



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Governance Committee Meeting Minutes

ED Office Conference Room – Kearney, NE

March 8-9, 2011

Tuesday, March 8, 2011

Executive Director’s Office (ED Office)

Jerry Kenny – Executive Director

Bridget Barron

Chad Smith

Beorn Courtney

Jason Farnsworth

Bruce Sackett

Justin Brei

Steve Smith

Sira Sartori

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

Mark Czaplewski – Central Platte Natural Resources District

Deb Freeman – Colorado Water Users

John Heaston – The Nature Conservancy

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

Participants

Brock Merrill – Bureau of Reclamation

Jennifer Schellpeper – Nebraska DNR

Cory Steinke – CNPPID

Mike Drain – CNPPID

Mike Farrell – NET

Mike Forsberg – Photographer

Harry LaBonde – State of Wyoming

Mike Besson – State of Wyoming

Mike George – USFWS

Matt Raabe – USFWS

Bob Mussetter – TetraTech

Suzanne Sellers – State of Colorado

Kevin Urie – Colorado Water Users

Diane Hoppe - Consultant



48 **Welcome & Administrative**

49 Schneider called the meeting to order and the group proceeded with introductions. Schneider asked for
50 agenda modifications; none offered. Taddicken moved to approve the December 2010 GC minutes;
51 Strauch seconded. **Minutes approved.**

52

53 **Program Committee Updates**

54 *Land Advisory Committee (LAC)*

55 Czaplewski provided an update on the latest LAC activities. The LAC met on February 9 and discussed
56 an offer by the Nebraska Game and Parks Commission (NGPC) to administer recreation on Program
57 lands. The LAC noted several items that needed clarification and asked the EDO to work with the NGPC
58 to bring back a revised proposal for further action. The LAC recommended several land management
59 plans to the GC for approval. There was a LAC conference call on February 22, they passed a motion
60 that the TAC form a sub-committee to address wet meadow restoration and grassland restoration targets
61 for Program lands. The LAC recommended the GC approve appraisal and negotiation on Tract 1019 and
62 decline Tract 1018. The LAC also recommended a Land Plan language amendment. The next LAC
63 meeting is April 6.

64

65 *Water Advisory Committee (WAC)*

66 Steinke provided an update on the latest WAC activities. The WAC met on February 1 via conference
67 call and was provided an update from the EDO on Water Plan projects. Data collection for the
68 groundwater recharge project is now caught up according to the consultant's plan. The WAC discussed
69 the EA as a possible source for a groundwater recharge pilot project and the USFWS is open to that idea.
70 The WAC also discussed NPPD canal operations. Purcell addressed the Pathfinder lease agreement.
71 Schneider delivered the Nebraska Depletions Plan. Steve Smith gave a presentation on the North Platte
72 choke point and capacity changes at Kearney. The next WAC meeting is April 26.

73

74 *Technical Advisory Committee (TAC)*

75 Besson provided an update on the latest TAC activities. The TAC met on January 13 and February 15-
76 16. The January meeting focused on the sediment augmentation feasibility analysis and steps for
77 developing a sediment augmentation pilot project. The February 15 meeting focused on the wet meadows
78 information review and results from the Whooping Crane Trust project. The TAC asked the Trust to
79 develop a working definition of wet meadows and then submit a final draft of the information review for
80 further TAC comment. The TAC will host a wet meadows definition and design workshop in late spring
81 or early summer. The afternoon of February 15 and February 16 was a workshop on the 1-D model.
82 Taddicken asked how Felipe and Enrique not being at the Trust any longer would affect receiving the
83 second draft of the wet meadows information review. Besson said he is not worried about receiving that
84 final project.

85

86 *Finance Committee (FC)*

87 Purcell provided an update on the latest FC activities. The FC met on February 17 and approved the
88 groundwater recharge contract, the third year of the water quality monitoring contract, a revised 1-D
89 model contract amendment, the Newark sandpit contract, a revised AMP permitting contract amendment,
90 and the Elm Creek Complex RFP.

