

**Minutes of the Third 2019 Quarterly Board Meeting of the  
Board of Directors of the  
Republican River Water Conservation District**

**August 20, 2019**

**Haxtun, 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 Quintech LLC., 529 Albany St, Yuma, Colorado.

Present were:

**Board Members:**

Rod Lenz, President

Tim Pautler, Secretary

Aaron Sprague, Treasurer

Gil Anderson

Wil Bledsoe

Kevin Penny

Brent Deterding

Steve Kramer

Steven Meakins

Kenny Helling

Stan Laybourn

Rod Mason

Roger Seedorf

Wayne Skold

Jim Hadachek

Brooke Campbell

Deb Daniel, RRWCD General Manager

Suzanna Baker RRWCD Administrative Assistant

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

Pete Ampe, RRWCD General Counsel, Hill & Robbins, P.C.

Randy Hendrix, RRWCD Engineer, Hendrix Water Engineering, LLC

Tim Davis, RRWCD Program Consultant, TJD LLC

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

**STATEMENT OF QUORUM**

President Rod Lenz called the meeting to order at 10:05 am., welcomed the public and started the meeting with the Pledge of Allegiance and a prayer. Secretary Tim Pautler conducted a roll call of the Board members, Greg Larson was absent but excused. Secretary Pautler declared that a quorum of the Board was present. Jim Hadachek and Brooke Campbell were then sworn into office and declared present at the meeting. Jim Hadachek is Cheyenne County's representative and Brooke Campbell is Cheyenne Ground Water Management District's representative.

**PRESENTATION**

Former Senator Greg Brophy presented Colorado Proposition DD to the Board. Brophy was seeking the Board's support of Proposition DD. He explained that with a yes on DD it would authorize sports betting in Colorado and authorize the legislature to levy a tax of 10% on the profits from sports betting operations. It is anticipated to generate \$10 million for the Fiscal Year 2020-2021. The revenue generated would create and fund the Water Plan Implementation Cash Fund for the Colorado Water Plan. It has the potential to benefit the entire state of Colorado.

### **AGENDA AND APPROVAL OF MINUTES**

President Lenz then asked for any changes to the agenda with no changes, there was a motion to approve the agenda, seconded and approved unanimously.

President Lenz then asked for any changes to the following minutes,

- April 25, 2019 Quarterly Board Meeting Minutes. With no changes there was a motion to approve the minutes, the motion was seconded and approved unanimously.
- April 25, 2019 Quarterly Board Meeting Executive Minutes. With no changes there was a motion to approve the minutes, the motion was seconded and approved unanimously.
- May 3, 2019 Special Board Meeting Minutes. With no changes there was a motion to approve the minutes, the motion was seconded and approved unanimously.
- May 3, 2019 Special Board Executive Meeting Minutes. With no changes there was a motion to approve the minutes, the motion was seconded and approved unanimously.
- July 11, 2019 Quarterly Board Meeting Minutes. With no changes there was a motion to approve the minutes, the motion was seconded and approved unanimously.

### **PRESIDENT'S REPORT**

President Rod Lenz thanked Jim Hadachek and Brooke Campbell for joining the Board. Lenz went on to explain, the District doesn't control or administer water, instead the District assists the State in staying in compliance with the compact. The District does not have regulatory authority. The District imposed a fee on irrigated acres to help the state stay in compliance. It is our goal to be trustworthy. President Lenz reiterated his last report again stating how important the following 6 items are for the board and public's perception of the RRWCD.

1. Be available
2. Educate
3. Interact
4. Listen
5. Work with other states and agencies to work towards a common goal.
6. Set goals

As a board it is important for us to create and encourage conservation.

Lenz went on to state that as veteran board members we all bring our ideas and own agendas and handle it all different ways. Lenz then asked Kenny Helling to speak about his time on the board. Helling explained his experience, that it has been a learning process, but that he immediately felt engaged. Kenney was very vocal and adamant on different issues. It has been a very educational and productive board to be a part of. He welcomed the new board members and looks forward to working with them.

