

SPECIAL MEETING OF THE
REPUBLICAN RIVER COMPACT ADMINISTRATION

December 19, 2013
2:00 p.m. Central Time
Via Telephone
Lincoln, Nebraska

MEMBERS PRESENT

IN NEBRASKA: Commissioner Brian Dunnigan, Chairperson

Tom Riley
Justin Lavene
Jim Schneider
Tom Wilmoth
Jennifer Schellpeper
David Kracman
Dirk Dinnel
John Thorburn
Aaron Thompson
Bill Peck
Mike Delka

IN COLORADO: Commissioner Dick Wolfe

Peter Ampe
Dennis Montgomery
Mike Sullivan
Ivan Franco
Willem Schreuder
Scott Steinbrecher
Dave Keeler
Deb Daniel
Dawn Webster
Nate Midcap
Brent Deterding

IN KANSAS: Commissioner David Barfield

Chris Beightel
Sam Perkins
Chris Grunewald
Chelsea Erickson
Katherine Wilkins-Wells
Kenny Nelson
Pete Gile

1 PROCEEDINGS:

2 CHAIRPERSON DUNNIGAN: This is Brian Dunnigan. I
3 am the current Chair of the Republican River Compact
4 Administration, and this is a special meeting of the
5 Republican River Compact.

6 First of all, I'd like to have you know that we
7 have Wendy Cutting here as our court reporter in Lincoln.
8 And I'm also going to go around to each of the states and
9 have them introduce who's on the line at the various
10 listening locations or call your listening locations out and
11 have them introduce themselves. Please make sure that you
12 do sign the sign-up sheets and get those to us and we'll
13 make those part of the official record.

14 With me in Lincoln today are Tom Riley, Justin
15 Lavene, Jim Schneider, Tom Wilmoth, Jennifer Schellpeper,
16 and David Kracman.

17 I'll now go to the Nebraska listening stations and
18 see if anybody's on the line at the Middle Republican
19 Natural Resources District.

20 (No response.)

21 How about at the Lower Republican Natural
22 Resources District?

23 (No response.)

24 At the Upper Republican Natural Resources
25 District?

1 MR. DINNEL: Dirk Dinnel, Upper Republican NRD.

2 CHAIRPERSON DUNNIGAN: At the Tri-Basin Natural
3 Resources District?

4 MR. THORBURN: John Thorburn here in Holdrege.

5 CHAIRPERSON DUNNIGAN: Thank you, John.

6 At the U.S. Bureau of Reclamation in McCook?

7 MR. THOMPSON: Good afternoon, Brian. We have
8 Aaron Thompson and Bill Peck.

9 CHAIRPERSON DUNNIGAN: Thank you, Aaron.

10 At the Bostwick Irrigation District.

11 MR. DELKA: Good afternoon, Brian. Mike Delka.

12 CHAIRPERSON DUNNIGAN: Thank you, Mike.

13 With that, I will turn it over to Commissioner
14 Wolfe in Colorado for introductions.

15 COMMISSIONER WOLFE: Thank you, Chairman. This is
16 Dick Wolfe, Colorado Commissioner and State Engineer for
17 Colorado. Besides myself here in Denver at the listening
18 location is Ivan Franco, Engineer Advisor for Colorado; Mike
19 Sullivan, Deputy State Engineer; Willem Schreuder with
20 Principia Mathematica; and Scott Steinbrecher, Assistant
21 Attorney General with the Colorado Attorney General's
22 Office. And I think we may have Mr. Keeler, who has also
23 joined in. I am not sure about the Republican Water
24 Conservation District. They may have joined by now, but, if
25 Mr. Keeler is there, he can identify himself and anybody

1 else who may be with him at his listening location.

2 MR. KEELER: This is just Dave Keeler. I'm here
3 by myself. I'm with the Republican River with Colorado.

4 MR. AMPE: And this is Peter Ampe and Dennis
5 Montgomery, counsel to the Republican River Water
6 Conservation District.

7 MS. DANIEL: And this is Deb Daniel, General
8 Manager of the Republican River Water Conservation District.
9 With me is Dawn Webster and Nate Midcap. And may I also
10 mention that Brent Deterding just walked in.

11 COMMISSIONER WOLFE: Thank you, Chairman, and I
12 believe that is all that we anticipate that would be joining
13 from Colorado at this point.

