

DAVID W. ROBBINS
ROBERT F. HILL
PETER J. AMPE
MATTHEW A. MONTGOMERY

HILL & ROBBINS, P.C.
ATTORNEYS AT LAW
1660 LINCOLN STREET, SUITE 2720
DENVER, COLORADO 80264

TELEPHONE
303 296-8100

FAX
303 296-2388

E-MAIL
webmaster@hillandrobbs.com

WEBSITE
www.hillandrobbs.com

September 30, 2019

THE COLORADO WATER CONSERVATION BOARD

Water Supply Planning and Finance Section
Attn: Kirk Russell, P.E.
1313 Sherman St., Room 718
Denver, CO 80203

Re: **Colorado Water Conservation Board, Construction Fund Loan Application**

Dear Mr. Russell:

Enclosed please find a Loan Application and Loan Feasibility Study for surface water purchases by the Republican River Water Conservation District, acting by and through its Water Activity Enterprise, to continue to assist the State of Colorado in achieving and maintaining compliance with the Republican River Compact. Please advise us if any further information is required.

Very truly yours,


Peter J. Ampe

cc: RRWCD Board of Directors
Deb Daniel, General Manager
Mike Sullivan, Deputy State Engineer
Randy Hendrix, P.E.

LOAN FEASIBILITY STUDY
FOR
PURCHASE OF SURFACE WATER RIGHTS

Sponsored by
The Republican River Water Conservation District,
and the
Republican River Water Conservation District - Water Activity
Enterprise

OCTOBER 2019

FEASIBILITY STUDY APPROVAL

Pursuant to Colorado Revised Statutes 37-60-121 & 122, and in accordance with policies adopted by the Board, the CWCB staff has determined this Feasibility Study meets all applicable requirements for approval.

 11/4/2019
Signed Date

Executive Summary

In May, 2019, the Republican River Water Conservation District, acting by and through its Water Activity Enterprise, agreed to purchase 6 separate surface water rights located on the North Fork and South Fork of the Republican River for a total cost of \$6,925,000. The District made these purchases were funded by fees assessed on water users within the Republican River Basin and were made with the sole purpose of assisting the State of Colorado in meeting its obligations under the Republican River Compact.

These purchases have resulted in some strain on the District's budget. The District is requesting a loan of \$5,515,000.00 with a 20-year repayment period and an interest rate of not more than 1.35%. This will allow the District the flexibility to make additional future purchases of surface water within the Basin to further assist the State's efforts at Compact compliance; often, such purchases need to be made quickly and the District may lose the ability to purchase some water rights if it were to have to delay the purchase while going through the process to obtain a loan.

The District has sufficient future revenue to repay the loan under the requested terms.

REPUBLICAN RIVER WATER CONSERVATION DISTRICT

410 MAIN STREET, SUITE 8

WRAY, COLORADO 80758

(970) 332-3552

BOARD MEMBERS

Rodney Lenz, President
Gregory Larson, Vice President
Timothy Pautler, Secretary
Aaron Sprague, Treasurer
Brent Deterding
Brooke Campbell
Gilbert Anderson
James Hadachek
Kenneth Helling
Kevin Penny
Roger Seedorf
Rodney Mason
Steve Kramer
Steven Meakins
Stanley Laybourn
Wayne Skold
Wil Bledsoe

MANAGEMENT AND STAFF

Debra Daniel, General Manager
Suzanna Baker, Administrative Assistant

ATTORNEY

David W. Robbins, Esq.
Hill & Robbins, P.C.
1441 18th Street, Suite 100
Denver, CO 80202
(303) 296-8100

AUDITOR

Sarah Bailey
Winfrey, County and Hays, P.C.
577 14th Street
Burlington, CO 80807
(719) 346-7216

WATER RIGHTS AND HYDROLOGY

Randy Hendrix
Hendrix Wai Engineering, Inc.
P. O. Box 4487
Parker, CO 80134
(303) 915-3196

CONSERVATION PROGRAM SPECIALIST

Tim J. Davis
TJD/LLC
411 Melba Road
Sterling, CO 80751

TABLE OF CONTENTS

Introduction and Background	1
Project Sponsor	4
Project Area	6
Land Uses Within the Republican River Basin	6
Water Demands and Water Rights	8
Water Supply Demands	8
Purchase of Surface Water Rights	8
Background	8
Purpose	9
Alternatives	10
Selected Alternative	11
Engineering Analysis	11
Permitting	11
Social and Environmental Impacts	12
Financial Feasibility Analysis	12
Financial Repayment.....	12

INTRODUCTION AND BACKGROUND

In December 2002, the State of Colorado entered into a Final Settlement Stipulation with the State of Kansas and Nebraska to bring an end to the U.S. Supreme Court case of *Kansas v. Nebraska and Colorado*. In the Final Settlement Stipulation, the States agreed to the development of a computer groundwater model to determine stream flow depletions caused by well pumping in the Republican River Basin and to a five-year running average to determine compliance with the Republican River Compact.

