

POLICY NO. 19-3
**ESTABLISHING AND CORRECTING WATER USE FEES FOR NON-
GROUNDWATER IRRIGATION USE IN ACCORDANCE WITH THE
REPUBLICAN RIVER COMPACT ADMINISTRATION ACCOUNTING
PROCEDURES AND REPORTING REQUIREMENTS**

1.0 Introduction

The Republican River Water Conservation District (“District”) was created pursuant to section 37-50-103(1), C.R.S., for the purpose of cooperating with and assisting the State of Colorado to carry out its duty to comply with the limitations and duties imposed upon the State by the Republican River Compact and pursuant to section 37-50-103(1), C.R.S., is a body corporate under the laws of the Colorado. The Republican River Water Conservation District Water Activity Enterprise (“Enterprise”) was created pursuant to section 37-50-107(1)(k), C.R.S., as a water activity enterprise under Article 45.1 of Title 37 of the Colorado Statutes. Pursuant to the Water Activity Enterprise Law, section 37-45.1-103(3), C.R.S., the governing body of the Water Activity Enterprise is the Board of Directors of the District. The District and its Enterprise may be referred to as the RRWCD within this document.

Compliance with the Republican River Compact is determined through the application of the RRCA Accounting Procedures and Reporting Requirements, Appendix C to the Final Settlement Stipulation, No. 126 Original (December 15, 2002) (“RRCA Accounting Procedures”), including the RRCA Groundwater Model, as approved by the Republican River Compact Administration (“RRCA”).

1.1 Purpose and Scope of Policy.

This policy is intended to provide a fair and equitable water use fee structure for all types of water use and consumption, within the Colorado portion of the RRCA Groundwater Model domain, that reflect the impact each type of water use and consumption has on the determination of Colorado’s compliance with the Republican River Compact as determined by the RRCA Accounting Procedures. This Policy applies only to use and consumption of water that is proposed to be governed by the Rules and Regulations Governing the Diversion, Use, and Storage of Water Resources in the Republican River Compact Administration Model Domain for Compliance with the Republican River Compact (“Compact Rules”) as such Compact Rules exist now in draft and as may be formally adopted or as may be

modified in the future. The RRWCD will not assess a water use fee on consumption that is not within the definitions and scope of the Compact Rules.

The RRWCD, in cooperation with the State of Colorado, operates its Compact Compliance Pipeline to achieve and maintain Compact compliance. In order to properly plan for Pipeline operations, the RRWCD must estimate the amount of groundwater withdrawals and other types of water consumption. These estimates are then used to plan the timing and rate to provide water through the Compact Compliance Pipeline (CCP) to the North Fork of the Republican River.

The RRWCD does not determine water rights, water permits or the legality of any withdrawal, diversion, use or consumption of water. This policy does not change, alter or eliminate any valid right, permit or decree.

2.0 RRWCD Fee Setting Policy.

2.1 The water use fees set by the RRWCD will be done on an annual basis as part of the required budget process. Fees will be set at a level to fund the necessary programs of the RRWCD intended to meet the statutory responsibilities and limitations of the District. Groundwater use for irrigation comprises the vast majority of the consumptive use within the District and surrounding areas. Through the required budget process, the RRWCD will annually set a fee applicable to groundwater withdrawals for irrigation. That fee may be based on acres irrigated, acre-feet of groundwater withdrawn or some combination of the two. Fees for other categories of consumptive uses will then be set in relation to the groundwater for irrigation fee in compliance with this Policy.

2.2 Pre-Compact Rights. In recognition of the purposes and intent of the Republican River Compact, the RRWCD will not charge a water use fee for the diversion or consumption of water based a decreed or permitted appropriation date earlier than December 31, 1942.

