

**Minutes of the Third 2011 Quarterly Board Meeting of the  
Board of Directors of the  
Republican River Water Conservation District**

**July 14, 2011**

**Holyoke, 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 the Phillips County Event Center in Holyoke, Colorado.

Present were:

Board Members:

Dennis Coryell, President  
Greg Larson, Vice President  
Byron Weathers, Treasurer  
Tim Pautler, Secretary  
Eugene Bauerle  
Jack Dowell  
Kim Killin  
Garry Kramer  
Steve Kramer  
Bruce Latoski  
Stan Layborne  
Wayne Skold

Deb Daniel, RRWCD General Manager  
Dawn Webster, RRWCD Administrative Assistant  
Jennifer Hunt, RRWCD General Counsel, Hill & Robbins, P.C.  
Jim Slattery, RRWCD Engineer, Slattery & Hendrix Engineering LLC  
Tim Davis, RRWCD Program Consultant, TJD LLC  
John Willard, RRWCD Accountant, Premier Accounting  
Steve Townsley, GEI Consulting Inc., Project Engineer  
Ken Hardesty, GEI Consulting Inc., Project Engineer  
Paul Eggers, GEI Consulting Inc., Project 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 10:05 a.m. He welcomed the public and acknowledged State Engineer Dick Wolfe, Deputy State Engineer Mike Sullivan, and former RRWCD General Manager Stan Murphy. Secretary Tim Pautler conducted a roll call of Board members, noting that Directors Raymond Enderson, Rod Lenz, and Rod Mason were absent, but excused. With 12 Directors attending the meeting, Secretary Pautler declared that a quorum of the Board was present. President Coryell then made a motion to adopt Resolution No.

11-1 to thank Stan Murphy for his service as the first General Manager of the RRWCD. The motion was seconded, then read out loud. The motion was passed unanimously.

At 10:17 a.m., there was a five minute break to allow Board members to congratulate Stan Murphy on his retirement.

At 10:22 a.m., the meeting was reconvened.

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

President Coryell asked for any amendments to the agenda for the meeting. Director Pautler said that RRWCD Accountant John Willard would be giving an update on the District's finances after the Compact Compliance Pipeline presentation. A motion to approve the agenda with that amendment was made, seconded, and approved unanimously.

Prior to this meeting, the Directors had received, electronically, a draft of the minutes of the Regular Quarterly Board meeting held on April 14, 2011, the Special Teleconference meeting held on April 28, 2011, and the executive session held during the April 14, 2011 Board meeting. These documents were also included in the Board packet today. President Coryell asked if there were any changes or corrections to the minutes. There were none. A motion to approve the minutes of the Regular Quarterly Board meeting held on April 14, 2011, and the Special Teleconference meeting held on April 28, 2011, and the minutes of the executive session held during the April 14, 2011 Board meeting was made, seconded, and approved unanimously.

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

At 10:26 a.m., General Manager Deb Daniel thanked the Board for the opportunity to be General Manager and thanked Stan Murphy for the training she had received. She suggested changing the current email addresses to a format that read name@rrwcd.com. She also thanked Yuma County Commissioner Robin Wiley and County Administrator Linda Briggs for their assistance with the Yuma County land use permit for the Compact Compliance Pipeline. She then informed the Board that the contract between the USDA Natural Resources Conservation Service (NRCS) and the RRWCD through the Agricultural Water Enhancement Program (AWEP) had been signed by the NRCS and will be pursued by the RRWCD. Ms. Daniel then presented the financial report and the disbursements for the quarter ending June 30, 2011, which were previously sent to the entire Board electronically, as well as being included in the Board packet. RRWCD Accountant John Willard answered questions from the Directors about the financial report and the disbursements. A motion to approve the financial report and the disbursements for the second quarter of 2011 was made, seconded, and approved unanimously.