14 CHAIRPERSON DUNNIGAN: Thank you, Commissioner
15 Wolfe.

16 Commissioner Barfield?

17 COMMISSIONER BARFIELD: Yes, Chairman Dunnigan,
18 this is David Barfield, Chief Engineer and Commissioner for
19 Kansas here in Topeka. I have with me, here in Topeka,
20 Chris Beightel our Engineering Committee representative, and
21 Sam Perkins. So, we'll go around -- and I believe on the
22 phone, also, is Chris Grunewald, is that correct?

23 MR. GRUNEWALD: Yes, I'm here.

24 COMMISSIONER BARFIELD: Right, with the Attorney
25 General's Office.

1 So, I'll go around the various listening stations
2 in Kansas. First I'll go to Stockton. I wonder if you can
3 identify who is there?

4 MS. ERICKSON: Yes, this is Chelsea Erickson.

5 COMMISSIONER BARFIELD: All right, is that it?

6 MS. ERICKSON: That's it for us.

7 COMMISSIONER BARFIELD: That's fine.

8 GMD 4 in Colby?

9 MS. WILKINS-WELLS: Katherine Wilkins-Wells, and
10 so far we have no one else.

11 COMMISSIONER BARFIELD: Thank you very much. And
12 I believe the Kansas Bostwick Irrigation District is
13 listening in, is that correct?

14 MR. NELSON: This is Kenny Nelson and Pete Gile
15 with Kansas Bostwick.

16 COMMISSIONER BARFIELD: Very good. I believe
17 that's it. Anybody else on from Kansas?

18 (No response.)

19 Okay, I think that's it for Kansas.

20 CHAIRPERSON DUNNIGAN: Thank you, Commissioner
21 Barfield.

22 And for the benefit of the court reporter, please
23 make sure that you identify yourself when you speak as part
24 of this telephone call -- conference call.

25 And with that, we'll move to Agenda Item 2, which

1 is the adoption of the agenda.

2 COMMISSIONER BARFIELD: I would move the adoption
3 of the agenda as was, I believe, last modified yesterday by
4 notice from you, Chairman Dunnigan, is that correct?

5 CHAIRPERSON DUNNIGAN: That's correct.

6 COMMISSIONER WOLFE: This is Chairman -- not
7 Chairman, but Commissioner Wolfe, and I second that motion.

8 CHAIRPERSON DUNNIGAN: We have a motion and a
9 second. Any other discussion?

10 (No response.)

11 Hearing none, all those in favor say aye.

12 CHAIRPERSON DUNNIGAN: Aye.

13 COMMISSIONER BARFIELD: Aye.

14 COMMISSIONER WOLFE: Aye.

15 CHAIRPERSON DUNNIGAN: The agenda is adopted.

16 Agenda Item 3 is the RRCA Groundwater Modeling
17 Contract with Principia Mathematica, and I'll turn that over
18 to Jim Schneider. Jim.

19 MR. SCHNEIDER: Thank you. The Engineering
20 Committee Report was finalized and signed and submitted to
21 the RRCA commissioners yesterday. We had two meetings, one
22 at the end of October and one in November. I would note
23 that one very minor clarification on the attachments.
24 Attachment 2 is the notes from the November meeting, and
25 we'll make that change to the attachment in the final

1 version that we put into the annual report.

2 The culmination of those meetings are contained in
3 the recommendation in the report, which is that we recommend
4 that the RRCA continue its arrangement with Principia
5 Mathematica to perform the ongoing maintenance of the
6 groundwater model and periodic updates requested by the
7 Engineering Committee. We also recommend that it be given
8 the following assignments: Number one, review the task
9 descriptions in each state's contract with Principia
10 Mathematica to ensure there is no latitude for Principia
11 Mathematica to deviate from the standard procedures without
12 prior approval by all three states. And number two, explore
13 the development of an RFP to determine contractor options
14 for the annual model update and model repository.

15 So, with that, I would be happy to answer any
16 questions.

17 COMMISSIONER BARFIELD: Dave Barfield here for
18 Kansas. I guess I don't have any questions, but I guess I
19 would like to sort of provide a bit of a sort of statement
20 of sort of where we are with respect to this issue then.
21 Would that be all right?