2.3 Groundwater Irrigation Use.

2.3.1 Application through center pivot irrigation. The RRCA Groundwater Model and RRCA Accounting Procedures assume an efficiency of 83%; that is for every 1 acre-foot of groundwater withdrawn and applied through center pivot irrigation, .80 acre-feet are consumed by crops, .03 acre-feet are consumed by spray loss and .17 returns to the aquifer for re-use. This .83

consumptive use is then applied through the RRCA Groundwater Model to calculate the impact to the stream, in accordance with the RRCA Accounting Procedures. At this time, the calculations result in total stream impacts of approximately 3.7% of the total gross groundwater withdrawals. See, Hendrix Wai Engineering, Inc., Republican River Water Conservation District Water Fee Policy (October 5, 2018) (“Hendrix Memorandum”). These impacts may attenuate over many years. If the RRCA groundwater model is changed and the approximate stream impact from net groundwater withdrawals are changed, the RRWCD will review this Policy and make changes if appropriate.

2.3.2 At this time there is no known application of groundwater withdrawals to irrigation through flood irrigation within the RRCA Model Domain. If the RRWCD is informed of such application method and such application results in a different impact on Compact compliance through the application of the RRCA Groundwater Model and RRCA Accounting, the RRWCD will review this paragraph and make any necessary changes as required to meet the purpose and scope of this policy.

2.4 Surface Water irrigation use.

2.4.1 Determination of Surface Water use fees. The Hendrix Memorandum shows that diversions of surface water for irrigation are approximately 16 times as impactful on Compact Compliance as the equivalent amount of groundwater withdrawals. The RRCA Accounting does not distinguish between surface water diversions by application method. Therefore, the water use fee for surface diversions per acre-foot diverted is approximately 16 times that of the per-irrigated acre fee for groundwater irrigated acres. Currently the per irrigated acre fee for groundwater irrigated acre is \$14.50. Assuming an average use of 1.5 acre-feet of groundwater per acre, the fee for surface water diversions is \$154.00 per acre-foot diverted. See Hendrix Memorandum at 4.

2.4.2 Requirements for Surface Water Diversions.

2.4.2.1 Monthly Reporting. If the RRWCD may require monthly reporting from water users of the volume of water diverted in the preceding month if the RRWCD finds monthly reporting to be helpful or necessary in determining fees.

2.4.2.2 Estimate of Annual Use. The RRWCD may require an estimate of future annual diversions from water users if the RRWCD finds such estimates to be helpful or necessary in setting operations of the CCP in compliance with RRCA resolutions or requirements.

2.5 Municipal and Commercial Use. Non-irrigation uses diverting or withdrawing more than 50 acre-feet per year are included as depletions against Colorado's Compact allocation. Such use is assumed to be 50% consumptive. See, RRCA Accounting Procedures, IV.A.2 and definition of Computed Beneficial Consumptive Use. The RRWCD will not assess a water use fee on non-irrigation uses that divert or withdraw less than 50 acre-feet per year.

2.5.1 Municipal and Commercial Groundwater Use. Non-irrigation municipal and commercial groundwater use will be assessed based on the groundwater center-pivot irrigation rate at a ratio of 83:50 for groundwater withdrawals with 1.5 acre-feet per acre of ground water withdrawn per acre of irrigated ground assumed. This results in a water use fee of \$5.80 per acre-foot of groundwater withdrawn for municipal and industrial uses. See Hendrix Memorandum at 3.

2.5.2 Municipal and Commercial Surface water Use. At this time there is no known application of surface water diversions to non-irrigation municipal or commercial use within the RRCA Model Domain. If the RRWCD is informed of such application method, the RRWCD will review this paragraph and make any necessary changes as required to meet the purpose and scope of this policy.

2.6 Reservoir Evaporation

2.6.1 Federal Reservoirs. The sole Federal Reservoir within the Colorado portion of the Republican River Basin is Bonny Reservoir. RRCA Accounting Procedures at p. 6. Evaporation from Federal Reservoirs is charged against Colorado's Compact allocation as a 100% consumptive use. The impact from evaporation of water is similar to that of surface water diversions, but the effect on Compact compliance is even greater. As the current water use fee per groundwater irrigated acre is \$14.50, the current water use fee for

reservoir evaporation from Federal Reservoirs is \$257.00 per acre-foot. See Hendrix Memorandum at 4.

