PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Governance Committee Meeting Minutes
Wyoming Water Development Commission – Cheyenne, WY
June 14-15, 2011

Tuesday, June 14, 2011

Executive Director’s Office (ED Office)
Jerry Kenny – Executive Director
Bridget Barron
Chad Smith
Beorn Courtney
Jason Farnsworth
Bruce Sackett

Governance Committee (GC)
Jim Schneider – Nebraska DNR (Chair)
Don Ament – State of Colorado
Brian Barels – Nebraska Public Power District
Alan Berryman – Northern Colorado Water Conservancy District
Doug Chamberlain – Upstream Water User Representative
Mark Czaplewski – Central Platte Natural Resources District
John Heaston – The Nature Conservancy
Marian Langan – Audubon Nebraska
John Lawson – Bureau of Reclamation
Don Kraus – Central Nebraska Public Power and Irrigation District
Mike Purcell – State of Wyoming
Dennis Strauch – Pathfinder Irrigation District
Bill Taddicken – Audubon Rowe Sanctuary
Michael Thabault – U.S. Fish and Wildlife Service
George Williams – Upper Platte Valley Water Users

Participants
Mike George – U.S. Fish and Wildlife Service
Tom Econopouly – U.S. Fish and Wildlife Service
Brock Merrill – Bureau of Reclamation
Cory Steinke – CNPPID
Mike Drain – CNPPID
Suzanne Sellers – State of Colorado
Kevin Urie – Colorado Water Users
Deb Freeman – Colorado Water Users
John Kolanz – Colorado Water Users
Pat Goltl – Nebraska DNR
Doug Hallum – Nebraska DNR (by teleconference)
Matt Hoobler – State of Wyoming
Randy Tulles – State of Wyoming
Harry LaBonde – State of Wyoming
Welcome & Administrative
Schneider called the meeting to order and the group proceeded with introductions. Schneider discussed agenda modifications. Lawson will provide a brief update of the water supply situation on the North Platte. The Water Action Plan item for Wednesday will be at the end of the day on Tuesday. No further modifications offered. Heaston moved to approve the March 2011 GC minutes; Thabault seconded.
Minutes approved.
Lawson provided a North Platte River water supply update.

Program Committee Updates

Land Advisory Committee (LAC)
Czaplewski provided an update on the latest LAC activities. The LAC met on April 6 and June 1. The LAC took action on Tracts 1101 and 1102 (on GC agenda tomorrow); recommended approval of the Public Access Policy (on GC agenda tomorrow); took action on Tracts 1103 and 1104 (declined both); supported the Public Access Policy contract (on GC agenda tomorrow); dealt with a boundary issue on Tract 1020 (on GC agenda tomorrow); and took a tour on June 1 and 2 of Program properties and activities. The next LAC meeting is August 26 in Kearney.

Water Advisory Committee (WAC)
Steinke provided an update on the latest WAC activities. The WAC met on April 26. Items included: update on groundwater recharge project; and two presentations on the J-2 and Elm Creek reservoirs. The next WAC meeting is July 19 in Ogallala.

Technical Advisory Committee (TAC)
C. Smith provided an update on the latest TAC activities. The TAC met on May 11 and discussion topics included:
- Tern and plover banding issues
- Updates on all 2010 monitoring and research reports
- Next steps on the whooping crane telemetry project
- Concept activities at Elm Creek Complex
- Changes to the whooping crane monitoring protocol and support for the whooping crane monitoring RFP
- Updates on next steps for contracts related to monitoring protocols (several contracts expiring this year)
- Updated on the sediment augmentation pilot-scale management action and AMP-related documents
- Set meetings for August 10 and October 5

Finance Committee (FC)
Purcell provided an update on the latest FC activities. The FC met on March 30, May 5, and May 26. Approved the contract amendment for geomorphology/vegetation monitoring; approved contract for tern and plover monitoring; approved the 1-D model contract; approved groundwater recharge contract amendment; approved FSM Proof of Concept contract; approved asking the GC through e-mail poll to vote for habitat availability analysis; discussed the acquisition of a new Program vehicle; approved the
sediment augmentation contract amendment; approved Olsson Associates’ continuing work on the J-2 reregulating reservoir; and discussed next steps on sediment augmentation and advised that the ED Office follow the Procurement Policy for getting contractors to augment sediment and do it through CMPT bids.

