

Minutes of the 1st 2006 Quarterly Meeting of the
Republican River Water Conservation District

January 12, 2006

Burlington, Colorado

Present were:

Board Members:

Dennis Coryell, President
Kim Killin, Vice President
Tim Pautler, Secretary/Treasurer
Eugene Bauerle
Grant Bledsoe
Kelly Burr
Raymond Enderson
Garry Kramer
Bruce Latoski
Stan Laybourn
Rick Seedorf
Jerry Sonnenberg
Wayne Skold

Stan Murphy, General Manager
Monica Newton, Administrative Assistant
Danyel Brenner, Office of Senator Wayne Allard
David Robbins, General Counsel, Hill & Robbins, P.C.
Scott Richrath, State Engineer's Office
Tim Davis, Colorado Division of Wildlife
Dennis Kaan and John Deering, Colorado State University Cooperative Extension
Ken Knox, State Engineer's Office
Mike Thayer, Farm Service Agency

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

MINUTES

President Dennis Coryell called the meeting to order at 10:15 a.m. President Coryell welcomed and encouraged the public to attend Republican River Water Conservation District (RRWCD) Board meetings. President Coryell welcomed Danyel Brenner, Representative of Senator Allard's office, Tim Davis of the Division of Wildlife, Mike Thayer, District Director of the Farm Service Agency (FSA) based out of Sterling, CO, and John Deering and Dennis Kaan of Colorado State University (CSU) Cooperative Extension. Secretary/ Treasurer Tim Pautler called the roll, noting that Jack Dowell and Steve Kramer were absent. President Coryell stated that Directors Dowell

and Kramer were excused and that a quorum of the Board was present. The agenda was amended to include under new business an update by Vice President Kim Killin and Director Grant Bledsoe on the informational water meeting attended held in Wray, an update by legal counsel on the meeting held with Mr. Guercio in Boulder, CO, in regards to surface water, an update on the IRS mileage expense rate increase, a need to address the capital threshold rate, and an update on the Colorado State University (CSU) agreement for the CIG grant with Joel Schneekloth as reviewed by RRWCD attorney, Dennis Montgomery. A motion to approve the agenda as amended was seconded and adopted unanimously.

At 10:22 a.m., President Coryell introduced RRWCD's Water Activity Enterprise (WAE) accountant, John Willard.

At 10:23 a.m., a motion to accept the 10-13-05 regular and executive session meeting minutes was seconded and approved unanimously.

At 10:25 a.m., General Manager Stan Murphy reviewed the financial report and noted that funds on hand with the Bank of Colorado and CD funds had been distributed according to Board's policy among banks throughout the basin proportionally. It was noted by Mr. Murphy that the Bureau of Reclamation invoice is still outstanding. A motion to approve the financial report was seconded and approved unanimously.

Mr. Murphy reported that health insurance for employees is in place and the cost is lower than quoted by approximately \$133.00 per month. Mr. Murphy also noted that the 2004 exemption from audit has been filed by Bondi & Co. and the 2005 audit will begin January 30, 2006 by Bondi & Co. Mr. Murphy noted that once the 2005 audit is completed, then other audit firms would be looked at for the 2006 audit. Mr. Murphy noted capital purchases of sound and recording system, Dell computer, phone system, and Adobe Acrobat software. Mr. Murphy reported that he had received copies of well permits from the Colorado Division of Water Resources. Mr. Robbins agreed that written minutes (other than minutes of executive sessions) are open for inspection by the public and copies should be provided to public upon request, but a reasonable fee can be set under the Open Records Act for copies of the minutes furnished to the public. Mr. Robbins stated that the record of an executive session must be retained for at least a specified number of days after the date of the executive session under the Open Meetings Law.

At 10:35 a.m., the Board recommended that the capital threshold be reset from \$10,000 to \$5,000, pursuant to state statute. A motion to instruct Mr. Murphy to use the prevailing IRS rate for mileage, as notified by Mr. Willard, was made, seconded and approved unanimously.

President Coryell introduced Ken Knox, Deputy Chief Engineer for the State of Colorado, and Scott Richrath of the Division of Water Resources (DWR).

Mr. Richrath informed the Board and the public of the Conservation Innovation Grant (CIG), which is a partnership program between RRWCD Enterprise and CSU under direction of Joel Schneekloth. The grant has been approved and will be implemented in the near term. This program is under guidance of the Natural Resource Conservation Service (NRCS), which will provide 50% of the funding to match the 50% funding from the Enterprise. Mr. Richrath reported that the intent of the program is to find water conservation activities outside of water retirement programs that a producer may implement in the field to maintain irrigation while reducing consumptive use. The program will select one or two producers to enter the crop rotation program in an effort to reduce consumptive use of water by those crops more than the yield or the revenue from those crops. Mr. Richrath indicated that this program has not selected the producers but is to begin in 2006 and is a 3-year program funded by NRCS and the Enterprise.