22 MR. SCHNEIDER: Sure.

23 COMMISSIONER BARFIELD: Just for the record, this
24 task of the Engineering Committee grew out of Kansas'
25 concerns with the RRCA's arrangement with Principia

1 Mathematica, in light of the fact that its principal, Dr.
2 Schreuder, serves as Colorado's technical expert and expert
3 witness in litigation opposing Kansas, even when that
4 litigation concerns the very substance of his work with the
5 RRCA. This was exemplified in 2013, when Dr. Schreuder,
6 without Kansas' consent, provided the states, as part of
7 that work for the RRCA model run, which incorporated
8 Colorado's Bonny proposals.

9 However, Kansas is willing to contract with
10 Principia Mathematica for 2014 provided the states agree on
11 a scope of work for Principia Mathematica to perform the
12 annual model updates and associated tasks and that the scope
13 of work provides, as you mentioned, no latitude to deviate
14 from the standard procedures without prior approval of the
15 three states.

16 You know, the states have agreed to this scope in
17 the 2004. I passed on to the other commissioners just the
18 record of that meeting of the RRCA where the administration
19 agreed on the specific scope of work envisioned in this
20 contract.

21 Since the Engineering Committee met in November,
22 the contracts were exchanged, and it appears that the scope
23 of services enumerated in that 2004 RRCA action are listed
24 verbatim in Kansas' and Nebraska's contract language that we
25 didn't find that in the language provided by Colorado. So,

1 we're willing to move forward, but before we can contract
2 with Principia Mathematica, we'd like to see all three
3 states have the same listing of tasks, which I believe was
4 the intent of the RRCA's action in 2004 and really
5 subsequently.

6 MR. SCHNEIDER: And that would be the recommended
7 assignment No. 1.

8 COMMISSIONER BARFIELD: Correct.

9 CHAIRPERSON DUNNIGAN: Is there any other
10 discussion?

11 (No response.)

12 Hearing none, I would entertain a motion to accept
13 the Engineering Committee report.

14 COMMISSIONER WOLFE: So move. This is Dick Wolfe.

15 COMMISSIONER BARFIELD: I would second, David
16 Barfield.

17 CHAIRPERSON DUNNIGAN: We have a motion and a
18 second. Is there any further discussion?

19 (No response.)

20 Hearing none, all those in favor, signify by
21 saying aye.

22 CHAIRPERSON DUNNIGAN: Aye.

23 COMMISSIONER WOLFE: Aye.

24 COMMISSIONER BARFIELD: Aye.

25 CHAIRPERSON DUNNIGAN: Opposed?

1 (No response.)

2 Motion carries.

3 Agenda Item 4. Resolution by the Republican River
4 Compact Administration approving a temporary augmentation
5 plan and related accounting procedures for the Colorado
6 Compact Compliance Pipeline.

7 Commissioner Wolfe.

8 COMMISSIONER WOLFE: Thank you, Chairman Dunnigan.
9 Each of the states should have before them now a package
10 containing the proposed resolution submitted by Colorado for
11 consideration today, with all the associated exhibits.
12 There was one last suggested addition to the resolution that
13 was circulated prior to today that I want to make sure is
14 before everyone that I think everyone has had an opportunity
15 to look at. And the version that I'm looking at that's
16 dated 12:38 p.m. Mountain Time, is the addition of Condition
17 20 to the resolution. I will just read that current version
18 that I have on Condition No. 20 in addition to the other 19
19 that have already been before the states that they already
20 have considered and had an opportunity to look at. But that
21 Condition No. 20 that is before us now for proposed addition
22 to the resolution for consideration as the total package
23 reads: "The states further agree that if any changes are
24 mandated by any order or decree of the United States Supreme
25 Court to Exhibits 2 and/or 4, such changes will be included

1 in the Compact accounting for 2014.”

2 Oh, I think it has been directed to me that we may
3 have a more current version than that. I may have read an
4 earlier version. Let me read what I believe to be the
5 correct version 20 and then I'll entertain questions by the
6 other two states if I have incorrectly identified that. But
7 I think the correct version should read for Condition
8 No. 20: “The states further agree that if any changes to
9 the RRCA accounting procedures or RRCA Groundwater Model,
10 model applicable to the Compact accounting for 2014 are
11 mandated by any order or decree of the United States Supreme
12 Court, such changes will be implemented in the Compact
13 accounting for 2014.”