Ament asked what became of the problem with the Section 106 (historic preservation) issue and Corps permits. Kenny said we had earlier pursued nationwide permits at the advice of the Corps, but some issues arose and we had some work-arounds that allowed work at Cottonwood Ranch but not at Elm Creek. Now, we are moving forward with individual permits and applications have been submitted. The Section 106 issue is being handled as part of the permitting effort and the requirements are part of the individual permit applications. The Corps knows the Program will be taking care of it and it will not be a burden imposed on the Corps. Cottonwood Ranch, Elm Creek, and sediment augmentation individual permit applications are now under review by the Corps. Ament asked if Kenny thinks we will be delayed. Kenny said it is difficult to know how the process will go from here. There are public notice requirements and the notices have not yet been posted. Thus, we are working with the Program consultant (HDR) on the “squeaky wheel” approach to learn what is happening and accelerate progress if possible. Purcell asked if we have the details of sediment augmentation ironed out enough to inform the public. Farnsworth said we submitted maps with the footprint of grading and volumes that will be augmented into the river. Purcell asked about the amount in the first year. Farnsworth said 100,000 tons.

Purcell requested an update on the results of the GC e-mail poll conducted in May 2011 regarding the habitat availability analysis sole-source contract. Kenny reported the results of the poll were unanimous in support of the sole-source contract, so the ED Office has proceeded entering into that contract with the Rainwater Basin Joint Venture (RBJV) in Nebraska. The RBJV is now working on the habitat availability analysis.

Program Outreach Update
Presentations
- Dave Baasch had a poster presentation at the joint meeting of the Association of Field Ornithologists, Cooper Ornithological Society and Wilson Ornithological Society in Kearney, Nebraska March 9-13, 2011. The Program also exhibited at the meeting and made 500 contacts over the five days.
- Dave Baasch presented on Central Platte terns and plovers at the Missouri River Natural Resources Committee Conference on March 9, 2011 in Nebraska City, Nebraska.
- Jerry Kenny presented on the Program to the Nebraska Chapter of the American Council of Engineering Companies, Environmental Committee Luncheon Series on March 15, 2011 in Omaha, Nebraska.
- Jerry Kenny presented on Program status to the University of Nebraska Lincoln Integrative Graduate Education and Research Traineeship (IGERT) students on April 2, 2011 at Elm Creek (Jeff Buettner of CNPPID also presented on the history of FERC re-licensing efforts).
- Jerry Kenny participated in the Large Landscape Conservation Practitioners Network in Cambridge, Massachusetts on May 18 & 19, 2011. The meeting was convened by the Lincoln Land Institute and the University of Montana Center for Natural Resources and Environmental Policy.
Upcoming Presentations/Exhibits

- Jerry Kenny will be presenting to the Kearney Chapter of the Kiwanis about the Program and progress to date on June 22, 2011.
- Steve Smith will be presenting on the Program and use of the hydraulic model for habitat availability analysis to the Nebraska Floodplain and Stormwater Managers Association on June 23rd, 2011 in Ashland, Nebraska.
- Chad Smith will be helping lead a workshop on adaptive management at the National Conference on Ecosystem Restoration (NCER) in Baltimore, Maryland on August 1, 2011.
- Chad Smith will also be moderating a panel discussion on adaptive management and the science/policy link at NCER.
- Bruce Sackett will be presenting on PRRIP: Real Estate Methods of a Willing Buyer Willing Seller Acquisition Program at NCER on August 4, 2011.
- Chad Smith will be presenting on the Program as part of a day-long symposium on adaptive management at the American Fisheries Society meeting in Seattle in September, 2011.

Exhibits/Sponsorships

- The Program exhibited at the joint meeting of the North American Crane Working Group and The Waterbird Society in Grand Island, Nebraska March 12 - 16, 2011. We made 194 contacts. The Program was also a sponsor of the meeting.
- The Program exhibited at the Rivers and Wildlife Conference in Kearney, Nebraska on March 18 & 19, 2011. We made 386 contacts.
- The Program had PRRIP informational materials at both Rowe Sanctuary and the Nebraska Nature and Visitor’s Center throughout migration season.
- The Program contributed to the Kearney Public Schools Foundation to help support 200 6th graders from Horizon Middle school in Kearney, Nebraska to make a field trip to Rowe Sanctuary to learn about the Platte River and endangered species.

Media/Press Coverage

- The Program published an article on Program accomplishments to-date in the April 2011 issue of Prairie Fire.

Other

- 2009 & 2010 Bi-Annual Report – Barron provided hard copies of the report for each GC member.

PRRIP Budget Items

Kenny discussed the latest Program financial status report, the latest Program budget spreadsheet, and the summary of contract obligations document.