President Coryell reported that the RRWCD was a recipient in 2005 of a grant from the Colorado Water Conservation Board (CWCB). Mr. Richrath noted that the \$50,000 is a grant not a loan and that the RRWCD needs to request the funds from the CWCB. He noted that in order to receive the funds, the District must demonstrate costs, as defined in the parameters for the grant, that the District has incurred for start up costs such as engineering and legal fees. President Coryell instructed Mr. Murphy to work with Mr. Richrath to obtain those funds.

At 10:45 a.m., President Coryell asked Director Jerry Sonnenberg, the RRWCD's representative to the Colorado Water Congress (CWC) to give an overview on the CWC. Mr. Sonnenberg deferred to Ken Knox as he was unable to attend last meeting. Mr. Knox reported that as of now there are three proposed pieces of legislation of significance to the Board. First is a proposed bill concerning the number of signatures that are required to put a measure to a vote of the people within that district, representing a shift from the traditional form of representative government toward individual agendas. Mr. Knox indicated it was reviewed and the CWC voted unanimously to oppose it. The second proposal pertains to the contentious nature of recreational in-channel diversions, and the review by sub-committee, in which Mr. Knox has been asked to participate. The third bill concerns fallowing or crop rotation management. Mr. Knox said this bill would grant flexibility to agricultural and municipal water users. Representative Mary Hodge is receptive to terminology that is accepted by farmers.

President Coryell informed the Board that he has been asked as a representative of groundwater users to be part of a roundtable discussion on January 27, 2006 at a CWC meeting and is open to any suggestions for speaking topics.

At 10:50 a.m., President Coryell asked Secretary Pautler and Mr. Richrath to speak about the Environmental Quality Incentive Program (EQIP). Mr. Richrath noted that last fall RRWCD approved a 2/3rds increase for permanent well retirement while the incentive structure for 3- and 5- year retirement remained the same. Mr. Richrath indicated the majority of the EQIP sign-up is in Kit Carson County and all seven counties were provided with an opportunity to apply. He acknowledged that the packet prepared by Mr. Murphy and RRWCD Administrative Assistant Monica Newton served as an

excellent source of information and as a tool for the producer to utilize in assessing EQIP and the proposed Conservation Reserve Enhancement Program (CREP). Secretary Pautler stated the packet of information was prepared upon the request of the NRCS. He noted that the NRCS was disappointed at how many applications were turned back last year due to the pending CREP. Secretary Pautler indicated that it was each producer's decision based on the best available information the producer had at that time. Secretary Pautler stated that overall participation among the counties this year was good, with Kit Carson receiving 67, Yuma County 14, Phillips 10, Washington 1, Sedgwick, 1, Logan 0, and Lincoln 0, for a total of 93 applications accepted in the basin. President Coryell stated that the NRCS has committed 1.2 million dollars of funding for the well retirement program. Secretary Pautler indicated that the NRCS had a plan to have all applications into its system by January 27th, to have applications ranked by February 17th, with tentative letters of acceptance mailed out by March 3rd, and applications acceptance signed or turned back by April 17th.

At 11:10 a.m., Mr. Richrath provided a CREP overview. He noted that a March 31st timeline had been established for completion and approval of the environmental assessment. Mr. Davis reported that a draft of the environmental assessment will be listed in the Federal Register and part of the process includes a mailing to producers who attended CREP meetings. Mr. Richrath stated that several individuals had met to discuss sign-up procedures and that no official annual rental rate had yet been established. However, Mr. Thayer did note that the state committee has recommended a rental rate of \$105 to \$120 per acre, and that recommendation will go to the federal level for approval. Mr. Murphy indicated that he had put together a sign-up process. Secretary Pautler noted that the sign-up process is a sensitive issue that needs to account for FSA's employee situation in field offices to assure smooth and fair implementation while accomplishing the goal of water conservation. Secretary Pautler also noted that the public will need to be patient because there are lots of funds involved and fairness needs to be considered. However, Mr. Richrath indicated that RRWCD still needed to suggest a sign-up procedure and will need to arrange a meeting with Mr. Thayer and Mr. Davis as CREP Coordinator to determine a sign up-procedure.

Mr. Dennis Kaan of CSU discussed an economic analysis of CREP including crop mix and acreage. Mr. Kaan has requested to include a survey in the sign-up process for CREP to help locate acres in the basin and crop rotation as to where it is on the field and where rotation is stopped, to enter the data into a program, and to look at the overall economic impact of CREP. Mr. Kaan indicated that the District would own the information and that it would be confidential. He stated that the District would just provide an overall summary of data to CSU to run its analysis.

