

Minutes of 3rd 2006 Regular Meeting of the
Republican River Water Conservation District

July 13, 2006

Holyoke, Colorado

Present were:

Board Members:

Dennis Coryell, President
Kim Killin, Vice President
Tim Pautler, Secretary
Rick Seedorf, Treasurer
Eugene Bauerle
Grant Bledsoe
Jack Dowell
Garry Kramer
Steve Kramer
Stan Laybourn
Wayne Skold
Jerry Sonnenberg

Stan Murphy, General Manager
Monica Newton, Administrative Assistant
David Robbins, General Counsel, Hill & Robbins, P.C.
Ken Knox, Chief Deputy State Engineer
Scott Richrath, State Engineer's Office
Dennis Kaan, Colorado State University Cooperative Extension
Deb Carlstrom, Office of US Representative Marilyn Musgrave
Danyel Brenner, Office of US Senator Wayne Allard

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 10:09 a.m. President Coryell welcomed the public and Mr. Ken Knox and Mr. Scott Richrath from the Division of Water Resources, Mr. Dennis Kaan from Colorado State University Cooperative Extension, and water users from the area. Secretary Tim Pautler conducted a roll call of Board members, noting that Kelly Burr, Raymond Enderson, and Bruce Latoski, were absent and that a quorum of the Board was present. President Coryell stated that Director Burr, Director Enderson, and Director Latoski had asked to be excused.

MINUTES

A motion to approve the agenda was made, seconded, and adopted unanimously. President Coryell observed that the Directors had received a draft of the minutes of the April 13,

2006 regular meeting and executive session for their review. A motion to accept the April 13, 2006 regular meeting and executive session minutes was made, seconded, and approved unanimously.

At 10:16 a.m., President Coryell welcomed Deb Carlstrom from the office of Marilyn Musgrave and Danyel Brenner from the office of Senator Wayne Allard.

GENERAL MANAGER'S REPORT

General Manager Stan Murphy reviewed the financial report for the quarter ending June 30, 2006, and noted that income for 2nd quarter came from fees collected by county treasurers and water use fees from feedlots and municipalities. Mr. Murphy noted the outstanding invoices for water use fees from feedlots and municipalities. Mr. Knox stated that attorneys from the Division of Water Resources and the Divisions of Wildlife and Parks note the liability for the outstanding fee on the consumptive use of water for the evaporation from Bonny Reservoir. Mr. Murphy reported the funds on hand with the Bank of Colorado should be distributed to the banks within the District in accordance with the Board's previous designation. A motion was made to authorize the Executive Committee to distribute funds to banks throughout the District which can handle public funds according to the percentage of irrigated acres in the county. The motion was seconded and approved unanimously. A motion was made to approve the financial report for the second quarter. The motion was seconded and approved unanimously.

Mr. Murphy reported the District's website is developed and accessible. Mr. Murphy noted that Tier 1 Innovation has done an excellent job and expressed his appreciation for its cooperation with the District in designing the website.

PROGRAM UPDATES AND REPORTS

At 10:20 a.m., Director Bledsoe noted that on May 18, 2006, the Colorado Ground Water Commission (GWC) heard the petition filed by the Pioneer Irrigation District of Colorado (Pioneer) and owners of the Laird Ditch water right (Laird) and decided to dismiss the case to undesignate the Northern High Plains designated basin. As a result of the dismissal of petition by GWC, Pioneer and Laird filed an appeal, which will be heard by Yuma County District Court. Vice President Killin reported that the Division of Wildlife (DOW) had filed an appeal and its intent is to withdraw its appeal. Vice President Killin reported that the Executive Committee met on July 5, 2006, with DOW to review both sides' intentions. It was noted that a letter will be sent to DOW outlining the synopsis of the meeting between the Executive Committee and DOW. President Coryell noted that the position of the Board is to remain neutral with respect to the petition and noted that the GWC had denied the request to recuse President Coryell and Director Bledsoe from voting on the petition.

At 10:20 a.m., Mr. Murphy gave a report on the 1-year lease program. Mr. Murphy noted the Enterprise had received 13 contracts for 1,410.9 acres, with approximately \$157,000.00 being paid to producers. All contracts received are within 3 miles of the South Fork of the Republican River.

Director Sonnenberg gave a report on the Colorado Water Congress (CWC). He reported that the CWC summer convention will be held August 23-25 in Breckenridge, Colorado, with the

registration deadline being August 2nd. Director Sonnenberg noted there have not been legislative sessions during this summer.

