

**Minutes of the 6<sup>th</sup> Special Meeting of the  
Republican River Water Conservation District**

**January 11, 2005**

**Yuma, Colorado**

Present were:

Board Members:

Eugene Bauerle  
Grant Bledsoe  
Kelly Burr  
Dennis Coryell  
Raymond Enderson  
Kim Killin  
Garry Kramer  
Steve Kramer  
Bruce Latoski  
Stan Laybourn  
Tim Pautler  
Rick Seedorf  
Wayne Skold

David Robbins, General Counsel, Hill & Robbins, P.C.

Dennis Montgomery, General Counsel, Hill & Robbins, P.C.

Ken Knox, Deputy State Engineer

Scott Richrath, State Engineer's Office

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

**MINUTES**

President Coryell convened the meeting, pursuant to notice required by statute, at the Church of the Nazarene, Yuma, Colorado, at approximately 10:30 a.m. The record reflects that 13 of the District's directors were in attendance and that a quorum was present.

President Coryell introduced Stan Murphy, the new General Manager of the District and the District's Water Activity Enterprise. The President observed that a draft of the minutes of the December 1, 2004 Board meeting had been delivered to the Board members for their review. A motion to approve the minutes was made, seconded, and passed unanimously. The Secretary signed the original minutes.

President Coryell said that minutes of the executive sessions held on October 12, 2004, and December 1, 2004, had been prepared but because they had not been delivered to

the Board members for review prior to the meeting, approval of the minutes would be held off until a future meeting.

At 10:33 a.m., Secretary Pautler presented a statement from the Bank of Colorado as of January 4, 2005 and an un-audited statement of revenue and expenditures. A list of bills payable and the interim disbursements for the period ending January 4, 2005, were presented to the Board.

After review, a motion to approve the financial statement and the bills payable, authorizing payment and ratifying the interim disbursements was made, seconded, and passed unanimously.

Discussion was then held on how to handle future bills. Secretary Pautler said that the accountant, John Willard of Premier Accounting, plans to set up QuickBooks in the office and will handle payroll from his office. Legal counsel offered to send bills to the Executive Committee and to any Board member who wanted to review the legal bills. President Coryell requested that counsel e-mail copies of the legal bills to the Executive Committee and asked any Board member who wanted a copy of the bills to inform legal counsel. Mr. Murphy said that he would send out a summary of the bills and invoices to the Board.

At 10:51 a.m., the Board approved the Agenda with an addition suggested by Director Garry Kramer regarding pre-compact wells. The Board briefly discussed logistics of the quarterly Board meeting to be held on Thursday, January 13, 2005.

At 10:52 a.m., the Board discussed an employment contract for the General Manager. Legal counsel noted that the Board needed to make a decision on PERA and medical coverage at the meeting to finalize the employment contract. A motion to have the Executive Committee develop and sign an employment contract for the General Manager was made, seconded, and passed unanimously.

At 10:55 a.m., Mr. Murphy thanked the Board for the opportunity to work for the District, then reported to the Board on various matters, including computer needs, discussions with John Willard on where bank statements should be sent, and Mr. Willard's recommendation that information regarding Mr. Murphy as an employee should be sent to Mr. Willard. Mr. Murphy discussed several issues that had been brought to his attention by the public.

At 11:02 a.m., the Board began a discussion of handling bank statements and computers for the office use. The Board directed that a copy of the bank statements be sent to Secretary Pautler and to the accountant, John Willard. President Coryell recommended that the official copy be sent to John Willard with a copy to Secretary Pautler.

After discussion of computer needs, the Board directed the General Manager to find and investigate computer equipment that would work best for his needs and to get prices. A motion to authorize Mr. Murphy to purchase office equipment within the amount budgeted in

the Enterprise's budget, subject to approval of the Executive Committee, was made, seconded, and passed unanimously.