Program Vehicle Acquisition

Kenny discussed the status of acquiring or leasing a new Program work truck. The ED Office first proposed purchasing a new truck, but the detail of who holds title was discussed by the Finance Committee. The Program has other assets such as the argo, the airboat, and a couple of trailers that this issue pertains to as well. To this point, those assets have been licensed and title as though they belong to the PRRIP with the ED Office address. But, the Program does not have a legal hook for doing this so
other options were explored. The NCF will not hold title because they don’t want to put their assets at jeopardy. The PRRIF is a possibility, but the language of the current contract allows them to hold land, but not other assets. The language could be changed, but that would require a lengthy process. There is a simpler solution for the truck going off lease and that is to simply lease another truck. That does not solve what we do with the other assets we currently have.

Options include: 1) change the PRRIF language, or 2) sell the items to Headwaters and have Headwaters charge a fee for any Program-related use. Lawson asked for more detail about the Headwaters ownership option. Kenny said he is suggesting that Headwaters would purchase the truck and other mobile assets, insure them, and there would be an agreement like a use rate for what Headwaters could charge the Program for usage (mileage, monthly fee, etc.). Purcell if we went this way would we still lease the truck, or would Headwaters instead buy the truck? Kenny said Headwaters would buy it under those circumstances, but given the time frames involved to resolve the details, the replacement vehicle would likely be another lease arrangement. Purcell said he always envisioned that Headwaters would indeed hold title to all these assets and the Program would pay expenses and/or a fee. Kraus said maybe direct expenses would be the best approach – purchase price and subsequent expenses. Kenny said it would eliminate that aspect of insurance the Program has to have – the insurance burden would switch over to Headwaters. Chamberlain asked if this Program enjoy any sovereign immunity as far as any insurance claims are concerned. Kenny said the Program itself does not have sovereign immunity, but has an insurance policy that provides coverage for the Program and its representatives and directors.

Purcell said we could ask Kenny to put together a proposal and bring it to the FC for review. Kenny said that could probably be done for the July 8 FC meeting. Purcell said he would also want it to come back to the GC for their September meeting. Purcell said he suggests leasing the truck and then have Headwaters put together a proposal for the other assets. Schneider said the GC requests the proposal be brought first to the FC for consideration.

Program RFPs
C. Smith discussed the Whooping Crane Monitoring RFP and requested the GC appoint a Proposal Selection Panel. Thabault moved to approve the panel; Purcell seconded. Proposal Selection Panel approved: C. Smith (EDO), D. Baasch (EDO), Czaplewski (CPNRD), Peyton (CNPPID), Fritz (NGPC), Tacha (USFWS), Taddicken (Audubon Rowe Sanctuary) Thabault moved to approved; Purcell seconded.

Barels asked about monitoring protocol changes and whether protocols would be peer reviewed if changes were suggested. Smith said that is indeed the process and Purcell asked if this is a four-year contract. Smith said yes. Purcell said when negotiating the contract be sure to talk about estimating out-year budgets.

Whooping Crane Telemetry Project
Smith discussed the status of the telemetry project. The Platte River Trust (Trust) approached the Program earlier in the year to provide 2011 funding to the ongoing telemetry project by passing funds through the Trust. The Trust provided the Program with an accounting of how the previous $250,000 had been spent and developed a new budget for the $125,000 in available FY 2011 Program funds plus an additional $42,000. Funding would be for project expenses such as equipment and Trust staff time. The EDO discussed this sole-source request with the TAC in May and the TAC supported funding the project in 2011 through the Trust, with the caveats that the Program become an official partner in the project and be involved in decision-making related to the telemetry project.
Smith reported that the other project partners had agreed to make the Program a full partner and engage the Program, through the EDO, in project decision-making. However, Kenny received an e-mail from the Trust on Friday, June 10 stating that the Trust wished to remain a partner in the telemetry project but wanted to do so without Program funding. The Trust is hoping they can engage in the project by standing on their own two feet because they recognize the importance of the telemetry project. Kenny confirmed this change in project status with Trust CEO Chuck Cooper the same day. Thus, the EDO is no longer seeking approval of the sole-source contract with the Trust or the associated Program budget shift. Smith said he is working with the current telemetry project lead, Aaron Pease with the USGS, to finalize the partnership agreement and develop a way for Program funding to get to the project through the USGS or the partnership team as a whole. Smith said the TAC and ISAC agree the project is important to the Program and will provide vital data for assessing whooping crane use of the central Platte, so the intention is to find a way to continue the Program’s role in the project as a direct and distinct partner.