President Coryell asked Mr. Murphy to report on the Environmental Quality Incentive Program (EQIP). Mr. Murphy indicated to date the Enterprise had received 46 contracts, with 40 of the 46 contracts being for permanent well retirement.

President Coryell underscored the importance for producers' and directors' attendance at upcoming local NRCS meetings to express appreciation for the current EQIP program and interest in potential and future EQIP programs.

President Coryell noted that due to increased funding, the Division of Water Resources has decreased the well permit process fees to \$100 effective July 1, 2006. Appreciation to DWR was expressed. Mr. Knox noted that the gratitude needs to be extended to the water users, representatives from the area, and the passing of Referendum C.

President Coryell asked Mr. Murphy to report on the Conservation Reserve Enhancement Program (CREP). Mr. Murphy noted the various allotted acres and exceeded acres per allotment within the different bands for CREP. Mr. Murphy stated that the number of acres applied for is changing daily due to producers having CRP contracts, and because of land not having been irrigated for 4 of the last 6 years. Mr. Murphy reported that producers have been notified by the Farm Service Agency (FSA), and the District has started notifying producers of the required documents needed prior to setting up an appointment to complete a contract. Mr. Murphy stated the state Farm Service Agency office's last-minute decision to change the application process from a first come, first serve basis to a lottery drawing did create stress for producers.

President Coryell noted an amendment to the agenda to add discussion of a time limitation for reallocation of unused CREP acres. A motion to amend the agenda to add discussion of the time limitation was made, seconded, and approved unanimously. Mr. Richrath noted the reallocation of CREP acres recommendation from the Board will need FSA approval. Mr. Richrath recommends that the District not make a hasty decision in regards to reallocation of acres until Mr. Murphy goes through the CREP application process.

Mr. Richrath noted that some of the applied acres for EQIP are the same acres under application for the CREP program. He noted that producers are being faced with a decision of which program to enter while considering if liquidated damages will have to be paid on an EQIP contract to enter into a CREP contract. Mr. Richrath stated that as an end result the District could end up with approximately 15,000 acres instead of the 27,000 acres initially applied for. Mr. Richrath reported that with Mr. Kaan's assistance, continued promotion of CREP will occur at the local county fairs throughout the District. Mr. Richrath noted that the District should not give the impression that the CREP sign-up process is over and should encourage producers to visit with their local FSA office to inquire about the program.

Mr. Richrath reported he had recently spoken with Allen Green, State Conservationist. Mr. Richrath noted that Mr. Green was surprised the District would be asking for more EQIP funding this fall due to CREP fulfilling the District's needs. Mr. Richrath expressed to Mr.

Green that the demand for EQIP may be strongest in Lincoln and Washington Counties and from producers in Kit Carson County greater than four miles from the Republican River. Mr. Richrath noted it is important for producers to attend local NRCS meetings and express their interest in the EQIP program. Mr. Richrath recommended the District's budget committee have an incentive structure made available to NRCS prior to the Board's next quarterly meeting. Mr. Richrath noted that Enterprise funding has made the ground and surface water EQIP program in the Republican River basin a very attractive program to NRCS and that NRCS appreciates programs where local funding is contributed. Mr. Richrath stated that if the level of financial commitment is not presented to NRCS, ground and surface water EQIP funding could be removed and reallocated to different basins.

President Coryell asked Vice President Killin, the Republican River Basin's representative to the South Platte Roundtable (SPR), to discuss recent activities of the SPR. Vice President Killin reported that the SPR has held two meetings since the last Board meeting with little or no activity. The SPR met to decide to have workshops in assisting with interpersonal skills and adversarial situations. Vice President Killin noted that the SPR does not want to hear concerns or complaints because such actions would interfere with water projects. Vice President Killin stated she still is not certain what direction the SPR is going with its meetings. Vice President Killin expressed an interest in appointing an alternate to the SPR if she is unable to attend the meetings.

Mr. Murphy noted William Burnidge of the Nature Conservancy was disappointed when the state FSA office decided to change the CREP permit application process as he devoted a large amount of time to offer extra incentives to well owners along the Arikaree River. Mr. Murphy noted that Mr. Burnidge had contacted eight well owners, two of whom were able to get into the lottery drawing. Only one producer was expected to complete a contract.