The Republican River Water Conservation District (RRWCD) was established by Colorado statute in 2004 to assist the State of Colorado to comply with the Republican River Compact. The RRWCD Board of Directors established a water activity enterprise and imposed use fees on the diversion of water to provide revenues for programs to retire irrigated acreage in the Basin to assist the State with Compact compliance.

Since December 2002, the State of Colorado has exceeded its annual allocations of beneficial consumptive use under Compact by an average of 11,000 acre-feet per year. This was not the situation expected when the State of Colorado entered into the Final Settlement Stipulation. In fact, it was expected that hydrologic conditions would return to average or above average conditions in the Basin and that limited retirement of irrigated acreage would bring Colorado into Compact compliance. For that reason, initially the RRWCD Board focused its efforts on providing local cost sharing for federal programs to voluntarily retire irrigated acreage in the basin. When the State of Colorado continued to exceed its Compact allocations in 2005 and 2006, the focus shifted to construction of a Compact Compliance Pipeline (CCP).

While the stream depletions calculated by the groundwater model resulting from well pumping in Colorado are extremely small in comparison to the total well pumping in the basin, they are primarily the result of well pumping that occurred decades ago. As a result, shutting off well pumping in the basin in Colorado would not bring Colorado into Compact compliance for decades; indeed, curtailing all beneficial consumptive use of water in the basin in Colorado, including precompact surface water rights, would not bring Colorado into Compact compliance for years. Thus, the only feasible means to achieve Compact compliance was to construct a pipeline to transport groundwater from wells to one of the tributaries of the Republican River for credit to offset stream depletions. The Final Settlement Stipulation specifically allowed for wells that would be acquired or constructed for this purpose. In 2011-2012, the RRWCD acquired a loan from the CWCB to purchase groundwater rights and build the Compact Compliance Pipeline (CCP).

On August 24, 2016, the RRCA adopted a Resolution by the Republican River Compact Administration Approving Operation and Accounting for the Colorado Compact Compliance Pipeline and Colorado's Compliance Efforts in the South Fork Republican River Basin, wherein the RRCA approved, with certain conditions, the operation and accounting for the CCP. As part of that resolution, Colorado was to seek to improve streamflows in the Colorado portion of the South Fork of the Republican River Basin by retiring up to an additional 25,000 acres from irrigation in the South Fork Republican River basin.

As of the end of 2018, with the use of the CCP, and other efforts by the RRWCD, and working in conjunction with the State Engineer's office, Colorado has been able to attain

compact compliance. It is vital for these the efforts to continue in order to comply with the Republican River Compact. To that end the RRWCD and the State Engineer's office continue to pursue programs designed to increase stream flow in all tributaries of the Republican River.

On May 1, 2019, the RRWCD, acting by and through its WAE, entered into a contract to purchase 3.0 cfs of the 3.5 cfs decreed to the Hayes Creek Ditch for a total price of \$825,000.00, to be paid over four years. On the same day, the RRWCD, acting by and through its WAE, also entered into a contract to purchase the entire 3.5 cfs decreed to the Hayes Creek Ditch No. 3 for \$600,000.00. Both ditches divert from Hayes Creek, a tributary to the North Fork of the Republican River.

On May 3, 2019, the RRWCD, acting by and through its WAE, entered into a contract to purchase the Tip Jack Ditch, 1/3 of the Hale Ditch and a lease/purchase agreement for the Hutton No. 1 and Hutton No. 2 ditches with CPW, LLC for a total price of \$5,500,000.00. All four water rights are decreed to divert from the South Fork of the Republican River. The initial payment was made at closing in the amount of \$4,750,000.00 with the remaining amount to be paid over 5 years. The RRWCD intends to cease all irrigation under these water rights and change to purpose of use to instream flow and Compact compliance to further assist the State of Colorado in meeting the requirements of the Compact and the 2016 RRCA Resolution.

Combined, the RRWCD spent \$5,515,000.00 in 2019 to purchase surface water rights to assist the State of Colorado in meeting its obligations under the Republican River

Compact and will pay an additional \$1,260,231 over the next four years to complete these purchases.

This loan feasibility study addresses the need for and the feasibility of the RRWCD acquiring a loan to spread out the costs of the purchased surface water rights, to allow the RRWCD future flexibility to acquire additional surface water rights and to fund programs to encourage producers to voluntarily reduce irrigated acres within the District.

