

# **Minutes of the Third 2010 Regular Quarterly Meeting of the Republican River Water Conservation District**

**July 8, 2010**

## **Holyoke, Colorado**

The Board of Directors of the Republican River Water Conservation District convened a regular meeting, pursuant to notice required by statute and the District's By-Laws, at the Phillips County Events Center, Biese-meier Meeting Room, Holyoke, Colorado.

Present were:

Board Members:

Dennis Coryell, President  
Greg Larson, Vice President  
Tim Pautler, Secretary  
Rick Seedorf, Treasurer  
Eugene Bauerle  
Grant Bledsoe  
Jack Dowell  
Kim Killin  
Garry Kramer  
Steve Kramer  
Bruce Latoski  
Wayne Skold  
Larry Zion

Stan Murphy, RRWCD General Manager  
Dawn Webster, RRWCD Administrative Assistant  
David Robbins, RRWCD General Counsel, Hill & Robbins, P.C.  
Dennis Montgomery, RRWCD General Counsel, Hill & Robbins, P.C.  
Jim Slattery, RRWCD Engineer, Slattery Aqua Engineering  
Tim Davis, RRWCD Program Consultant, TJD LLC  
John Willard, RRWCD Accountant

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 10:20 a.m., welcomed the public, and recognized Pam Shaddock, a representative for Senator Mark Udall, in the audience. Secretary Tim Pautler conducted a roll call of Board members, noting that Directors Raymond Anderson and Stan Layborne were absent but had been excused. With thirteen Directors attending the meeting, Secretary Pautler declared that a quorum of the Board was present.

## **AGENDA AND APPROVAL OF MINUTES**

President Coryell asked for any amendments to the agenda for the meeting. President Coryell noted that the Board would go into executive session after consideration of the resolution on Amendments 60 & 61 and Proposition 101. A motion to approve the agenda with that change was made, seconded, and approved unanimously.

Prior to this meeting, the directors had received, electronically, a draft of the minutes of the regular Board meeting held on April 8, 2010, and the special Board meetings held on April 28 and May 17, 2010, and the executive sessions held during the April 8 and April 28, 2010 Board meetings. These documents were also included in the Board packet today. President Coryell asked if there were any changes or corrections to the minutes. There were none. A motion to approve the minutes of the regular Board meeting held on April 8, 2010, and the special Board meetings held on April 28 and May 17, 2010, and the minutes of the executive sessions held during the April 8 and April 28, 2010 Board meetings was made, seconded, and approved unanimously. (The minutes of the special Board meeting held on April 28, 2010, were later corrected under New Business.)

## **GENERAL MANAGER'S REPORT**

At 10:25 a.m., General Manager Stan Murphy introduced Dawn Webster, the new Administrative Assistant, and presented the financial report and the disbursements for the quarter ending June 30, 2010, which were previously sent to the entire Board electronically as well as being included in the Board packet. A motion to approve the financial report and the disbursements for the second quarter of 2010 was made, seconded, and approved unanimously. Mr. Murphy then reported on the revisions to the Personnel Policy and Procedures Manual regarding health insurance benefits and retirement, stating that the Board needed to approve those changes. Also, he asked Nate Midcap to report on the Bonny Reservoir resolution letter that the Sandhills Ground Water Management District had adopted. He also informed the Board that the 2009 audit was finished and that the Auditor was very pleased and everything went very well. Prior to the meeting, the directors had received, electronically, a copy of the report by Winfrey & Country, P.C., of the audit of financial statements as of December 31, 2009, and a copy was also included in the Board packet. A motion to accept the 2009 audit report was made, seconded, and approved unanimously.

## **PROGRAM UPDATES AND REPORTS**

At 10:42 a.m., Treasurer Rick Seedorf reported that the Colorado Water Congress (CWC) will have a meeting on July 13, 2010, and that the CWC annual summer convention will be held in Vail, Colorado, at the end of August 2010.

Director Gene Bauerle reported that a meeting of the South Platte Roundtable was held on May 11, 2010, in Longmont, Colorado. He said the Colorado Water Conservation Board (CWCB) is working on six different projects that will help get water to the Front Range. Also, he reported on the Water Supply Reserve Account requests presentations, stating that money had been granted to some individuals who had presented.

Director Jack Dowell reported that the Republican River Weed Control project is continuing to remove Russian Olive trees from the North Fork and will move to the Arikaree, and then work on the South Fork from Bonny Dam to the state line. The Division of Wildlife has agreed to remove Russian Olive trees at the Sand Sage Wildlife area.