Roger Seedorf then spoke stating he is the exact opposite of Kenny. Roger felt he wasn't up to date with the issues and that he didn't have background knowledge on water issues. Seedorf asked to be on committees that were of high interest to him and he stated that would also be important for the new board members. Seedorf

stated that it is important to remember that the purpose of the board is to be in compact compliance. Another very important purpose of the board is to maintain an irrigated economy within the basin.

Gil Anderson then spoke on his experience. He was on Marks Butte GWMD for several years and was asked to be on the RRWCD board. He is very passionate about water. He said it took him a year to be comfortable enough to state his opinions on different issues. He spoke about an experience he had with another board member that he thought he was on opposite ends of the spectrum. After a sit-down talk, they realized they weren't so different after all and honest conversation can have a positive effect.

Kevin Penny has been on the board about 10 months. He stated that he paid attention to the water issues but that he is still figuring it all out and he continues to learn. He stated that it is a great group of people to work with.

Rod Lenz then continued and offered the Dunning-Kruger effect as an example of the learning process involved for all Board members: that a first you over-estimate your knowledge, then you learn you really don't know as much as you first thought, then you begin to learn.

Brooke Campbell and Jim Hadachek Campbell both introduced themselves and gave their background.

### **GENERAL MANAGER'S REPORT**

At 10:16 am General Manager Deb Daniel, thanked Jim Hadachek and Brooke Campbell for accepting their positions on the board. First Deb spoke on a former board member calling in and told her about irrigation watering the road. She stated that there is a statue on irrigation hitting public roads. She continued her report showing pictures of the South Platte Bain tour she participated in. She then showed pictures of Bonny Dam and George Seward's tree removal project. Deb Daniel then explained how Rod Lenz, Suzanna Baker and herself helped clear out a beaver dam to help stream flow on Hayes Creek. Daniel then reported on the meeting she and Suzanna Baker had with Cheyenne County Assessor and Treasurer. Today we will be voting on a resolution on the wells brought into the District by HB19-1029 to be assessed a fee of \$6/acre for the 2019 assessment. This represents the portion of 2019 that the wells have been officially part of the District, applied to the usual \$14.50/acre. All wells will be assessed the same rate for 2020.

### **FINANCIAL REPORT**

Suzanna Baker reported on the 2<sup>nd</sup> quarter financials for 2019. A motion to accept the financial report was made, seconded, and approved unanimously.

### **AUDIT REPORT**

Deb Daniel reported on the 2018 Audit. Everything went smoothly with the auditors at Winfrey, County and Hayes and the RRWCD Accountant. There were no new red flags. The auditors again thought the RRWCD doesn't have enough personnel for cross-checks.

### **CCP OPERATIONS REPORT**

Tracy Travis said everything is running well. We anticipate starting the pipeline November 8, 2019. Randy Hendrix gave a quick explanation of the compact model for the benefit of new board members and will present in more detail later.

### **COMMITTEES REPORTS**

- Director Aaron Sprague, Budget Committee Chairman budget stated the committee met June 14, looking at the fee structure in detail. They decided to continue to look at it. They will be extending the vote so the new board members have a chance to get up to speed. Conversation will continue with no set date to vote. We will also be voting on new wells coming in from HB 19-1029 to charge \$6/irrigated acre for the 2019 assessment. Also, the Board will vote on a resolution to include new wells for EQIP programs. The Board

will also vote on a CWCB Loan application to cover surface water purchases this year. Sprague would also like to set a date for a budget committee meeting to review the 2020 draft budget.

