



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

5
6 **Tuesday, June 14, 2011**
7

8 **Executive Director’s Office (ED Office)**

9 Jerry Kenny – Executive Director
10 Bridget Barron
11 Chad Smith
12 Beorn Courtney
13 Jason Farnsworth
14 Bruce Sackett
15

16 **Governance Committee (GC)**

17 Jim Schneider – Nebraska DNR (Chair)
18 Don Ament – State of Colorado
19 Brian Barels – Nebraska Public Power District
20 Alan Berryman – Northern Colorado Water Conservancy District
21 Doug Chamberlain – Upstream Water User Representative
22 Mark Czaplewski – Central Platte Natural Resources District
23 John Heaston – The Nature Conservancy
24 Marian Langan – Audubon Nebraska
25 John Lawson – Bureau of Reclamation
26 Don Kraus – Central Nebraska Public Power and Irrigation District
27 Mike Purcell – State of Wyoming
28 Dennis Strauch – Pathfinder Irrigation District
29 Bill Taddicken – Audubon Rowe Sanctuary
30 Michael Thabault – U.S. Fish and Wildlife Service
31 George Williams – Upper Platte Valley Water Users
32

33 **Participants**

34 Mike George – U.S. Fish and Wildlife Service
35 Tom Econopouly – U.S. Fish and Wildlife Service
36 Brock Merrill – Bureau of Reclamation
37 Cory Steinke – CNPPID
38 Mike Drain – CNPPID
39 Suzanne Sellers – State of Colorado
40 Kevin Urie – Colorado Water Users
41 Deb Freeman – Colorado Water Users
42 John Kolanz – Colorado Water Users
43 Pat Goltl – Nebraska DNR
44 Doug Hallum – Nebraska DNR (by teleconference)
45 Matt Hoobler – State of Wyoming
46 Randy Tuller – State of Wyoming
47 Harry LaBonde – State of Wyoming



48 John McClure – NPPD
49 Tim Martin – Riverside Technology

50
51 **Welcome & Administrative**

52 Schneider called the meeting to order and the group proceeded with introductions. Schneider discussed
53 agenda modifications. Lawson will provide a brief update of the water supply situation on the North
54 Platte. The Water Action Plan item for Wednesday will be at the end of the day on Tuesday. No further
55 modifications offered. Heaston moved to approve the March 2011 GC minutes; Thabault seconded.

56 **Minutes approved.**

57
58 Lawson provided a North Platte River water supply update.

59
60 **Program Committee Updates**

61 *Land Advisory Committee (LAC)*

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

68
69 *Water Advisory Committee (WAC)*

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

73
74 *Technical Advisory Committee (TAC)*

75 C. Smith provided an update on the latest TAC activities. The TAC met on May 11 and discussion topics
76 included:

- 77 • Tern and plover banding issues
- 78 • Updates on all 2010 monitoring and research reports
- 79 • Next steps on the whooping crane telemetry project
- 80 • Concept activities at Elm Creek Complex)
- 81 • Changes to the whooping crane monitoring protocol and support for the whooping crane monitoring
- 82 RFP
- 83 • Updates on next steps for contracts related to monitoring protocols (several contracts expiring this
- 84 year)
- 85 • Updated on the sediment augmentation pilot-scale management action and AMP-related documents
- 86 • Set meetings for August 10 and October 5

87
88 *Finance Committee (FC)*

89 Purcell provided an update on the latest FC activities. The FC met on March 30, May 5, and May 26.
90 Approved the contract amendment for geomorphology/vegetation monitoring; approved contract for tern
91 and plover monitoring; approved the 1-D model contract; approved groundwater recharge contract
92 amendment; approved FSM Proof of Concept contract; approved asking the GC through e-mail poll to
93 vote for habitat availability analysis; discussed the acquisition of a new Program vehicle; approved the



94 sediment augmentation contract amendment; approved Olsson Associates’ continuing work on the J-2
95 reregulating reservoir; and discussed next steps on sediment augmentation and advised that the ED Office
96 follow the Procurement Policy for getting contractors to augment sediment and do it through CMPT bids.
97