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95 **Program Outreach Update**96 **PRESENTATIONS**

- 97 • Jerry Kenny and Jason Farnsworth presented on the Program to the Nebraska First Board meeting on
98 December 14, 2010.
- 99 • Jerry Kenny and Dennis Strauch presented on the Program at the 4 States Irrigation Council in Fort
100 Collins, Colorado on January 13, 2011. John Lawson also presented a Bureau of Reclamation
101 Wyoming Area Office update. At the Awards Banquet that evening, Dennis Strauch received the
102 Nebraska Headgate Award, Jon Altenhofen received the Colorado Headgate Award and Norm
103 DeMott received the Ditch Rider Award.
- 104 • Jerry Kenny gave a Program overview and status report as part of the Endangered Species Workshop
105 at the Colorado Water Congress Annual Conference on January 26, 2011.
- 106 • Jerry Kenny presented on the Program to the South Platte Natural Resources District Board of
107 Directors in Sidney, Nebraska on February 8, 2011.
- 108 • Beorn Courtney presented on the Program to the Water Resources and Management in the US West
109 class at the University of Colorado in Boulder, Colorado on February 17, 2011.
- 110 • Chad Smith presented on the Program and Adaptive Management to the Environmental Policy and
111 Management class at the University of Nebraska Omaha on February 22, 2011.

112

113 **UPCOMING PRESENTATIONS/EXHIBITS**

- 114 • Dave Baasch will have a poster presentation at the joint meeting of the Association of Field
115 Ornithologists, Cooper Ornithological Society and Wilson Ornithological Society in Kearney,
116 Nebraska March 9-13, 2011. The Program will also be exhibiting at the meeting.
- 117 • Dave Baasch will be presenting on Central Platte terns and plovers at the Missouri River Natural
118 Resources Committee Conference on March 9, 2011 in Nebraska City, Nebraska.
- 119 • The Program will be exhibiting at the joint meeting of the North American Crane Working Group and
120 The Waterbird Society taking place in Grand Island, Nebraska March 12 - 16, 2011.
- 121 • The Program will be exhibiting at the Rivers and Wildlife Conference in Kearney, Nebraska on
122 March 18 & 19, 2011.
- 123 • The Program will have PRRIP informational materials at both Rowe Sanctuary and the Nebraska
124 Nature and Visitor's Center throughout migration season.
- 125 • David Freeman will be doing a book signing and a presentation about his Platte River book at the
126 Nebraska Nature and Visitor's Center on March 13, 2011.

127

128 **EXHIBITS/SPONSORSHIPS**

- 129 • The Program exhibited at the Colorado Water Congress Annual Convention in Denver, Colorado
130 January 26 - 28, 2011. We made 374 contacts over the course of the three days.
- 131 • The Program exhibited at the Rainwater Basin Joint Venture Informational Seminar on February 2,
132 2011 in Hastings, Nebraska. We made 219 contacts during that event.
- 133 • The Program is a sponsor of the joint meeting of the North American Crane Working Group and The
134 Waterbird Society taking place in Grand Island, Nebraska March 12 - 16, 2011.
- 135 • The Program is sponsoring the Collaborative Adaptive Management Network (CAMNet) rendezvous
136 on April 16, 17, & 18, 2011 in Keene, New Hampshire. The PRRIP is one of the river recovery
137 programs on the agenda for discussion.
- 138 • The Program is sponsoring the Summer Orientation About Rivers (SOAR) program this June, 2011.
139 SOAR is also sponsored by Rowe Sanctuary and teaches 2nd through 5th graders about the Platte River
140 ecosystem by getting them out on the land and in the water.



141 **MEDIA/PRESS COVERAGE**

- 142 • The Program has an ad in the February, March, and April editions of Prairie Fire. The February issue
143 has a pull-out section, “Prairie Fire’s Field Guide to Nebraska Birding”.
- 144 • The March issue of Prairie Fire will have a review of David Freeman’s book “Implementing the
145 Endangered Species Act on the Platte Basin Water Commons”.
- 146 • The Program will have an article on Program Accomplishments in the April issue of Prairie Fire.
147

148 **OTHER**

- 149 • 2009 & 2010 Accomplishments Report.
150

151 Barron discussed the 2009-2010 PRRIP Accomplishments Report. Freeman asked about seeing a copy of
152 the report. Barron said the file is too large to share electronically. Kenny said a hard copy can be sent. A
153 number of hard copies of the final report will be sent to Ted Kowalski for potential use during upcoming
154 trips to Washington, DC.
155