- Director Steve Kramer, Conservation Committee Chairman, stated that the Landsman Creek, in Kit Carson County, has been fun to watch because after some hard rains this summer the creek has had water running through it. He loves seeing the amount of recharge happening along the creek. The concept of dryland farming under the new Farm Bill/CREP program acres is popular.
- Director Steven Meakins, Chairman of the Innovation & Technology, stated he had heard some conversations about making the Dryden property a showcase farm through a Calcutta auction. This would be a great way to make an example of conservation. Meakins then explained the contest that could happen with producers managing ground in competition with each other. He recommends switching to a linear irrigation system to make the contest fair.
- Director Wil Bledsoe, Legislative Committee Chairman, did not have anything new to report, Scott Meiklejohn's and Christine Arbogast's reports are in the board packet.
- Directors Wayne Skold and Brent Deterding gave the report for the Negotiating Committee. The negotiating sub-committee met with Brandon Larson regarding a well near the pipeline. This well augmentation would go towards the pipeline. The negotiations are very favorable. There will be more updates during executive session.
- Director Steven Meakins, Nominating Committee Chairman, stated the officer elections will be in November. If you want to be an executive committee member you need to let Steven Meakins or Deb Daniel know.
- Director Roger Seedorf, Personnel Committee Chairman, has nothing at this time. The personnel reviews will be in the next month. Evaluations will be reported at the retreat.
- Director Tim Pautler, PTAC Committee Chairman, invited Jim Hadachek and Brooke Campbell to see the pipeline while it is pumping. The Y-W tower is not in place yet. The storms have delayed the construction. Gil asked if we have an inventory of electronics needed on the pipeline. Might be something we need in the future.

#### **ASSOCIATED ORGANIZATIONS REPORTS**

- Director Greg Larson and Steve Kramer, Colorado Groundwater Commission members reported the commission plans to have its next meeting in the Basin to be able to look at the pipeline. Steve Kramer's term ends in the spring and he has stepped back as commission president. Greg Larson is now the commission president. Hemp grows are the biggest problem for the commission, i.e. domestic wells are being used to grow a commercial hemp crop. RRWCD board members would like to coordinate the pipeline tour with the Colorado Groundwater Commission.
- Director Greg Larson, is currently attending Colorado Water Congress and will report at the next meeting.
- General Manager Deb Daniel reported on the South Platte Basin Roundtable meeting. Poudre Alliance requested funds from South Platte Basin Roundtable during the last meeting. The Groundwater committee reported on water levels in Gilcrest. They believe that the de-watering helped the situation around Gilcrest. Funds are available now for water projects but may not be available later. The Roundtable is looking at reservoirs along the South Platte and they are working on different plans. This proposal is to

help offset the upcoming water gap brought about from expected huge population growth along the front range. Mike Shimmin has stepped down from the SPBRT. Sean Cromwell will also be stepping down.

- Kenny Helling reported on the South Fork Republican Restoration Coalition. He gave a quick background, SFRRC started with different organizations wanting to restore the South Fork of the Republican River. The coalition includes, RRWCD, Kit Carson County Commissioners, Yuma County Commissioners, Colorado Parks and Wildlife, The Nature Conservancy, and Three Rivers Alliance. We have been busy with community meetings, engineers, and other contractors. We have our hand full of individuals trying to get the streamflow established and trying to help with compact compliance. The next meeting will be tomorrow with Senator Gardner's staff, the BOR and the RRWCD to try and figure out different options. The South Fork averaged 1 CFS and, at the state line for a short time after hard rains this summer, it was at 20 CFS. It is encouraging that if we can clean up Bonny and establish streamflow, we can see a big increase in stream flow and see flows at the Compact Gage at Benkelman, NE.
- Director Steve Kramer reported on Water Preservation Partnership. He has been trying to set up a meeting, but it has been hard with everyone's busy schedules. We would like to talk about the Master Irrigator program and other conservation programs. Brandi Baquera gave a quick update on the Master Irrigator program. The team took a break through wheat harvest. They have applied for more grant funds, and the team has started planning their curriculum. First class will be in Spring of 2020. When the class is completed, they will hopefully have about \$2,000 in incentives.
- Director Roger Seedorf reported on the Yuma County Pest District (YCPD). Seedorf explained why the YCPD report is even on the agenda. He explained that the YCPD helps control phreatophytes, which in turn helps with stream flow and compact compliance. They operate strictly on state funding. The RRWCD does donate to YCPD for phreatophyte control along the streams. RRWCD did hire the YCPD to spray cattails and Russian Olive trees on the recently acquired Hayes Creek Water Rights.
- Director Kenny Helling stated there is nothing new to report on the Yuma County Water Authority, The YCWA is an entity that was put into place when the Yuma County tax-payers voted to buy the water rights in the Colorado portion of the Pioneer Ditch and Laird Ditch. Robbins followed up with the fact that Yuma County did not want the RRWCD to control the water rights so the YCWA was put into place to buy the water rights and convert the rights should they prove economic viability in the future. Mr. Robbins stated Steve Bushong was the attorney for the surface water right owners along the Pioneer and Laird Ditches in Colorado. He also was the attorney for the Hutton Educational Trust Foundation.