98 Ament asked what became of the problem with the Section 106 (historic preservation) issue and Corps
99 permits. Kenny said we had earlier pursued nationwide permits at the advice of the Corps, but some
100 issues arose and we had some work-arounds that allowed work at Cottonwood Ranch but not at Elm
101 Creek. Now, we are moving forward with individual permits and applications have been submitted. The
102 Section 106 issue is being handled as part of the permitting effort and the requirements are part of the
103 individual permit applications. The Corps knows the Program will be taking care of it and it will not be a
104 burden imposed on the Corps. Cottonwood Ranch, Elm Creek, and sediment augmentation individual
105 permit applications are now under review by the Corps. Ament asked if Kenny thinks we will be delayed.
106 Kenny said it is difficult to know how the process will go from here. There are public notice
107 requirements and the notices have not yet been posted. Thus, we are working with the Program
108 consultant (HDR) on the “squeaky wheel” approach to learn what is happening and accelerate progress if
109 possible. Purcell asked if we have the details of sediment augmentation ironed out enough to inform the
110 public. Farnsworth said we submitted maps with the footprint of grading and volumes that will be
111 augmented into the river. Purcell asked about the amount in the first year. Farnsworth said 100,000 tons.
112

113 Purcell requested an update on the results of the GC e-mail poll conducted in May 2011 regarding the
114 habitat availability analysis sole-source contract. Kenny reported the results of the poll were unanimous
115 in support of the sole-source contract, so the ED Office has proceeded entering into that contract with the
116 Rainwater Basin Joint Venture (RBJV) in Nebraska. The RBJV is now working on the habitat
117 availability analysis.
118

119 **Program Outreach Update** 120 **Presentations**

- 121 • Dave Baasch had a poster presentation at the joint meeting of the Association of Field Ornithologists,
122 Cooper Ornithological Society and Wilson Ornithological Society in Kearney, Nebraska March 9-13,
123 2011. The Program also exhibited at the meeting and made 500 contacts over the five days.
- 124 • Dave Baasch presented on Central Platte terns and plovers at the Missouri River Natural Resources
125 Committee Conference on March 9, 2011 in Nebraska City, Nebraska.
- 126 • Jerry Kenny presented on the Program to the Nebraska Chapter of the American Council of
127 Engineering Companies, Environmental Committee Luncheon Series on March 15, 2011 in Omaha,
128 Nebraska.
- 129 • Jerry Kenny presented on Program status to the University of Nebraska Lincoln Integrative Graduate
130 Education and Research Traineeship (IGERT) students on April 2, 2011 at Elm Creek (Jeff Buettner
131 of CNPPID also presented on the history of FERC re-licensing efforts).
- 132 • Jerry Kenny participated in the Large Landscape Conservation Practitioners Network in Cambridge,
133 Massachusetts on May 18 & 19, 2011. The meeting was convened by the Lincoln Land Institute and
134 the University of Montana Center for Natural Resources and Environmental Policy.
135
136
137



138 **Upcoming Presentations/Exhibits**

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

152
153 **Exhibits/Sponsorships**

- 154 • The Program exhibited at the joint meeting of the North American Crane Working Group and The
- 155 Waterbird Society in Grand Island, Nebraska March 12 - 16, 2011. We made 194 contacts. The
- 156 Program was also a sponsor of the meeting.
- 157 • The Program exhibited at the Rivers and Wildlife Conference in Kearney, Nebraska on March 18 &
- 158 19, 2011. We made 386 contacts.
- 159 • The Program had PRRIP informational materials at both Rowe Sanctuary and the Nebraska Nature
- 160 and Visitor’s Center throughout migration season.
- 161 • The Program contributed to the Kearney Public Schools Foundation to help support 200 6th graders
- 162 from Horizon Middle school in Kearney, Nebraska to make a field trip to Rowe Sanctuary to learn
- 163 about the Platte River and endangered species.

164
165 **Media/Press Coverage**

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

168
169 **Other**

170 2009 & 2010 Bi-Annual Report – Barron provided hard copies of the report for each GC members

171
172 **PRRIP Budget Items**

173 Kenny discussed the latest Program financial status report, the latest Program budget spreadsheet, and the

174 summary of contract obligations document.