Czaplewski said the Canadian radio telemetry mountings are going to start as early as this August. If the FC does not bless moving forward until after that, we might miss out on funding that effort. Kenny said the FC could deal with that. There is $125,000 in a GC-approved budget. This item was in front of the GC because of the sole-source and the budget shift. If we are now moving to just finding the best way to spend the approved funding, we could work that through the TAC and the FC. Purcell said you are looking at providing $125,000 to the USGS for equipment purchases, but also a “cooperative agreement” for being a part of the study in the long term. Lawson asked about the entities that are part of the partnership agreement. The GC needs to see the agreement and what each party is putting into the pot. We need to see these details before we start handing money to the USGS. Purcell agreed and as a group this should probably be discussed on a GC teleconference and then we can decide how to spend the $125,000. Schneider asked about the discussion of this issue at the TAC. Smith said the TAC recommended supporting funding the project in 2011 through the Trust, with the caveats that the Program be an official partner in the project for decision-making and that the Program would have full access to data. Schneider said that seems to indicate this item does not have to go back to the TAC.

Purcell asked why the Trust wanted out of this agreement with the Program. Kenny said the Trust wanted to stand on its own feet and be a full partner on the project without Program funding. Thabault said this study is very important for the Service even beyond the Program and he is wondering if waiting for the full partnership agreement will jeopardize providing the $125,000 in funding for this year. Lawson said he wants to know what is proposed before allocating the money. Purcell said get the global agreement, have a teleconference with the GC, and approve the agreement, sole-source to the GC, and the funding at one time. Barels said the GC expects we will fully participate this year, either under a one-year agreement for a multi-year agreement. Chamberlain asked how decisions will be made under the partnership agreement. Kenny said that will be spelled out in the agreement.

Schneider said there is GC agreement that the ED Office pursue the partnership agreement and present that, a sole-source memo, and the funding agreement for the $125,000 this year.

Urie asked if the Program has received its value for the $250,000 spent previously on this project. Kenny said we have received a full accounting of how that $250,000 has been spent. Smith said we have received the data from bird movements so far and we are working to pair that data with Program monitoring data. Williams asked if it is a possibility to still move the money through the Trust. Barels said he actually prefers going this new direction. Strauch asked if details will be provided about how the
$125,000 would be spent under this new agreement. Smith said that will be part of the package put together for the GC teleconference.


C. Smith discussed the 2011 ISAC report and delivered a presentation on the 2007-2010 Synthesis Report. Williams asked if the Program would explore the question of whether nature can provide the water and other processes the river needs, or if management intervention makes more of a difference. Smith said that is the kind of question that will be evaluated in how the Flow-Sediment-Mechanical and Mechanical Creation and Maintenance strategies are applied and what the river and species responses are to those strategies. Williams asked about the ability to store more water in other places for Program use. Lawson said one challenge to storing water in places like BOR reservoirs is evaporation makes the economics difficult. Thabault said the Program needs to consider the balance of re-setting habitat (vegetation removal, channel widening, etc.) versus long-term maintenance of habitat by either water (flow) or mechanical means. How long does that habitat persist? Besson said we need to focus on the integration of natural events (like recent high flows). Smith said one way to consider those kinds of questions is not only river and species responses, but also cost comparisons between flow maintenance and mechanical maintenance.

PRRIP Indexing for 2010

Lawson discussed the status of the indexing process for the Program (land, water, and other costs). Lawson walked through the indexing table included in the GC meeting packet. Chamberlain asked about the second water indexing and what factors are considered. Lawson said it is for the water projects in the Program’s Water Action Plan. Chamberlain asked if it is the price of water per acre foot or another measure. Lawson said it is not the price of water, rather the estimated costs for the projects under consideration to meet Program water goals (130,000-150,000 acre feet/year in shortage reductions). Sellers asked if we were to look at last year’s sheet, the numbers in Row F would be Row A in this year’s sheet? Lawson said that is correct.

Sellers asked if you determine how much Colorado would have to pay if everything was expended next year by subtracting expenditures from the new ceiling number. Lawson agreed.

Water Action Plan Alternatives

Kenny said he wanted to discuss some principles and approaches the ED Office has been operating under and make sure those are correct; inform the GC on direction on several Water Action Plan alternatives; and talk about several actions and decisions that are looming. The focus will be on the J-2 reregulating reservoir; the Elm Creek reservoir; groundwater recharge; and lease-purchase options.