Mr. Knox gave a report on behalf of State Engineer's office. Mr. Knox reported that Arkansas River basin producers are suffering from an extreme drought. Mr. Knox noted John Martin Reservoir is at 9,623 acre feet and the State of Kansas delivery from the Offset Account will take approximately 6,400 acre feet, leaving John Martin Reservoir with approximately 3,000 acre feet.

Mr. Knox stated that Mr. Keeler, Republican River Basin water commissioner, is focusing on groundwater compliance. Mr. Knox reported that Mr. Keeler has discovered that 3,000 acres near the river had been assessed as irrigated but had not irrigated in 2005. These acres would be credited to Colorado for 2005 compliance determination. Mr. Knox noted that Mr. Keeler's main responsibility will be to continue to focus on working with the water users and investigating irrigation in excess of permitted acres.

Mr. Knox noted that the annual Republican River Compact Administration (RRCA) meeting will be on August 10th in Phillipsburg, Kansas. Mr. Knox noted that the RRCA meeting will be a very pertinent meeting. Mr. Knox reported that Colorado was out of compliance in 2003 and 2004 by approximately 12,000 acre-feet and in 2005 approximately and preliminarily by 10,400 acre-feet. Mr. Knox acknowledged that the District is moving in the right direction toward compact compliance with the implementation of the EQIP and CREP. Mr. Knox noted

the Final Settlement Stipulation has a 5-year moving average compliance term, although Nebraska has a 2 year drought-triggered compliance term. Mr. Knox noted that the RRCA meeting to be held in Phillipsburg, Kansas, will include reports given by the States. Mr. Robbins noted that the U.S. Supreme Court treats compacts as contracts, which are not changeable by the Court. Compacts are to be complied according to their terms and may be enforced by an injunction if necessary.

At 11:34 a.m., Treasurer Seedorf gave a report as chair of the committee charged with conducting the annual review and making a compensation recommendation for Mr. Murphy. Treasurer Seedorf reported that the review committee, consisting of Director Dowell, Director Bledsoe, and himself, met with Mr. Murphy on May 24, 2006. On behalf of the committee, Treasurer Seedorf commended Mr. Murphy for his positive and outstanding leadership for the District and recommended a compensation increase of 3% effective April 1, 2006. Mr. Murphy reported that he had performed a 6-month review for Ms. Newton, Administrative Assistant, and recommended an increase in salary from \$24,000 to \$30,000. A motion to adopt the compensation recommendations and reviews completed for Mr. Murphy and Ms. Newton was made, seconded, and approved unanimously.

At 11:39 a.m., President Coryell moved discussion of the 2006 audit and the purchase of aluminum pipe to later in the meeting.

PUBLIC COMMENT

At 11:40 a.m., the meeting was opened to public comment. Bill Cure, representative from Cure Brothers and Cure Land, noted that the District needs to inform the public that the CREP sign-up process is not over and not to turn producers away. Mr. Cure stated that the State needs to address the producers concerning what wells need to be shut down to move towards compact compliance. Mr. Cure suggested the effort and incentives for EQIP and CREP be closer to the Republican River where compact compliance really counts.

At 11:44 a.m., President Coryell noted that after returning from lunch at noon, the Board would enter into executive session. A motion was made to enter into executive session to discuss interruptible water supply agreements and for determining positions and instructing negotiators, receiving legal advice on legal questions related to such agreements, and personnel matters. The motion was seconded and approved unanimously. President Coryell stated that no motions are to be made or approved in executive session.

At 11:46 a.m., the Board recessed for lunch and executive session.

At 1:46 p.m., the executive session ended. No policy, position, resolution, rule, or other formal action was taken during the executive session.

BOARD ACTION

President Coryell stated the District's interest in leasing Curt Soehner's surface water right. Mr. Robbins reported the lease terms as negotiated between the District's attorney, Mr. Dennis Montgomery, and Mr. Soehner's attorney. Mr. Soehner noted that water has been diverted this year under his water right and that he would be willing to discuss a prorated rental

rate for the water that had not been diverted. A motion was made to authorize the Executive Committee and legal counsel to meet and to discuss a rental rate for water not already diverted and to accept any minor changes to the lease, subject to Executive Committee approval and signature by the District's president. The motion was seconded and approved unanimously.

