

Minutes of 1st 2007 Regular Quarterly Meeting of the
Republican River Water Conservation District

January 11, 2007

Burlington, Colorado

Present were:

Board Members:

Dennis Coryell, President
Kim Killin, Vice President
Tim Pautler, Secretary
Rick Seedorf, Treasurer
Grant Bledsoe
Kelly Burr
Jack Dowell
Raymond Enderson
Steve Kramer
Bruce Latoski
Stan Laybourn
Wayne Skold

Stan Murphy, RRWCD General Manager
Dana Barnett, RRWCD Administrative Assistant
John Willard, District Accountant
Dennis Montgomery, General Counsel, Hill & Robbins, P.C.
Tim Davis, District Consultant
Ken Knox, Chief Deputy State Engineer

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 10:15 a.m. President Coryell welcomed the public and introduced Mr. Ken Knox from the Colorado Division of Water Resources, Mr. Tim Davis, the District's consultant on the Conservation Reserve Enhancement Program, John Willard, the District's accountant, Danyel Brenner, from Senator Allard's office and Deb Carlstrom, from Senator Musgrave's office. Secretary Tim Pautler conducted a roll call of Board members, noting that Directors Eugene Bauerle, Garry Kramer, Jack Dowell, and Jay Harris were absent and that a quorum of the Board was present. President Coryell stated that Directors Baurle and Kramer had been excused. Director Dowell appeared later in the meeting as noted in the minutes.

AGENDA AND APPROVAL OF MINUTES

President Coryell asked for any amendments to the agenda. There were none, so a motion to approve the agenda was made, seconded, and approved unanimously. President Coryell observed that the Directors had received drafts of the minutes of the October 12, 2006 regular quarterly meeting and the executive session, the November 15 and 16, 2006 Special Board Meeting, the December 15, 2006 Budget Committee Meeting, and the December 15, 2006 Meeting with the City of Wray for their review and asked if there were any corrections to the minutes. Director Pautler noted that his office was no longer Secretary/Treasurer and should be changed to just Secretary, Rick Seedorf should be Treasurer, and Rick Seedorf should be added to the City of Wray meeting. Director Killin noted that her title in the Budget Committee minutes should be "Chairperson," not "President," and President Coryell noted that Director Pautler was not in attendance at the Republican River Compact Administration (RRCA) meeting in August. A motion to approve the minutes as corrected was made, seconded, and approved unanimously.

RESOLUTION

President Coryell read a proposed resolution to recognize Jerry Sonnenberg for his service on the District's Board. A motion to adopt the resolution was made, seconded and approved unanimously.

GENERAL MANAGER'S REPORT

General Manager Stan Murphy introduced Dana Barnett as the new Administrative Assistant for the District.

General Manager Murphy presented the financial report and the disbursements for the quarter ending December 31, 2006. Mr. Murphy noted that a transfer of \$150,000 from savings to checking was made by Treasurer Seedorf on December 28, 2006. These funds were necessary to cover the Environmental Quality Incentive Program (EQIP) and Conservation Reserve Enhancement Program (CREP) payments, as well as overhead for the District office. Mr. Murphy also noted that the Manager's payroll for year end included 13 months of pay. He highlighted for the Board the Profit and Loss Detail report, which showed the numerous EQIP and CREP payments made by the District.

There were no further questions or comments regarding the financials. A motion to accept the financial report and the disbursements for the 4th quarter was made, seconded, and approved unanimously.

General Manager Murphy then proceeded to review the status of EQIP and CREP. His report included the number of wells and acres contracted in 2006, the number of wells and acres included in pending contracts, potential interest in the programs, and the process for sign-ups. Mr. Murphy said that notices had been sent out to the original CREP lottery group giving them two weeks to schedule a CREP evaluation or the contract would be offered to the next eligible applicant. President Coryell asked the status of one year leases; Mr. Murphy replied that those

lease payments were all paid and the leases would expire March 1, 2007. Director Bledsoe asked Mr. Murphy about the interest in CREP for acres within 2 miles of the rivers. Mr. Murphy said that there were two new contracts for acres less than 2 miles, and that the Soehner surface water lease contract was still in force.

There were no further questions of Mr. Murphy regarding program status.

At 10:30a.m., Director Dowell arrived.

PROGRAM UPDATES AND REPORTS

President Coryell then asked Vice President Killin to report on the Budget Committee meeting that was held on December 15, 2006. Ms. Killin stated that the two main topics of the meeting were: (1) the recommendation to use a 1099-S to report the payments on all permanent retired well contracts and a 1099-MISC for all temporary retired well contracts; and (2) the financial options for an expanded CREP.

At 10:40 a.m., President Coryell asked Mr. Murphy to report on the meeting that the Executive Committee had with the City of Wray on December 15, 2006. Both Mr. Murphy and Ken Knox agreed that the basic theme of the meeting was to open communications to explore possible projects that the City and the District might attempt cooperatively.