156 **PRRIP Budget Items**

157 Kenny discussed the latest Program financial status report and the Program budget spreadsheet with final
158 2010 numbers. The larger number of unliquidated obligations from 2010 is the result of activities under
159 LP-2. Those funds will be invoiced and dispersed this month. Barels asked what the numbers in the
160 yellow line represent. Kenny said that is a total figure for Program expenditures during the First
161 Increment (past, current, and projected). Kenny discussed budget graphs showing Program budgets
162 versus expenditures for 2007-2010 as well as projections for the rest of the First Increment. Kenny then
163 discussed the GC action item table for the March meeting. There is an RFP on the street now for work at
164 the Elm Creek Complex, and the EDO is working with HDR/Flatwater to scope the next phase of the
165 sediment augmentation project. The last item is the proposal for Program funding for a time-lapse
166 photography project. Kenny discussed the proposal from Mike Forsberg and Mike Farrell and showed
167 several still images and time-lapse videos from a camera on loan from the USGS that has been placed at
168 the Elm Creek Complex for the past year. The time-lapse proposal would be associated with IMRP-2
169 (AMP-related research). There are remaining funds in that line item that are not yet allocated to specific
170 projects and this would be a good use of \$50,000 in Program funding. There are plans for 30-40 cameras
171 throughout the basin with at least two specifically in the central Platte.
172

173 Purcell asked about the annual budget to maintain it. Kenny said \$50,000 in 2011. Forsberg and Farrell
174 said they would come back to the Program for a similar amount in future years. Czaplowski asked about
175 the project length. Forsberg said the current project is for two years but they are seeking major funding to
176 extend the project for many years. Barels asked about the number of cameras that would be placed in the
177 Program activity area. Kenny said activity areas in the central Platte where cameras would be capturing
178 Program work or associated habitat images, it would be 2-4 cameras. Forsberg said this is a basin-wide
179 project and it is a partnership with the Program. There will be 45 camera systems deployed in total up
180 and down the basin. Czaplowski said the GC has a policy encouraging folks to write up and publish
181 reports from Program data. How much review and control will the Program have, especially if it goes
182 into multiple forums for use (school curricula, etc.)? Kenny said there would be an agreement but he is
183 not sure how much control would be associated with the messages coming from the images. Czaplowski
184 said he is asking about the narrative and would like to see the Program have some review capacity over
185 that narrative. Kenny said the discussion thus far has been good in terms of potential camera locations,
186 uses, and messages. \$50,000 does not buy the Program control but rather input into locations and the
187 associated message. Because this is being treated as science-oriented by the Program and university, that



188 tempers the message that can be associated with this project. Farrell said the purpose is to tell a balanced
189 story about the questions around the Platte River and how it is being used. The Program will be asked to
190 provide extensive input on matters of fact. It is not the intention to provide a forum for a particular point
191 of view, but instead education about the Platte.

192
193 Strauch asked if Kenny is just asking for \$50,000 for this year. Kenny said yes. Kraus asked what the
194 repository will be for the images. Farrell said at UNL servers, likely at NET television. Forsberg will
195 retain some intellectual property rights but the images will be made available at no cost. Taddicken said
196 this project will be a powerful tool for the Program's education and outreach. We can put bar graphs and
197 data in front of people all day but they will turn away quickly. These images will really tell the story.
198 Ament asked if we are seeking a 10-year commitment. Kenny said no, he is only asking for one year of
199 funding at this point. There have been discussions about a 2-3 year timeframe, but that will be addressed
200 through future Program budget discussions.

201
202 Heaston moved to approve the \$50,000 for funding the time-lapse project; Taddicken seconded. Barels
203 said he would like to see some kind of plan so this information is tied to the WAC, LAC, and adaptive
204 management process. Schneider said the advisory committees should be involved in this discussion.

205 **Motion approved.**

206

207 **Program RFPs**

208 Farnsworth discussed the Elm Creek Complex FSM Proof of Concept RFP and requested the GC appoint
209 a Proposal Selection Panel.

210

211 Ament moved to approve the panel; Strauch seconded. **Proposal Selection Panel approved:**
212 Farnsworth (EDO), Steve Smith (EDO), Jenniges (NPPD), Hallum (Nebraska DNR), Besson (State of
213 Wyoming), Sellers (State of Colorado), Rabbe (USFWS), Steinke (CNPPID)

214

215 **Sediment Augmentation Feasibility Analysis**

216 Chad Smith introduced the contractor team for the sediment augmentation feasibility analysis and the
217 status of the project. The results of the analysis were discussed with the TAC earlier this year and also
218 with the TAC and ISAC at the AMP Reporting Session in Denver on March 2-3. Pat Engelbert (HDR),
219 Tom Riley (The Flatwater Group), and Bob Mussetter (Tetra Tech) delivered a presentation on the results
220 of the analysis and potential next steps for a sediment augmentation pilot project. Schneider asked what
221 next steps are anticipated for this project. Smith discussed developing the scope for Phase II, which
222 would be a pilot project introducing 100,000 tons of material into the river in late 2011/early 2012. Kraus
223 asked if Phase II was part of the original contract. Smith said yes, the contract said the scope for Phase II
224 would be developed at the conclusion of Phase I and that process has begun. Schneider asked if the
225 Finance Committee would review a contract amendment and scope. Smith and Kenny said yes, that
226 would be presented to the FC during their next meeting.