175
176 **Program Vehicle Acquisition**

177 Kenny discussed the status of acquiring or leasing a new Program work truck. The ED Office first

178 proposed purchasing a new truck, but the detail of who holds title was discussed by the Finance

179 Committee. The Program has other assets such as the argo, the airboat, and a couple of trailers that this

180 issue pertains to as well. To this point, those assets have been licensed and title as though they belong to

181 the PRRIP with the ED Office address. But, the Program does not have a legal hook for doing this so



182 other options were explored. The NCF will not hold title because they don't want to put their assets at
183 jeopardy. The PRRIF is a possibility, but the language of the current contract allows them to hold land ,
184 but not other assets. The language could be changed, but that would require a lengthy process. There is a
185 simpler solution for the truck going off lease and that is to simply lease another truck. That does not
186 solve what we do with the other assets we currently have.

187
188 Options include: 1) change the PRRIF language, or 2) sell the items to Headwaters and have Headwaters
189 charge a fee for any Program-related use. Lawson asked for more detail about the Headwaters ownership
190 option. Kenny said he is suggesting that Headwaters would purchase the truck and other mobile assets,
191 insure them, and there would be an agreement like a use rate for what Headwaters could charge the
192 Program for usage (mileage, monthly fee, etc.). Purcell if we went this way would we still lease the truck,
193 or would Headwaters instead buy the truck? Kenny said Headwaters would buy it under those
194 circumstances, but given the time frames involved to resolve the details, the replacement vehicle would
195 likely be another lease arrangement. Purcell said he always envisioned that Headwaters would indeed
196 hold title to all these assets and the Program would pay expenses and/or a fee. Kraus said maybe direct
197 expenses would be the best approach – purchase price and subsequent expenses. Kenny said it would
198 eliminate that aspect of insurance the Program has to have – the insurance burden would switch over to
199 Headwaters. Chamberlain asked if this Program enjoy any sovereign immunity as far as any insurance
200 claims are concerned. Kenny said the Program itself does not have sovereign immunity, but has an
201 insurance policy that provides coverage for the Program and its representatives and directors.

202
203 **Purcell said we could ask Kenny to put together a proposal and bring it to the FC for review.**
204 **Kenny said that could probably be done for the July 8 FC meeting. Purcell said he would also want**
205 **it to come back to the GC for their September meeting. Purcell said he suggests leasing the truck**
206 **and then have Headwaters put together a proposal for the other assets. Schneider said the GC**
207 **requests the proposal be brought first to the FC for consideration.**

208 Program RFPs

209 C. Smith discussed the Whooping Crane Monitoring RFP and requested the GC appoint a Proposal
210 Selection Panel. Thabault moved to approve the panel; Purcell seconded. **Proposal Selection Panel**
211 **approved:** C. Smith (EDO), D. Baasch (EDO), Czaplowski (CPNRD), Peyton (CNPPID), Fritz (NGPC),
212 Tacha (USFWS), Taddicken (Audubon Rowe Sanctuary) Thabault moved to approved; Purcell seconded.
213
214

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

219 Whooping Crane Telemetry Project

220 Smith discussed the status of the telemetry project. The Platte River Trust (Trust) approached the
221 Program earlier in the year to provide 2011 funding to the ongoing telemetry project by passing funds
222 through the Trust. The Trust provided the Program with an accounting of how the previous \$250,000 had
223 been spent and developed a new budget for the \$125,000 in available FY 2011 Program funds plus an
224 additional \$42,000. Funding would be for project expenses such as equipment and Trust staff time. The
225 EDO discussed this sole-source request with the TAC in May and the TAC supported funding the project
226 in 2011 through the Trust, with the caveats that the Program become an official partner in the project and
227 be involved in decision-making related to the telemetry project.
228



229 Smith reported that the other project partners had agreed to make the Program a full partner and engage
230 the Program, through the EDO, in project decision-making. However, Kenny received an e-mail from the
231 Trust on Friday, June 10 stating that the Trust wished to remain a partner in the telemetry project but
232 wanted to do so without Program funding. The Trust is hoping they can engage in the project by standing
233 on their own two feet because they recognize the importance of the telemetry project. Kenny confirmed
234 this change in project status with Trust CEO Chuck Cooper the same day. Thus, the EDO is no longer
235 seeking approval of the sole-source contract with the Trust or the associated Program budget shift. Smith
236 said he is working with the current telemetry project lead, Aaron Pease with the USGS, to finalize the
237 partnership agreement and develop a way for Program funding to get to the project through the USGS or
238 the partnership team as a whole. Smith said the TAC and ISAC agree the project is important to the
239 Program and will provide vital data for assessing whooping crane use of the central Platte, so the intention
240 is to find a way to continue the Program's role in the project as a direct and distinct partner.