PROJECT SPONSOR:

General

The Republican River Water Conservation District and the Republican River Water Conservation District Water Activity Enterprise:

The Republican River Water Conservation District (RRWCD) was established by Senate Bill 04-235 in 2004 to assist the State of Colorado to comply with the Republican River Compact. The RRWCD is managed and controlled by a 17-member board of directors comprised of one member appointed by the county commissioners of each of the eight counties wholly or partially within the RRWCD, one member appointed by the boards of the eight ground water management districts within the RRWCD, and one member appointed by the Colorado Ground Water Commission. See § 37-50-104.

The RRWCD board of directors is authorized to establish a water activity enterprise pursuant to article 45.1 of title 37 of the Colorado Revised Statutes and established the

RRWCD Water Activity Enterprise in October 2004. The general powers of the board of directors are set forth in section 37-50-107.

The RRWCD board of directors is authorized to impose a use fee on the diversion of water within the district and has established a use fee of \$14.50 per assessed irrigated acre on the diversion of ground water for irrigation use within in the district. Currently there are approximately 566,340 assessed irrigated acres in the basin. ¹

Use fees on the diversion of ground water currently generate nearly \$7.2 million in revenues annually for the RRWCD WAE. In 2019, the RRWCD Board approved Policy No. 19-03, imposing a use fee of \$5.80 per acre-foot on the diversion of ground water for municipal and commercial wells which pump over 50 acre-feet of water for municipal and industrial uses and \$154.00 per acre foot diverted by junior surface water rights. Municipal and commercial diversions within the district are small but generated an additional \$110,000 in 2018. Currently, no junior surface water rights are diverting. Due to the new water use policy, which reduced the revenue from the municipal and commercial wells, it is expected municipal and commercial wells will generate approximately \$63,000 in 2020.

The RRWCD WAE has used revenues from use fees to provide local cost sharing for federal programs designed to retire irrigated acreage in the basin, including the Conservation Reserve Enhancement Program (CREP) and the Environmental Quality Improvement Program (EQIP). To date, approximately 49,533.2 irrigated acres have

¹ The General Assembly passed, and the Governor signed into law HB19-1029 which increased the size of the District to include all lands on which pumping can impact the flows of the Republican River. Of the 43,858 acres added to the District 1,259 acres will not be assessed fees. The remaining 42,599 acres will be assessed for a partial year in 2019 at \$6.00 per assessed acre which will increase to \$14.50 per assessed acre in 2020 and each year thereafter.

been voluntarily retired in the basin under CREP and EQIP, or approximately five percent (5%) of the irrigated acreage in the basin. In 2018, the U.S. Department of Agriculture approved an amendment to the Colorado Republican River CREP allowing up to 60,000 irrigated acres to be retired through this program.

Project Area

The RRWCD is located in northeastern Colorado and includes all of Yuma, Kit Carson and Phillips Counties and portions of Lincoln, Logan, Sedgwick, Cheyenne and Washington Counties that overlie the Ogallala aquifer and are within the RRCA Groundwater Model domain. A map of the RRWCD is attached.

The RRWCD encompasses about 7,800 square miles or about 7.5% of Colorado's 104,247 square miles. There are approximately 566,340 irrigated acres within the RRWCD. In 2015, irrigated land in the Republican River Basin accounted for approximately sixteen (16%) of the irrigated acres in Colorado.

Land Uses Within the Republican River Basin

The Republican River Basin overlies the Ogallala Aquifer, a regional underground aquifer system underlying portions of seven states from South Dakota to the Texas panhandle, including the Republican River Basin in Colorado, Nebraska, and Kansas.

In 1965, the Colorado Ground Water Management Act was enacted, which created the Colorado Ground Water Commission and allowed the Commission to establish designated ground water basins. The Management Act applied a modified doctrine of

prior appropriation to designated ground water to permit the full economic development of such ground water.

In 1966 the Ogallala Aquifer in the Republican River basin in Colorado was included in the Northern High Plains Designated Ground Water Basin. At that time, there was limited well development in the basin. However, improvements in center pivot sprinkler systems allowed the development of land that was more difficult to irrigate with flood irrigation methods, and approximately 4,000 final permits have been issued within the Northern High Plains Basin. Issuance of permits in the basin slowed during the 1980s and essentially ceased by 1990. The Colorado Ground Water Commission recognized that there was limited recharge to the Ogallala aquifer in the basin relative to the large amount of water in storage in the aquifer and authorized controlled mining of ground water in the basin based on a rate of depletion of 40% over 25 years. This was later amended to be 40% over 100 years.

