



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Governance Committee Meeting Minutes

Holiday Inn Express – Kearney, NE

February 12-13, 2008

Tuesday, February 12, 2008

Welcome & Administrative

Mike Purcell called the meeting to order and the group proceeded with introductions. Chad Smith mentioned the addition of a Program Outreach Update to the agenda on Tuesday afternoon. **The Governance Committee (GC) approved the December 2007 minutes.**

Program Committee Updates

Land Advisory Committee (LAC)

Mark Czaplewski provided an update on the November 14, 2007 and January 29, 2008 LAC meetings. The focus now is bringing the full group up to speed, discussing informational issues and needs, and the LAC also discussed the reimbursement policy for LAC members. NPPD provided an overview of what is happening at Cottonwood Ranch. The Fish and Wildlife Service (Service) and Wyoming members provided an update on the Wyoming property. The LAC discussed what needs to be put in place to be able to move quickly once the Program legislation is approved, including revising an action flow chart for land interest acquisitions. Christine Quinlan from the Boulder office of the Conservation Fund (Fund) attended the January 29 meeting and discussed the potential for the Fund to help with land holdings. The LAC will continue to discuss with the Fund the opportunity to have them help respond more quickly to land opportunities. Options include bridge loans and others that would enable quicker action on acquisitions. The next LAC meeting is February 29, 2008.

Technical Advisory Committee (TAC)

The TAC has provided comments and recommendations on the whooping crane monitoring RFP, the stage change study RFP, a pulse flow monitoring RFP, began talking with other groups about issues like invasives, and also reviewed a RFP for tern and plover foraging. The TAC also has discussed the water surface elevation analysis project and the work of the Bureau of Reclamation and WEST to complete that project. The TAC requested that Chad Smith talk to WEST about the possibility of doing an analysis of Cooperative Agreement-collected tern and plover data. At the last meeting, the focus was on integrating and coordinating various Program and District monitoring efforts.

Water Advisory Committee (WAC)

Frank Kwapnioski said Central Platte NRD had asked the WAC to consider the potential Elm Creek reservoir storage project and that process is still ongoing. The WAC was involved with the interview process of the stage change study (Kwapnioski). The Boyle Phase I Water Management Study workshop is tomorrow at the end of the GC meeting.

Purcell said that Mike Besson will be the formal WAC member for Wyoming.



Adaptive Management Plan Update

Smith provided an update on the status of Adaptive Management Plan (AMP) implementation and the results of the January 2008 meeting of the Adaptive Management Working Group (AMWG). Smith discussed attendance of Program cooperators at the Collaborative Adaptive Management Network (CAMNet) national conference in Florida in January, where he gave a presentation on the Program's AMP. Smith said the Platte group received many positive comments from other adaptive management practitioners from around the country on the Platte's AMP. Smith discussed several wiring diagrams visualizing linkages in the AMP and the consensus of the AMWG to try and move ahead with a five-year pilot study at Cottonwood Ranch to begin testing priority hypotheses based on actions taken through the two management strategies. Smith discussed some of the challenges with the proposed AMP experimental design, and that he is working with a professor at the University of Nebraska and others to develop a workshop in Structured Decision Making and rapid prototyping for the AMWG to build some simple models, test existing monitoring data, validate current monitoring efforts, and help to answer some of the questions that remain about implementing the two management strategies.

Dan Luecke asked if the pilot study would interfere with ongoing monitoring efforts. Smith said monitoring was the data source for the pilot study and is integral to implementation of the pilot study and the whole AMP. Luecke asked about the types of modeling being considered and Smith provided some background on the simple models developed through a rapid prototyping process. Ann Bleed said she like the direction the AMWG was going with the pilot study and that it seemed to be a good starting approach. **Purcell recommended that the GC read through the wiring diagrams to understand the various pieces that are included.**

Smith reported that he had drafted a Scope of Work for the Independent Scientific Advisory Committee (ISAC) and that it was being reviewed by the ISAC Selection Panel. Smith discussed the Peer Review flow chart and asked the GC to appoint its member to the Program's Peer Review Working Group. **The GC nominated and appointed Brian Barels.**