241
242 Czaplewski said the Canadian radio telemetry mountings are going to start as early as this August. If the
243 GC does not bless moving forward until after that, we might miss out on funding that effort. Kenny said
244 the FC could deal with that. There is \$125,000 in a GC-approved budget. This item was in front of the
245 GC because of the sole-source and the budget shift. If we are now moving to just finding the best way to
246 spend the approved funding, we could work that through the TAC and the FC. Purcell said you are
247 looking at providing \$125,000 to the USGS for equipment purchases, but also a "cooperative agreement"
248 for being a part of the study in the long term. Lawson asked about the entities that are part of the
249 partnership agreement. The GC needs to see the agreement and what each party is putting into the pot.
250 We need to see these details before we start handing money to the USGS. Purcell agreed and as a group
251 this should probably be discussed on a GC teleconference and then we can decide how to spend the
252 \$125,000. Schneider asked about the discussion of this issue at the TAC. Smith said the TAC
253 recommended supporting funding the project in 2011 through the Trust, with the caveats that the Program
254 be an official partner in the project for decision-making and that the Program would have full access to
255 data. Schneider said that seems to indicate this item does not have to go back to the TAC.

256
257 Purcell asked why the Trust wanted out of this agreement with the Program. Kenny said the Trust wanted
258 to stand on its own feet and be a full partner on the project without Program funding. Thabault said this
259 study is very important for the Service even beyond the Program and he is wondering if waiting for the
260 full partnership agreement will jeopardize providing the \$125,000 in funding for this year. Lawson said
261 he wants to know what is proposed before allocating the money. Purcell said get the global agreement,
262 have a teleconference with the GC, and approve the agreement, sole-source to the GC, and the funding at
263 one time. Barels said the GC expects we will fully participate this year, either under a one-year
264 agreement for a multi-year agreement. Chamberlain asked how decisions will be made under the
265 partnership agreement. Kenny said that will be spelled out in the agreement.

266
267 Schneider said there is GC agreement that the ED Office pursue the partnership agreement and present
268 that, a sole-source memo, and the funding agreement for the \$125,000 this year.

269
270 Urie asked if the Program has received its value for the \$250,000 spent previously on this project. Kenny
271 said we have received a full accounting of how that \$250,000 has been spent. Smith said we have
272 received the data from bird movements so far and we are working to pair that data with Program
273 monitoring data. Williams asked if it is a possibility to still move the money through the Trust. Barels
274 said he actually prefers going this new direction. Strauch asked if details will be provided about how the



275 \$125,000 would be spent under this new agreement. Smith said that will be part of the package put
276 together for the GC teleconference.

277

278 **2011 ISAC Report and 2007-2010 Synthesis Report**

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

292

293 **PRRIP Indexing for 2010**

294 Lawson discussed the status of the indexing process for the Program (land, water, and other costs).
295 Lawson walked through the indexing table included in the GC meeting packet. Chamberlain asked about
296 the second water indexing and what factors are considered. Lawson said it is for the water projects in the
297 Program's Water Action Plan. Chamberlain asked if it is the price of water per acre foot or another
298 measure. Lawson said it is not the price of water, rather the estimated costs for the projects under
299 consideration to meet Program water goals (130,000-150,000 acre feet/year in shortage reductions).
300 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
301 sheet? Lawson said that is correct.

302

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

305

306 **Water Action Plan Alternatives**

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

311

312 *Principles and Approaches*

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

316

317 *Surface Water Storage Projects*

318 Relying on storage releases from Lake McConaughy would make achieving SDHFs difficult, so surface
319 storage projects like the J-2 reservoir in or closer to the associated habitats make more sense for that.
320 Permitting and water rights lead times are also an important consideration. For the J-2 reservoir, it would
321 reregulate releases from the J-2 return, allow for storage and retiming, and there would be significant



322 reductions in deficits to target flows. This reduction is made possible because you can quickly fill and
323 drain the facility. The facility would be good for SDHF, and it could be operated to reduce the impacts of
324 hydrocycling with enhanced efficiencies for hydropower and irrigation. The consultant should have a
325 completed feasibility study around the end of this year or early 2012.