In 1974, the Colorado Supreme Court ruled that ground water taking over a century to reach a surface stream was not part of the water subject to appropriation under the Colorado Constitution and could be managed separately as designated ground water. *Kuiper v. Lundvall*, 529 P.2d 1328 (Colo. 1974). At that time, no one thought that ground water in the Ogallala aquifer had been apportioned by the Republican River Compact or that withdrawals from the aquifer were subject to the Compact.

Water Demands and Water Rights

Water Supply Demands

From 2002 to 2018 the average withdrawals of ground water in the Republican River Basin are approximately 700,535 acre-feet per year. Ground water impacts included in the RRCA Compact Accounting are approximately 32,407 acre-feet per year. From 2002 until 2018, Colorado had exceeded its compact allocations by an overage of 8,844 acre-feet per year. Reductions in the amount that Colorado exceeded its Compact allocations have occurred since 2013 as the result of irrigated acreage retirement programs and the operation of the CCP. Without the CCP and acreage retirement it was projected that the deficit would increase gradually to 12,000 in 2029. The expected yield of the Compact Compliance Pipeline is currently 15,000 acre-feet per year. Together with acreage retirement this should be adequate to ensure Compact compliance for in excess of 40-years. Calculations of stream flow depletions resulting from well pumping are made with the RRCA Groundwater Model, which was developed under the provisions of the Final Settlement Stipulation. Calculations of stream flow depletions that are charged against Colorado's Computed Beneficial Use are easier to project and the future water supply demand is based on projections using the RRCA Groundwater Model.

PURCHASE OF SURFACE WATER RIGHTS

Background

From its creation in 2004 the Republican River Water Conservation District and its Enterprise have been actively seeking to acquire senior surface water rights so that

their use can be retired and the resulting increases in stream flow dedicated to improving water deliveries to the states of Kansas and Colorado. Under current compact accounting 60% of all surface water diversions are considered to be consumptively used. Acquiring the remaining surface water rights has been time consuming and expensive, and in 2019 surface water rights, long sought by the District, became available. The resulting purchases placed significant stress on the District/Enterprise budget.

Purpose

The Final Settlement Stipulation entered into by the States of Kansas, Nebraska, and Colorado in the U.S. Supreme Court case of *Kansas v. Nebraska and Colorado* in 2002 provided for the dismissal of all claims for damages through December 15, 2002, and all three States agreed that compact accounting would be done based on a five-year running average, beginning in 2003. The first five-year period ended at the end of 2007 and compact accounting has continued annually thereafter.

Colorado's beneficial consumptive use has exceeded its compact allocations in each of the years prior to 2018 by approximately 11,000 acre-feet of water each year. A portion of the District activities that have occurred in the preceding fifteen (15) years, contributing to successfully achieving compact compliance has been the surface water purchase program undertaken by the District. The purpose of this requested loan is to allow the District to continue its active pursuit of the remaining surface water rights.

Alternatives

1. No action.
2. Purchase remaining surface water rights and transfer the historical consumptive use of those rights to instream flow and Compact Compliance.

Alternative 1

No action would result in the District having very limited resources to continue pursuing the acquisition of remaining surface water rights to aid in compliance with the Republican River Compact.

Alternative 2

If the District is able to borrow a portion of its current investment in surface water rights it will permit the acquisition of the remaining surface water rights in the Basin thereby making them available for transfer to instream flow and compact compliance purposes. It should be noted that this alternative would result in the District using the loan proceeds for other District water acquisition and retirement programs. It is also important to note that one of the District's purposes results in the contribution of surface water rights to instream flow purposes above the State line and for Compact compliance thereafter.

SELECTED ALTERNATIVE

Alternative 2 (the pursuit of the remaining senior surface water rights) was selected because it is the most likely to promptly obtain the goal of the State to insure long term compliance with the Republican River Compact in a timeframe that would avoid curtailment of existing water rights and wells due to non-compliance conditions.

The selected alternative is to allow for the purchase of existing surface water rights located on all three Forks of the Republican River and to change the use of those rights so they can be delivered as instream flow and Compact Compliance to the Republican River.

Engineering Analysis

No engineering analysis was required because this loan is sought to reimburse the District's financial portfolio, partially depleted by the significant surface water right purchases in 2019, so that remaining surface water rights can be acquired in 2020 and out years.

PERMITTING

The change of surface water rights to instream flow and compact compliance must be approved by the Water Court for Water Division No. 1, in accordance with the provisions of section 37-92-101, C.R.S. *et seq.* It is anticipated that there will be limited, if any, opposition.