President Coryell then talked about the “Gallegos” case. He said that the Board had instructed legal counsel to prepare a press release on the case and its possible impact, which had been printed in local newspapers. He encouraged the Board and the public to read the release. He noted that the Board members had received additional information regarding the case and said that they should read it carefully and thoroughly. President Coryell announced that the Board would be having an executive session that afternoon and the Board would be receiving legal advice regarding the “Gallegos” case and its impact on the Pioneer/Laird Ditch case. President Coryell remarked that the RRWCD is a neutral party regarding both cases and would make no comments on either. General Manager Murphy asked Dennis Montgomery, Legal Counsel, about the status of the Pioneer/Laird Ditch case. Mr. Montgomery reported that the Ground Water Commission and the State Engineer had filed a motion for reconsideration of the Defendants’ motion to dismiss the appeal, which had been denied in early December. The Plaintiffs (the Pioneer Irrigation District of Colorado and certain Laird Ditch owners) filed a motion for summary judgment on January 10, 2007. A status conference has been set for February. The motion for summary judgment will be heard by the District Court, not the Ground Water Commission. Mr. Knox agreed with the update by Mr. Montgomery.

At 10:50 a.m., President Coryell noted that Jerry Sonnenberg had been the District’s representative to the Colorado Water Congress (CWC) State Affairs Committee and that Director Seedorf was the alternate. Since Mr. Sonnenberg is no longer a director, President Coryell assigned Director Seedorf as the District’s representative to the CWC State Affairs Committee for this year. Director Seedorf said that he had his first communication with the CWC, but had not attended any meetings. Mr. Knox offered a report on the first CWC State Affairs Committee meeting held this past Monday, January 8, 2007, noting that it was mainly to set up an effective

communication plan (phone, e-mail, etc.) to assist the remotely located representatives in the State like Director Seedorf.

Director Pautler then reported on EQIP for 2007. The sign-up ended on December 15, 2006, and was very small. There were some significant changes made from the 2006 program. The changes discussed were: 1) that the 3 gpm per acre requirement was lifted; 2) that the rental rate that the producer receives was lowered; and 3) that dry land farming is no longer an option and the acreage has to be planted with a perennial crop.

Director Pautler asked Tim Davis to look into these changes and get some clarification as these changes are not attractive to the District or the producers. Mr. Davis said he would follow-up on it. President Coryell remarked that EQIP may not be available for much longer.

President Coryell then informed everyone that the agenda items scheduled after 3:15 p.m. would be moved to before the executive session to accommodate travel because of the inclement weather that was approaching.

Director Latoski asked Mr. Murphy how many acres were under contract in CREP. Mr. Murphy answered that 14,000 acres out of the 24,000 acres allotted have firm contracts signed to date.

Director Killin asked if there were any volunteers to be an alternate to the South Platte Roundtable. She is not able to attend all of the meetings, and the Roundtable members said that they have many questions for the RRWCD. There were no volunteers. Mr. Knox said that pursuant to a request by Bill Jerke, he had made a presentation to the Roundtable about the Republican River Compact.

General Manager Murphy stated that there would not be a report on the Conservation Innovative Grant (CIG) because Joel Schneekloth was not available to make the presentation per the agenda.

At 11:00 a.m., Director Coryell announced there would be a 15-20 minute break.

OTHER MATTERS

At 11:20 a.m., the meeting resumed. President Coryell introduced Mark Billinger from the Kansas Division of Water Resources, who was in attendance at the meeting. He then asked Dave Keeler, water commissioner for the Republican River Basin, from the Colorado Division of Water Resources, to talk about some of his job responsibilities and recent activity on enforcement actions. Mr. Keeler reported that he checked on the status of wells for five ground water management districts. Among his responsibilities are to check acres, legal descriptions, gallons, and acre feet by on-site visits to the individual's wells, as well as measuring river flow and checking the gauge on the North Fork of the Republican River at the State line. He works closely with the management districts and Mr. Murphy, and reports any discrepancies between what is being irrigated and what is permitted to the State Engineer's Office. Some of the discrepancies are minor and can be fixed with a phone call. In other cases a "show cause" letter is sent. Mr. Keeler reported that about 30 "show cause" orders had been sent and another 40-50 people have been contacted. Mr. Keeler fielded questions from the Board. President Coryell

encouraged producers to check their assessments when received from the County Treasurer to verify the accuracy of the number of acres irrigated.