At 1:56 p.m., Mr. Murphy reported that Monte Uyemura is still interested in leasing 21 acres irrigated by his surface water rights on Chief Creek to the Enterprise. It was noted that the water right has not been used in recent years. Mr. Murphy noted that Mr. Uyemura had expressed his willingness to allow the Enterprise to pay him \$10 per year to lease his water right and in ten years Mr. Uyemura would use the water right for irrigation use. Mr. Murphy recommended that the Board not consider the lease.

At 2:12 p.m., President Coryell recommended that Vice President Killin set up a budget committee meeting in the month of August to prepare the 2007 budget and to determine a recommendation for reallocation of exceeded acres for the CREP program and to determine how 2007 EQIP funding fits in the budget. Mr. Richrath recommended reallocation of CREP acres be determined prior to the October Board meeting and that Mr. Tim Davis be included in the decision-making.

At 2:15 p.m., Mr. Richrath recommended that the District, through the Enterprise, hire Mr. Davis in a CREP consulting position. Mr. Richrath noted that Mr. Davis had retired as of June 30, 2006, from the Division of Wildlife and would be willing to consider a contract to continue to work on the current CREP program and a possible future CREP expansion. Mr. Richrath stated that Mr. Davis had been the main link between the USDA and the District for the CREP program. Mr. Robbins recommended authorizing the Executive Committee, legal counsel, and Mr. Murphy to negotiate a contract with Mr. Davis for the CREP consulting position, not to exceed a cap of \$15,000 annually. A motion to adopt Mr. Robbins' recommendation was made, seconded, and approved unanimously.

Mr. Murphy recommended changes to the RRWCD Personnel Policy and Procedures Manual for pay periods, vacation and personal leave, sick leave, maternity leave, Board membership of employees, and staff use of electronic mail. The changes are outlined in the attached page. A motion was made to accept the recommended changes as noted by Mr. Murphy, with an amendment to the sick leave policy that sick leave may be accumulated from year-to-year with a maximum of 600 hours and upon retirement and resignation, employees will be compensated for accumulated sick leave at 25% of their regular rate of pay. The motion was seconded, and approved unanimously.

President Coryell noted, per the audit report, that a District purchase plan or purchase policy should be developed. Mr. Murphy reviewed a suggested District purchase plan or purchase policy developed by Mr. Robbins and himself. A motion to adopt the purchase plan or purchase policy presented by Mr. Murphy was made, seconded, and approved unanimously. A copy of the purchase plan or purchase policy is attached.

Mr. Murphy recommended a time limitation for allowing water use fee abatements/refunds to make sure that changes in assessed irrigated acres are reflected in the

RRCA accounting. A motion to set a time limitation of July 1st of the following year for abatements/refunds of the previous year's water use fee was made, seconded, and approved unanimously.

Mr. Murphy recommended that a representative and an alternate representative for the Colorado Special Districts Property and Liability Pool be designated. President Coryell appointed Director Dowell as the representative and Vice President Killin as the alternate representative to the Colorado Special Districts Property and Liability Pool.

Mr. Murphy noted that during the January Board meeting, legal counsel, David Robbins, had suggested that a fee be established for copies of the RRWCD minutes. Mr. Robbins recommended that a fee be established to cover the expenses and time incurred by Ms. Newton and Mr. Murphy in making copies of minutes. A motion to set a fee for all copies at 50 cents per copy for 10 or more copies was made, seconded, and approved unanimously.

At 2:57 p.m., Mr. Murphy recommended that the District begin taking bids from auditors for the 2006 audit and that the Board consider bids at the October Board meeting. There was no objection to taking bids from auditors for the 2006 audit and Mr. Murphy was directed to notify auditors that bids would be taken and to present the bids at the October Board meeting.

At 3:02 p.m., Mr. Murphy raised the matter of purchasing aluminum in-line irrigation pipe for the Gary Earl water pumping project. Mr. Murphy recommended that the Enterprise not purchase pipe right now for the project. President Coryell recommended that the District look at the stream flow on the Arikaree to see if pumping from the Gary Earl wells to the river is feasible and to postpone any purchase of aluminum in-line irrigation pipe at the present time. The Board concurred with President Coryell's recommendation.

At 3:10 p.m., no old business was discussed.

At 3:10 p.m., President Coryell suggested a Board workshop/retreat to discuss long term goals for the District.

President Coryell appointed Treasurer Seedorf to the Budget Committee.

At 3:19 p.m., a motion to adjourn the meeting was made, seconded, and approved unanimously.

Secretary

Date