Ms. Daniel then presented the 2010 audit report submitted by Winfrey & County, noting that the audit had been completed smoothly and timely. President Coryell stated that the audit report is available at the RRWCD office. John Willard recommended that the Board continue to engage Winfrey & County for next year's audit. A motion to accept the 2010 audit report and to engage Winfrey & County to prepare the audit for the 2011 fiscal year was made, seconded, and passed unanimously. Finally, General Manager Daniel notified the Board that the IRS standard mileage rate had changed to \$.55.5/mile as of July 1, 2011.

## **PROGRAM UPDATES AND REPORTS**

At 10:45 a.m., Tim Davis, RRWCD Program Consultant, gave the Board an update on the status of the Conservation Reserve Enhancement Program (CREP) amendment, stating that it is still under review in Washington, D.C. He informed the Board that the contract between the NRCS and the RRWCD had been signed and two AWEP contracts with producers have been approved by NRCS, noting that the deadline for contracts this fiscal year is July 22<sup>nd</sup>. Mr. Davis also noted that he attended the State Technical Meeting in June. He then gave the Board an overview of the RRWCD programs to convert irrigated land to other uses, stating there have been 29,000 acres enrolled in CREP and 12,000 acres enrolled in the Environmental Quality Incentive Program (EQIP). President Coryell asked who was in charge of the CREP amendment in Washington, D.C. Mr. Davis stated that Lana Nesbit is still in charge.

Director Byron Weathers said he did not have anything to report on the Colorado Water Congress (CWC).

Director Gene Bauerle reported that the Colorado Water Conservation Board (CWCB) held a South Platte Roundtable meeting on July 12, 2011, and noted the organizations that had received grants from the CWCB.

Director Jack Dowell reported that the Republican River Weed Control project had started to clear cattails and trees on July 8, 2011, will continue to spray cattails west of Highway 385, and will spray east of Highway 385 heading down to Bonny Reservoir. He noted that \$5,000 had been received from the Division of Wildlife to help with the project.

Christine Arbogast, RRWCD federal lobbyist, congratulated Deb Daniel on being selected as General Manager. She advised the Board that there are going to be significant cuts in federal funding for conservation programs and that she will be working with the two Senate offices to keep informed. She also said the Natural Water Resources Association will be meeting on July 25-27<sup>th</sup> in Colorado Springs, with Governor Hickenlooper to be the keynote speaker. Finally, she informed the Board that the Colorado Water Congress will be meeting in August in Steamboat Springs and that Congressman Cory Gardner will be speaking at that event.

Director Byron Weathers asked County Commissioner Robin Wiley to speak on behalf of the Yuma County Water Authority (YCWA). Mr. Wiley said the YCWA is moving forward with the process of selecting an engineering firm to do an analysis of the North Fork surface water rights the YCWA had purchased. There was discussion about the amount of funding needed for the engineering analysis; Mr. Wiley said he anticipated about \$25,000.00. President Coryell asked Mr. Wiley to keep the Board updated.

Scott Meiklejohn, RRWCD state lobbyist, was not able to attend the meeting, but had emailed a report to the Board in advance of the meeting. In his report, Mr. Meiklejohn stated that the CWCB loan funds were still available to the Board for the Compact Compliance Pipeline.

Jim Slattery, RRWCD Engineer, updated the Board on negotiations with the South Fork water right owners and said he is continuing to assist the State with negotiations with Kansas. Mr. Slattery also noted that he has been working with GEI Consultants and the Pipeline Technical Advisory Committee (PTAC) on the Compact Compliance Pipeline.