Smith discussed the need to host an annual AMP reporting session, and that he had been talking with the University of Nebraska-Lincoln (UNL) about holding that meeting in conjunction with the Platte River Symposium hosted by UNL and the USGS. After reviewing available dates and locations, Smith requested that the GC approve holding its October meeting in Lincoln, NE on October 7 and 8 and then holding the AMP reporting session the rest of the day on October 8. The Symposium would be held the following day (October 9) but would be a separate event and those interested could attend. Felipe Chavez asked if October was too early for such a reporting session. Smith said the AMWG had decided October would work. No objections were raised to this schedule or the Lincoln location.

General Program Updates

Program Legislation

Ted Kowalski gave an update on the status of the Program legislation. The Senate Energy and Natural Resources Committee amended and unanimously passed the bill out of committee on



January 30, 2008. The amendment relates to authorization of the Pathfinder Modification Project. The legislation now proceeds to the full Senate, and once passed will go back to the House for concurrence since the Senate legislation includes an amendment. The FY 2009 federal budget includes \$11.5 million for the Program. The Reclamation Commissioner said that money could be used for the Program even if the authorizing legislation is not passed in time. The group discussed the need to offer support for the Reclamation funding to ensure it stays in the budget.

The group discussed the possibility of requesting that state funds be used to initiate land interest acquisitions if the federal authorization does not pass. **Purcell indicated that such matters should be brought to the GC on a case-by-case basis.**

Program Insurance

Jerry Kenny said there are two points yet to be resolved: 1) the purpose of the policy is coverage for impacts to third parties. NPPD and CNPPID are to be named on the policy as “additional insured”. The original draft policy excluded coverage for third party impacts resulting from the failure of District facilities due to actions of the Program. These facilities include dams, fill sections of canals, and others that might risk collapse or damage during a pulse flow. The Districts have provided to the insurance firm necessary information to determine the cost of including coverage for third party impacts resulting from failure of these facilities. Kenny said it seems likely that the revised policy should cost less than the allotted \$50,000, but he is still waiting to hear from the insurance firm. 2) The policy would not cover damages to the District’s facilities. The Program has agreed that certain specified damages to District facilities resulting from Program actions would be paid to the Districts. The insurance firm continues to investigate the options of self-insuring or obtaining a second separate policy to cover that aspect.

Purcell asked about the self-insurance option and what was included in the \$3.08 million figure for Environmental Account (EA) bypass. Brian Barels said the Districts can submit costs for lost power and costs for damage to facilities. Kenny pointed to additional impacts detailed in the Program document. Purcell asked if the \$3.08 million cap for EA bypass plays into the analysis of options for the insurance. Kenny said additional insurance for damage to facilities could cover that damage and reduce demands on the Program cap for that damage. Dan Luecke asked what kind of list of facilities had been provided to the insurance firm. Kenny said it is a list of District facilities that could be damaged by a pulse flow or other Program actions.

Procurement Policy

Purcell said the Finance Committee recommends GC approval of the draft policy dated February 7, 2008. Kenny said that changes from John Lawson and Mike Ryan were not yet incorporated into the draft policy. Lawson said the changes are largely editorial in nature and originated from Reclamation’s procurement officer. Kenny said he anticipated other comments from the GC and intended to integrate all of those comments, including the Reclamation comments, into a final draft for approval at the April meeting. **Purcell asked the GC to approve the draft policy as the policy to use until the April meeting, and then the GC would approve the final policy at the April meeting. Ann Bleed moved and Luecke seconded; GC approved.**



Kenny discussed the portion of the policy stating that RFPs would be advertised in local and regional newspapers. He said the cost of advertising can run from \$1,000-\$2,000. **Purcell said Kenny should feel free to offer amendments like this for discussion at the April meeting.**

Land Interest Holding Entity (LIHE) establishment

Kenny said he has final copies of the LIHE agreement to be signed, thus establishing the LIHE. Kenny will obtain some signatures on the final document today, and then send those copies to Colorado with Kowalski to get the final signatures. Kowalski will then forward the copies to Wyoming for execution by the Wyoming Attorney General’s Office. Kenny thanked attorney David Smith for his help finalizing the agreement, as well as the other members of the subcommittee that worked on the agreement.