At 11:12 a.m., the Board discussed the need for a vehicle for the General Manager. After discussion, it was agreed that the purchase of a vehicle would be deferred until the District and Enterprise's needs were better known and that Mr. Murphy should confer with Director Bauerle on options for purchase of a vehicle. A motion to reimburse the General Manager for the use of his vehicle for District/Enterprise business at the IRS rate was made, seconded, and passed unanimously. Mr. Murphy asked the Board if he should continue to attend meetings of the Colorado Groundwater Commission. The Board felt that it was advisable for the General Manager to continue to attend the Commission meetings.

At 11:25 a.m., the Board discussed hiring an administrative assistant. Mr. Murphy said there was no need to hire an administrative assistant at the present time and that the hiring of an administrative assistant should be deferred until there was a need for one.

At 11:26 a.m., Scott Richrath discussed the Public Employees' Retirement Association (PERA) and the need for the Board to adopt a resolution to authorize an application to affiliate with PERA if the Board wanted to enroll with PERA. Mr. Murphy stated that he has 17 years of credit with PERA and that it would be to his advantage for the District and the Enterprise to affiliate with PERA. He said that although the employer's contribution will increase in 2007, he would be willing to hold his salary at the current level for three years if the Board affiliated with PERA. A discussion was then held about the long-term stability of PERA and whether salaries and compensation paid to Board members were subject to PERA. After discussion, a motion to adopt the resolution to authorize an application to affiliate with PERA was made by Director Seedorf, seconded by Director Bauerle, and passed unanimously. A copy of the resolution is attached hereto as Exhibit 2.

At 11:45 a.m., the Board began a discussion of medical coverage for the General Manager. Mr. Murphy said that he is presently covered under his wife's insurance and that this coverage would continue until approximately August, 2005. He said that if the Board would pay his share of the insurance, it would be acceptable to him, rather than to have the Board obtain separate insurance to cover him, to instead be covered under his wife's insurance until such time that this coverage was no longer available. Mr. Richrath reported that the lowest quote he had obtained from Anthem (Blue Cross Blue Shield) was considerably more than Mr. Murphy's share of the insurance under his wife's policy. A motion to reimburse Mr. Murphy for the cost of his medical insurance under his wife's policy, beginning in January 2005, was made, seconded, and adopted. The Board then discussed whether dental insurance was covered under his wife's policy. Mr. Murphy said that it was not. Legal counsel recommended that rather than purchasing dental insurance for employees, the Board consider establishing a self-insurance program to reimburse the General Manager for dental, vision, and other expenses up to a set amount.

At 11:57 a.m., legal counsel reported that the Special District Association was able to provide all of the District/Enterprise's insurance requirements, including the Treasurer's

bond, that coverage was in place for general liability, crime, errors and omissions, surety bonds, and property, that the District must submit payment for the 2005 premium, and that the District must adopt a resolution to approve the Intergovernmental Agreement for the Special District's Property and Liability Pool to obtain the coverage. Mr. Richrath reported that workers' compensation is in place and the 2005 premium had been paid. A motion to approve the resolution was made by Vice-President Killin, seconded by Director Latoski, and passed unanimously.

At 12:00 p.m. the Board began a discussion of retaining an engineer. Deputy State Engineer Ken Knox discussed the District/Enterprise's need for an engineer, the fact that the Enterprise budget contained an item to retain an engineer, and ways the Board might proceed to hire an engineer. Mr. Knox said he had an engineer he would recommend because of the engineer's familiarity with the model used to determine Compact compliance and suggested that the Board appoint a committee to interview engineers. After legal counsel explained how other districts retain engineering consultants, the Board discussed the need to retain an engineer who understood the very complex groundwater model used for Compact compliance. Mr. Knox reported that the firm of Helton & Williamsen has present experience with the groundwater model. Discussion was then held about hiring an engineering firm, and Secretary Pautler said that it was important for the Board to be able to tell constituents that the Board has hired a firm that understands the model. Other Board members also said that the Board did not have time for other firms to get up to speed and that as wells and acreage are retired, the Board will want to be able to see the immediate benefit for Compact compliance. After discussion, President Coryell recommended the appointment of a committee to meet with Mr. Knox, Mr. Murphy, and legal counsel to interview Helton & Williamsen. The Board agreed with President Coryell's recommendation, and President Coryell said that he would appoint a committee to conduct the interview and asked Board members to advise him if they were interested in serving on the committee.