Principles and Approaches

On major projects like the J-2 reservoir, local entities would own the project (CNPPID in this case). The Program will derive water benefit from the project through a contract, rather than owning infrastructure. The Program will follow the lead of local entities on water rights and permit applications.

Surface Water Storage Projects

Relying on storage releases from Lake McConaughy would make achieving SDHF's difficult, so surface storage projects like the J-2 reservoir in or closer to the associated habitats make more sense for that. Permitting and water rights lead times are also an important consideration. For the J-2 reservoir, it would reregulate releases from the J-2 return, allow for storage and retiming, and there would be significant
reductions in deficits to target flows. This reduction is made possible because you can quickly fill and drain the facility. The facility would be good for SDHF, and it could be operated to reduce the impacts of hydrocycling with enhanced efficiencies for hydropower and irrigation. The consultant should have a completed feasibility study around the end of this year or early 2012.

Some related activities:

- Working with CNPPID toward developing permits for associated water rights
- Determine all of potential partners and figure out what the level of interest is (Nebraska DNR is a main partner)
- Determining how much yield the Program will get out of the project, because that will determine how much else the Program has to do to meet shortage to target flow requirements and capability to meet SDHF goals
- Exploring design options based on issues like how much yield will go to partners – has an impact on the gate structure of the facility
- Wetlands have been delineated, but no show-stoppers
- Area of historical interest, because it is located between the Platte River and the Oregon Trail; but the area has been intensively farmed for many years
- Good Neighbor Policy – have been talking to landowners and developed agreements to enter land and study sites; at least one of the landowners has brought up the idea of a land trade; we need to know how far down this path we should tread at this point

Kenny said we are still looking at a reservoir with a price tag of $30-40 million. Courtney said operating costs ramp that cost up to around $50 million or slightly more. Kenny said the Program will not pay that entire cost; other partners deriving benefit will have to contribute as well. Mike Drain said we also have to look at the question of whether or not there is FERC involvement or approval necessary since Central is a FERC project. Kenny said there is also the Corps 404 permitting process. Purcell said we need to know what the Program will get out of it – what are the discussions with Nebraska? Continue to do what you have been doing, but we need to address the Nebraska issue either with a separate committee or through some other means. Schneider said Nebraska wants a portion of the project and that won’t change. The original scoring was Nebraska having approximately a 40 to 50% interest in the project’s yield, however the project concept at that time resulted in a much lower yield (around 8,000 acre-feet) than currently anticipated (around 4,000 acre-feet). Kenny said there was a memo from Jim Cook in 2000 that set out volumes, but the yield was expected to be much smaller so discussions have shifted toward percentages. Schneider said Nebraska was thinking they could possibly buy in for up to 25% of the project ($10M of a $40M project), at a minimum the 4,000 acre-feet that we discussed earlier.

Purcell said the GC always contemplated these projects would be contracted through a local entity and the Program would not own infrastructure. If Nebraska is only talking about that amount of water and Central still wants to be a sponsor, we should continue to investigate this option. Williams asked who would own the land if the Program goes away. Purcell said the local sponsor (Central). Lawson asked who would purchase the land. Kraus said it would likely be the sponsor. Drain said we have not concluded what the best option is. Central will own the land, but we don’t know exactly how we would get there. Courtney said as we have looked at operating the reservoirs for multiple purposes, design has changed. We need to know what partners like the Nebraska DNR have in mind because that will ultimately affect the final design and yield. Schneider said there needs to be a discussion about controllable offsets and how it relates to the Nebraska Depletion Plan. Purcell asked if this is offset for...
new depletions or to make up the gap from 1997-2000. Schneider said it is for post-97 depletions.

Lawson said if this can be pulled off the way it is envisioned, it will be a great project. Lawson said

Kenny should make a list of all the potential challenges and a schedule for addressing those challenges. Kenny said that is a good approach, but wanted to confirm today we are headed in the right direction.

Lawson asked if Kenny could develop that list and come back to the GC for discussion. Purcell said

continue with permitting and land discussions, but we need to have hard discussions about how to pull the partnership together. The Program needs to know what Nebraska wants for a percentage of the project and when they will make that decision.

Courtney said, as an example, we talked about looking at land acquisition next. That could be a potential fatal flaw, because design is dependent on the specific location of the reservoir. A decision on a county road is influenced by how much yield Nebraska wants. Operating goals of the partners affect the schedule and project sequencing. Purcell asked if we could defer this discussion to Executive Session tomorrow. Purcell said there is a finite amount the Program will spend prior to a commitment from Nebraska and Central – the feasibility study, permitting, and some land items.

