PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM (PRRIP or Program)
Governance Committee (GC) Special Session Agenda

November 2, 2016

Note: All times are in Mountain Time.

Meeting Location:
Country Inn & Suites
Denver International Airport
4343 N. Airport Way
Denver, CO 80239
(303) 375-1105

Meeting Attendees

Governance Committee (GC)

State of Wyoming
Harry LaBonde – Voting Member

State of Colorado
Don Ament – Voting Member (GC Chair)
Suzanne Sellers – Alternate
Carlee Brown – Alternate

State of Nebraska
Jeff Fassett – Member

Upper Platte Water Users
Dennis Strauch – Voting Member
Bob Mehling – Alternate

Downstream Water Users
Mark Czaplewski – Member
Don Kraus – Member
Brian Barels – Member
Kent Miller – Member

Executive Director's Office (EDO)
Jerry Kenny, ED
Bridget Barron
Jason Farnsworth
Chad Smith

Bureau of Reclamation (Reclamation)
Chris Beardsley – Voting Member
Brock Merrill – Alternate

U.S. Fish and Wildlife Service (Service)
Michael Thabault – Voting Member
Tom Econopouly – Alternate

Environmental Entities
Rich Walters – Member (via conference line)
Bill Taddicken – Member
Duane Hovorka – Member

Colorado Water Users
Alan Berryman – Voting Member
Deb Freeman – Alternate

Audience Members
Mike Drain – CNPPID
Russ Souchek – Nebraska Wildlife Federation
Elizabeth Miller – NPNRD

Welcome & Administrative

Ament called the meeting to order at 8:09 AM Mountain Time.

GC Decision – *LaBonde moved to approve the October 14, 2016 GC Conference Call minutes; Fassett seconded.* **Minutes approved.**

J2 Water Service Agreement (WSA) Amendment

Kenny discussed the "Hold" Amendment for the J2 Water Service Agreement. Beardsley asked about the monthly costs that add up to about $7500 annually. Kenny said yes, that is for routine data collection and equipment maintenance. That will expire at the end of 2019 unless the GC comes back and makes a change.

GC Decision – *Strauch moved to approve the WSA Amendment; Thabault seconded. (Kraus, Czaplewski, and Miller abstained within the Downstream Water Users block).* **WSA Amendment approved.**

NPPD Water Service Agreement (WSA)

Kenny discussed the NPPD WSA for recharge from excess flows through the end of 2019. Fassett clarified that we will be paying for diversions. Is there a routine analysis of the diversion rate versus the recharge rate? Kenny said that is correct on the diversion, wasteway returns are subtracted out so it is in effect recharge we are paying for. Barels confirmed that explanation. Taddicken asked if the agreement is clear enough in terms of what we are paying for. Kraus said this is the same language that has been used for the past year and the Program has worked with it. Drain said there needs to be a recognition that there needs to be a calculation done to determine the score. Merrill agreed. Kenny said we are paying for recharge and the score we get is a separate calculation.

GC Decision – *Strauch moved to approve the WSA; Beardsley seconded. (Barels, Czaplewski, and Miller abstained within the Downstream Water Users block).* **WSA approved.**

PRRIP First Increment Extension Proposal

GC Decision – *LaBonde moved the GC adopt the October 24, 2016 draft of the First Increment Extension Proposal, without Attachment A; Czaplewski seconded.* **Motion approved.**

The GC discussed the latest draft of the First Increment Extension Proposal and Budget. The following edits were discussed:

GC Motion – *Beardsley moved to accept proposed edits from Reclamation; Strauch seconded.*
Proposed Edits – Line 86, add "an interest in" referring to the 1,500 acres; Line 149, add the sentence "All Government funding commitments made in this proposed Program Extension are subject to approval and appropriations by the appropriate state and federal legislative bodies."
Discussion – Brown said Colorado is interested in talking about the priority of the land plus-up and maybe this being less of a priority than water, choke point improvements, and related science. Ament said the Signatories had the opportunity to talk via conference call a couple times. There is a budget concern both on the federal side and the state side. We are concerned about meeting the budget and making sure we meet the water milestone. We are hoping meeting the current milestones is the priority, which relates to this concern about the land plus-up. Brown said this comes from a place of trying to pencil things out related to financial forecasts that we are dealing with. Barels asked if the 1,500 acres or the 4,000 cfs capacity edit for the choke point language will require a new EIS. Merrill said there is flexibility on the land side, there is less flexibility on the language related to the choke point. Taddicken said then we also should talk about the change to focusing first on 120,000 acre-feet of water. Merrill said we are looking at some type of supplemental NEPA document regardless because this is a federal action. Freeman said she doesn't see the

120,000 acre-feet as living "beyond the band" of what was originally agreed to. Kraus said we can argue we are not backing away from the 130,000 acre-feet. Taddicken said what if the science comes back and says we need 180,000 acre-feet. LaBonde said that seems like it would fall under adaptive management and that information would inform development of the Second Increment. LaBonde called for the question on the Reclamation edits to the Extension Proposal language.
GC Decision – Motion approved.