14 I apologize for that confusion, but I think what I
15 just read, the current version of Condition No. 20 of that
16 resolution. And before recommending a motion on that
17 resolution and the associated appendices and exhibits, I
18 would ask for -- if there are any questions or statements by
19 Nebraska or Kansas as it relates to that condition and the
20 resolution.

21 COMMISSIONER BARFIELD: Okay, well, this is David
22 Barfield from Kansas. You know, I'd like to make a couple
23 statements. First of all, just to be very clear for the
24 record what we're approving, Mike Sullivan, on your behalf,
25 Wednesday, December 18th, at -- in my email it's 5:32 p.m.,

1 I believe that's Central, sent the complete package which
2 included the resolution, as well as all of the associated
3 exhibits, and so we're essentially approving that package,
4 except substituting a resolution that includes the
5 additional Condition 20 that you just read into the record.
6 That's what we're considering today, correct?

7 COMMISSIONER WOLFE: That is correct, and I
8 appreciate that, Commissioner Barfield, for the explicit
9 clarification on the package that was sent out by Mr.
10 Sullivan on my behalf while I was out of the country, and
11 what you describe does accurately represent what Colorado
12 has submitted for consideration by the RRCA for today.

13 COMMISSIONER BARFIELD: Thank you. And then just
14 a brief statement here. While Kansas does not agree to use
15 the April 13th Colorado CCP proposal for the long-term,
16 Kansas has suggested the states consider a one-year
17 agreement on CCP operations for the year 2014. As reflected
18 in Kansas-Colorado agreement this September, Kansas and
19 Colorado have settled many aspects of our concerns with
20 Colorado's CCP proposal and have narrowed the gap on other
21 outstanding issues paving the way for this one-year
22 agreement. Although Kansas does not believe the Colorado
23 modeling method is appropriate -- the appropriate long-term
24 approach, Kansas believes a one-year agreement will allow
25 Colorado to begin its CCP deliveries and will allow the

1 states to gain valuable experience with pipeline operations
2 over the coming months as we work to finalize a long-term
3 CCP agreement on the final method for augmentation modeling
4 and accounting, and to address Kansas' South Fork concerns.

5 Thank you, Mr. Wolfe.

6 CHAIRPERSON DUNNIGAN: This is Chairman Dunnigan
7 and I just wanted to make clear for the record that the
8 resolution that we're considering is from an email sent from
9 David Barfield on December 19th at 1:38 p.m. And that would
10 be as read on Condition 20, as read by Commissioner Wolfe.

11 COMMISSIONER WOLFE: That is correct, Chairman.

12 COMMISSIONER BARFIELD: This is Commissioner
13 Barfield. That's correct. The resolution is contained in
14 the email you just referenced. The attachment of all the
15 exhibits that are also a part of the resolution were
16 contained in Mr. Sullivan's email of last night. So, we
17 need to put the two together to form the complete package
18 that we're considering today.

19 COMMISSIONER WOLFE: That is correct. And what I
20 would envision as well, if we act on this today, that the
21 red line version that is dated 12:38 p.m. Mountain Time,
22 1:38 p.m. Central Time, would be accepted and that version
23 of that document would be the one then be circulated for
24 signature by each of the three commissioners.

25 COMMISSIONER BARFIELD: This is Commissioner

1 Barfield. Wouldn't we -- I sent both the red line to show
2 the changes from Mr. Steinbrecher's earlier suggestion, and
3 I provided a clean version, as well, showing, I think,
4 what's the final version we're considering. I think we
5 would sign the clean version, would we not?

6 COMMISSIONER WOLFE: That's what I was referring
7 to. That is correct. I apologize for any confusion there,
8 but the intent is, is to sign the clean version and not the
9 red line version.