In terms of Elm Creek, some issues have arisen:

- Supply issues – limited ability to wheel water into the reservoir
- Impacting several landowners, depending on the size of the reservoir
- Lower yields, but with similar costs to J-2
- On the mainstem of Elm Creek, so the Corps permitting process would be difficult
- Concern about how deeply we are dipping into the excess flow pool

At the WAC meeting in April, the WAC inclination was not favorable toward this reservoir. Central Platte NRD and Nebraska are still considering Elm Creek as an option. There may be some room to store Program water if necessary. Kenny said these items mean the Program is backing off on this project, and the window of opportunity may be closing as a result. Purcell asked about the status of the study. Kenny said the feasibility study is complete and that is what was discussed with the WAC.

Courtney discussed groundwater recharge issues. The focus for now has been on the Phelps Canal and we may revisit the Gothenburg site later. We have been working closely with Sackett and Central to talk to landowners about doing some pilot studies on their sites (put water in the ground and monitor effects).

We’ve learned that the interaction with drains is critical to understanding timing of recharged water returning to the river. There have been a couple amendments to the contract – having consultants look at the interaction of groundwater and drains already in place, and do more monitoring of the drains. The ED Office presented a recommendation to the workgroup to move ahead with studies at two sites, but the workgroup was nervous about spending so much money without a long-term arrangement with landowners. Sackett did make contact with a landowner on the uphill side of the canal that may be interested in a long-term agreement. The workgroup agreed to move ahead with one of the original sites and also pursue a long-term agreement with the uphill landowner. We are working with Central to develop permit applications that would allow using excess flows in the canal and also to work with EA water. In terms of participating in the canal recharge aspect of the project, Tri-Basin NRD and Nebraska DNR would be involved as well.

Besson asked about the relationship between the excesses utilized for the reregulation reservoir and the groundwater recharge project – are we competing for the same water? Courtney said it is less an issue of yield, but rather capacity to move water in the Phelps canal. Drain said one distinction between this and
the J-2 reservoir is we are further along with the written agreements on the groundwater recharge project. Drain also said his recollection is that ownership of projects is not necessarily a hard rule, so it is possible to envision that the Program would own a recharge pond. Kraus said that is something they have not discussed with the Central Board or the Program.

Kenny said discussions are moving forward with NPPD and Central regarding water leases.

Kenny presented a gift to Lawson for his service as GC Chair in 2010.

Meeting adjourned at 6:25 p.m. Mountain time.

**Welcome and Introduction**

Schneider called the meeting to order and the group proceeded with a roll call.

**Pathfinder Lease Agreement**

Purcell discussed the latest version of the agreement. From Wyoming’s perspective, the agreement is ready for approval. Comments were received from Diane Wilson at the NCF and Jennifer Schellpeper at Nebraska DNR and changes were made accordingly. Kraus said there was a typo on Page 3; Purcell made the change. Chamberlain said he was not clear on the differences in water costs noted on Page 3. Purcell said the difference between $65 and $51 is that the $65 cost is brought back to present value to end up equaling $51. Chamberlain said in the minutes from the last GC meeting, it mentions a cost figure of $91. Purcell said that is an option that gives the Program flexibility on how much water it takes. The $65 figure is associated with an option that gives the Program less flexibility, and the $51 figure is associated with the prepayment option.

Chamberlain asked what authority the BOR has to establish what can be charged for this water. Lawson said there is a definition of what could be subcontracted to the state under Appendix F of the stipulation. The BOR also has a contract with the State of Wyoming with regard to the Wyoming account in Pathfinder agreed to by both parties with provisions for re-marketing the water. Wyoming can re-market the water but only to recoup their costs. Chamberlain asks why the BOR would care what we charge for the water. Lawson said it is defined by contract between the State of Wyoming and the federal government. Chamberlain asked if that applies to facility like Glendo. Lawson said there is not a similar re-marketing contract for that reservoir. Purcell said another issue is that this is not a firm water supply so we cannot warrant the full price of $91 — that is part of discounting the price down to $65. Schneider said from the Program’s standpoint, for a year like this year we would have to take 4,800 acre-feet, pay for it, but it would just have to go down the river. Chamberlain said he is trying to learn more about this, but what is driving his questions is oil and gas development in southeast Wyoming so there are a lot of questions about what water is worth.