Program Outreach Update

Bridget Barron provided an update on some of the latest Program media. In particular, Barron highlighted the lengthy story from Colorado about the Program and action on the legislation. Barron mentioned recent Program presentations – Smith in Florida at the CAMNet meeting; Kenny at the Colorado Water Congress; and Becky Mitchell at the Colorado Water Resources Association. Upcoming presentations – Kenny at UNL on February 20th; Smith at the Tern/Plover Conservation Partnership meeting on February 25th; Kenny at the North Platte Water Users meeting; and Kenny at the Rivers and Wildlife Celebration in Nebraska in March.

Barron discussed the logo developed by Olsson Associates for the Program, with a revision placing “Platte River” on the top line of text. Olsson has agreed to provide the Program full use of the logo at no cost. Barels asked if more of the species should be incorporated into the logo. Barron said Olsson had the logo developed professionally and that there may be high cost for revising it. **The GC approved use of the logo.**

FY 2008 Budget/Work Plan

Kenny discussed the budget/work plan notebook provided to all GC members and alternates. It incorporates the budget spreadsheet, a FY 2008 work plan timeline, a First Increment timeline, and explanatory sheets for each FY 2008 work plan task. Kenny said any comments or feedback would be useful, including suggestions for changes or additional materials.

Kenny provided an update on the current status of the FY 2007 budget at the end of December 2007 and January 2008. He pointed out that available funds as of January 31, 2008 are \$914,634. **Kenny will be submitting requests to Program partners for contributions for the year ahead to ensure appropriate funding for Program activities throughout the year.**

Kenny reported on the status of the Database Management System. The contract is signed and in place with the Service team, and the initial kick-off meeting with that team is on February 22 in Ft. Collins. Discussions have begun about the structure of the Web site and database, information needs, and other details necessary to get the Service team working. Input will be



sought from GC members and staff for additional details related to development of the database and the Web site.

Smith provided an update on the status of the stage change study and whooping crane monitoring RFPs. Six proposals were received for the stage change study. The Proposal Evaluation Team reviewed and ranked all six proposals and brought in the top three potential contractors for interviews on February 11 – Ayres Associates, HDR, and the USGS. After the interviews, the Proposal Evaluation Team unanimously selected the HDR team to implement the stage change study. Smith stated he had begun the contract negotiation phase with the HDR team and hoped to have them working on the ground quickly.

One proposal from Gary Lingle/AIM was received for the whooping crane monitoring RFP. The proposal was distributed to the Proposal Evaluation Team and the team unanimously agreed to move ahead with awarding the contract to Gary Lingle. Smith stated he had begun the contract negotiation phase with Lingle and would have that process completed in time to ensure Lingle could begin monitoring efforts in March.

Smith reported that four RFPs had been drafted and that TAC and Finance Committee (FC) input would be sought in March – 1) pallid sturgeon information review; 2) wet meadows information review; 3) lower Platte River water quality monitoring; and 4) a tern/plover foraging study.

2008 EA Pulse Flow

Greg Wingfield from the Service provided an update on the status of system water conditions, the 2008 EA AOP, and plans for an EA monitoring flow in March 2008. That presentation is posted on the Program Web site at www.PlatteRiverProgram.org. He discussed the current effort to implement a 2008 EA “Monitoring Flow” that would start no earlier than March 17 and no later than April 1.