10 COMMISSIONER BARFIELD: Great, thank you very
11 much.

12 COMMISSIONER WOLFE: Thank you for that
13 clarification.

14 There may be some questions or comments as well,
15 but I'd like to also make some statements as well. I'd like
16 to thank, particularly my staff and the Attorney General's
17 Office here in Colorado for their efforts, not only this
18 past year but the many years leading up to this. I think it
19 is very, frankly, historic event that we're at this stage,
20 even though it's a temporary approval that Colorado is
21 seeking a one-year approval by the other states for this
22 operation. I agree with Commissioner Barfield that I think
23 it represents a unique moment for us, for Colorado and the
24 other states, to gain experience from the operation of the
25 Compact Compliance Pipeline. I want to thank the Republican

1 River Water Conservation District for all of the work
2 they've done and their legal counsel and their consultant,
3 as well, Mr. Slattery, to assist Colorado in its efforts to
4 reach Compact compliance. And this is certainly one of the
5 most major aspects of Colorado's overall efforts to reach
6 Compact compliance. And we certainly could not have done it
7 without their assistance, as well as the local water users
8 in the basin. And particularly integral to that is the
9 Sandhills District who has worked very closely with the
10 Republican River Water Conservation District and the State
11 of Colorado in terms of approving an export agreement to
12 allow this water to be utilized in the Compact Compliance
13 Pipeline.

14 Colorado remains committed to Compact compliance,
15 and I want to thank Commissioner Barfield for your
16 consideration and suggestion of a temporary one-year
17 approval on that. We do appreciate that consideration in
18 light of the many years that we've been working on this and
19 recognize we still have work to do to resolve some
20 outstanding issues. But we hope that -- we believe that
21 Colorado will demonstrate through this temporary approval
22 it's ability to operate this Compact Compliance Pipeline in
23 a responsible manner. And, of course, this will be done
24 with the close coordination with the Republican River Water
25 Conservation District. We do, again, appreciate the

1 District's support and the unanimous support of this
2 temporary operation. And Colorado will continue to
3 diligently pursue permanent approval of the Compact
4 Compliance Pipeline, as well as our Bonny resolution
5 proposal that we have presented to the two states.

6 And with that, I certainly would entertain any
7 questions you may have, but to initiate that, I would move
8 that we approve the resolution that's dated 12:38 p.m.
9 Mountain Time, with all the associated exhibits.

10 COMMISSIONER BARFIELD: This is Commissioner
11 Barfield. I would second.

12 CHAIRPERSON DUNNIGAN: We have a motion and a
13 second. Is there any further discussion from Kansas?

14 COMMISSIONER BARFIELD: Nothing further here.

15 CHAIRPERSON DUNNIGAN: From Colorado?

16 COMMISSIONER WOLFE: Nothing further from
17 Colorado.

18 CHAIRPERSON DUNNIGAN: Nebraska supports
19 Colorado's Compact compliance efforts and will, therefore,
20 support this resolution. However, this temporary measure
21 does nothing in the long term to resolve outstanding issues
22 that have been thoroughly discussed between the states. The
23 RRCA should be able to take meaningful action that provides
24 long-term certainty to the water users in the basin.

25 With that, I'll take a vote. All those in favor

1 of the motion, signify by saying aye.

2 CHAIRPERSON DUNNIGAN: Aye.

3 COMMISSIONER WOLFE: Aye.

4 COMMISSIONER BARFIELD: Aye.

5 CHAIRPERSON DUNNIGAN: Opposed?

6 (No response.)

7 Motion carries.

8 Agenda Item 5 is future meeting arrangements.

9 Meeting is scheduled for August 27th and 28th. It will be in
10 Lincoln, and we will make arrangements that we will make
11 those available as we make those arrangements on a location.
12 Any questions on that?

13 COMMISSIONER WOLFE: None from Colorado.

14 COMMISSIONER BARFIELD: None from Kansas.

15 CHAIRPERSON DUNNIGAN: With that, I would
16 entertain a motion to adjourn the special meeting of the
17 RRCA.

18 COMMISSIONER WOLFE: So move. This is
19 Commissioner Wolfe.

20 COMMISSIONER BARFIELD: Commissioner Barfield, I
21 would second.

22 CHAIRPERSON DUNNIGAN: Motion and a second, all
23 those in favor?

24 Aye.

25 COMMISSIONER BARFIELD: Aye.

1 COMMISSIONER WOLFE: Aye.

2 CHAIRPERSON DUNNIGAN: Opposed?

3 (No response.)

4 Meeting's adjourned. Thank you very much.

5 COMMISSIONER BARFIELD: Thank you.

6 COMMISSIONER WOLFE: Thank you all.

7 (Whereupon, at 2:26 p.m. on December 19, 2013, the
8 proceedings were concluded.)

9 - - -

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24