Kraus asked if there is a delivery of less than 4,800 acre-feet but the next year is wetter, there is a potential to catch up on the year you were short. His read of #5 suggests there is an option to make up that water shortage. Purcell said that is not correct. Section 5 is related to re-looking at water estimates later in the year. Barels and Kraus said if there are years the Program gets less than 4,800 acre-feet, the Program may never get the full 38,400 acre-feet it is entitled to. So, it is not clear how the Program catches up from water-short years to ultimately get to the full 38,400 acre-feet amount. Purcell said you
catch up by taking more than 4,800 acre-feet in wet years. Kraus said Section B2 reads as though the
Program could never take more than 4,800 acre-feet meaning the Program might ultimately not get its full
38,400 acre-feet share. Lawson said B2 is used to establish in the first day of June how much water and
that can be adjusted later in the summer. Kraus if Section B5 allows the Program to take more water.
Schneider said the available amount in B1 could be larger than 4,800 acre-feet. Barels said it seems like
it would better to use the terminology “available water” in Paragraph 1. Berryman said he reads it as
there is potentially a range.

Lawson said in Paragraph 1, let’s say 9,600 acre-feet available. Paragraph 2 says as far as on obligation,
the delivered amount will be 4,800 acre-feet or the available water, whichever is less. Thus, the Program
must take at least 4,800 acre-feet, but it could take up to 9,600 acre-feet. Purcell said it is sequential – we
decide what is available in #1, and the Program says what it wants in #2. In #5, there may be a
determination that more is available later and the Program can decide then if it wants that water then.
Kraus asked if A2 allows for Program reimbursement if after 8 years the Program ended up with less than
38,400 acre-feet. Schneider wanted to mention that we have not looked at scoring this water relative to
the Water Action Plan. Barels asked if we have scored it. Lawson said the bottom line is we are
purchasing water and it has to be a decision of this body as to whether this is a good deal, regardless of
the score. Kraus said we need a reminder that this water needs to be scored soon. Lawson agreed that is
very important and that needs to be addressed for all water projects now under consideration. Barels
asked about the short window between May 1 and June 1 and asked if Kenny had envisioned a process for
involving the GC in decision-making. Kenny said he envisioned coordination with the ED Office and the
EA manager, and input from the EAC/RCC at their April meeting. Barels said that seems to indicate the
GC will not be involved in the purchase decision. Where does that GC involvement come in? Is it
through the annual budget process? Kenny said that is a component, but the development of a process
that provides the GC comfort that they will have adequate input and oversight will happen soon. Barels
said there should be an annual EA AOP with monthly e-mail updates to the GC, and maybe that is a good
entry point for GC involvement. Kenny said those details need to be worked out. Schneider said it seems
like Kenny is the point person for the Program for this contract, but the GC will have several places for
input. Kenny agreed and said guidelines will be established for GC input as well as more operational
flexibility.

Ament moved to approve the agreement, with the changes as noted; Heaston seconded. Purcell abstained.
Agreement approved.

Public Access Policy
Sackett discussed the Public Access Policy and the process of its development through the LAC. The
policy spells out access on Program owned and controlled grounds, in concert with the needs of the
Program for those lands. Sackett also discussed the proposed agreement with the Nebraska Game and
Parks Commission (NGPC) to implement the policy on behalf of the Program. Schneider wanted to
clarify that the ED Office is seeking approval of the policy, but not the agreement. Sackett said that is
correct, though the agreement document with NGPC is now complete. Kenny said that agreement is not
final until the FC says it is final on July 8. The agreement was brought before the GC today to keep them
informed, and to make sure the GC is happy with how the ED Office is pursuing implementation of the
Public Access Policy. Schneider proposed dealing with the documents one at a time.

Urie asked about the rationale for not allowing waterfowl hunting as a compatible use. Heaston said there
was a lot of discussion about waterfowling. The LAC laid out some cornerstones we did not want to
violate, including the Nebraska recreational access liability law, the requirements of the Biological Opinion, and other considerations. It was easier to develop a list of activities on Tier 2 that are not prohibited indefinitely but we wanted to allow a small set of activities at first, calibrate the policy, and make changes in the future. Kenny said the list of uses will be reviewed and approved by the GC annually. Barels asked if lands where access is allowed would be reviewed and approved annually as well. Kenny said that is correct. Purcell asked if people still have to get approval to gain access. Heaston said all access is by written permission only. Strauch asked if written permission is for the period of open access. Sackett said permission is for one-day only. Heaston said people will use the NGPC online access system. Chamberlain asked if usage will be reported back to the Program from the NGPC. Sackett said yes. Strauch moved to approve the Public Access Policy; Czaplewski seconded. **Policy approved.**