### **PROFESSIONALS REPORTS**

- Tim Davis, RRWCD Program Consultant, spent 28 years with CPW, but has now retired and is concentrating on consulting on CREP and other federal conservation programs within Colorado. He started the Colorado Republican River CREP.

Currently working on a CREP sign up that started on June 3 and ends August 23. There will be more sign-ups later. Currently have \_\_\_ acres in the South Fork Focus Zone and \_\_\_ outside the South Fork. We are looking at more sign-ups. There have been several issues with acres not being assessed RRWCD fees or county taxes. Davis stated we shouldn't hold our breath for the USDA FSA to allow dryland farming in new CREP contracts even though it is in the 2018 Farm Bill.

The RRWCD 2019 EQIP program had many acres enrolled. We met with Clint Evans, NRCS State Conservationist, who recognized our issues and has been working well with us to try and resolve them.

We would like producers paid over a 5-year period rather than a 3-year period. Colorado's rental rate is substantially lower than neighboring states. His staff did a great job in evaluating why that was the case. Forgone income loss is the biggest factor working against us.

As soon as USDA-FSA has made a decision on the dryland farming in new CREP contracts and has created rules and regulations for the 2018 Farm Bill, Davis will start working on a letter to Clarisse Navarro, CO FSA, to request amending the CREP contract between USDA and the State of Colorado to include dryland farming in new CO RR-CREP contracts and to amend the boundary of the Republican River CREP to match the RRWCD boundary

- Christine Arbogast, the Federal lobbyist, could not make it to the meeting today and Suzanna Baker included a written report from Arbogast in the board packet.
- Scott Meiklejohn, the State lobbyist, could not make it to the meeting today and Suzanna Baker included a written report from Meiklejohn in the board packet.

12:16pm Break for lunch

12:58pm Meeting was reconvened

#### **PROFESSIONALS REPORTS (continued)**

- Randy Hendrix, RRWCD water engineer gave his report. They updated a spreadsheet that staff uses often, it includes acres, permit numbers, and updated the Google Earth coverage. They have worked with the Negotiating committee closely with water right deals. They have updated the Basin maps to reflect the boundary change. One thing that they have to deal with is the inclusion of Cheyenne County to help identify irrigated acres in Cheyenne. They even made township maps for the entire district. Randy is working closely with Mike Sullivan to help identify and fix irrigated acre differences between District and local records and the State's records. Randy will be updating the preliminary pumping estimate for the pipeline. It will probably be September 3<sup>rd</sup> when that report comes out. Right now, November 8<sup>th</sup> is the set start date for the CCP and will be evaluated and changed if needed. Ayrton Hendrix is currently at a training. Hendrix reported the State is offering a place where farmers enter in meter readings and see allocations and what is left of the allocation. Third party administration can also have a log-in.

Pete Ampe, RRWCD legal counsel, reported the Compact Rules case is moving forward slowly and they do not have a trial date yet. Essentially all objectors will have to come forward and state why they object to the Rules. Ampe reported that he has filed the RRWCD Statement of non-opposition to the Basin Rules.

#### **PUBLIC COMMENT**

At 1:08 PM, President Lenz invited comments from the public, as a part of normal quarterly Board meeting.

Chris Kucera gave an update on Stalker Lake in Wray. They will be draining Stalker for improvements which should take about 4 weeks to complete.