Purcell asked about the link between the monitoring flow and the legislation. Mark Butler said the thinking is that a monitoring flow is a better approach this year to allow for water tracking and monitoring, avoid bypass costs, and also to be able to move ahead without settling outstanding questions. Luecke said it seems to be an approach decided on by the Service based on items not everyone agrees with. He said more water has been released from the EA in the past without paying insurance, so he wondered whether a pulse flow could go forward. Butler said insurance is a requirement of the bypass agreement and the bypass agreement still needs to be signed. He said it did not appear that the Program had authority to spend up to \$250,000 on bypass costs without the authorization in place. Mike Drain from CNPPID said that the distinction between the monitoring flow and past EA releases is that the monitoring flow will occur over the course of a few days as opposed to the course of a full season. Luecke said his concern is that this approach was decided in a small group and should have been discussed in a wider group. Kenny said he was a party to the discussion. Purcell said EA management is the purview of the Service, and that this approach had been discussed with several parties through the EAC/RCC and other meetings. Butler discussed the make-up of the small group that worked with Wingfield, Butler, and Don Anderson to discuss options for a pulse flow. Luecke said the



GC has long had influence over operations of the EA and that more effort needs to be made to be inclusive and informative as to potential EA operation plans.

Tom Dougherty asked about potential impacts of this flow on cranes in the central Platte. Butler said many assumptions and constraints would come into play and make it difficult at this point to pinpoint exact flows at Overton due to the pulse this first time around. The Service believes the total flows at Overton will be in the neighborhood of 2,000-2,200 cfs. The Service will be checking with the Nebraska Game and Parks Commission to determine if there will be any disruption to cranes using the river near North Platte. Barels asked about South Platte water and water currently in the NPPD system and how that water is being accounted for. Butler said that kind of information needs to be integrated and that Kwapnioski has been a part of the process to help facilitate that integration. Kenny said he had been in contact with the National Weather Service and that they will contribute data and personnel to the water tracking effort. Luecke said he still did not see the link between running a pulse flow and the need to wait for the legislation.

Purcell said it would be helpful for the GC to get an update at the first of every month on upcoming meetings related to the Program. Kenny asked if it would best in the format of an e-mail or a master calendar on the Web site. Bleed said either would work.

Ann Bleed asked about the status of Reclamation's bank storage model and how it might be used in this effort. Butler said Reclamation provided an update on the model at the November 2007 EAC/RCC meeting and would be hosting a training session on how to use the model in Denver.

Barels said the GC should assign the WAC to review the model and its implications for the system. Ann Bleed said Barels is right and the WAC needs to be involved to help ensure models are properly accounting water and that the monitoring flow is being thoroughly discussed.

Don Kraus asked about the authority involved in initiating the bypass agreement. Purcell said if there was no money involved, Kenny could sign it on behalf of the Program. But, since money is involved for potential re-regulation damages, it seems that the signatories should sign the bypass agreement to set it in place. Butler said the current signature lines are CNPPID, NPPD, the Program, and the Nebraska Community Foundation (NCF). Barels asked if there is a legal committee for the Program and if this issue should be discussed in that forum. Lawson said the bypass agreement does not have a cap in it, but may reference portions of the White Book that relate to a budget cap. **Purcell requested that the issue be discussed overnight and addressed at the GC meeting on Wednesday.**

Depletions Plans Updates

Butler discussed the federal consultation reporting letter from tiered biological opinions in 2007. Approximately 11 projects were in Colorado, six were linked to Wyoming's depletions plan, and one was linked to Nebraska's depletion plan.

Kowalski provided an update on the Colorado depletions plan. Colorado is finalizing numbers on population growth and will report to the GC when those numbers are final. The state is also



putting together the accounting for how water users in the South Platte basin are using water. Tamarack is operating and Colorado received credits of about 2,000 acre-feet for available excess. SPWRAP is up and running and projects are moving through the streamlined process for consultation. Alan Berryman said things are up and running and working fairly well.

Purcell said Wyoming is still working on its draft report and the state is under its irrigation season and non-irrigation season baselines. The state still needs to determine abandoned water uses over the last five years.

Bleed said Nebraska parties have held several meetings to work through planning issues. The state has used satellite imagery to track net increases in irrigated acres since 1997, but it is difficult to translate that into increased depletions. The COHYST model is still being modified and the model is a work in progress. Bleed is pleased with the cooperation among the entities that have worked on the model. Work continues on Integrated Management Plans (IMP) in the basin, which is a cooperative effort of the DNR, the NRDs, and stakeholders. Bleed feels progress is being made on the IMPs and that they are on schedule to have the plans in place by January 1, 2009. Jennifer Schellpeper has been working on assessing depletions related to industrial uses. The state is working on a tracking system for depletions and hopes to develop a system of offsets at the place of depletion.