227

228 **2010 Tiered Platte River Biological Opinions**

229 Rabbe discussed USFWS consultation activity related to the Program in 2010. No questions asked.

230

231 **Pathfinder Lease Agreement**

232 Purcell discussed the latest version of the Pathfinder lease agreement and associated pricing options,
233 which includes updated after WAC input. Purcell said Lawson asked if there is a possibility if Wyoming
234 would allow for pre-payment of water. Purcell said yes, and if so the water would be \$51/ac-ft. Purcell



235 said he is obligated under a BOR contract to not profit from the water, which would allow a sales price of
236 \$92/ac-ft. Prices below that would simply allow more consistent cash flow. Kenny asked if the Program
237 chooses option 2 (\$65/ac-ft.), is that option locked into the rest of the First Increment? Purcell said you
238 pick one pricing option for the remaining eight years of the First Increment; that includes the pre-payment
239 option. Taddicken asked if we pay only for the water the Program gets. Purcell said that is correct.
240 Sellers asked how much water would be available in an average water year. Purcell said 9,600 acre-feet.
241 Lawson said that is average yield. Purcell said there should be no demand for the water in an average
242 water year so that amount should be available. In a drought or below average water year, he would have
243 to assume all municipalities would be under regulation and water would be needed for the NvW
244 settlement and there likely would be no water available to the Program. Berryman asked about timing on
245 when the water would be available. Purcell said the contract recommends the Program not take water
246 until September. Thabault asked about the differences between option #1 and #2. Purcell said under
247 option #1 (\$92) the Program has all the flexibility and can take none or all of the water available. For
248 option #2, the Program would have to take a certain amount of water (at least 4,800 acre-feet or whatever
249 is available, whichever is the smaller amount). Ament asked what happens if Lake McConaughy is full
250 and the Program has to take water – where does the water go? Purcell said as the water would be
251 delivered in September there should be space available in the EA in Lake McConaughy or the Program
252 bypass it for other Program purposes.

253
254 Lawson said it seems to him that from a Program standpoint he is not sure you can say anything other
255 than you have an option to buy water each year but you have not guaranteed how much. That makes
256 option #1 hard to help make any determination as to what the Program gets relative to its water goal.
257 Option #2 provides more certainty in this regard. For the Program, option #2 could reasonably say it
258 acquired 4,800 acre-feet toward the 50,000 acre-feet goal. For option #3, that represents 4,800 acre-feet a
259 year at present value which gets you to \$51/ac-ft. The Program has cash on hand right now that might not
260 be as available in the future to pre-pay for the water, plus that would be progress toward the annual water
261 goal as opposed to just feasibility studies. Thabault asked about water in excess of 4,800 ac-feet. Purcell
262 noted the excess water would be available to the Program at the established price. Purcell said the
263 agreement will set the price and conditions for the transaction. The instrument that authorizes delivery of
264 the water is a Temporary Water Use Agreement through the Wyoming State Engineer. The Temporary
265 Water Use Agreements have been authorized by the Wyoming Legislature.

266
267 Schneider said if there is support for the pre-payment option, there needs to be more work done to
268 hammer out the details. Thabault asked Lawson when the Program should pull the trigger on pre-
269 payment given the federal budget situation. Lawson said by the end of the federal fiscal year or the
270 calendar year. The final agreement will have to include only one option and then go back to the GC to
271 consider supporting. Berryman likes the pre-payment option and the EA subcommittee should discuss
272 how to handle the water in terms of flow management. Barels asked if the water is available in water year
273 2011. Purcell said no, it would begin in water year 2012. Lawson said the reason for that is the
274 Pathfinder modification will not be completed until 2012. Water could be stored in that project for water
275 year 2012, but not 2011. Purcell said the hope is the project will be completed by the end of the year.
276 **Ament said the GC should ask Purcell to change the agreement to reflect just the pre-payment**
277 **option and then come back at the June meeting to discuss and approve. Schneider agreed that**
278 **seems to be the way the GC is leaning. The GC agreed.** Kenny said assuming we go with the pre-
279 payment option, when would the Program need to cut a check? Purcell said on or before July 1, 2012.
280 Kenny asked Lawson if that works for the federal dollars. Lawson said yes.
281