326
327 Some related activities:

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

342
343 Kenny said we are still looking at a reservoir with a price tag of \$30-40 million. Courtney said operating
344 costs ramp that cost up to around \$50 million or slightly more. Kenny said the Program will not pay that
345 entire cost; other partners deriving benefit will have to contribute as well. Mike Drain said we also have
346 to look at the question of whether or not there is FERC involvement or approval necessary since Central
347 is a FERC project. Kenny said there is also the Corps 404 permitting process. Purcell said we need to
348 know what the Program will get out of it – what are the discussions with Nebraska? Continue to do what
349 you have been doing, but we need to address the Nebraska issue either with a separate committee or
350 through some other means. Schneider said Nebraska wants a portion of the project and that won't
351 change. The original scoring was Nebraska having approximately a 40 to 50% interest in the project's
352 yield, however the project concept at that time resulted in a much lower yield (around 8,000 acre-feet)
353 than currently anticipated (around 4,000 acre-feet). Kenny said there was a memo from Jim Cook in 2000
354 that set out volumes, but the yield was expected to be much smaller so discussions have shifted toward
355 percentages. Schneider said Nebraska was thinking they could possibly buy in for up to 25% of the
356 project (\$10M of a \$40M project), at a minimum the 4,000 acre-feet that we discussed earlier.

357
358 Purcell said the GC always contemplated these projects would be contracted through a local entity and the
359 Program would not own infrastructure. If Nebraska is only talking about that amount of water and
360 Central still wants to be a sponsor, we should continue to investigate this option. Williams asked who
361 would own the land if the Program goes away. Purcell said the local sponsor (Central). Lawson asked
362 who would purchase the land. Kraus said it would likely be the sponsor. Drain said we have not
363 concluded what the best option is. Central will own the land, but we don't know exactly how we would
364 get there. Courtney said as we have looked at operating the reservoirs for multiple purposes, design has
365 changed. We need to know what partners like the Nebraska DNR have in mind because that will
366 ultimately affect the final design and yield. Schneider said there needs to be a discussion about
367 controllable offsets and how it relates to the Nebraska Depletion Plan. Purcell asked if this is offset for



368 new depletions or to make up the gap from 1997-2000. Schneider said it is for post-97 depletions.
369 Lawson said if this can be pulled off the way it is envisioned, it will be a great project. Lawson said
370 Kenny should make a list of all the potential challenges and a schedule for addressing those challenges.
371 Kenny said that is a good approach, but wanted to confirm today we are headed in the right direction.
372 Lawson asked if Kenny could develop that list and come back to the GC for discussion. Purcell said
373 continue with permitting and land discussions, but we need to have hard discussions about how to pull the
374 partnership together. The Program needs to know what Nebraska wants for a percentage of the project
375 and when they will make that decision.

376
377 Courtney said, as an example, we talked about looking at land acquisition next. That could be a potential
378 fatal flaw, because design is dependent on the specific location of the reservoir. A decision on a county
379 road is influenced by how much yield Nebraska wants. Operating goals of the partners affect the
380 schedule and project sequencing. Purcell asked if we could defer this discussion to Executive Session
381 tomorrow. Purcell said there is a finite amount the Program will spend prior to a commitment from
382 Nebraska and Central – the feasibility study, permitting, and some land items.

383
384 In terms of Elm Creek, some issues have arisen:

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

390
391 At the WAC meeting in April, the WAC inclination was not favorable toward this reservoir. Central
392 Platte NRD and Nebraska are still considering Elm Creek as an option. There may be some room to store
393 Program water if necessary. Kenny said these items mean the Program is backing off on this project, and
394 the window of opportunity may be closing as a result. Purcell asked about the status of the study. Kenny
395 said the feasibility study is complete and that is what was discussed with the WAC.