SOCIAL AND ENVIRONMENTAL IMPACTS

The continued acquisition of senior surface water rights will directly assist Compact Compliance and allow the State of Colorado to comply with the Compact and remove the threat that groundwater uses in the basin will be curtailed under proposed Compact Rules and may reduce the total groundwater irrigated acres permanently retired throughout the Basin. The purchase of existing senior surface rights and the use of those rights for Compact Compliance would have no impact on the regional aquifer.

FINANCIAL FEASIBILITY ANALYSIS

In 2019, the RRWCD purchased surface water rights in the amount of \$5,515,000. The RRWCD WAE is seeking a loan from the Colorado Water Conservation Board Construction Fund to defray the costs of these water rights and allow the District to use the loaned funds to continue its compact compliance activities at the robust level.

FINANCIAL REPAYMENT

The RRWCD WAE is applying for a \$5,515,000 loan from the Colorado Water Conservation Board with a 20-year repayment period and an interest rate of not more than 1.35%. This is in addition to the District's existing 30-year loan in the amount of \$40,000,000.00 that was used to fund the Compact Compliance Pipeline. The District is in full compliance with its obligations on that loan.

Based on its current financial statement, the RRWCD WAE is projected to have cash reserves of \$3,638,484 in excess of commitments, including its existing loan, by the end of 2019. An analysis of future water levels indicates that some irrigated land may go out

of production over the 20-year repayment period for this loan; however, the vast majority of the irrigated land in the basin is expected to be in production over the next 20 years, thus assuring the ability to repay loans from use fees. While a small amount of irrigated acreage is expected to go out of production over the 20-year repayment period, there is no anticipated additional increase in use fees necessary to service both the loan for the Compact Compliance Pipeline and this loan and is considerable within the ability of irrigators to pay.

ATTACHMENT A

POLICY NO. 19-3
ESTABLISHING AND CORRECTING WATER USE FEES FOR NON-
GROUNDWATER IRRIGATION USE IN ACCORDANCE WITH THE
REPUBLICAN RIVER COMPACT ADMINISTRATION ACCOUNTING
PROCEDURES AND REPORTING REQUIREMENTS

1.0 Introduction

The Republican River Water Conservation District ("District") was created pursuant to section 37-50-103(1), C.R.S., for the purpose of cooperating with and assisting the State of Colorado to carry out its duty to comply with the limitations and duties imposed upon the State by the Republican River Compact and pursuant to section 37-50-103(1), C.R.S., is a body corporate under the laws of the Colorado. The Republican River Water Conservation District Water Activity Enterprise ("Enterprise") was created pursuant to section 37-50-107(1)(k), C.R.S., as a water activity enterprise under Article 45.1 of Title 37 of the Colorado Statutes. Pursuant to the Water Activity Enterprise Law, section 37-45.1-103(3), C.R.S., the governing body of the Water Activity Enterprise is the Board of Directors of the District. The District and its Enterprise may be referred to as the RRWCD within this document.

Compliance with the Republican River Compact is determined through the application of the RRCA Accounting Procedures and Reporting Requirements, Appendix C to the Final Settlement Stipulation, No. 126 Original (December 15, 2002) ("RRCA Accounting Procedures"), including the RRCA Groundwater Model, as approved by the Republican River Compact Administration ("RRCA").

1.1 Purpose and Scope of Policy.

This policy is intended to provide a fair and equitable water use fee structure for all types of water use and consumption, within the Colorado portion of the RRCA Groundwater Model domain, that reflect the impact each type of water use and consumption has on the determination of Colorado's compliance with the Republican River Compact as determined by the RRCA Accounting Procedures. This Policy applies only to use and consumption of water that is proposed to be governed by the Rules and Regulations Governing the Diversion, Use, and Storage of Water Resources in the Republican River Compact Administration Model Domain for Compliance with the Republican River Compact ("Compact Rules") as such Compact Rules exist now in draft and as may be formally adopted or as may be

modified in the future. The RRWCD will not assess a water use fee on consumption that is not within the definitions and scope of the Compact Rules.

The RRWCD, in cooperation with the State of Colorado, operates its Compact Compliance Pipeline to achieve and maintain Compact compliance. In order to properly plan for Pipeline operations, the RRWCD must estimate the amount of groundwater withdrawals and other types of water consumption. These estimates are then used to plan the timing and rate to provide water through the Compact Compliance Pipeline (CCP) to the North Fork of the Republican River.

The RRWCD does not determine water rights, water permits or the legality of any withdrawal, diversion, use or consumption of water. This policy does not change, alter or eliminate any valid right, permit or decree.