Jennifer Hunt, RRWCD legal counsel, updated the Board on the Kansas vs. Nebraska lawsuit, noting that Colorado had recently filed an answer to Kansas' claims. She said Colorado is continuing to work with Kansas to try to reach agreement on a Republican River Compact Administration (RRCA) resolution to specify the credit Colorado will receive for water that will be delivered by the Compact Compliance Pipeline, as well how Bonny Reservoir will be represented in the RRCA groundwater model after the reservoir has been drained. She advised the Board that all of the easements for the Compact Compliance Pipeline have been signed, including the Wray Ranch easements. Finally, she said that the Colorado Court of Appeals had denied the Harshes' appeal and had affirmed the District Court's judgment in favor of the RRWCD. She said the Harshes did not file a petition for review by the Colorado Supreme Court and a motion has been filed with the Yuma County District Court for the return of the RRWCD's earnest money deposit and an award of post-judgment interest.

Next, Colorado State Engineer Dick Wolfe provided an update on the State of Colorado's efforts to obtain approval of the Compact Compliance Pipeline. He started off by congratulating Deb Daniel on her new position as General Manager. Mr. Wolfe then gave the Board an update on negotiations with Kansas, noting that there had been a meeting with Kansas every few weeks and that issues have been narrowed down to three or four. Mr. Wolfe thanked the RRWCD and the Board of Directors for allowing Jim Slattery, RRWCD Engineer, to work with the State on the Compact compliance efforts. Mr. Wolfe then discussed and answered questions from the Board members regarding the draining of Bonny Reservoir. Finally, Mr. Wolfe notified the Board that the RRCA work session and annual meeting will be held on August 30<sup>th</sup> and August 31<sup>st</sup> in Burlington, Colorado.

## **PRESENTATION**

At 11:39 a.m., Steve Townsley and Ken Hardesty, Project Engineers from GEI Consulting, Inc. (GEI), provided an update on the Compact Compliance Pipeline Project and the evaluation of the bids received from the approved contractors. They introduced Paul Eggers, who will be the Project Engineer in the field while the Compact Compliance Pipeline is being built. They gave a slide presentation on the bids submitted by the approved contractors for the Republican River Compact Compliance Pipeline Project and answered questions regarding the schedule. Mr. Hardesty also stated that two new wells to supply water during Pipeline construction will be needed.

At 12:25 p.m., President Coryell recessed the meeting for lunch.

At 1:19 p.m., the meeting was re-convened.

## **PUBLIC COMMENT**

At 1:20 p.m., President Coryell invited comment from the public.

There being no comments, public comment ended.

## **BOARD DISCUSSION & ACTION ITEMS**

At 1:21 p.m., John Willard, RRWCD Accountant, was asked to update the Board on the RRWCD budget in light of the Pipeline project bids and to discuss how it will affect the budget. Mr. Willard explained that there are still open items that are not committed, such as CREP and purchasing more water rights. There was some discussion concerning the 2011 budget, the water use fee, and the CWCB loan for the Pipeline project.

At 1:35 p.m., President Coryell asked for an update from Nate Midcap, Manager of the Sandhills Ground Water Management District (GWMD). Mr. Midcap read draft Rule 17A that the Sandhills GWMD has proposed for hearings on the export of groundwater outside the boundaries of the GWMD, noting that the procedure is new to the Sandhills GWMD and the procedural rules are not intended to hold up the RRWCD's application to export groundwater. A motion to authorize President Coryell on behalf of the RRWCD to agree with the Sandhills GWMD on procedures for a hearing on the RRWCD's groundwater export request was made and seconded. Following discussion, the motion was passed unanimously.

The Board then discussed whether to proceed with the construction of the Compact Compliance Pipeline Project. A motion to proceed with construction of the Compact Compliance Pipeline Project was made, seconded, and passed unanimously.

Next, the Board reviewed and discussed the bids submitted by the approved contractors for the construction of the Compact Compliance Pipeline, noting that Garney Construction was the lowest on both the PVC and ductile iron bids, both of which came in under budget. Director Tim Pautler then made a motion to accept the PTAC recommendation, as well as GEI Consultant's recommendation, and approve Garney Construction as the contractor for the Compact Compliance Pipeline Project and approve the recommendations of selecting the ductile iron pipe bid, not selecting Bid Alternate 20A (site reclamation), and not selecting Bid Alternate 5B (ductile iron for the 24 inch pipelines). The motion was seconded. Following discussion, the motion passed unanimously.