282 **Nebraska Depletions Reporting**

283 Courtney discussed recent WAC discussions about Nebraska’s depletions plan report. It is possible that
284 once the Nebraska depletions plan deliverables that are due by the end of this year are complete, it might
285 be helpful to pull all of those items together into one report and then have another discussion with the
286 WAC. The WAC also discussed when the Nebraska DNR will be able to identify and establish an
287 interest in the various Water Action Plan projects. Schneider asked Courtney if the GC received the
288 original submission from the Nebraska DNR that was developed last December. Courtney and Kenny
289 said no. Schneider said that should be provided to the GC in the near future, but that may be a good thing
290 because it might be confusing to start with that document like it did at the WAC meeting. The memo
291 provided by the Nebraska DNR in response to the ED Office memo on this issue is probably the best
292 place for the GC to start.
293

294 **Groundwater Recharge Pilot Project Permit**

295 Courtney provided a status update on seeking a temporary water supply permit for use of EA water for the
296 groundwater recharge pilot project. A permanent project water supply would be excess to target flows,
297 but the pilot project needs a temporary water supply. CNPPID filed a temporary permit application in late
298 2010 to use excesses to target flows for this purpose, but there should also be a backup plan incase
299 excesses are not available. Use of the EA water was identified as an alternative The main issue is that the
300 existing EA permit shows water going through Central’s system and returning at the J-2 return, whereas
301 the recharge project would return water through the ground in dispersed locations below the J-2 return.
302 Discussions with Nebraska DNR indicate the Program will have to secure a temporary permit to allow use
303 of the EA water in this manner; Steinke is drafting a permit application now. Nebraska DNR also
304 indicated that it would be beneficial for the Program to submit letters of support from existing Nebraska
305 permit holders, so Kenny will be contacting several GC members in the upcoming weeks to solicit such
306 support letters.
307

308 Schneider also presented information on a concept NDNR is developing to investigate canal recharge. He
309 said this grew in part out of discussions related to the amount of water coming through Nebraska this year
310 and issues related to reaping benefits from that water and also flood mitigation. The Nebraska DNR has
311 been talking to irrigation districts above and below Lake McConaughy and has been talking to NPPD,
312 CNPPID, and the NGPC. Strauch asked if anyone that diverts will have to secure a temporary permit.
313 Schneider said yes. Kenny asked if the Nebraska DNR is asking for anything specifically from the
314 Program (money, effort, etc.). Schneider said no dollars, but they might want to collaborate on some of
315 the analysis. Barels said that as you fill canals in the first instance of the year, seepage losses will be
316 higher than during or after the irrigation. The groundwater recharge will be different than typical.
317

318 Barels said it wouldn’t hurt if Lawson gave the group the latest info on North Platte River inflows.
319 Lawson said there is a “perfect storm” setting up – snowpack of 136% of average, and it is uniform at
320 upper and lower elevations; reservoir system that is 146% of average; 300,000 acre-feet more water in
321 system than last year. This could mean something like 1983-1984, and then there is a wildcard as to how
322 much inflow there will be in the lower basin which is already completely full.
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324 **Meeting adjourned at 5:25 p.m. Central time.**
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Wednesday, March 9, 2011

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Welcome and Introduction

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

North Platte Choke Point Update

Kenny provided an update on activities and conveyance issues at the North Platte River choke point. Purcell asked if we are seeing a reduction in stages all the way up and down the river, and is this still the bottleneck of concern. Kenny said Kearney is showing diminished capacity, but the North Platte choke point is still the primary choke point of concern. Purcell asked if the 8,000 cfs pulse is still possible. Kenny said at Kearney we would violate flood stage at 7,000 cfs, although in 2008 we had 12,000 cfs and there was no major flooding except for flow going in channel areas where it is not normally seen – no property damage or residential/commercial property inundation. Part of the issue is the NWS definition of flood stage. High flows this year and vegetation spraying and removal in areas like Kearney mean we are in a position for natural pulse flows to do some of its own capacity improvements. Thabault asked if anything leads us to believe the problem is not the bridge itself. Kenny said the bridge has directed water in certain directions and that led to the thought that if we put culverts on the north side some flow could pass through that area and keep the north channel active – otherwise, we need a pilot channel downstream of the bridge to get water heading back north. The shortening of the Highway 83 bridge certainly had an impact on this area.