Secretary Pautler stated that Mr. Richrath put together CREP funding scenarios based on rental rates being higher and whether or not sufficient funding is set aside for the program. Secretary Pautler indicated that Mr. Willard had reviewed the scenarios for the District to ensure that the program will have appropriate funding from RRWCD Enterprise.

At 11:42 a.m., the Board recessed.

At 11:57 a.m., the Board returned from break, and President Coryell asked Vice President Killin, as RRWCD's representative to the South Platte Roundtable (SPR) to discuss what happened at the recent meeting. Vice President Killin reported that she was unable to attend, but emphasized that the first meeting discussed organizational structure. She said that the SPR did go ahead and elect 2 members to represent SPR at the State meeting and that one appointee was attorney Mike Shimmin.

President Coryell asked Mr. Murphy to report on The Nature Conservancy (TNC). Mr. Murphy reported that 6-18 wells are in the Arikaree drainage area and that TNC plans to add incentive to CREP contract recipients to retire wells. TNC's Fox Ranch is located on the Arikaree River and offering incentives to retire wells will benefit the Fox Ranch. Mr. Murphy noted that TNC is trying to find other sources of revenue to assist with the incentive.

Mr. Robbins reported on the petition for hearing and appeal of State Engineer action filed by the Pioneer Irrigation District, Colorado Board, and certain owners of the Laird Ditch with the Colorado Ground Water Commission (GWC). He noted that the District was not a party to the case. Mr. Robbins indicated that the senior surface water rights holders want to un-designate all ground water shown to be hydrologically connected to the surface flows in the North Fork of the Republican River or shown to deplete surface water flows in the North Fork of the Republican River when pumped.

At 12:05 p.m., a motion to designate the Courthouse in Wray as the official location for posting notices of meetings of the Board was seconded and approved unanimously.

President Coryell noted that the CREP agreement between RRWCD Enterprise and the State of Colorado had been submitted to Mr. Richrath and Mr. Davis. Mr. Robbins indicated that the agreement between the Enterprise and State was adequate and recommended Board approval. Secretary Pautler raised a concern about approving the contract now versus waiting until CREP is approved. Mr. Robbins stated that there should not be a concern about approving it now as it could be executed conditioned upon final approval of CREP. After discussion, a motion to approve the agreement between the State of Colorado and the RRWCD Enterprise to contribute necessary non-federal funding for the Republican River CREP with a change to Recital 10 to delete the phrase "an amount up to but not to exceed 20 percent" and to add the word "approximately" to the fourth line of paragraph 1 so that it reads "contribute approximately 20 percent of the overall costs of the Republican River CREP . . ." was made, seconded, and approved unanimously.

At 12:20 p.m., President Coryell suggested that the District create a website to contain notices of meeting, current Board meeting information, representatives on the Board and their terms, and general information to inform the public. President Coryell indicated that there are two websites currently maintained by CSU and DWR, but

proposed that Mr. Murphy and Ms. Newton create and maintain a District website. A motion that the Enterprise have an outside party help create and maintain a website was seconded and approved unanimously. Vice President Killin suggested that Mr. Murphy provide a rough budget for the cost of a website to Executive Committee.

At 12:25 p.m., President Coryell addressed the need to keep the general public educated on compact compliance and administration. President Coryell asked Mr. Knox if he would be willing to help inform the public. Mr. Knox agreed that a general meeting with informational packets would be beneficial. He suggested that the meeting be held in the basin and that notice of the meeting be published in the newspapers several weeks in advance. Mr. Robbins said that would provide adequate public notification. Mr. Knox indicated that there would be no charge to the District for one initial meeting at one location, with a follow up meeting at a different location.

At 12:40 p.m., the board recessed for lunch.

At 1:25 p.m., the Board returned from lunch, and President Coryell read a thank you note to the District from Andrea Knodel who had competed at National FFA Convention in a Public Prepared Speaking contest. She thanked the District for assisting her in providing a better understanding of the District and allowing her to speak to the District.

At 1:27 p.m., the meeting was opened to public comment. Mr. John Fortmeyer, with Mr. Ron Myers of CSU, presented to the Board and public a possible water management plan he would implement on his farm. Mr. Fortmeyer requested that the District and the State Engineer consider the possible water management plan program. President Coryell and others recognized the merit of such a program and instructed Mr. Fortmeyer to contact his local NRCS office if Mr. Fortmeyer's intent was to restructure the parameters of EQIP.

At 1:50 p.m. The public comment session ended.

