate Director Rick Seedorf to the position of Treasurer. A motion to cease nominations and to cast a unanimous vote for Director Seedorf as Treasurer was made, seconded, and approved unanimously. President Coryell stated that Director Seedorf was thereby appointed as Treasurer for RRWCD.

President Coryell presented to the directors drafts of alternative RRWCD logos for their review.

At 11:02 a.m., President Coryell reported that Mr. Murphy, Director Seedorf, Vice President Kim Killin, Ken Knox, and himself had met with lobbyist Doug Flanders. President Coryell noted that legal counsel had reviewed Mr. Flanders' consulting services agreement. President Coryell stated that Mr. Flanders would not represent any other party in conflict with

RRWCD, as outlined in the agreement. Vice President Killin explained that a reference check of Mr. Flanders provided favorable results and that her visit with the Colorado Department of Transportation (CDOT) acknowledged that comparable services from other lobbyists would cost as much or more. President Coryell recommend that RRWCD Water Activity Enterprise retain Mr. Flanders. A motion was made, seconded, and approved to retain lobbyist Doug Flanders. Director Bauers requested that Mr. Flanders' expenses be itemized in reports of expenses and not included in general expenses.

At 11:18 a.m., President Coryell changed the agenda to take public comment at this time rather than go into executive session due to high public attendance at the meeting. There was no comment from the public at the time.

Vice President Killin noted that on March 18<sup>th</sup>, 2006, Dr. Willem Schreüder will give an informational presentation on the Republican River Basin ground water model. Vice President Killin indicated that this presentation will be open to the public.

At 11:20 a.m., a motion was made to enter into executive session to discuss interruptible water supply agreements, instructing negotiators, and receiving legal advice on legal questions related to such agreements. The motion was seconded and approved unanimously. President Coryell stated that no motions are to be made or approved in executive session. President Coryell asked Mr. Davis to stay for Executive Session.

At 1:17 p.m., the executive session ended. No policy, position, resolution, rule or other formal action was taken during the executive session.

Mr. Rex Buck from Laird, Colorado, reported on behalf of surface water right owners. Mr. Buck complimented the articles written by surface water rights owners' attorney and Mr. Murphy. Mr. Buck explained that the surface water right owners' focus is on dealing with the problems of too much water being used and no one wanting to give up anything. Mr. Buck sought to dispel several rumors: 1) Mr. Buck stated that the petition filed by the surface owners is not only about money; 2) Wray State Bank is not financing the legal cost associated with surface water right owners' complaint; 3) Mr. Guercio has not taken land as collateral nor paid for the legal fees; 4) the ditch capacity of the Pioneer Ditch is roughly 45 cubic feet per second. Mr. Buck said Mr. Bushong, the surface water right owners' attorney, had been instructed to send a letter setting forth the surface water right owners' objections to the Board's offer and price, but hadn't been able to get that done yet. Mr. Buck said the Pioneer and Laird Ditch surface owners are concerned the Board will use the power of eminent domain and asked RRWCD to withdraw any threat of eminent domain or risk ending negotiations with the surface water users. Vice President Killin indicated that the lease agreement presented to the Pioneer and Laird Ditch surface water right owners is just one possible quick fix to the problem, and that if condemnation were a preferred alternative, the lease offer to the surface water user would not have been made. Vice President Killin stated the RRWCD Board is working diligently to assess all alternatives. Mr. Montgomery pointed out that surface water users had earlier said they did not want to sell their water rights and asked whether they still held that position. Mr. Buck responded that surface water right owners had received many offers, but would not rule out a

purchase agreement. Mr. Montgomery reiterated that RRWCD would continue to consider all options.

At 1:40 p.m. President Coryell opened discussion up to public comment. Mr. Curt Soehner, Laird Ditch surface water right owner, asked why the lease agreement required near full participation. He stated that some individuals were willing to negotiate in good faith with RRWCD while others were not. Mr. Montgomery explained the legal and logistical difficulties in administering partial interests in a water right for compact compliance purposes.

Mr. Bill Cure, who owns wells north of Laird, offered to provide RRWCD with information that would disprove the compact model. Vice President Killin suggested that such information be brought to a technical workshop on March 18.

Dave Keeler of Y-W Well Testing asked if a measuring flume could be installed before and after the Pioneer and Laird headgate to administer water that could be left in the stream for compact compliance purposes. Mr. Montgomery replied this could be done, but a change of water right would require application and water court approval.

At 2:05 p.m. The public comment session ended.

No old business was discussed.

New business was discussed. Mr. Montgomery stated that Senate Bill 06-156 concerning the redefining of fees and assessments is the result of a lawsuit against the City of Colorado Springs for imposing a fee on street light usage. Mr. Montgomery explained that the bill would define a fee as a charge levied by a district for a service not ordinarily provided by a government entity. Mr. Montgomery stated that the bill would likely not affect RRWCD for several reasons.

At 2:10 p.m., Mr. Richrath read a statement prepared by Director Sonnenberg, who had excused himself from the meeting at 2 p.m. Proposed legislation would increase the cap on director compensation from \$25 to \$100 per director per day. Mr. Montgomery noted that of the State's four water conservation districts, three had a limit on compensation of directors of \$25 per day, while the Colorado River Water Conservation District had a limit of \$75 per day. A motion was made, seconded, and approved unanimously supporting efforts to raise the director compensation limit to \$100 per day.

At 2:12 p.m. A motion to adopt a resolution to designate the location of the next special meeting to be held 3-9-06 at the Wray Ambulance Building located at 3<sup>rd</sup> and Blake in Wray, Colorado, was made, seconded, and approved unanimously.

At 2:15 p.m., a motion to adjourn the meeting was made, seconded, and approved unanimously.

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Secretary

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Date