

**A RESOLUTION OF THE REPUBLICAN RIVER
WATER CONSERVATION DISTRICT**

*(To Amend the Previous Resolution Establishing a Fee to Fund Conservation Programs within the South Fork
Focus Zone)*

AMENDED RESOLUTION NO. 21-05

AMENDED

R E C I T A L S

WHEREAS, the Republican River Water Conservation District (“District”) was created pursuant to section 37-50-103(1), C.R.S., to, in part, assist the State of Colorado to carry out the State’s duty to comply with the limitations and duties imposed upon the state by the Republican River Compact; and

WHEREAS, pursuant to section 37-50-107(1)(k), C.R.S., the District has established a water enterprise pursuant to Article 45.1 of Title 37 of the Colorado Statutes (“Enterprise”); and

WHEREAS, the District is managed and controlled by its Board of Directors (“Board”); and

WHEREAS, the Board, acting as the Governing Body of the Enterprise, adopted Resolution No. 04-01 to establish an annual use fee which, as amended, provides revenues to the Enterprise that can be used to assist the State of Colorado in complying with the limitation and duties imposed upon the State by the Republican River Compact; and

WHEREAS, on August 24, 2016 the Republican River Compact Administration adopted the Resolution by the Republican River Compact Administration Approving Operation and Accounting for the Colorado Compact Compliance Pipeline and Colorado’s Compliance Efforts in the South Fork Republican River Basin (“2016 Resolution”); and

WHEREAS, on August 23, 2016 the District adopted the Resolution by the Republican River Water Conservation District Board of Directors Regarding Resolving Certain Issues Between the State of Kansas and Colorado Regarding the Republican River Compact that expressed the District’s support for the 2016 Resolution; and

WHEREAS, the 2016 Resolution states, in part, that “Utilizing the Conservation Reserve Enhancement Program or other voluntary programs, Colorado agrees to retire up to an additional 25,000 acres from irrigation in the South Fork Republican basin. Of that amount, Colorado will retire at least 10,000 acres by 2022 and will retire the remaining 15,000 acres by December 31, 2027”

WHEREAS, the deadlines stated in the 2016 Resolution have been extended to 2024 and 2029, respectively; and

WHEREAS, the requirement of 25,000 acres to be retired in the South Fork Republican basin (“South Fork Focus Zone”) has not yet been reached; and

WHEREAS, in order to protect the water users and the economy within the District, the District desires to assure that the State of Colorado will comply with the terms of the 2016 Resolution through the use of the Conservation Reserve Enhancement Program (“CREP”) and other conservation programs; and

WHEREAS, the District's Conservation committee has held numerous public meetings and considered numerous comments from the public on how to meet the terms of the 2016 Resolution regarding the South Fork Focus Zone and has provided a recommendation to the Board for its consideration; and

WHEREAS, the Board wishes to provide additional funding for the retirement of irrigated acres within the South Fork Focus Zone in order to meet the terms of the 2016 Resolution.

R E S O L U T I O N

NOW, THEREFORE, be it resolved by the Board of the District that it adopts the following Resolution:

1. The District, acting through the Enterprise, adopts the following incentives, effective from this date forward, for producers within the South Fork Focus Zone to voluntarily retire additional irrigated acres in the South Fork Focus Zone:
 - 1.1 For wells located within the South Fork Focus Zone that successfully enter into a United States Department of Agriculture Farm Service Agency ("USDA FSA") CREP contract for the lands irrigated by such well, the Enterprise will provide the following incentives that are in addition to any required CREP payments under the existing Republican River CREP ("RRCREP") or under the United States Department of Agriculture Farm Natural Resources Conservation Service ("USDA NRCS") Environmental Quality Incentives Program ("EQIP") and from the American Rescue Plan Act (ARPA) funds awarded to the Enterprise, and available to the Enterprise until August 15, 2024:
 - a. For each well enrolled in the RRCREP and permanently retired, up to a total of \$5,250.00 (five-thousand, two hundred, fifty-dollars) per acre enrolled in the RRCREP, to be funded by the Enterprise, USDA FSA, and the ARPA funds as available. If approved by the District Board, CREP applicants may receive the discounted full payment of the RRWCD share of their CREP contracts, with a 10% discount to reflect present value.
 - b. For each well enrolled in the EQIP and permanently retired, up to a total of \$4,250 (four thousand, two hundred fifty-dollars) per acre enrolled in the EQIP, to be funded by the Enterprise, USDA NRCS, and ARPA funds as available. If approved by the District Board, after the well has been abandoned or down-sized, EQIP applicants may receive the discounted full payment of their RRWCD share of their EQIP contracts, with a 10% discount to reflect present value.
2. The District, acting through the Enterprise, hereby establishes and creates the Republican River Water Conservation District Acreage Management Plan ("RAMP") with the following terms and requirements, from this date forward:
 - 2.1 Eligibility: wells located within the South Fork Focus Zone and lawfully used for irrigation. The well must have been used for irrigation in 2016. Only those acres actually irrigated in 2016 and in two of the last five years are eligible for the incentives listed below.
 - 2.2 Application: the well owner must apply to participate in the RAMP by signing the evaluation worksheet form supplied by the District. Approval or denial of the application will be evaluated by the District board in a blind evaluation. Successful applicants must enter into a written contract with the Enterprise.