Heaston asked if we are in contact with the Department of Roads and Union Pacific with future plans for other structures or construction. Kenny said no contact has been initiated at this point. We want to get some modeling completed to gather more facts before that happens. Heaston said it would probably be helpful to talk to them sooner rather than later. Kenny said we continue to stay in touch with the City of North Platte to keep them informed and let them know the Program is being a good neighbor. Drain asked about modifications to the current work contract and what that means. Kenny said that he wants to modify the modelers contract to look at all possibilities. The vegetation work has been accomplished in the choke point area and we are not looking at additional work there. The Program will continue to look at vegetation spraying and removal in other areas. Drain said it is good to try to understand better what is going on even if there are things happening that the Program has no control over. Kenny said that is particularly important. Drain said we previously concluded box culverts in the north approach would get gummed up and that it seemed like there would be conflicts with private property owners. Kenny said that generally seems to be the case. Ament said he is worried about the railroad. Kenny said he knows the Program will need to present compelling evidence to work with them. We do not plan to propose dealing with the railroad grade or issues like that, but he knows the railroad will be concerned. Drain asked if it is an issue of blockage under the railroad bridge. Kenny said there does seem to be a blockage but it may be out of their right-of-way.

Land Plan Amendment

Farnsworth discussed the proposed Land Plan language amendment that deals with a tiered approach to land plans. Changes were kept as minimal as possible and have been discussed several times with the LAC. Barels moved to adopt these modifications to the Land Plan as presented; Thabault seconded.

Motion approved.



376 **Land Agreements**

377 Sackett discussed guidance for land plan agreements influenced by “other interests” language and
378 agreements related to potential Program water projects. Agreements with landowners at the Elm Creek
379 Complex have been developed with legal counsel and with the PRRIF, and were developed to ensure the
380 Program can accomplish its goals. The Program is spending dollars on the work but not with any of the
381 landowners involved in the agreements. Kenny said the Program has oversight. The areas and activities
382 are vetted through the LAC and TAC and have specific reasons and direction from those Advisory
383 Committees. Barels asked about how these will be handled in the future in terms of GC involvement.
384 Sackett said at this point the tracts and agreements that do not have dollars involved – if they fit with the
385 individual tract or complex land plan and don’t cost the Program any dollars, then we will pursue these
386 like those in the past. If any of them become a lease or in some way require Program dollars, then they
387 would be brought through the normal land interest acquisition process that includes the LAC and GC.
388 Kenny said the GC would be kept informed but we would not request specific approvals for management
389 agreements that do not involve money. The issue of whether this land counts is something that requires
390 GC discussion and approval. Sackett said these agreements are specifically listed in the land plans that
391 the GC ultimately approves. Thabault asked if the GC is being asked to do anything today. Sackett said
392 this is just an update and follow-up from previous GC discussion about these management agreements
393 during the December 2010 GC meeting.

394
395 Czaplewski said it seems like the GC has not taken action to count or not count these agreements and
396 Program acres, so the GC should do that. Kenny said at some point that should happen, either now or as
397 part of the land motions. Thabault said philosophically he is in favor of counting, but he is concerned
398 about the fluidity or permanency of whatever we do. These kinds of agreements don’t seem to fall into the
399 same category as other acquisitions – they seem more like exceptions. Kenny said the discussion of
400 counting or not counting the acres is better addressed in Executive Session and then could be a part of the
401 motions coming out of Executive Session. Barels said he does not have a problem with the GC
402 delegating its responsibility to approve all management agreements with money or not. Even if we are
403 not spending money, the Program is accepting responsibilities and the GC needs to be made aware of
404 when these agreements are being entered into. At a minimum, they need to be reported to the GC so we
405 know what agreements we are entering into and why they exist. Kenny said that could easily be added as
406 a part of the regular land discussion during each GC meeting. Sackett said all agreements have been
407 written so that the landowner or the Program can cancel them with a 60-day notice. Besson asked if we
408 are paying for improvements on the land. Sackett said we pay for things like tree removal or grass
409 seeding. Thabault said Sackett’s comment on the 60-day notice issue reinforces his concern about relying
410 on this mechanism to achieve Program land goals. Strauch asked how many acres are under current
411 management agreements. Sackett said 392 acres, which is only the area of land where the Program is
412 doing work – the landowners own additional land where the Program does not do work.