At 1:11 PM public comment period ended.

#### **PRESENTATIONS**

- Scott Steinbrecher, Assistant Attorney General represents the state in intrastate water litigation and water negotiations. He also represents the State Engineer in the Compact Rules case. He is currently reaching out to those who submitted letters in support and opposition to figure out why they feel the way they do.

- Mike Sullivan, Deputy State Engineer, reported on the \$8M that was provided through the 2018 legislature projects bill to off-set depletions in the Republican River Basin from 2003-2013. Nebraska accepted \$4M and will use the funds to improve irrigation systems in the Republican River basin in Nebraska. Kansas accepted \$2M and recommended CO use the remaining \$2M for retirement of irrigation in the South Fork Focus Zone with in intention of increasing stream flow in the South Fork. Sullivan has been working with CWCB and the State Auditor to set up an agreement with RRWCD to incentivize those entering into a CREP contract in the SFFZ. Mike is also the CREP coordinator for the State of Colorado. The annual RRCA meeting starts tomorrow in Colby KS. He expects to hear a lot about flooding in eastern Nebraska and Kansas. The Harlan County Reservoir filled and spilled this year. They need to dump an additional 140,000 AF, however the Federal reservoirs in the western portion of Nebraska have not filled. We will go into the year with a full water supply. Next year looks to be another non-water short year.

Deb Daniel then thanked Mike Sullivan for all his work with Virgil Ireland regarding CREP.

- Nate Midcap, General Manager of Big 4 GWMDs -- Applications for GWMD conservation funding for Marks Butte, Frenchman, Central Yuma and Sandhills GWMDs. Nate Midcap presented his grant applications for the Big Four GWMDs in the RRWCD Basin. Midcap reported the Sandhills GWMD is pursuing de-Brucing through the November election ballot. Jim Tomkey and Kirk Scheffler sits on the Master Irrigator Program Advisory Committee. They are asking the RRWCD give the grant funds directly to the Master Irrigator program on behalf of the GWMDs. There was a motion to approve the conservation funding of \$24,000 to the Big 4 GWMDs. The motion was seconded and approved unanimously.
- Kyle Sprouse, General Manager of W-Y GWMD – Applications for GWMD conservation grant funding. They are looking into a 5-year banking conservation plan, based on inches per acres. W-Y GWMD is seeking funding to assist in deferring legal and engineering expenses. There was a motion to accept the request for funds, the motion was seconded and approved unanimously.

#### **BOARD DISCUSSION AND ACTION ITEMS**

- Due to HB19-1029 –Pete Ampe reported on Resolution 19-04 changing the dates of the RRWCD Board meetings to the third Tuesday of February, May, August and November. There was a motion to adopt Resolution 19-04, seconded and approved unanimously.
- Due to HB19-1029 – Pete Ampe reported on Resolution 19-05 increasing the area of EQIP program to include the area brought into RRWCD boundary. This is only for the EQIP program and does not include the CREP program. The RRWCD will have to request an amendment to the CO RR-CREP contract with USDA-FSA to be able to offer CREP to well owners in the new area. The RRWCD is not obligated to go through this process with NRCS for the EQIP program. There was a motion to adopt Resolution 19-05, seconded and approved unanimously.
- Due to HB19-1029 –Aaron Sprague, Budget Committee chairman, reported on Resolution 19-06 regarding the recommendation from the Budget Committee for RRWCD Water Use Fee on irrigated acres and commercial wells brought into the RRWCD boundary. 19-06 is a Resolution to collect a prorated fee for the new wells in the RRWCD Basin. It would be \$6/irrigated acre and 40% for any commercial, municipal, etc. for water use in 2019. All wells will be assessed the same full rate in 2020. There was a motion to adopt Resolution 19-06, seconded and approved unanimously.

- Received a report by Executive Committee and vote on Resolution 19-07 approving the updated RRWCD By-laws. There was a motion to adopt Resolution 19-07, seconded and approved unanimously.
- Tim Pautler then reported on Resolution 19-08, approving the Board Manual update. With some discussion it was decided to table Resolution 19-08 until the November meeting.