Surface water user Rex Buck stated that the interruptible water supply agreement received by surface water users from the District was huge step in the right direction. However, Mr. Buck stated that the Pioneer Irrigation District and the Laird Ditch surface water right owners could not sign the agreement due to article 10 and asked Mr. Robbins for an explanation of that paragraph. Mr. Robbins stated the change of water right application was not for the purpose of a fishery but was to ensure that any water leased to the Enterprise and left in the stream would be delivered to the state line to prevent third party appropriation. Mr. Robbins stated that the Board had wanted to make a good-faith offer based on the Board members' experience as producers. He noted that the Board would be happy to consider a counter-offer. Director Bledsoe restated that the RRWCD Board had to start somewhere with an offer and that it was not necessarily the ending place. President Coryell re-stated that the RRWCD had offered interruptible supply agreements to the Pioneer Irrigation District and the owners of the Laird Ditch water right and asked for a response back from the surface water users.

No old business was discussed.

At 2:08 p.m., new business was discussed.

Vice President Killin noted that Mr. Pautler, Mr. Knox, Mr. Robbins, Mr. Murphy and she attended a meeting with surface water user Mr. Guercio and his attorney. Mr. Robbins stated that the meeting was a free-flowing discussion of ideas and suggestions. Mr. Robbins stated that the District must keep open lines of communication with surface water users. Mr. Murphy stated that there was no dollar amount offered by either party, contrary to what some in the community had heard. President Coryell stated that he and Director Bledsoe did not attend or participate in the meeting due to their affiliation with the GWC. Mr. Robbins pointed out that Mr. Guercio was not looking for a deal himself, and no proposals were discussed. The meeting was clearly just a conversation. Vice President Killin did indicate that Mr. Guercio wanted to meet again with the individuals who attended the meeting.

A motion to adopt a resolution to designate a location of the next regular quarterly meeting to be held on 4-13-2006 at the Church of Nazarene located at 505 Beatty Avenue in Yuma, Colorado was made, seconded and approved unanimously.

At 2:12 p.m., a motion was made to enter into executive session to discuss interruptible water supply agreements and to receive legal advice on legal questions related to such agreements. The motion was seconded and approved unanimously. President Coryell stated that no motions are to be made or approved in the executive session. Mr. Robbins stated that no action could be taken in executive session.

At 4:00 p.m., the executive session ended. No policy, position, resolution, rule or other formal action was taken during the executive session.

The meeting resumed and Mr. Knox recommended that the sign-up provisions for CREP be rigorously thought through, well documented, and well publicized. Mr. Knox was asked by Mr. Doug Flanders, lobbyist working on behalf of RRWCD in Washington, D.C., to offer services to the District under a retainer agreement. Mr. Knox noted that Mr. Flanders' work would involve the federal budget reconciliation when the next Congressional session starts. Mr. Robbins stated that the Board must be certain that funds are available in the budget and that the fees could get as high as \$60,000. Director Rick Seedorf questioned whether Mr. Flanders could be utilized on an individual basis instead of yearly retainer. Mr. Knox felt that Mr. Flanders is open to negotiations, offered his office for a meeting, and suggested that the District might want Mr. Robbins at the meeting as well.

At 4:15 p.m. A motion that Director Seedorf, Vice President Killin, and President Coryell meet with Mr. Flanders was made, seconded, and approved unanimously. Mr. Knox will set a time up and notify the appointed individuals.

Vice President Killin suggested having someone from the respective representative areas of the District to join the Executive Committee for certain discussions. Director Seedorf stated that the Executive Committee does an adequate job with the flow of communication. Director Garry Kramer inquired whether the Board should meet monthly. Director Bledsoe noted that Board members cannot stay up on issues if meetings are held only quarterly. President Coryell suggested that a special Board meeting be held before the April regular quarterly meeting.

President Coryell instructed Mr. Murphy to keep everyone informed by distributing a bi-monthly newsletter on current issues.

A motion to schedule monthly Board meetings for the second Thursday of each month, allowing the Board to cancel the special meetings when appropriate, was made, seconded, and approved unanimously. The next special Board meetings will be on February 9th and March 9th in Wray at 9:00 a.m. until approximately noon. Mr. Murphy will acquire a place to hold those meetings.

Mr. Richrath stated that adequate thought and communication would need to be given to the CREP sign-up process. Mr. Robbins explained that the process must be carefully defined and thought out. Secretary Pautler stated that everyone must be open and flexible in the procedure. Mr. Richrath stated that the District must lay out the procedure to FSA and allow FSA to make changes subject to approval by the District. Mr. Richrath said he would contact Mr. Thayer and Mr. Davis to coordinate a time to discuss the sign-up procedure.

President Coryell authorized Mr. Murphy to gather information on the Gary Earl wells and Curt Soehner surface water rights.

At 4:54 p.m., a motion to adjourn the meeting was made, seconded and approved unanimously.

Secretary

Date