2.0 RRWCD Fee Setting Policy.

2.1 The water use fees set by the RRWCD will be done on an annual basis as part of the required budget process. Fees will be set at a level to fund the necessary programs of the RRWCD intended to meet the statutory responsibilities and limitations of the District. Groundwater use for irrigation comprises the vast majority of the consumptive use within the District and surrounding areas. Through the required budget process, the RRWCD will annually set a fee applicable to groundwater withdrawals for irrigation. That fee may be based on acres irrigated, acre-feet of groundwater withdrawn or some combination of the two. Fees for other categories of consumptive uses will then be set in relation to the groundwater for irrigation fee in compliance with this Policy.

2.2 Pre-Compact Rights. In recognition of the purposes and intent of the Republican River Compact, the RRWCD will not charge a water use fee for the diversion or consumption of water based a decreed or permitted appropriation date earlier than December 31, 1942.

2.3 Groundwater Irrigation Use.

2.3.1 Application through center pivot irrigation. The RRCA Groundwater Model and RRCA Accounting Procedures assume an efficiency of 83%; that is for every 1 acre-foot of groundwater withdrawn and applied through center pivot irrigation, .80 acre-feet are consumed by crops, .03 acre-feet are consumed by spray loss and .17 returns to the aquifer for re-use. This .83

consumptive use is then applied through the RRCA Groundwater Model to calculate the impact to the stream, in accordance with the RRCA Accounting Procedures. At this time, the calculations result in total stream impacts of approximately 3.7% of the total gross groundwater withdrawals. See, Hendrix Wai Engineering, Inc., Republican River Water Conservation District Water Fee Policy (October 5, 2018) ("Hendrix Memorandum"). These impacts may attenuate over many years. If the RRCA groundwater model is changed and the approximate stream impact from net groundwater withdrawals are changed, the RRWCD will review this Policy and make changes if appropriate.

2.3.2 At this time there is no known application of groundwater withdrawals to irrigation through flood irrigation within the RRCA Model Domain. If the RRWCD is informed of such application method and such application results in a different impact on Compact compliance through the application of the RRCA Groundwater Model and RRCA Accounting, the RRWCD will review this paragraph and make any necessary changes as required to meet the purpose and scope of this policy.

2.4 Surface Water irrigation use.

2.4.1 Determination of Surface Water use fees. The Hendrix Memorandum shows that diversions of surface water for irrigation are approximately 16 times as impactful on Compact Compliance as the equivalent amount of groundwater withdrawals. The RRCA Accounting does not distinguish between surface water diversions by application method. Therefore, the water use fee for surface diversions per acre-foot diverted is approximately 16 times that of the per-irrigated acre fee for groundwater irrigated acres. Currently the per irrigated acre fee for groundwater irrigated acre is \$14.50. Assuming an average use of 1.5 acre-feet of groundwater per acre, the fee for surface water diversions is \$154.00 per acre-foot diverted. See Hendrix Memorandum at 4.

2.4.2 Requirements for Surface Water Diversions.

2.4.2.1 Monthly Reporting. If the RRWCD may require monthly reporting from water users of the volume of water diverted in the preceding month if the RRWCD finds monthly reporting to be helpful or necessary in determining fees.

2.4.2.2 Estimate of Annual Use. The RRWCD may require an estimate of future annual diversions from water users if the RRWCD finds such estimates to be helpful or necessary in setting operations of the CCP in compliance with RRCA resolutions or requirements.

2.5 Municipal and Commercial Use. Non-irrigation uses diverting or withdrawing more than 50 acre-feet per year are included as depletions against Colorado's Compact allocation. Such use is assumed to be 50% consumptive. See, RRCA Accounting Procedures, IV.A.2 and definition of Computed Beneficial Consumptive Use. The RRWCD will not assess a water use fee on non-irrigation uses that divert or withdraw less than 50 acre-feet per year.

2.5.1 Municipal and Commercial Groundwater Use. Non-irrigation municipal and commercial groundwater use will be assessed based on the groundwater center-pivot irrigation rate at a ratio of 83:50 for groundwater withdrawals with 1.5 acre-feet per acre of ground water withdrawn per acre of irrigated ground assumed. This results in a water use fee of \$5.80 per acre-foot of groundwater withdrawn for municipal and industrial uses. See Hendrix Memorandum at 3.

2.5.2 Municipal and Commercial Surface water Use. At this time there is no known application of surface water diversions to non-irrigation municipal or commercial use within the RRCA Model Domain. If the RRWCD is informed of such application method, the RRWCD will review this paragraph and make any necessary changes as required to meet the purpose and scope of this policy.