At 11:35 a.m., President Coryell asked Alex Pieper of Y-W Electric Association to explain a new off-peak billing rate that could benefit producers who have “mandatory watering” for a conservation plan as part of CREP. Mr. Pieper reported that watering during “off peak” hours of 10:06 p.m. to 6:54 a.m. would now be at a lower rate than during other hours of the day. This program takes effect on February 1, 2007, and is known as “Rate 33”. Any producer can use this rate, not just CREP participants, and it could be very attractive to all producers. Mr. Pieper cautioned, however, that it would take careful management by the producer as even a one minute violation would take the entire watering time to the higher rate. President Coryell asked Mr. Pieper if he could show this program to other electric associations; Mr. Pieper said yes. Mr. Murphy asked if a special application would be required for this rate; Mr. Pieper said that the producer must sign up for this rate. There were no further questions regarding the Rate 33 program.

At 11:45 a.m., President Coryell recessed the meeting for lunch.

PUBLIC COMMENT

At 1:05 p.m., the meeting resumed, and President Coryell asked for any comments from the public. Sue Jarrett, who identified herself as a Yuma County rancher, asked whether the District intended to promulgate rules to prohibit expanded acres. Legal counsel Dennis Montgomery answered that the District did not have authority to take such action and that the District’s authority is to assist the State to carry out its duty to comply with the Republican River Compact. Then Ms. Jarrett asked if the District intended to hold a public hearing on the new farm bill. President Coryell noted that the District only holds public hearings on the adoption of its budget, and stated that the District has Tim Davis and a lobbyist working at both the state and federal levels; however, he said that if the Board needed to participate, it would.

At 1:15 p.m., public comment ended.

President Coryell then asked Danyel Brenner from Senator Allard’s office to comment on the Farm Bill. Ms. Brenner said that the new Congress did not finish the Farm Bill and any earmarks for 2007 are in jeopardy. She felt that the CREP program would remain unchanged and that there would be amendments made to the 2008 Bill.

President Coryell then made a change to the agenda to take any Board action items before the executive session so the audience would not have to leave and then come back.

BOARD ACTION ITEMS

Posting Notice Location: It was moved and seconded that the public places for posting notice of the District’s meetings in compliance with the Open Meetings Law shall be the Yuma County Courthouse and the District’s web-site. The motion carried unanimously.

On-Line Banking: A motion to approve a Bank of Colorado resolution that all on-line banking transactions be handled by Rick Seedorf, Stan Murphy, and Laurie Jones was made, seconded, and approved unanimously.

Expanding CREP beyond the original acres for a 2008 program: Tim Davis and John Willard gave this presentation. Mr. Davis began by describing an expanded Republican River CREP for 30,000 acres, all less than 4 miles from the rivers, with no 4+ acres, with supplemental payments over a 15 year period. Mr. Willard then went over the Cash Flow Worksheet, which showed 5 different scenarios for supplemental payments to CREP participants by the RRWCD Water Activity Enterprise and projected costs. A discussion then ensued regarding the reason to expand the CREP acres, CAP waiver for Lincoln and Washington counties, and a debate on using this plan as a safety net or actually pursuing contacts. President Coryell asked Mr. Davis when this decision needs to be finalized to be submitted on a timely basis. Mr. Davis thought that spring would be a good target. President Coryell then said that the regular quarterly Board meeting in April would be too late to make this decision. It was therefore decided to hold a special Budget Committee meeting before the end of January to understand all of the scenarios and the financial effect on the District. The Budget Committee would then recommend a program for consideration by the Board at a special Board meeting in February. It was suggested that this would give the Board members time to communicate their preferences to the Budget Committee regarding this program. Mr. Murphy reminded the Board that it didn't have to be limited to just these scenarios, and that all options and ideas were welcome.

At 2:10 p.m., President Coryell thanked Tim Davis, John Willard, and Stan Murphy for the presentation.

President Coryell then asked if there was any Old Business to discuss. No items were suggested. Then he asked for any New Business. General Manager Murphy asked the Board about the W-9 form that each participant in EQIP and CREP had to fill out. There were questions regarding the District's responsibility to withhold taxes from these checks depending on how the producer filled out the form. Both Mr. Montgomery and Mr. Willard felt that it was not necessary for the District to withhold taxes as the 1099-S form does not even have space to report withholding. It was decided that Mr. Willard would do further research and make a recommendation regarding withholding.

EXECUTIVE SESSION

At 2:20 p.m., a motion was made pursuant to section 24-6-402(4), C.R.S., to enter into executive session to receive legal advice from the District's legal counsel related to the Colorado Supreme Court's decision in the "Gallegos" case and the impact that it could have on future court decisions and possible effects on the District and its programs. The motion was seconded and approved unanimously. President Coryell stated that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall occur in executive session. Before entering into executive session, President Coryell thanked the public for attending the meeting.

At 3:45 p.m., the executive session ended.

At 3:45 p.m., a motion to adjourn the meeting was made, seconded, and approved unanimously.

Secretary

Date