Director Bruce Latoski reported that the Yuma County Water Authority (YCWA) is still negotiating for surface water rights.

Director Steve Kramer reported that the Republican River Sustainability Committee met in June, 2010. They talked about ideas on how to sustain the aquifer, such as a rewards system. He said the next meeting will be in September 2010.

Christine Arbogast, RRWCD Federal lobbyist, started her report by stating that the Clean Water Act was not an immediate concern, due to other major concerns right now. Also, she said the District needs to start thinking about input for changes to the next Farm Bill, if interested. She reported that she, Dennis Coryell, and Tim Davis had gone to a meeting that had been requested by Representative Markey's office in regards to concerns about the Conservation Reserve Enhancement Program (CREP) amendment target zone and to discuss the fiscal outlook that a few individuals have. She said it was her impression that the meeting did not change anything as far as the CREP amendment is concerned and will be moving forward.

Jim Slattery, RRWCD engineer, reported that he has continued to work with water right owners on the South Fork about pursuing the purchase of their water rights. Currently, the State Engineer's office is evaluating the irrigation of lands that were not decreed to be irrigated by certain water rights, so things are on hold until the evaluation has been completed. He said data is being researched on the water rights that were used to irrigate lands that have enrolled in CREP so the well permits can be cancelled. He also noted that he has been assisting the State's attorneys with the Compact Compliance Pipeline arbitration and said the RRWCD is not being billed for that work.

David Robbins, RRWCD legal counsel, reported that Jim Slattery and Randy Hendrix were still working on compiling and checking information to file a draft application to change the North Fork water rights being leased from YCWA Public Improvement District. Mr. Robbins also reported that an amendment to the contract for the CWCB loan to extend the completion date for the Compact Compliance Pipeline project had been drafted and is on the agenda for approval later in the meeting. He also noted that at the April Board meeting the Board had tabled consideration of whether to file an application to change the South Fork water rights acquired by the RRWCD WAE to allow the Negotiating Committee to continue negotiations with the South Fork water rights owners and that the issue was on the agenda later in the meeting. He stated that an easement agreement had been obtained from Cure Land II for the Compact Compliance Pipeline across the land formerly owned by Jim Guercio, and that the State Land Board had agreed to a CD and a letter of credit as a substitute for a reclamation bond for the right-of-way for the Compact Compliance Pipeline.

At 11:20 a.m., Mr. Robbins updated the Board on the arbitration regarding the Compact Compliance Pipeline. He said the State of Colorado had invoked fast track non-binding arbitration and the arbitration hearing will begin on July 12 in Kansas City, Kansas.

At 11:28 a.m., President Dennis Coryell recessed the meeting for a five minute break.

At 11:33 a.m., the meeting was re-convened.

At 11:35 a.m., Tonya Bernadt, a Research and Outreach Specialist from the National Drought Mitigation Center at the University of Nebraska-Lincoln gave a presentation on the Republican River Portal website.

At 12:00 noon, President Coryell recessed the meeting for lunch.

At 1:08 p.m., the meeting was re-convened.

### **PUBLIC COMMENT**

At 1:10 p.m., President Coryell invited comment from the public.

Pam Shaddock, a representative for Senator Mark Udall, handed out her business card to the Board and also handed out information about a Veterans Resource Forum on July 30<sup>th</sup> in Burlington and Sterling, Colorado.

Tony Rayl, from the Yuma Pioneer, asked the Board if the new CREP amendment was available to the public and also asked who pays for the cost of the environmental assessment. Mr. Rayl was informed that as of the Board meeting, the State has the draft amendment and it had not been released to the public and that the supplemental environmental assessment will be paid for by the RRWCD WAE because it must be paid for by a local entity. He also asked if Washington and Lincoln Counties are still in the CREP amendment and was informed that both counties are included in the proposed CREP amendment. Mr. Rayl asked if the USDA (U.S. Department of Agriculture) required the environmental assessment and was informed that the USDA requires it for a federal action under the National Environmental Policy Act. He then asked why the RRWCD has to pay for it. He was told that the entity that is seeking a federal action has to pay for the cost of the environmental assessment and that the State does not have the funds to pay for the cost. He also commented that the Board should tell the public how this CREP amendment will help the State get into compact compliance.