396
397 Courtney discussed groundwater recharge issues. The focus for now has been on the Phelps Canal and
398 we may revisit the Gothenburg site later. We have been working closely with Sackett and Central to talk
399 to landowners about doing some pilot studies on their sites (put water in the ground and monitor effects).
400 We've learned that the interaction with drains is critical to understanding timing of recharged water
401 returning to the river. There have been a couple amendments to the contract – having consultants look at
402 the interaction of groundwater and drains already in place, and do more monitoring of the drains. The ED
403 Office presented a recommendation to the workgroup to move ahead with studies at two sites, but the
404 workgroup was nervous about spending so much money without a long-term arrangement with
405 landowners. Sackett did make contact with a landowner on the uphill side of the canal that may be
406 interested in a long-term agreement. The workgroup agreed to move ahead with one of the original sites
407 and also pursue a long-term agreement with the uphill landowner. We are working with Central to
408 develop permit applications that would allow using excess flows in the canal and also to work with EA
409 water. In terms of participating in the canal recharge aspect of the project, Tri-Basin NRD and Nebraska
410 DNR would be involved as well.

411
412 Besson asked about the relationship between the excesses utilized for the reregulation reservoir and the
413 groundwater recharge project – are we competing for the same water? Courtney said it is less an issue of
414 yield, but rather capacity to move water in the Phelps canal. Drain said one distinction between this and



415 the J-2 reservoir is we are further along with the written agreements on the groundwater recharge project.
416 Drain also said his recollection is that ownership of projects is not necessarily a hard rule, so it is possible
417 to envision that the Program would own a recharge pond. Kraus said that is something they have not
418 discussed with the Central Board or the Program.

419
420 Kenny said discussions are moving forward with NPPD and Central regarding water leases.

421
422 Kenny presented a gift to Lawson for his service as GC Chair in 2010.

423
424 **Meeting adjourned at 6:25 p.m. Mountain time.**

425
426 **Wednesday, June 15, 2011**

427
428 **Welcome and Introduction**

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

430
431 **Pathfinder Lease Agreement**

432 Purcell discussed the latest version of the agreement. From Wyoming's perspective, the agreement is
433 ready for approval. Comments were received from Diane Wilson at the NCF and Jennifer Schellpeper at
434 Nebraska DNR and changes were made accordingly. Kraus said there was a typo on Page 3; Purcell
435 made the change. Chamberlain said he was not clear on the differences in water costs noted on Page 3.
436 Purcell said the difference between \$65 and \$51 is that the \$65 cost is brought back to present value to
437 end up equaling \$51. Chamberlain said in the minutes from the last GC meeting, it mentions a cost figure
438 of \$91. Purcell said that is an option that gives the Program flexibility on how much water it takes. The
439 \$65 figure is associated with an option that gives the Program less flexibility, and the \$51 figure is
440 associated with the prepayment option.

441
442 Chamberlain asked what authority the BOR has to establish what can be charged for this water. Lawson
443 said there is a definition of what could be subcontracted to the state under Appendix F of the stipulation.
444 The BOR also has a contract with the State of Wyoming with regard to the Wyoming account in
445 Pathfinder agreed to by both parties with provisions for re-marketing the water. Wyoming can re-market
446 the water but only to recoup their costs. Chamberlain asks why the BOR would care what we charge for
447 the water. Lawson said it is defined by contract between the State of Wyoming and the federal
448 government. Chamberlain asked if that applies to facility like Glendo. Lawson said there is not a similar
449 re-marketing contract for that reservoir. Purcell said another issue is that this is not a firm water supply so
450 we cannot warrant the full price of \$91 – that is part of discounting the price down to \$65. Schneider said
451 from the Program's standpoint, for a year like this year we would have to take 4,800 acre-feet, pay for it,
452 but it would just have to go down the river. Chamberlain said he is trying to learn more about this, but
453 what is driving his questions is oil and gas development in southeast Wyoming so there are a lot of
454 questions about what water is worth.

455
456 Kraus asked if there is a delivery of less than 4,800 acre-feet but the next year is wetter, there is a
457 potential to catch up on the year you were short. His read of #5 suggests there is an option to make up
458 that water shortage. Purcell said that is not correct. Section 5 is related to re-looking at water estimates
459 later in the year. Barel and Kraus said if there are years the Program gets less than 4,800 acre-feet, the
460 Program may never get the full 38,400 acre-feet it is entitled to. So, it is not clear how the Program
461 catches up from water-short years to ultimately get to the full 38,400 acre-feet amount. Purcell said you



462 catch up by taking more than 4,800 acre-feet in wet years. Kraus said Section B2 reads as though the
463 Program could never take more than 4,800 acre-feet meaning the Program might ultimately not get its full
464 38,400 acre-feet share. Lawson said B2 is used to establish in the first day of June how much water and
465 that can be adjusted later in the summer. Kraus if Section B5 allows the Program to take more water.
466 Schneider said the available amount in B1 could be larger than 4,800 acre-feet. Barels said it seems like
467 it would better to use the terminology “available water” in Paragraph 1. Berryman said he reads it as
468 there is potentially a range.