413
414 Strauch asked when the GC would approve these agreements. Sackett said it could be part of motions
415 coming out of Executive Sessions as a follow-up to previous LAC work and inclusion in relevant land
416 management plans. **Kenny said his understanding is the use of management agreements is legitimate
417 but that the EDO will include reporting on these agreements as part of routine land reporting
418 during GC meetings. For those worthy of consideration of counting toward habitat land goals, they
419 will follow the normal process of a LAC recommendation brought to the GC for approval of those
420 acres. GC agreed.**
421



422 Sackett said for water agreements, those land rights may include payment for a landowner for access for
423 things like pilot groundwater recharge projects. If these agreements are within budget and scope and tied
424 to projects in the Program Document, the EDO feels these do not need to come back for additional GC
425 approval. These agreements are developed with legal counsel and with the PRRIF. Kenny said the level
426 of current oversight is: 1) budgeting – Water Action Plan projects approved through the FC and GC; 2)
427 additional FC involvement when these projects go out through a RFP; 3) RFPs are vetted extensively
428 through the WAC and likely through a WAC working group; 4) the LAC is informed of what is
429 happening because these agreements involve landowners; 5) the land agreements themselves are vetted
430 through outside legal counsel; 6) if money is involved, it is generally a nominal amount that falls within
431 Procurement Policy guidelines; and 7) Diane Wilson of the PRRIF signs all agreements. Barels asked if
432 when RFPs are taken to the FC there is an estimate of the land that will be included. Sackett said that for
433 the groundwater recharge pilot project, there was an estimate of one or two sites. It is a general parameter
434 and sometimes not a specific acreage number. Kenny said in the RFP it was general area and general size
435 and not a specific point on the map. To the degree we can, we report what we know and what we are
436 likely to need. Courtney said we have learned that we need the flexibility for Sackett to work with
437 landowners, WAC work group, and consultants because specifics have to be worked out as the project
438 gets underway and the fieldwork plans gets better defined.

439
440 Lawson said he is not sure that Barels' concerns from earlier have been fully addressed. He thought he
441 heard that when these management agreements are entered into, the GC should be informed. At this
442 point, the GC does not have a list of management agreements like we have for acres purchased, leased, or
443 held in easement. Sackett said we did not talk about that because we have been proactive and the total
444 acre update provided to the GC at each meeting now includes a specific agreement category. Barels said
445 he is not concerned about acres, but instead is concerned about what the Program is doing on each
446 property and wants a descriptor of what is happening under each agreement. Purcell said he is concerned
447 about micro-managing small agreements that are being entered into for things like water project boring
448 holes. He draws the line on agreements that are entered into for the life of a project like the groundwater
449 recharge pilot project. This is just part of doing business and the EDO needs to retain the flexibility to
450 complete this work in the most efficient way possible. Of course, if there are extenuating circumstances
451 that would be budget busters then the GC would need to know that. Barels said he does not want to
452 micro-manage but he wants a report during the usual land reporting on what these agreements are for.
453 GC members can then look to the land management plans for additional details. Purcell said he agrees on
454 long-term land management agreements, but the short-term agreements for water projects like boring
455 holes are different and the GC does not need reporting for that.

456
457 **Kenny said he understands that on the land side, management agreements need to be part of the**
458 **regular reporting process including a brief description of what the Program will be doing. Water**
459 **projects are different and the EDO will provide a short and concise update as part of the land**
460 **reporting process. Barels said he wants an update provided at each quarterly GC meeting.**

461
462 **Land Management Activities Report & Land Plan/Review Approval**

463 Sackett provided an update on 2009 and 2010 land management activities. Lawson asked on the 2009
464 review and that overview was by tract, while the 2010 overview was by complex. Sackett said we only
465 had individual tracts in 2009 and now we have complexes in place and the GC just agreed to amend the
466 Land Plan to adopt the complex approach with individual tract plans tied back to the overall complex
467 management plan. Besson asked about the large amount of revenue at the Ft. Kearny Complex.
468 Farnsworth said it is a combination of good cropland income and gravel mining royalties. Purcell asked



469 if Wyoming is getting any income from the Wyoming property. Farnsworth said there was about \$42,000
470 in income for Wyoming in 2010.

471
472 **Sackett said the LAC recommends the GC approve the land plans for Tracts 2009006, 2009007,**
473 **2009008, and 2010001. Czuplewski moved to approve the four land plans; Heaston seconded.**
474 **Motion approved.**

475
476 Sackett said the LAC recommends the GC approve ceasing further pursuit of Tract 1018.

477
478 Sackett said the LAC recommends the GC approve allowing the EDO to seek appraisal of and begin
479 negotiations for acquisition of Tract 1019. Thabault asked about the potential for disturbance at this site.
480 Czuplewski said there is a conservation-minded landowner; it is close to the interstate, but given trees and
481 the sand barrier that should not be a problem; there is a lot of potential to build non-complex tern and
482 plover nesting habitat there; and the site lends itself to the paired design approach with riverine nesting
483 islands on the river on nearby Trust property. If the landowner proceeds with current mining approaches,
484 there will not be nesting habitat on site. But, if the Program proceeds, we can work with the landowner to
485 enhance the site for non-complex tern and plover nesting habitat. Heaston said the producer on the
486 property has tried to work with conservation partners for a long time to mine the site in as conservation-
487 minded of an approach as possible. Czuplewski said the Program is still short on the 400 acres of non-
488 complex nesting habitat and this site will move us closer to that goal.