Luecke asked about the cost of the Nebraska depletions plan and wondered where that stands in terms of the state paying for offsetting depletions. Bleed said the state agreed to pay for the plan, and that includes the DNR and the NRDs; that subject is an important part of the ongoing discussion. Luecke said that is news, because his interpretation is that the state agreed to pay for that, not the NRDs. Bleed said the Governor of Nebraska said he would provide funding to help with offsets, but did not agree to provide funding for all the offsets; the current legislature did not agree to this, either. The Governor did put money in a water resources cash fund to help provide funding for efforts like the depletions plan. Bleed said she continues to work on this issue and the funding component is a centerpiece of ongoing discussions. The goal is to have the plan in place by January 1, 2009.

Meeting adjourned until 7:30 a.m. on Wednesday.

Wednesday, February 13, 2008

Welcome and Administrative

Mike Purcell called the meeting to order and the group proceeded with introductions.

Additional EA Release Discussion

Purcell asked Kowalski and Lawson to discuss their research on the pulse flow and the status of the authorizing legislation. Kowalski said the Program cannot do an EA release with bypass without an agreement in place. He suggested re-convening the ad hoc legal subcommittee to review the bypass agreement, what signing that agreement means, and how it relates to the Program document. The subcommittee should advise the GC on how to proceed, but it raises a



timing question in terms of the proposed EA monitoring flow because the GC does not meet again until April. The other issue is that if the Program does an EA release, there are potential impacts to third parties and to the Districts. The chances of injury to the Districts is small, but the impacts overall could be great especially to the Program as a whole. Even with insurance, the Program could be paying out for damages without the authorizing legislation. The goal is to ensure passage of the legislation without any controversy and moving ahead with an EA release could jeopardize that process. Kowalski said he understands the need to have an EA release, but suggests the best approach is to wait until 2009 for any EA release.

Butler asked for clarification about Kowalski's statement that there is a difference between what is in the EA bypass agreement and what is in the Program document. Kowalski asked if there are no differences between the two, then why is there a need to sign a separate bypass agreement. Purcell asked if Butler agreed with the suggestion to wait until 2009 for an EA release. Butler said he wanted to talk with the rest of the folks at the Service. Wingfield asked about how this relates to EA releases like those during the summer of 2007. Kowalski and Purcell said the distinction is for the potential of bypass and re-regulation issues. Butler said the plan was to do an EA release that avoids bypass, so he wondered if something could still move forward in that regard as long as the Program insurance policy was in place. Kowalski said we should proceed to secure insurance as quickly as possible, but that he could not answer the question of where you cross a line related to pre-authorization actions and dollars. Lawson agreed we need to get insurance as quickly as possible. Luecke said the Service formulated the proposed release to avoid bypass, and it seems like the only issue is getting insurance in place. Kowalski said insurance would cover impacts to third parties, but that potential impacts to District facilities need to be covered by the bypass agreement. Luecke said the only issue seems to be payment for power interference that requires the authorizing legislation. Kraus said the issue is potential damage due to re-regulation, so if there is not re-regulation the Districts are not concerned. Luecke said this seems to be an insurance issue. Kowalski said that the Districts will actually not get insurance for that. Purcell said we are likely to be self-insured for that, which then is a component related to the authorizing legislation, insurance, and funding.

Purcell requested that the ad hoc legal subcommittee reconvene and discuss the issue. If the subcommittee finds there is a way to do the EA releases, then contact Kenny and Kenny will set up a conference call to seek GC approval.

Luecke said we may need to re-visit the issue of self-insurance if that is the problem that might hold up an EA release. Kenny said he is waiting to hear back from the insurance firm about the self-insurance option. Purcell said EA releases are a priority, but that we need to solve issues related to potential damages and the relationship with the Program authorization before moving ahead with Program-related EA releases. Jeff Runge asked for a clarification about damages. Purcell concurred that re-regulation involved potential physical damages and bypass involves potential financial damages.