469
470 Lawson said in Paragraph 1, let’s say 9,600 acre-feet available. Paragraph 2 says as far as on obligation,
471 the delivered amount will be 4,800 acre-feet or the available water, whichever is less. Thus, the Program
472 must take at least 4,800 acre-feet, but it could take up to 9,600 acre-feet. Purcell said it is sequential – we
473 decide what is available in #1, and the Program says what it wants in #2. In #5, there may be a
474 determination that more is available later and the Program can decide then if it wants that water then.
475 Kraus asked if A2 allows for Program reimbursement if after 8 years the Program ended up with less than
476 38,400 acre-feet. Schneider wanted to mention that we have not looked at scoring this water relative to
477 the Water Action Plan. Barels asked if we have scored it. Lawson said the bottom line is we are
478 purchasing water and it has to be a decision of this body as to whether this is a good deal, regardless of
479 the score. Kraus said we need a reminder that this water needs to be scored soon. Lawson agreed that is
480 very important and that needs to be addressed for all water projects now under consideration. Barels
481 asked about the short window between May 1 and June 1 and asked if Kenny had envisioned a process for
482 involving the GC in decision-making. Kenny said he envisioned coordination with the ED Office and the
483 EA manager, and input from the EAC/RCC at their April meeting. Barels said that seems to indicate the
484 GC will not be involved in the purchase decision. Where does that GC involvement come in? Is it
485 through the annual budget process? Kenny said that is a component, but the development of a process
486 that provides the GC comfort that they will have adequate input and oversight will happen soon. Barels
487 said there should be an annual EA AOP with monthly e-mail updates to the GC, and maybe that is a good
488 entry point for GC involvement. Kenny said those details need to be worked out. Schneider said it seems
489 like Kenny is the point person for the Program for this contract, but the GC will have several places for
490 input. Kenny agreed and said guidelines will be established for GC input as well as more operational
491 flexibility.

492
493 Ament moved to approve the agreement, with the changes as noted; Heaston seconded. Purcell abstained.
494 **Agreement approved.**

495
496 **Public Access Policy**

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

506
507 Urie asked about the rationale for not allowing waterfowl hunting as a compatible use. Heaston said there
508 was a lot of discussion about waterfowling. The LAC laid out some cornerstones we did not want to



509 violate, including the Nebraska recreational access liability law, the requirements of the Biological
510 Opinion, and other considerations. It was easier to develop a list of activities on Tier 2 that are not
511 prohibited indefinitely but we wanted to allow a small set of activities at first, calibrate the policy, and
512 make changes in the future. Kenny said the list of uses will be reviewed and approved by the GC
513 annually. Barels asked if lands where access is allowed would be reviewed and approved annually as
514 well. Kenny said that is correct. Purcell asked if people still have to get approval to gain access. Heaston
515 said all access is by written permission only. Strauch asked if written permission is for the period of open
516 access. Sackett said permission is for one-day only. Heaston said people will use the NGPC online
517 access system. Chamberlain asked if usage will be reported back to the Program from the NGPC.
518 Sackett said yes.

519
520 Strauch moved to approve the Public Access Policy; Czaplewski seconded. **Policy approved.**

521
522 Sackett and Kenny said this agreement is presented for discussion purposes but will not come back to the
523 GC for further input. Final approval will be sought at the FC meeting on July 8. George asked about
524 Paragraph G. Sackett said this is an incentive program because we may want to put more acreage in the
525 access program down the road. Kenny said it is unlikely we will be able to take advantage of the
526 incentive program but we decided to leave that in the agreement. Part of what NGPC brings to the table
527 is not only the permission system, but also law enforcement. Lawson said the devil will be in the details
528 – the problem is if there is a violation, what kind of citation can they issue? Is the person committed by
529 the NGPC a law enforcement person patrolling four counties? Sackett said the one person is their
530 coordinator that will work with their IT people to make sure the permission system is working, and will
531 also coordinate with their law enforcement division to make sure properties and activities are adequately
532 covered. Lawson asked if all of this will be covered for the \$50,000. Sackett said yes. Purcell said this is
533 a good solution at a good price. Urie said there are provisions for shared signage. That should be nailed
534 down because replacing signs that get shot can be expensive. Kenny said the Program is responsible for
535 that and we currently have signs on Program properties.