2.6 Reservoir Evaporation

2.6.1 Federal Reservoirs. The sole Federal Reservoir within the Colorado portion of the Republican River Basin is Bonny Reservoir. RRCA Accounting Procedures at p. 6. Evaporation from Federal Reservoirs is charged against Colorado's Compact allocation as a 100% consumptive use. The impact from evaporation of water is similar to that of surface water diversions, but the effect on Compact compliance is even greater. As the current water use fee per groundwater irrigated acre is \$14.50, the current water use fee for

reservoir evaporation from Federal Reservoirs is \$257.00 per acre-foot. See Hendrix Memorandum at 4.

2.6.2 Non-Federal Reservoirs. Evaporation from Non-federal Reservoirs that have a storage capacity of 15 acre-feet or greater at the principal spillway elevation are included in determining Colorado's Compact compliance. RRCA Accounting Procedures at p. 7. The RRWCD will not charge a water use fee to Non-federal Reservoirs that do not meet the RRCA Accounting Procedures definition for Non-federal Reservoirs. Evaporation from Non-Federal Reservoirs is charged against Colorado's Compact allocation at a 100% consumption. The impact from evaporation of water from Non-Federal Reservoirs is similar to that of surface water diversions, but the effect on Compact compliance is even greater. As the current water use fee per groundwater irrigated acre is \$14.50, the current water use fee for reservoir evaporation from Non-Federal Reservoirs is \$257.00 per acre-foot. See Hendrix Memorandum at 4.

2.6.3 Requirements for Reservoirs

2.6.3.1 Monthly Reporting. The RRWCD may require monthly reporting from water users if the RRWCD finds monthly reporting to be helpful or necessary in determining reservoir evaporation for determination of fees.

2.6.3.2 Estimate of Annual Use. The RRWCD may require an estimate of future annual evaporation from water users if the RRWCD finds such estimates to be helpful or necessary in setting operations of the CCP in compliance with RRCA resolutions or requirements.

3.0 If, in the future, the RRCA modifies either the RRCA Groundwater Model or the RRCA Accounting Procedures, the RRWCD will review this policy and make any changes to paragraph 2 as necessary to meet the purpose and scope of this policy. If, in the future the RRWCD modifies the groundwater irrigation water use fee structure it will review this policy and make any changes to paragraph 2 as necessary to meet the purpose and scope of this policy.

4.0 This Policy applies only to wells with final permits and formally decreed water rights in existence prior to January 1, 2019. The RRWCD is not responsible for and will not replace or otherwise assist with the remedy of depletions to the

Republican River for which the State of Colorado is responsible under the Compact for water right wells which are finally permitted or decreed with an appropriation date after January 1, 2019.

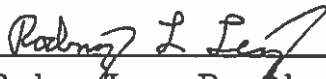
5.0 Plans for Augmentation and Alternative Compliance Plans

5.1 If a water user obtains a decreed plan for augmentation that replaces depletions to the extent that the underlying water use in the plan for augmentation results in a net-zero impact on Compact compliance or an Alternative Compliance Plan approved pursuant to the Compact Rules, the RRWCD will not assess a water use fee for that water use and consumption for the diversion or pumping covered by the Plan.

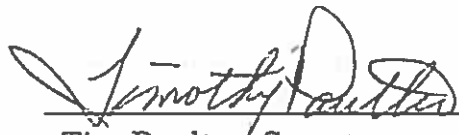
5.2 The RRWCD recognizes the possibility that water rights or permits located within the current or future boundaries of the District may have previously been required by the State of Colorado to participate in a plan for augmentation to augment depletions to streams outside of the RRCA Groundwater Model Domain. If said plan for augmentation assumes or requires that 100% of the depletions from said water rights or permits accrue to a stream outside the RRCA Groundwater Model Domain and requires replacement to that stream outside the RRCA Groundwater Model Domain, the RRWCD may only impose a nominal fee on the operation and use of such permits or decrees. If the RRWCD adopts such a fee, the nominal fee will be set at the discretion of the RRWCD in an amount that recognizes costs and expenses incurred by the RRWCD in setting up the program for such water rights or permits.

6.0 Contracts. The RRWCD may, in its sole discretion, enter into contracts with water users outside of the District boundary but within the RRCA Groundwater Model domain for purposes consistent with this policy. At the time of contracting, the RRWCD may charge a one-time administrative fee recognizing the costs and expenses incurred by the RRWCD in setting up the program for such contracts and may, in its sole discretion, impose additional fees recognizing that such contractees have not been paying water use fees to the RRWCD in the same amount and/or for the same amount of time as those water users within the original District Boundaries. The annual water use fees imposed by the RRWCD will be based on fee guidelines contained in the contract(s). The RRWCD may require such other terms and conditions in any such contracts as it deems necessary in its sole discretion.