The Board then discussed authorizing the Executive Committee to negotiate and approve a contract agreement for the Compact Compliance Pipeline project based on the selected bid. After the discussion, a motion to adopt Resolution No. 11-2, authorizing the Executive Committee, with the advice of the RRWCD attorneys, to negotiate and approve a contract agreement for the Compact Compliance Pipeline project based on the selected bid; authorizing President Coryell, on behalf of the RRWCD WAE, to sign the contract agreement for the Compact Compliance Pipeline project, the Notice of Award, the Notice to Proceed, change orders to the extent authorized by the Board, and all other documents required by the contract documents or necessary to protect the interest of the RRWCD WAE consistent with the contract documents for the Compact Compliance Pipeline project; designating GEI as Engineer of the project with authority to make initial decisions on technical questions; designating the District's General Manager as Project Manager; and authorizing the President of the Board of Directors to act on behalf of the Enterprise under the contract documents as necessary to protect the Enterprise's interests, was made, seconded, and passed unanimously.

Next, the Board discussed an agreement with Cure Land to pay the cost to drill two new wells to provide water needed during construction of the Compact Compliance Pipeline. A motion was made, seconded, and approved unanimously to authorize the Executive Committee

to enter into an agreement between the RRWCD WAE and Cure Land or their lessees to pay the cost to drill two new wells to provide water for the Compact Compliance Pipeline construction and to authorize the Executive Committee to enter into other contracts on behalf of the RRWCD WAE for items or services required for the Compact Compliance Pipeline project not included in the construction contract for the Pipeline in an amount not to exceed \$25,000.00 per contract or \$100,000.00 in total.

The Board then discussed filing an injunction against George Homm for diverting water under the Scherrer Ditch water right, contrary to the February 9, 2011 letter sent to him by the RRWCD. A motion to authorize President Coryell and RRWCD Engineer Jim Slattery to meet with Mr. Homm and, if they determined an injunction was needed, authorizing the RRWCD to file an injunction action against George Homm for diverting water under the Scherrer Ditch water right, was made, seconded, and passed unanimously .

Next, the Board considered retention of the District's personnel review files. A motion to table consideration until the October Board meeting was made, seconded, and passed unanimously.

The Board then discussed the purchase of a new laptop and portable printer for the General Manager. After the discussion, a motion to purchase a new laptop and portable printer for the General Manager was made, seconded, and passed unanimously.

The Board then discussed the General Manager's use of the RRWCD vehicle for commuting to and from the RRWCD office. Based on the recommendation of John Willard, RRWCD Accountant, a motion to have the General Manager pay the District \$600.00 a month for the use of the RRWCD vehicle for commuting to and from the RRWCD office was made, seconded, and approved unanimously.

Finally, the Board discussed the proposal from the General Manager that District staff e-mail addresses be changed to the District website domain, so they would read name@rrwcd.com. The motion to make the change was made, seconded and approved unanimously.

### **EXECUTIVE SESSION**

At 3:00 p.m., a motion was made pursuant to section 24-6-402(4), C.R.S., to enter into executive session to determine positions and instruct negotiators, and receive legal advice on legal questions related to such agreements, compact compliance, the Compact compliance pipeline, and the abandonment of water rights. The motion was seconded and passed 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, Mr. Coryell asked Dave Keeler, Republican River Water Commissioner, to stay for a portion of the executive session regarding surface water rights negotiations and the abandonment of water rights and thanked the public for attending the meeting.

At 3:37 p.m., the executive session ended.

### **OLD BUSINESS**

There was no old business.

**NEW BUSINESS**

There was no new business.

At 3:44 p.m., there being no further business to be brought before the Board, a motion to adjourn the meeting was made, seconded, and passed unanimously.

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Secretary

\_\_\_\_\_  
Date