At about 1:50 PM Wil Bledsoe left the meeting.

- Aaron Sprague, Board Treasurer, reported on the loan application to CWCB. The \$5.515 million loan would have a low interest rate of 1.35% over a 20 year term. Over the next 3 years our budget does reach a pinch point. This will give us wiggle room. There was a motion to approve the loan application, seconded and approved unanimously.
- Steve Kramer, Conservation Committee Chairman, reported on the supplemental contract for CREP acres in the South Fork Focus Zone. Steve Kramer reported that we would like to apply the \$2 Million allocated to the RRWCD for conservation through the CREP program. Those dollars would go to the first 10,000 acres approved in the South Fork Focus Zone. There was a motion to approve the contract. It was clarified that the district would then ask CWCB for funds when contracts were approved and signed. Deb Daniel asked if EQIP could be added later. Robbins stated that it was critical to get it approved for CREP contracts before the funds were allocated somewhere else. Mike Sullivan said at this time it would not jeopardize the funds, if the RRWCD asked for EQIP to be included. It would require an amendment to the contract. The motion was seconded and approved unanimously.
- Receive report by Deb Daniel and vote on engagement letter for 2019 audit by Winfrey, County and Hayes Each year the RRWCD receives the engagement letter from WCH. This gives the board the opportunity to choose a different auditing firm if desired. A motion was made to approve the engagement letter, seconded and approved unanimously.
- Receive report by David Robbins and vote on agreement with well owners who submit augmentation plans to the Lower South Platte Water Conservancy District and to Sedgwick Water District. The wells in Sedgwick county created an unusual problem. The wells are both in the South Platte alluvium and in the Ogallala aquifer and so impact both the South Platte and Republican River stream systems. The Board took action with a resolution that they would not be charged fees. The well owners that are located in both basins then asked for an agreement stating that they would not be charged the RRWCD Water Use fee. There was a motion to authorize the president and manager to offer the contract to South Platte well owners. The motion was seconded and approved unanimously.
- Receive report by David Robbins and discuss the request by the Sedgwick county well owners to be called out last in the event of a compact call. Allison Scott is the attorney for the Lower South Platte Water Conservancy District reported to Robbins that the well owners that are located in both basins should be given special consideration. It is their opinion that if the Colorado was out of compliance with the Republican River Compact, they should not be curtailed until after all the other wells in the Basin were curtailed. The Board approved the previous action item and did not support this action item.

#### **OLD BUSINESS**

- Receive report by Deb Daniel and discuss accounting firm comparisons. Deb Daniel gave a brief report on the comparison between Premier Accounting and Bohall Neubauer. The Board had some questions and discussion following the report. The Board did not take any action to change to the RRWCD accounting firm.

- Rod Lenz then reported that RRWCD is currently accepting bids to clean up of metal around the Dryden Property. Bids will be opened August 29<sup>th</sup>, 2019.

**NEW BUSINESS**

- Suzanna Baker gave a presentation on the new website. The RRWCD website was recently hacked and now the link on the website does not currently work. It was already in the RRWCD's budget to re-new the website so the next step was to bid it out. Sursum Creatives of Yuma, CO, won the bid. They offer a forever fresh guarantee, this means the website would get a new look every 3-years. Sursum Creatives also offered an ongoing relationship with the RRWCD that Deb Daniel and Suzanna Baker felt very comfortable with and happy with future security of the website. Sursum Creatives was approved by the Executive Committee during a recent teleconference.

At 2:40 PM the board took a quick break.

**EXECUTIVE SESSION**

At 2:45 PM there was a motion, second and passed to enter executive session inviting Mike Sullivan, Scott Steinbrecher and Randy Hendrix to stay.

3:44 PM exited executive session

There was a motion to accept the recommendation of the negotiating committee to purchase the Brandon Larsen groundwater right at \$800,000. The motion was seconded and approved unanimously.

The meeting adjourned at 3:46 PM.

  
Secretary

11-19-19  
Date