Beverly Tracy, a resident of the District, said that she owns surface water rights on the North Fork and would like to give the District a chance to lease the water rights. Mrs. Tracy was asked if the water had been used and if there had been a discussion with YCWA about the purchase of the water rights. She said they have been using the water every day this year and that there had been a discussion with YWCA, but she did not feel that she was being offered the same amount as others were offered for their water rights. She was told that the Board would discuss leasing the water rights.

Sue Jarrett, representing herself as a private citizen, said she would like to see the wording of the new CREP amendment and would like a copy of it as soon as it becomes available. She also voiced her concern as to why the District would let certain wells that were purchased by the District be leased for farming and others not. Ms. Jarrett also said she felt the District should reconsider the way it looks at historical consumptive use when leasing water rights.

Nate Midcap, representing the Frenchman, Marks Butte, Central Yuma, and Sandhills Ground Water Management Districts, said that he will be putting together a feasibility study for a program that would frontload a special assessment fee for conservation. He then briefed the Board on the program.

There being no further comments, public comment ended.

At 1:30 p.m., Gene Bauerle was excused from the meeting.

### **BOARD ACTION ITEMS**

At 1:45 p.m., the Board considered Loan Contract Amendment No. 1 to the CWCB Loan Contract to extend the time for completion of the Compact Compliance Pipeline Project until December 31, 2012. A motion to approve Loan Contract Amendment No. 1 and to authorize the President to sign Loan Contract Amendment No. 1 was made, seconded, and approved unanimously.

Next, the Board considered agreements between the State of Colorado and the RRWCD WAE and between the State of Colorado, TEC, Inc., and the RRWCD WAE to pay for the supplemental environmental assessment for the CREP amendment in the amount previously authorized by the Board. A motion to approve the agreements and to authorize the President to sign them was made, seconded, and approved unanimously.

Next, General Manager Stan Murphy explained the amendment to Section 3.30 of the Personnel Policy and Procedures Manual (Manual) to provide health insurance to all employees after completion of one full calendar month of employment that the Board had approved at the May 17, 2010 Special Board meeting. Mr. Murphy also explained the amendment to Section 4.31 of the Manual regarding the sick leave policy, which changed the minimum amount charged for sick leave to one hour rather than the four hours previously stated, as approved at the April 8, 2010 Board meeting. Mr. Murphy also recommended that Section 11.40 of the Manual dealing with retirement be changed to strike the first sentence, which currently disallows the rehiring of employees who retire. A motion to revise Section 3.30 and Section 4.31 the Manual as explained by Mr. Murphy and to delete the first sentence of Section 11.40 of the Manual was made, seconded, and passed unanimously. President Coryell directed General Manager Murphy to revise the Personnel Policy and Procedures Manual as authorized by the Board.

Finally, the Board considered a resolution drafted by the Special District Association (SDA) opposing Amendments 60 and 61 and Proposition 101. A motion to oppose Amendments 60 and 61 and Proposition 101 was made, seconded, and passed unanimously. The Board asked legal counsel to draft a resolution based on the SDA resolution.

### **EXECUTIVE SESSION**

At 2:11 p.m., a motion was made pursuant to section 24-6-402(4), C.R.S., to enter into executive session to discuss the status of negotiations on agreements to acquire water rights for Compact compliance, determine positions and instruct negotiators, and receive legal advice on

legal questions related to such agreements, Compact compliance, the Compact Compliance Pipeline, and the upcoming arbitration. 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. Before entering into executive session, President Coryell thanked the public for attending the meeting.

At 3:33 p.m., the executive session ended.

### **OLD BUSINESS**

There was no old business.

### **NEW BUSINESS**

At 3:35 p.m., the Board stated that more information regarding the Tracy water rights was needed before the Board could consider leasing the water rights and directed RRWCD engineer Jim Slattery to do an analysis and prepare a report for the Negotiating Committee.

Tim Pautler stated that the minutes of the special Board meeting held on April 28, 2010, needed to be corrected to reflect that Vice President Greg Larson was in fact in attendance on the teleconference. Vice President Larson confirmed that he had been present on the teleconference. A motion to correct the minutes of the special Board meeting held on April 28, 2010, to show that Vice President Larson was present at the meeting was made, seconded, and passed unanimously.

The Board also discussed a concern brought to Director Bruce Latoski pertaining to the per diem amount paid to the directors for teleconferences. The Board discussed the concern but concluded that no change to the per diem amount was called for.

The Board also discussed the need for the Budget Committee to schedule a meeting sometime in August.

At 3:55 p.m., having no further business to be brought before the Board, a motion to adjourn the meeting was made, seconded, and passed unanimously.

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Secretary

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Date