GC Motion – *Thabault moved to approve adding "of complex habitat" to the 1,500 acres language; LaBonde seconded.*
Discussion – Thabault said the Service has been clear about priorities for the Extension. To add time, the Service believes it is necessary and appropriate to add land as a mitigative action to deal with ongoing and additional impacts throughout the remainder of the 13 years of the Extension. He understands the budget concerns, but we need a commitment to deal with the impacts of the extended time. Sellers said Colorado was thinking about language like the choke point language as a qualifier ("if there is money available, that could be considered as something we could do"). Our goal is to make the best decisions with the resources that we have. Current Program science suggests we should focus on OCSW for terns/plovers, and that land is not a limiting factor for whooping cranes. We should use that information to help keep us within our budget. Thabault said he sees land and water as vastly different things. The language Reclamation proposed constraining activities based on appropriated funds is a good edit. If the science is compelling that continuing and ongoing impacts can be dealt with without additional land, we can decide at that time. The 1,500 acres is a minimalist approach now. Ament said Colorado appreciated the Service's willingness to work on the water issue. If we don't have enough dollars to do everything, we don't want to be bound by a document saying we will spend $9 million on land without having the ability to be flexible.

LaBonde called for the question regarding the motion on the floor. Farnsworth said we could use fee title acquisition, leases, and management agreements to drop the land cost to maybe around $4-5 million. LaBonde said we are agreeing on a framework of what we want the Extension to look like, these are discussions the GC should have as we work through the best way to implement these actions. Freeman said the Colorado side is struggling with the cost. If there are assumptions that are going to guide the framework that will help us better understand the costs, it would be helpful to discuss those. LaBonde said we have already amended the document with language saying everything is subject to appropriations. We don't know all the assumptions and it is not appropriate to try to write them into the document. Ament said he doesn't want to limit any prioritization the GC might choose to do later. LaBonde said current processes means all the tools are available and the GC can decide how to proceed on land parcels. The Service said we need a plus-up of 1,500 acres to make this Extension go forward. Thabault said he is looking at the proposal in its entirety. Operationally, he does not see changes as to how things move forward. There is sufficient budget fuzziness to help the GC make prioritization decisions.

Hovorka said he is concerned about where we are going on the water side so he understands where Colorado is coming from. If we get into the Extension, he hopes we can find some more affordable water options and then we will be in more difficult decision-making about spending dollars but there is flexibility in how those decisions are made. The GC has the ability, based on the Program Document, to decide how to spend money and how to prioritize. Barels said Hovorka is right, the Program Document allows us to change milestones but the Extension Proposal does not say the 1,500 acres is a new or changed milestone. Thabault said maybe we need language to say we are amending the Land Milestone.
GC Decision – Motion approved.

GC Motion – *Taddicken moved to approved the edits to the choke point language; Thabault seconded.*
Proposed Edits – Line 118, change "3,000 cfs" to "4,000 cfs" regarding North Platte choke point conveyance; Line 119, delete "additional", Line 120 add "approved by the GC".
Discussion – Taddicken said we want to see the ability to deliver water for Program purposes. It seems like 4,000 cfs is something that could be achieved without impacting a lot of landowners. Miller said the current language gives us the ability to go beyond 3,000 cfs if we can do it, but changing it to 4,000 cfs puts a term in the document that is not acceptable to the people in North Platte. Taddicken asked if we know if it causes problems. Miller said yes, we know it causes problems. Taddicken said his concern is with a low target, we will never go higher. Thabault said there is no kick-out clause if this doesn't work. The bigger concern is being able to have and use the water to meet Program purposes, and this concern is making us nervous about several of these issues. We don't want to hide behind budget at every front to not do something. Ament said what happens if Colorado or another entity can't come up with the money. Thabault said at that point we would re-initiate consultation and develop a new Program. Hovorka said we could change the language to read moving water through or around North Platte. LaBonde said that would be a $10 million plus-up.
GC Decision – Motion fails.

