

A RESOLUTION OF THE REPUBLICAN RIVER WATER CONSERVATION DISTRICT
(To Allocate Federal Funds through Senate Bill 22-028 to Purchase Well Permits under Certain Conditions within the South Fork Focus Zone)

RESOLUTION NO. 22-05

RECITALS

WHEREAS, the Republican River Water Conservation District (“District”) was created pursuant to section 37-50-103(1), C.R.S, for the conservation, use, and development of the water resources of the Republican river, its tributaries, and that portion of the Ogallala aquifer underlying the district and to cooperate with and 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, the District is managed and controlled by its Board of Directors (“Board”); and

WHEREAS, as part of approving the operation, use, and accounting for the Compact Compliance Pipeline, the Republican River Compact Administration, including the State of Colorado, mandated that at least 10,000 acres of previously irrigated ground within the South Fork subbasin in Colorado (“South Fork Focus Zone”) be retired by December 31, 2024 and a total of 25,000 irrigated acres be retired by December 31, 2029; and

WHEREAS, failure to achieve the required dry-up of previously irrigated acres puts continued operation of the Compact Compliance Pipeline in jeopardy which may result in curtailment of nearly all irrigated agriculture and other water uses throughout the District; and

WHEREAS, the Colorado General Assembly enacted Senate Bill 22-028, which appropriated a total of \$60,000,000 in funding for use in two river basins in Colorado, with \$30,000,000 of that funding available to the District, from the American Rescue Plan Act (SB22-028 Funds) in order to assist the District in meeting the dry-up requirements within the South Fork subbasin, or for other Compact compliance and conservation activities approved by the State, within Colorado; and

WHEREAS, some federal conservation programs that assist the District in helping the State meet the South Fork Focus Zone requirements do not have the funding adequate to meet the demand for enrollment in such programs and that lack of funding negatively impacts the ability of the District to help the State meet the South Fork Focus Zone requirements; and

WHEREAS, the District wishes to establish a temporary program to achieve the retirement of currently irrigated acres within the South Fork Focus Zone when federal funds are no longer available.

RESOLUTION

NOW, THEREFORE, be it resolved by the Board of the District that it adopts the following program which will be submitted to the State Engineer and the Colorado Water Conservation Board for approval pursuant to the provisions of SB22-028:

1. When an existing federal conservation program is operating within the South Fork Focus Zone and has insufficient funds to enroll all of the acres that are eligible and willing to enter into the program, the District, acting through its Water Activity Enterprise and its sole discretion, may operate a Well Permit Purchase Program (“WPPP”) to assist in the retirement of acres within the South Fork Focus Zone that would have been enrolled into said federal conservation program had sufficient federal funds been available.
2. If the District will operate the WPPP it must provide notice through newspapers in general circulation and the District’s website that it will operate the WPPP and where Producers may find additional information regarding the requirements and restrictions of the Program.
3. The Board of Directors will set the requirements and the information to be included in enrollment. At a minimum, in order to be eligible for enrollment into the Program, the applicant must:
 - A. Own the land that requested to be enrolled in the WPPP.
 - B. In the sole discretion of the District, irrigated landowners in the SFFZ, who have been engaged with the District and the Natural Resources Conservation Service and attempted to enroll the acres into the Environmental Quality Incentives Program (“EQIP”) and have been eligible to enroll the acres into “EQIP” but was unable to do so because of a lack of sufficient federal funds; and,
 - C. Have irrigated the acres to be enrolled in 2 out of the 5 previous calendar years; and,
 - D. Agree to transfer the permit and/or decree for the ground water use to the District and to permanently dry-up the irrigated acres as evidenced by a dry-up covenant on a form provided by the District’s sole discretion; and,
 - E. Agree to a price for the enrollment that is equal to or less than the full amount of money that the applicant would have received from enrolling in the federal conservation from the federal agency and the District, combined.
4. Wells that were inactive during or previous to 2016 are not eligible for the WPPP.
5. Upon enrollment of the acres, the enrolled acres may be dryland farmed, grazed, developed, or put to such other use that does not include irrigated agriculture.

6. Applicants to the WPPP must provide to the RRWCD, a copy of deed to the land requested to be enrolled in the WPPP, copies of the previous 5 years FSA 578 forms and corresponding maps, and, if a corporation or other legal entity, documents providing the individual(s) who can legally bind that entity to the WPPP contract.
7. At the end of each calendar month, if there are applications to the WPPP, the District Staff will provide a report for the RRWCD Board. This report will only include the number of acres in each application and the distance of the irrigation well to the livestream of the South Fork Republican River. Based on this report the Board will decide how many, if any, to approve for funding through the WPPP. The ranking will be on a scale created by the District in its sole discretion, but will include, at a minimum, the number of acres to be enrolled, the distance from the location of the irrigation well to the South Fork Republican River live stream, the total amount of money to be paid to the enrollee, and the amount of funds split, if any, between funds from the general District budget and the SB22-028 Funds. District staff will keep all information regarding the identity of the applicant and any other information regarding the legal location of the irrigated acres confidential and will present the ranking and other information of the Applications so as to keep the identity of any applicant anonymous from the Board of Directors.
8. The Board of Directors will, in its sole discretion, decide which, if any, Applications it will accept into the WPPP.
9. The applicant may withdraw an Application at any time by providing written notice to the General Manager of the District.
10. If the acres are enrolled into the WPPP, Applicant must enter into a permanent dry-up covenant with the District for the enrolled acres in a form in the sole discretion of the District. The enrolled acres may be dryland farmed, grazed, or used for other purposes not inconsistent with the WPPP.
11. If the acres are enrolled into the WPPP, the RRWCD Staff will provide the Applicant Colorado Division of Water Resources forms that will amend or otherwise change the underlying groundwater permit so that the District is the owner of the portion of the irrigation permit appurtenant to the enrolled acres. This document will be completed at the time the Applicant signs the WPPP contract with the District.
12. Any well appurtenant to acres enrolled into the WPPP must be downsized or abandoned prior to December 1 of the year the WPPP contract is fully executed.
13. No payments from the District under the WPPP will be made until the Applicant has met all requirements for changing the permit(s) and downsizing or modifying the irrigation system to reduce the number of irrigated acres listed on the WPPP contract.
14. Any Application not accepted into the WPPP will remain eligible for enrollment in future months.

15. The District will use SB22-028 Funds, in full or in part, to fund this program.
16. The WPPP will cease upon a resolution of the Board of Directors to that effect or August 15, 2024, whichever comes first.
17. In order to enroll in the WPPP, all contracts and other requirements to enroll in the program must be completed and accepted, and the acres formally enrolled in the program, prior to August 15, 2024. Failure to meet this deadline will result in rejection of the enrollment.
18. All payments using the SB22-028 funds owed under the WPPP must be disbursed by the District and accepted by the enrollee prior to December 31, 2026.
19. Any payments from District funds outside of the SB22-028 will be paid in five (5) equal payments over the five (5) years of the base WPPP contract with the District.
20. The WPPP will only be available while there are SB22-028 Funds legally available and when all approvals required by SB 22-028 are received by the District and will be paid in part, or in whole, from SB22-028 funds that are disbursed by the Colorado Water Conservation Board to the program(s) participant or to the District.

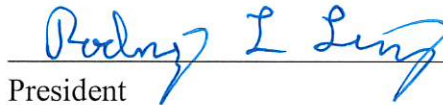
RESOLVED this ___ day of November 2022.

ATTEST:

BOARD OF DIRECTORS
REPUBLICAN RIVER WATER
CONSERVATION DISTRICT



Secretary



President