At 12:30 p.m., the Board recessed for lunch.

At 1:05 p.m., the meeting resumed. President Coryell said that Directors Gene Bauerle, Kelly Burr, and Steve Kramer had expressed an interest in being on the committee to interview Helton & Williamsen. President Coryell said that he also was interested in serving on the committee. Director Bauerle suggested that a date be set for the meeting. Tuesday, January 25, 2005, at 10:30 a.m. at the office of Hill & Robbins, P.C., was proposed for the meeting, subject to the availability of Helton & Williamsen.

At 1:10 p.m., legal counsel reported that Bondi & Co. had submitted an engagement letter to request an exemption from the audit requirement for the 2004 fiscal year and to conduct an audit for the District and the Enterprise for the 2005 fiscal year and that President Coryell had signed the engagement letter and returned it to Bondi & Co. Legal counsel also reported that John Willard of Premier Accounting, who was selected as the accountant at the December 1, 2004 meeting, had visited with Tim Pautler, Stan Murphy, and Kim Killin about accounting and payroll. It was agreed to start those after December 31, 2004. He will get together with Laurie Jones in January to do the first payroll and start the books on Quick

Books. Legal counsel also reported that the budget resolutions and certifications of the 2004 and 2005 budgets for the District and the Enterprise had been signed by President Coryell and submitted to the Department of Local Affairs in accordance with the Colorado Local Budget Law.

Legal counsel then explained the proposed amendments to the By-Laws of the District and the Enterprise that had been mailed to the directors by Secretary Pautler in accordance with Article IX of the By-Laws. The proposed amendments to be considered were: 1) Article III, Section 1: correcting the day for regular quarterly meetings of the Board to be consistent with the RRWCD Act; 2) Article III, Section 2: correcting the number of directors required to call a special meeting to be consistent with the RRWCD Act; 3) Article III, Section 6: adding that "With the President's permission, any employee, agent, or contractor of the District may attend by telephone"; 4) Article III, Section 7: deleting the word "board" for consistency; 5) Article V, Sections 1, 2, and 3: authorizing the President, Vice-President, and Secretary to sign warrants, checks, or other instruments disbursing funds in an amount equal to or less than an amount determined by Board resolution. A copy of the By-Laws showing the proposed amendments is attached hereto at Exhibit 3. A motion to approve the amendment to the By-Laws of the District and the Enterprise was made, seconded, and passed unanimously.

Secretary Pautler then proposed an amendment to the By-Laws to authorize the District Manager to sign checks up to an amount to be determined by the Board. Legal counsel explained that because the proposed amendment had not been mailed to the directors at least 10 days prior to the meeting in accordance with Article IX of the By-Laws, a motion to suspend the By-Laws under Article X of the By-Laws would be necessary to consider the amendment. A motion was then made to suspend the prior mailing requirement of Article IX of the By-Laws to consider the amendment to authorize the General Manager to sign checks was made, seconded, and passed unanimously.

A motion to amend Article V, Section 6, of the By-Laws to authorize the General Manager to sign checks up to an amount to be determined by the Board was then made, seconded, and passed unanimously.

A motion to authorize the General Manager to sign checks up to the amount of \$1,000.00 was then made, seconded, and passed unanimously.

At 1:28 p.m., legal counsel advised the Board of the need to designate the public place or places for posting notices of meetings of the Board in accordance with Section 24-6-402(2)(c) of the Colorado Open Meetings Law. After discussion, a motion to designate the District's office at the public place for posting notice of meetings was made, seconded, and passed unanimously. The Board recommended that notices also be posted at every county courthouse of the counties within the District, if possible.

