

Upper Republican receives tax refund ultimatum

By Russ Pankonin

The Imperial Republican

Irrigators will pay another \$4 per-irrigated-acre in occupation tax as proposed in the draft of the Upper Republican Natural Resources District's (URNRD) 2009-10 budget.

A draft version of next year's budget was presented to the entire board during their regular meeting Tuesday, July 7.

The \$4 per-acre occupation tax will generate approximately \$1.74 million in the URNRD and this will be the third year that it has been collected.

The occupation tax was created with the passage of water legislation LB 701 in the 2007 legislative session.

That same bill also contained authority for an additional 10-cent tax levy on all taxpayers in Republican Basin NRDs.

The property tax portion was declared unconstitutional. A challenge on the constitutionality of the occupation tax followed the ruling on the property tax declaration.

However, the court has not rendered an opinion thus far on the occupation tax. As a result, the URNRD board decided to collect it again in the next budget.

The Upper Republican is the only one of the three basin NRDs to collect the occupation tax this year.

In the first year of the occupation tax, the 2007-08 budget, the board approved a per-acre fee of \$6.96. For the current 2008-09 budget, the tax was set at \$4 per acre, the same being planned for next year's budget.

Request for tax refund made

During their meeting last week, the board went into executive session for nearly an hour to discuss a claim made for a refund of the unconstitutional property taxes.

The claim also threatened litigation if no action was taken on the claim. The Middle and Lower Republican NRDs have received similar requests.

Following the executive session, the board moved to seek clear authority to deal with the unconstitutional property tax funds being held in escrow.

URNRD Manager Jasper Fanning said a direct refund from the county treasurer is prohibited in state statute.

Under LB 701, the only use allowed for the property tax levy was to pay back bonds sold to pay for river enhancement water purchases.

Fanning said they are seeking the authority to allow the NRDs to use the funds for general operations. That would allow the NRD to reduce their annual tax request equal to the amount being held.

When asked about irrigators who were paying their occupation taxes under protest, he said different statutes apply, compared to property taxes.

So if the occupation tax is deemed unconstitutional, it should not be the ordeal of getting it paid back like the property taxes have been.

Statutes allow only a certain time frame to file a protest or claim for refund after the property taxes are paid.

Fanning said that does not apply with the occupation taxes.