2.6.2 Non-Federal Reservoirs. Evaporation from Non-federal Reservoirs that have a storage capacity of 15 acre-feet or greater at the principal spillway elevation are included in determining Colorado's Compact compliance. RRCA Accounting Procedures at p. 7. The RRWCD will not charge a water use fee to Non-federal Reservoirs that do not meet the RRCA Accounting Procedures definition for Non-federal Reservoirs. Evaporation from Non-Federal Reservoirs is charged against Colorado's Compact allocation at a 100% consumption. The impact from evaporation of water from Non-Federal Reservoirs is similar to that of surface water diversions, but the effect on Compact compliance is even greater. As the current water use fee per groundwater irrigated acre is \$14.50, the current water use fee for reservoir evaporation from Non-Federal Reservoirs is \$257.00 per acre-foot. See Hendrix Memorandum at 4.

2.6.3 Requirements for Reservoirs

2.6.3.1 Monthly Reporting. The RRWCD may require monthly reporting from water users if the RRWCD finds monthly reporting to be helpful or necessary in determining reservoir evaporation for determination of fees.

2.6.3.2 Estimate of Annual Use. The RRWCD may require an estimate of future annual evaporation from water users if the RRWCD finds such estimates to be helpful or necessary in setting operations of the CCP in compliance with RRCA resolutions or requirements.

3.0 If, in the future, the RRCA modifies either the RRCA Groundwater Model or the RRCA Accounting Procedures, the RRWCD will review this policy and make any changes to paragraph 2 as necessary to meet the purpose and scope of this policy. If, in the future the RRWCD modifies the groundwater irrigation water use fee structure it will review this policy and make any changes to paragraph 2 as necessary to meet the purpose and scope of this policy.

4.0 This Policy applies only to wells with final permits and formally decreed water rights in existence prior to January 1, 2019. The RRWCD is not responsible for and will not replace or otherwise assist with the remedy of depletions to the

Republican River for which the State of Colorado is responsible under the Compact for water right wells which are finally permitted or decreed with an appropriation date after January 1, 2019.

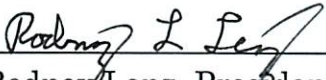
5.0 Plans for Augmentation and Alternative Compliance Plans

5.1 If a water user obtains a decreed plan for augmentation that replaces depletions to the extent that the underlying water use in the plan for augmentation results in a net-zero impact on Compact compliance or an Alternative Compliance Plan approved pursuant to the Compact Rules, the RRWCD will not assess a water use fee for that water use and consumption for the diversion or pumping covered by the Plan.

5.2 The RRWCD recognizes the possibility that water rights or permits located within the current or future boundaries of the District may have previously been required by the State of Colorado to participate in a plan for augmentation to augment depletions to streams outside of the RRCA Groundwater Model Domain. If said plan for augmentation assumes or requires that 100% of the depletions from said water rights or permits accrue to a stream outside the RRCA Groundwater Model Domain and requires replacement to that stream outside the RRCA Groundwater Model Domain, the RRWCD may only impose a nominal fee on the operation and use of such permits or decrees. If the RRWCD adopts such a fee, the nominal fee will be set at the discretion of the RRWCD in an amount that recognizes costs and expenses incurred by the RRWCD in setting up the program for such water rights or permits.

6.0 Contracts. The RRWCD may, in its sole discretion, enter into contracts with water users outside of the District boundary but within the RRCA Groundwater Model domain for purposes consistent with this policy. At the time of contracting, the RRWCD may charge a one-time administrative fee recognizing the costs and expenses incurred by the RRWCD in setting up the program for such contracts and may, in its sole discretion, impose additional fees recognizing that such contractees have not been paying water use fees to the RRWCD in the same amount and/or for the same amount of time as those water users within the original District Boundaries. The annual water use fees imposed by the RRWCD will be based on fee guidelines contained in the contract(s). The RRWCD may require such other terms and conditions in any such contracts as it deems necessary in its sole discretion.

7.0 Failure to Pay Fees. The RRWCD will be not responsible for and will not replace or otherwise assist with the remedy of depletions to the Compact for water rights or permits for which all fees have not been paid. The RRWCD will provide written notice of this finding of non-payment to the record owner of the water right or permit and to the State Engineer.



Rodney Lenz, President



Tim Paulter, Secretary