2.3 Terms for acres approved and enrolled in RAMP prior to December 31, 2024:

- a. each participant permanently retiring a minimum of 15% (fifteen percent) to 49.99% (forty-nine and ninety-nine hundredths' percent) of the acres actually irrigated by that well. Actual irrigated acres will be determined from USDA FSA records and/or aerial photographs and will be the lowest number of acres irrigated in the last five years. After enrollment, future irrigation will be limited to the actually irrigated acres less the acres enrolled in this program.
- b. each participant must make structural changes to their irrigation system to restrict the ability to irrigate those acres enrolled in the RAMP.
- c. for each contract where the offer is between 15% (fifteen percent) and 49.99% (forty-nine and ninety-nine hundredths' percent) of the total irrigated acres actually irrigated by that well and that are enrolled in the RAMP and permanently retired, the Enterprise along with ARPA funds, will pay to the participant up to \$2,750.00 (two thousand seven hundred-fifty dollars) per enrolled acre.
- d. for each acre equal to or exceeding 50% (fifty percent) of the acres actually irrigated by that well and that are enrolled and permanently retired in the RAMP program, the Enterprise along with ARPA funds, will pay to the participant up to \$3,250.00 (three thousand, two hundred-fifty dollars) per enrolled acre.
- e. participants may dry-land farm, graze or make such other use of the retired acres as they may so choose other than irrigated agriculture.
- f. although the District will not require a reduction in the maximum annual volume of the appropriation, the Colorado Division of Water may separately require such a reduction if the retirement results in an appropriation of more than 2.5 acre-feet per irrigated acre.
- g. at the time of enrollment each participant must work with the Enterprise in executing the appropriate forms with the Colorado Division of Water Resources. The Colorado division of Water Resources will amend the final permit showing that reduction in irrigated acres and provide a copy of the amended permit to the District.

2.4 Terms for acres approved and enrolled in the RAMP after December 31, 2024:

- a. each participant permanently retiring a minimum of 15% (fifteen percent) to 49.99% (forty-nine and ninety-nine hundredths' percent) of the acres actually irrigated by that well (as defined in 2.4 e and f below). Actual irrigated acres will be determined from USDA FSA records and/or aerial photographs and will be the lowest number of acres irrigated in the last five years. After enrollment, future irrigation will be limited to the actually irrigated acres less the acres enrolled in this program.
- b. at the time of enrollment each participant must work with the Enterprise in executing the appropriate forms with the Colorado Division of Water Resources. The Colorado Division of Water Resources will amend the final permit showing that reduction in irrigated acres and provide a copy of the amended permit to the District.
- d. each participant must make structural changes to their irrigation system to restrict the ability to irrigate those acres enrolled in the RAMP.

- e. for each acre at least 15% (fifteen percent) to 49.99% (forty-nine and ninety-nine hundredths' percent) of total irrigated acres enrolled in the RAMP and permanently retired, the Enterprise, along with ARPA funds, combined, will pay to the participant up to \$2,750.00 (two thousand, seven hundred, fifty-dollars) per enrolled acre.
 - f. for each acre equal to or exceeding 50% (fifty percent) or more of total irrigated acres enrolled in the RAMP and permanently retired, the Enterprise, along with ARPA funds, combined, will pay to the participant up to \$3,250.00 (three thousand, two hundred, fifty-dollars) per enrolled acre.
 - g. participants may dry-land farm, graze or make such other use of the retired acres as they may so choose other than irrigated agriculture.
3. Each participant in any of the programs listed herein will cooperate with the District or Enterprise in effectuating such forms, notices, or other documents that the District or Enterprise, in its sole discretion, deems necessary to accomplish the purposes of such program.
 4. The Enterprise will make annual payments to the participant or up-front payment in full if requested and approved. In 2024, the Enterprise will have \$4.5 million available for up front payments. Payments will include a 10% discount based on present value. Priority will be given to wells within the South Fork Focus Zone.
 5. This Resolution does not otherwise affect the contracts between the USDA FSA, the State of Colorado and the District regarding the CREP.
 6. This Resolution and its associated fees to fund the incentives and programs herein will expire on December 31, 2029, unless the Board adopts a specific resolution to continue these incentives and the associated fees. After such expiration, the Enterprise will continue to comply with any future payment obligations to participants and participants will continue to comply with any terms and requirements of contracts entered into pursuant to this Resolution. Enrollment is subject to then available funding.

Originally Resolved on this 17th day of August 2021 and further Resolved this 21st day of November 2023.

ATTEST:

BOARD OF DIRECTORS
REPUBLICAN RIVER WATER
CONSERVATION DISTRICT


Secretary


President