LaBonde said there are things we can do to investigate 4,000 cfs, including having our consultant look at what it would take to achieve 4,000 cfs and what the impacts would be. Miller said any further investigation would need to consider groundwater impacts. LaBonde said the City of North Platte should be at the table as well. Kenny said the EDO Special Advisor has already started this effort.

Freeman has proposed language as a suggested sentence at the top of Page 3. We may not have money for all things so the proposed language expresses a desire to prioritize water. LaBonde said he would hope future GCs recognize the importance of water but not lose the ability to act on a good land deal.

GC Motion – *Ament moved to accept two language additions to the Extension Proposal; Beardsley seconded:*

- *Given the status of the Water Action Plan identified in **Table 1**, the primary purpose of this Extension is to fulfill the Program's obligations under the Water Action Plan as described in this document.*
- *Accomplishment of Extension activities is dependent upon what is practicably achievable given available funding and resources, as described in this document.*

GC Decision – Motion approved.

Hovorka said the Nebraska Wildlife Federation does not support the Extension Proposal as currently written because of concerns over the "fall back" to 120,000 acre-feet of water. They are hopeful they can work through the Nebraska Depletions Plan and other avenues to get to 130,000 acre-feet.

LaBonde said we have been working on the Extension Proposal for two years and every draft ends up with revisions. The document we are voting on today is final as a plan to go forward, but it does not yet include a budget breakdown.

GC Decision – *Freeman moved to approve the October 24, 2016 First Increment Extension Proposal, as amended on November 2, 2016 by the GC, contingent upon approval of Attachment A; Beardsley seconded.* **Motion approved.**

LaBonde asked about next steps regarding the Extension document and related budget. Freeman said her sense is the Service will make the judgment on what needs to be done on the Biological Opinion front. We

could put this on the schedule for our next meeting. Fassett said he wasn't sure what the pieces are and what items needs changed, amended, or created in the next year. LaBonde said that is his question and he doesn't want to let it sit. Thabault said somebody needs to be the keeper of the GANTT chart and what needs to be done. LaBonde asked the EDO to work on that roadmap for the path ahead. Kenny agreed.

PRRIP FY17 Budget and Work Plan

Kenny, Farnsworth, and Smith discussed the draft FY17 PRRIP budget line items and associated work plan. GC discussion:

- Beardsley – given we are close to the end of the First Increment and the GC may be meeting more often, should the budget for GFC-3 be increased; Kenny said he would look at that.
- Sellers – the GC approved $300,000 for funding in invasives management in 2016 but that was a one-time funding item. Kenny said funding from other sources has dried up and that funding is needed to keep from back-sliding on the success of phragmites control and other invasives management. Sellers said one of her concerns is the local river stakeholders know the Program is a cash cow and if they know we have money they won't come forward to help solve the problem. She is leery about taking on more than our fair share when there are more stakeholders involved than just the Program. Merrill said that was his fear when we approved this in March 2016 and that people would just keep seeing the Program as a funding source. Thabault asked why the control only extends to Grand Island. Kenny said we restricted using our money just in the North Platte to Grand Island reach. Czaplewski said CPNRD, CNPPID, NPPD, and Twin Platte NRD are all contributors to this effort.

The draft work plan and budget will be revised based on comments received, updated budgets from contractors, and further refinements. The work plan, budget, and other supporting documents will be presented to the GC for approval at the December 2016 meeting.

Future Meetings & Closing Business

- **December 6-7, 2016** @ Denver, CO (Quarterly Meeting)
  Warwick Denver

Meeting adjourned at 12:47 PM Mountain Time.

Summary of Action Items/Decisions from November 2, 2016 GC Special Session

1) Approved the October 14, 2016 GC Conference Call minutes.
2) Approved the J2 Water Service Agreement Amendment.
3) Approved the NPPD Water Service Agreement.
4) Adopted the October 24, 2016 draft of the First Increment Extension Proposal, without Attachment A.
5) Accepted proposed edits to the First Increment Extension Proposal from the Bureau of Reclamation.
6) Accepted proposed edits to the First Increment Extension Proposal from the U.S. Fish and Wildlife Service.
7) Did not accept proposed edits to the First Increment Extension Proposal from the Environmental Entities.
8) Approved two language additions to the First Increment Extension Proposal:
   - *Given the status of the Water Action Plan identified in **Table 1**, the primary purpose of this Extension is to fulfill the Program's obligations under the Water Action Plan as described in this document.*
   - *Accomplishment of Extension activities is dependent upon what is practicably achievable given available funding and resources, as described in this document.*

9) Approved the October 24, 2016 First Increment Extension Proposal, as amended on November 2, 2016 by the GC, contingent upon approval of Attachment A.