7.0 Failure to Pay Fees. The RRWCD will be not responsible for and will not replace or otherwise assist with the remedy of depletions to the Compact for water rights or permits for which all fees have not been paid. The RRWCD will provide written notice of this finding of non-payment to the record owner of the water right or permit and to the State Engineer.

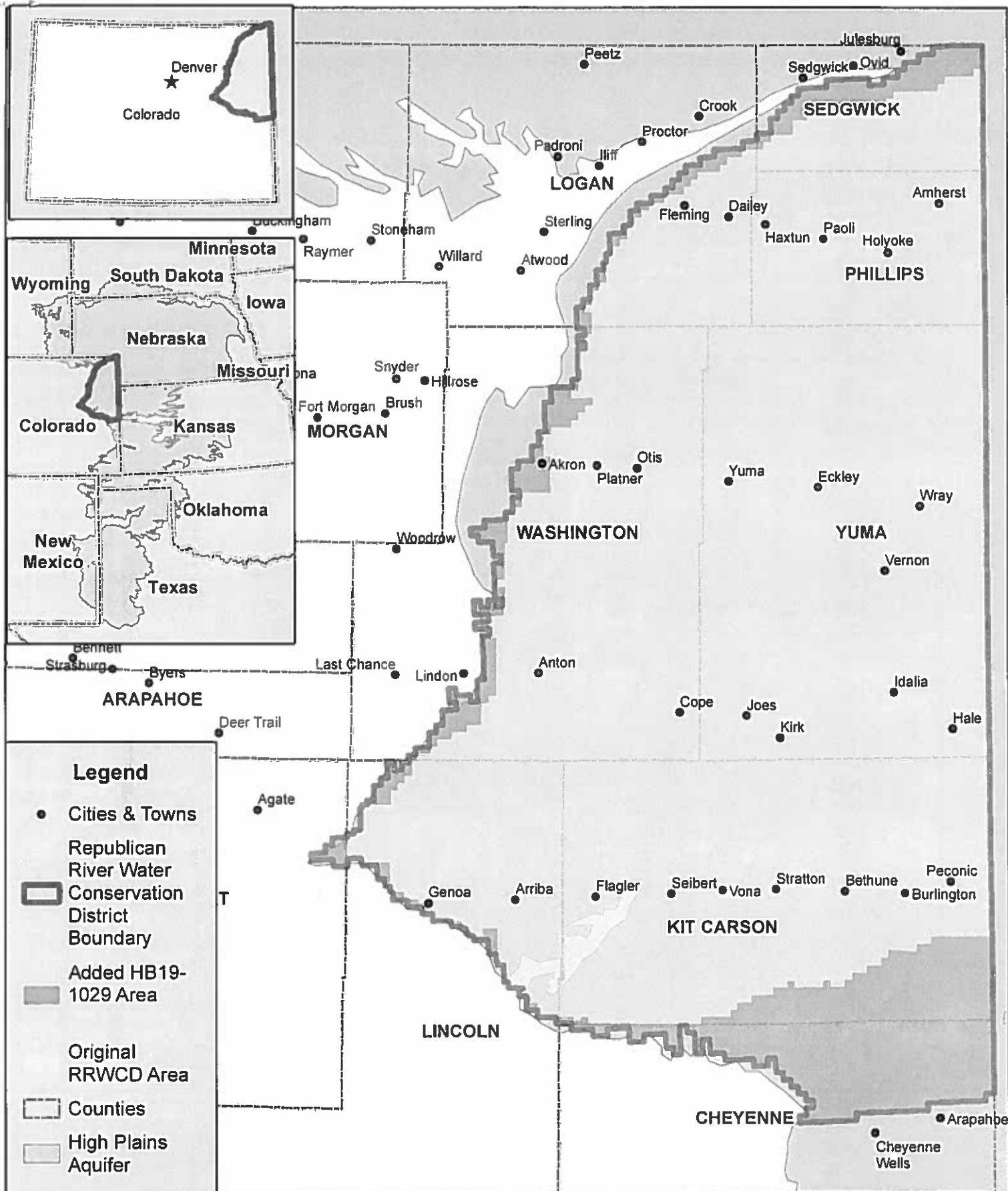


Rodney Lenz, President



Tim Paulter, Secretary

ATTACHMENT B



0 9 18 36
Miles



Hendrix Wai
Engineering, Inc

Job No.
R1601

File:

RRWCD_2019.mxd

Date:

08/29/19

Prepared For:

RRWCD

Location Map

The Republican River Water Conservation District Boundary