Sackett and Kenny said this agreement is presented for discussion purposes but will not come back to the GC for further input. Final approval will be sought at the FC meeting on July 8. George asked about Paragraph G. Sackett said this is an incentive program because we may want to put more acreage in the access program down the road. Kenny said it is unlikely we will be able to take advantage of the incentive program but we decided to leave that in the agreement. Part of what NGPC brings to the table is not only the permission system, but also law enforcement. Lawson said the devil will be in the details - the problem is if there is a violation, what kind of citation can they issue? Is the person committed by the NGPC a law enforcement person patrolling four counties? Sackett said the one person is their coordinator that will work with their IT people to make sure the permission system is working, and will also coordinate with their law enforcement division to make sure properties and activities are adequately covered. Lawson asked if all of this will be covered for the $50,000. Sackett said yes. Purcell said this is a good solution at a good price. Urie said there are provisions for shared signage. That should be nailed down because replacing signs that get shot can be expensive. Kenny said the Program is responsible for that and we currently have signs on Program properties.

**Public Comment**
Schneider asked for public comment. None offered.

**Executive Session**
Purcell moved to enter Executive Session to discuss land issues; Heaston seconded. **GC entered Executive Session at 9:10 a.m. Mountain time.**

Heaston moved to end Executive Session; Barels seconded. **GC ended Executive Session at 10:46 a.m. Mountain time.**

**Program Land Tracts & Issues**
Purcell moved and Czaplewski seconded:
- To approve allowing the ED Office to seek appraisal of and begin negotiations for acquisition of Tracts 1101 and 1102; and
- To authorize the land trade at Tract 2009008

**Motion approved.**
The GC also requested the ED Office develop a budget for water-project related studies including funds needed to secure the necessary land rights and bring it to the Finance Committee for discussion and approval.

**State of Nebraska Platte River Update**

Schneider delivered a presentation on the Nebraska surface water permitting process. Purcell asked about the frequency of public hearings and notices. Schneider said that unless someone objects, only notices occur. Langan asked what kinds of projects have been permitted lately. Schneider said they were all temporary diversion projects and they all fit with the PRRIP and the IMPs in Nebraska. Purcell asked about reforms in Nebraska and how much they are a result of the Program. Schneider said items like Overappropriated designations were probably largely the result of needing to meet Program requirements and also the Republican River Compact. Kraus and Schneider said funding is still a large issue. Schneider said the general fund contribution is up to $3.3 million annually and the Nebraska DNR can apply and get bonus points through the Nebraska Environmental Trust.

**Future Meetings & Closing Business**

Upcoming GC meetings:
- September 13-14, 2011 in Scottsbluff, NE
- December 6-7, 2011 in Denver, CO at the Warwick Hotel in downtown Denver

Strauch asked if we could recognize Norm DeMott’s service on the GC and possibly have a meeting closer to Scottsbluff because DeMott cannot travel very far comfortably. Kenny said we could have the September meeting in Scottsbluff. The GC agreed.

Kenny discussed having the December GC meeting in Denver at the Warwick Hotel.

**Meeting adjourned at 11:15 a.m. Mountain time.**

**Summary of Action Items/Decisions from June 2011 GC meeting**

1) Approved March 2011 GC minutes
2) Approved lease of a new Program truck. Also requested that Headwaters put together a proposal for FC review of Headwaters owning other assets and charging the Program a usage fee.
3) Appointed a Proposal Selection Panel for the Whooping Crane Monitoring RFP: C. Smith (EDO), D. Baasch (EDO), Czaplewski (CPNRD), Peyton (CNPPID), Fritz (NGPC), Tacha (USFWS), Taddicken (Audubon Rowe Sanctuary)
4) Agreed to hold a teleconference to approve future Program involvement in the whooping crane telemetry study, with the caveats that the EDO will provide:
   - The partnership agreement for the project
   - A sole-source memo for the project
   - A proposed budget for the Program’s available $125,000 in 2011
5) Approved the Pathfinder lease agreement, with changes.
6) Approved the Public Access Policy.
7) Approved allowing the ED Office to seek appraisal of and begin negotiations for acquisition of Tracts 1101 and 1102.
8) Authorized the land trade at Tract 2009008
9) Requested the ED Office develop a budget for water-project related studies and bring it to the FC for discussion and approval.
10) Set the September 2011 GC meeting in Scottsbluff, NE.

11) Set the December 2011 GC meeting in Denver at the Warwick Hotel in downtown Denver.