At 1:30 p.m., Director Seedorf reported on the meeting of the Colorado Water Congress State Affairs Committee. Director Seedorf suggested that the District may not need to have a representative at the State Affairs Committee every week. Legal counsel said

that he or another attorney in his firm attends the State Affairs Committee meetings and that he could let the District's representative and alternate know if there were matters of interest to the District that would be considered at an upcoming meeting. The Board directed legal counsel to let the District's representative or alternate know if there were meetings of interest to the District. Legal counsel reported on two relevant bills that may be introduced to the state legislature regarding 1) proposed caps on compensation and per diem levels to directors and 2) a proposed merger into one department of the State Divisions of Water Quality Control, Water Resources, and the Colorado Water Conservation Board.

At 1:45 p.m., legal counsel reported that a draft personnel policy manual had been prepared and submitted to the Executive Committee for review. Legal counsel recommended that Stan Murphy review the draft personnel policy manual and provide his input and that the Board consider the personnel policy manual at a future meeting.

Mr. Richrath reported that thank-you letters to the utilities for the loans to the Enterprise for start-up operations had been drafted and signed by President Coryell, Vice-President Killin, and Secretary Pautler.

At 1:47 p.m., the Board opened the meeting to comment by the public.

John Hardwick of the Farm Bureau of Philips and Yuma Counties said that he and others had hired an attorney and held a meeting with Mr. Knox and others. He said that he would encourage the Board to consider constructing a pipeline to deliver water for Compact compliance and presented a proposal for the Board's consideration. He also asked the District to consider moving the gaging station on the South Fork of the Republican River. Discussion was held. Vice-President Killin noted that the Board had appointed a committee to interview an engineer. Secretary Pautler asked Mr. Hardwick to consider the cost to acquire easements and thanked Mr. Hardwick for his proposal.

Bud Mekelburg, president of the Republican River Watershed Association, which is made up of 8 Conservation Districts, said that priorities need to be set on EQIP money, that it would be advisable to have a high priority on land retirement, and that the Association was working on that. He presented a draft memorandum of understanding for the Board's consideration, but said that it was not complete and had not yet been adopted by the Association. Mr. Mekelburg said that he wished the Board well and would support the Board in every way the Association can. Secretary Pautler then explained the efforts the District had made to meet with Soil Conservation Districts to develop priorities for EQIP and said that the District wanted to continue to work with the Association.

Trent Bushner, president of the Colorado Corn Growers Association, said that he wanted to encourage the Board that the Association and the Board should work together to approach the Legislature and that they should also work with the Cattlemen's and Wheat Growers Associations.

Secretary Pautler then said that a letter had been received from the State Conservation Board that had expressed some concern about what the District was doing and said that he

would like to have a meeting to follow up the concerns about water conservation measures, including measurement of ground water, encouraging water management, and changing the type of crops grown. Secretary Pautler said that he wanted to assure the State Conservation Board that the Board has discussed all of these issues. Mr. Meckelburg stated that the Republican River Watershed Association did not support this letter. Mr. Knox said that he had prepared a draft response to the letter and would be willing to attend the meeting. President Coryell and Vice-President Killin said that it was important for the District to address these issues and for the District to formulate its own response.

Tom Weathers said that he didn't think it was necessary to tell farmers how to farm and that farmers had done a lot to conserve water.

At 2:30 p.m., the public comment was closed.

President Coryell then asked Robin Wiley, County Commissioner from Yuma County, to give the County's perspective on the number of acres in the Conservation Reserve Program (CRP) that are assessed as irrigated acres. Mr. Wiley said that the State thought it was less than 100 acres in the Republican River Basin, but the county assessors reported that they don't know which acres are in CRP. He said that there are considerably more acres in CRP and that there could be well over 1,000 acres in CRP that are being assessed as irrigated land and are therefore subject to the Enterprise's use fee on diversions, though the owners are not diverting water. Mr. Wiley reported that the Yuma County assessor said that if the land went through one full cycle in CRP, the assessor will change the classification, but that if it went into the CRP as irrigated land, it will stay that way until it has been through one full cycle. President Coryell said this was an issue the Board would address at its meeting on Thursday, January 13. Mr. Richrath said that an NRCS representative had been scheduled for the meeting.