The ad hoc Legal Subcommittee is: Margot Zallen, Mary Jane Graham, John Kolanz, Jane Caton, Pam Anderson, Dan Luecke, Deb Freeman, Mark Butler, Ted Kowalski, and Jerry Kenny.



Cottonwood Ranch

Jim Jenniges from NPPD provided a presentation on management and enhancement activities at Cottonwood Ranch. That presentation is available at www.PlatteRiverProgram.org.

John Shadle from NPPD said there are 2007 maintenance and enhancement agreements, and a 2008 maintenance agreement that all need GC approval in terms of format. Lawson asked about the Cottonwood Ranch budget line item for 2008. Kenny said that budget line item includes \$275,000 for 2007 activities, and \$275,000 for 2008. Lawson clarified that \$275,000 was committed for 2007 and that is essentially an expenditure that has yet to be paid. John Heaston asked if the payments include taxes. Shadle said NPPD was not asking for payment of taxes.

Lawson said he was fine with the form of the agreement. Bleed said she was fine with the form as well, but that it likely needs to change as more adaptive management activities related to the Program take place at Cottonwood. **Heaston moved to approve the agreement format and the budget of \$61,000 for maintenance activities; Alan Berryman seconded. GC approved.**

Mark Butler asked about the status of the sponsorship agreement for Cottonwood Ranch and how it relates to the sponsorship agreement being developed for the Wyoming property. Purcell said there is already a deal between the Program and Cottonwood, but that the relationship between the Program and the Wyoming property has not yet been formalized.

CNPPID Net Controllable Conserved Water Five Year Review

Mike Drain from CNPPID provided an update on the five year review and the draft letter to FERC from CNPPID.

Runge asked if this water was part of the Water Action Plan under Nebraska. Drain affirmed that it is. Drain said CNPPID is sticking with the estimate made five years ago. Butler asked about the water savings estimated in the draft letter and wanted to confirm if the 10,009 acre-feet was the amount of water available to the Program. Drain affirmed it is only 10,009 acre-feet that would be available to the Program, even though gross conservation is 40,000 acre-feet. Butler asked if there is a dollar cost estimate for the water. Drain said CNPPID has never tallied up an estimate. Kraus said Boyle Engineering estimated the cost as \$600/acre-foot in the Phase I report. Blaine Dwyer from Boyle said that was an estimate that came from previous work. Drain clarified that the Program does not have to buy the first 314 acre-feet of water, and that amount has been added annually to the EA.

Public Comment

Purcell asked for public comment. Tom Dougherty said he remained interested in the choke point issue and wanted to know the current status. Kenny said 28 acres of phragmites had been sprayed in the fall of 2007. In 2008, a contractor would remove the sprayed phragmites and also remove a small island (700 cubic yards) at the north end of the site. Kenny said that would get us to a target channel capacity of 3,000 cfs at the site by spring of 2009, and that monitoring efforts would be in place to confirm capacity at the choke point.

**Future Meeting Dates and Locations**

Purcell asked why the August 12-13 meeting was in North Platte and not Gering. Kenny said the idea is to move the meetings around and that the Program has been doing work at the choke point. Don Ament asked if the April meeting could be in Kearney instead of Cheyenne to be able to see the crane migration. Purcell asked if anyone wanted to change the meeting location.

The GC agreed to the following meeting schedule for 2008:

- April 8-9 – Cheyenne, WY
- June 10-11 – Denver, CO
- August 12-13 – Gering, NE
- October 7-8 – Lincoln, NE: GC meeting on afternoon of October 7 and morning of October 8; AMP/ISAC Reporting Session rest of the day on October 8; UNL/USGS Platte River Symposium on October 9
- December 2-3 – Denver, CO

Meeting adjourned, followed by the presentation of a Water Management Study Phase I workshop by Boyle Engineering. The Power Point presentation from the workshop is available at www.PlatteRiverProgram.org.