536
537 **Public Comment**

538 Schneider asked for public comment. None offered.

539
540 **Executive Session**

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

543
544 Heaston moved to end Executive Session; Barels seconded. **GC ended Executive Session at 10:46 a.m.**
545 **Mountain time.**

546
547 **Program Land Tracts & Issues**

548 Purcell moved and Czaplewski seconded:

- 549
- 550 • To approve allowing the ED Office to seek appraisal of and begin negotiations for acquisition of
Tracts 1101 and 1102; and
 - 551 • To authorize the land trade at Tract 2009008

552 **Motion approved.**

553



554 The GC also requested the ED Office develop a budget for water-project related studies including
555 funds needed to secure the necessary land rights and bring it to the Finance Committee for
556 discussion and approval.
557

558 State of Nebraska Platte River Update

559 Schneider delivered a presentation on the Nebraska surface water permitting process. Purcell asked about
560 the frequency of public hearings and notices. Schneider said that unless someone objects, only notices
561 occur. Langan asked what kinds of projects have been permitted lately. Schneider said they were all
562 temporary diversion projects and they all fit with the PRRIP and the IMPs in Nebraska. Purcell asked
563 about reforms in Nebraska and how much they are a result of the Program. Schneider said items like
564 Overappropriated designations were probably largely the result of needing to meet Program requirements
565 and also the Republican River Compact. Kraus and Schneider said funding is still a large issue.
566 Schneider said the general fund contribution is up to \$3.3 million annually and the Nebraska DNR can
567 apply and get bonus points through the Nebraska Environmental Trust.
568

569 Future Meetings & Closing Business

570 Upcoming GC meetings:

- 571 • September 13-14, 2011 in Scottsbluff, NE
- 572 • December 6-7, 2011 in Denver, CO at the Warwick Hotel in downtown Denver

573
574 Strauch asked if we could recognize Norm DeMott's service on the GC and possibly have a meeting
575 closer to Scottsbluff because DeMott cannot travel very far comfortably. Kenny said we could have the
576 September meeting in Scottsbluff. The GC agreed.
577

578 Kenny discussed having the December GC meeting in Denver at the Warwick Hotel.
579

580 **Meeting adjourned at 11:15 a.m. Mountain time.**
581

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

- 583 1) Approved March 2011 GC minutes
- 584 2) Approved lease of a new Program truck. Also requested that Headwaters put together a proposal for
585 FC review of Headwaters owning other assets and charging the Program a usage fee.
- 586 3) Appointed a Proposal Selection Panel for the Whooping Crane Monitoring RFP: C. Smith (EDO), D.
587 Baasch (EDO), Czaplewski (CPNRD), Peyton (CNPPID), Fritz (NGPC), Tacha (USFWS),
588 Taddicken (Audubon Rowe Sanctuary)
- 589 4) Agreed to hold a teleconference to approve future Program involvement in the whooping crane
590 telemetry study, with the caveats that the EDO will provide:
 - 591 • The partnership agreement for the project
 - 592 • A sole-source memo for the project
 - 593 • A proposed budget for the Program's available \$125,000 in 2011
- 594 5) Approved the Pathfinder lease agreement, with changes.
- 595 6) Approved the Public Access Policy.
- 596 7) Approved allowing the ED Office to seek appraisal of and begin negotiations for acquisition of Tracts
597 1101 and 1102.
- 598 8) Authorized the land trade at Tract 2009008
- 599 9) Requested the ED Office develop a budget for water-project related studies and bring it to the FC for
600 discussion and approval.



- 601 10) Set the September 2011 GC meeting in Scottsbluff, NE.
602 11) Set the December 2011 GC meeting in Denver at the Warwick Hotel in downtown Denver.