489
490 Czuplewski moved that the GC decline further pursuit of Tract 1018 and further moved the GC approve
491 allowing the EDO to seek appraisal of and begin negotiations for acquisition of Tract 1019; Strauch
492 seconded. Purcell asked if the LAC concluded that the 71 acres at Tract 1019 counts toward non-complex
493 acreage goals. Sackett said yes. **Motion approved.**

494
495 **Public Comment**

496 Schneider asked for public comment. None offered.

497
498 **Executive Session**

499 Heaston moved to enter Executive Session to discuss land issues; Barels seconded. **GC entered**
500 **Executive Session at 10:13 a.m. Central time.**

501
502 Heaston moved to end Executive Session; Kraus seconded. **GC ended Executive Session at 12:09 p.m.**
503 **Central time.**

504
505 **Program Land Tracts & Issues**

506 Strauch moved and Kraus seconded:

- 507
508 • **Tract 1001** – The GC authorizes the ED Office to proceed with acquisition of Tract 1001.

509
510 Heaston abstained. **Motion approved.**

511
512 Czuplewski moved that the six land management agreements totaling 392 acres associated with the Elm
513 Creek Complex count as complex land for the term of the First Increment or until they are terminated
514 according to the terms of the agreement and as long as they are maintained for their original purposes.
515 The agreements are:



- 516 01 – Aten Family
- 517 02 – D. Johnson
- 518 03 – G. Hubbard
- 519 04 – NGPC
- 520 05 – WCT
- 521 06 – NPPD
- 522 Heaston seconded. **Motion approved.**

523
524 **Future Meetings & Closing Business**

- 525 Upcoming GC meetings:
- 526 • June 14-15, 2011 in Cheyenne, WY at the Wyoming Water Development Commission office
 - 527 • September 13-14, 2011 in Kearney, NE at the ED Office
 - 528 • December 6-7, 2011 in Denver, CO possibly at the Warwick Hotel in downtown Denver

529
530 **Meeting adjourned at 12:15 p.m. Central time.**

531
532 **Summary of Action Items/Decisions from March 2011 GC meeting**

- 533 1) Approved December 2010 GC minutes.
- 534 2) Approved \$50,000 in funding from FY 2011 Program budget line item IMRP-2 for the time-lapse
- 535 photography project.
- 536 3) Approved a Proposal Selection Panel for the Elm Creek Complex FSM Proof of Concept RFP:
- 537 Farnsworth (EDO), Steve Smith (EDO), Jenniges (NPPD), Hallum (Nebraska DNR), Besson (State of
- 538 Wyoming), Sellers (State of Colorado), Rabbe (USFWS), Steinke (CNPPID)
- 539 4) Requested that Mike Purcell re-draft the Pathfinder Lease Agreement to include the pre-payment
- 540 option as the only pricing option and then bring that final agreement back to the GC in June 2011 for
- 541 approval.
- 542 5) Approved an amendment to the Land Plan addressing a tiered approach to land management plans.
- 543 6) Agreed the use of management agreements is legitimate but that the EDO will include reporting on
- 544 land management agreements and land agreements associated with water projects as part of routine
- 545 land reporting during GC meetings. For those worthy of consideration of counting toward habitat
- 546 land goals, they will follow the normal process of a LAC recommendation brought to the GC for
- 547 approval of those acres.
- 548 7) Approved the land plans for Tracts 2009006, 2009007, 2009008, and 2010001.
- 549 8) Declined further pursuit of Tract 1018.
- 550 9) Approved allowing the EDO to seek appraisal of and begin negotiations for acquisition of Tract 1019.
- 551 10) Authorized the EDO to proceed with acquisition of Tract 1001.
- 552 11) Approved counting toward complex land for the term of the First Increment or until they are
- 553 terminated according to the terms of the agreement and as long as they are maintained for their
- 554 original purposes the six land management agreements totaling 392 acres associated with the Elm
- 555 Creek Complex. The agreements are:
- 556 01 – Aten Family
- 557 02 – D. Johnson
- 558 03 – G. Hubbard
- 559 04 – NGPC
- 560 05 – WCT
- 561 06 – NPPD