Other issues to be discussed at the meeting on Thursday are fees billed to owners of lands irrigated with pre-compact surface water rights and billing the use fee for diversions of ground water for municipal and commercial use. Mr. Richrath said that the State was unable to coordinate pre-compact surface water irrigated acres with the Yuma County assessor and treasurer prior to the county's certification deadline. As a result, those acres were assessed a use fee by the county treasurer. Therefore, the District will need to develop a procedure to refund those fees as appropriate for 2005.

At 2:53 p.m., the Board took a brief recess.

At 3:06 p.m., the meeting resumed and Secretary Pautler provided an update on supplemental EQIP funding. He reported that 90 contract applications had been received by the NRCS. Secretary Pautler said that if 45 were valid, the NRCS money would be used up. He then explained the time table for considering the applications and said that at the meeting on Thursday, the Board will review the policies for the Enterprise's supplemental funding for EQIP land conversion contracts to set out expectations. Secretary Pautler then went through the list of issues and policies to be considered and asked for input from the Board. Vice-President Killin said that title information should be obtained to protect the Enterprise

against an assignment of rights. Director Steve Kramer said that some producers want credit for partial well retirement and that the well owner will have to bear the burden of proof. Vice-President Killin said that she had heard that permanent retirement programs were more effective for Compact compliance and that the Board would need to set or adjust its priorities so the Enterprise did not focus too much on short-term leases.

At 3:35 p.m., Director Bledsoe gave an update on discussions with surface water owners. He said that the Surface Water Committee created at the last Board meeting had contacted Rex Buck about a meeting with surface water users, but had not been able to get the surface water users to commit to a date yet. He said the surface water users were meeting on January 17 and hoped they could set a meeting some time later. He said that the surface water owners had expressed some interest in an interruptible supply agreement. Rex Buck, president of the Pioneer Ditches, said that their attorney had some cases going, but hoped that they could get together with the Surface Water Committee in late January or early February.

At 3:38 p.m., Mr. Knox reported that the State Engineer was beginning the process of drafting rules and regulations and hoped to have a draft available in about 6 weeks. Mr. Knox said the process needs to begin soon to address some issues, for example, if a well owner participated in a temporary or permanent retirement, there should be documentation of the land so that it will not be irrigated; that if a water user failed to pay the water use fee imposed by the Enterprise to assist the State with Compact compliance, the State Engineer needed the authority to curtail the well until the fee is paid; and that the rules should address expanded acreage.

Legal counsel addressed the issue of whether a conservation easement can be donated to the District and enforced by the Enterprise. Legal counsel said that he thought there were ways to structure a conservation easement to the District so that it could be enforced by the Enterprise. Vice-President Killin said that there was one individual interested.

President Coryell said that he had contacted people who had not participated in other committees and who had agreed to participate on the Committee to develop policies for EQIP land conversion contracts and who were available for the meeting on Thursday. He encouraged other Board members to attend the meeting so that there would be a quorum. He appointed Secretary Pautler to chair the Committee. He appointed to the Committee himself, Vice-President Killin, Director Skold, Director Laybourn, Director Enderson, and Director Seedorf.

The Board then discussed the gaging station on the South Fork of the Republican River. Mr. Knox requested that the Board let him look at the current location and intervening wells to determine if it made sense to move the gage to a different location.

President Coryell reported that he had heard that there were new wells being drilled in Kansas. Mr. Knox explained the provisions of the Settlement Agreement regarding new development, but pointed out that it did not prevent re-drilling existing wells.

At 3:58 p.m., Mr. Richrath provided an update on the development of the State's CREP application. He reported that there had been two working sessions with CSU representatives and that the State was hoping to have a workable draft in February and that the State was still on schedule to have the CREP program in place for the 2005-06 irrigation season.

At 4:00 p.m., the Board discussed the meeting on Thursday, January 13, 2005, and the topics to be considered at that meeting. President Coryell then suggested that the Board hold a special meeting in February. After discussion of dates, President Coryell called a special Board meeting for February 22, 2005.

At 4:05 p.m., the Board voted unanimously to adjourn.

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Secretary

Date