PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Governance Committee Special Session Conference Call Minutes
November 18, 2011

Conference Call Participants

Governance Committee (GC)

State of Wyoming
Mike Purcell – Member

State of Colorado
Suzanne Sellers – Alternate

State of Nebraska
Jim Schneider – Member (Chair)
Jennifer Schellpeper – Alternate

U.S. Fish and Wildlife Service (Service)
Mike Thabault – Member
Mike George – Alternate

Bureau of Reclamation (BOR)
John Lawson – Member

Environmental Entities
John Heaston – Member

Upper Platte Water Users
Dennis Strauch – Member

Colorado Water Users
Alan Berryman – Member
Kevin Urie – Member

Downstream Water Users
Brian Barels – Member
Don Kraus – Member
Kent Miller – Member
Mark Czaplewski – Proxy for Ron Bishop, Member

Executive Director's Office (EDO) Staff
Jerry Kenny, Executive Director (ED)
Bridget Barron
Beorn Courtney
Jason Farnsworth
Bruce Sackett
Chad Smith

Welcome & Administrative

Schneider called the meeting to order. No agenda modifications offered.

Program Land Tracts

Thabault moved to postpone discussion of Tracts 1101 and 1102 to the December 2011 GC meeting. Purcell asked why. Thabault said there were outstanding questions that need addressed. Purcell seconded the motion. Heaston asked Sackett if this would affect any time-sensitive elements. Sackett said only if a decision is not made in December and gets put off further. **Motion approved.**

FY 2012 PRRIP Budget & Work Plan

Kenny discussed the white paper on possible budget approaches. Sellers said that Colorado wants an ESA compliance safety net set up until federal funding catches up under the proposed budget approach. Thabault asked how that is done without re-initiating the biological opinion. Sellers said she didn't know but Colorado does not want to be in a position where Colorado could not get its money out, milestones are not met, and there is no longer ESA coverage. Purcell said he thinks the White Book covers a similar situation. It says if the Program fails, each of the signatories get to bring to the table those assets they provided to the Program for future consultations in their states. This is in the "doomsday" scenarios in the finance section. Thabault said it is one thing to make that commitment versus providing assurances ahead of re-initiation. There may be something we can do but possibly not to the level Colorado is suggesting - not sure that is legal. Sellers said they want to make sure that if Colorado puts its money ahead of the federal government that they get what they are paying for. Purcell said Wyoming doesn't mind if they get ahead of the federal government, but his only concern is if the Program fails and we have to sell the land, there needs to be a separate bookkeeping situation established to make sure Wyoming's share of the re-sale of land is commensurate with what is invested by the state. Kenny said the assumption is the acquisition can be completed in 2012 for the J-2 project and the current percentages would be utilized in 2012. Purcell said then his concern is if construction is front-loaded and the federal government cannot pay back, the Wyoming's reimbursement should be based on what they put in. Sellers said Colorado and Wyoming are in different positions because Colorado has so many more consultations.

Purcell for the purposes of this discussion it seems like we just need to work out some details and wonders if Colorado is willing to pre-pay. Sellers said Colorado is working on bringing this up the chain to see if it will work. Kenny asked if that possibility exists for Wyoming as well, aside from sorting out details. Purcell said yes. Kenny asked for input from Lawson and Thabault. Lawson said he is the banker and he will first defer to Thabault. Thabault said from the ESA side of things, as long as the Program is on track and things are getting done then the source of funding is irrelevant. This is easier to do than considering assurances related to future consultations if the Program fails. If Colorado invests a large majority of their funds up front, the Service would certainly consider that in future discussions. Sellers said her impression was if the federal government was not able to match funds, then the Program would be extended in time rather than a full re-initiation. Thabault said that requires some investigation in terms of timing. It might require an amendment to the biological opinion. Barels said the Program agreement allows the GC to extend the First Increment. He appreciates trying to figure out how to get these projects done in time, but discussion about extending the First Increment is warranted given what we have in front of us particularly in terms of assessing the benefits of actions for the target species.

Kraus asked if a time extension will require Congressional approval. Lawson said his recollection is that authority to stay involved in the Program only goes to September 2020, so a longer time period would require legislation either to extend the First Increment or start a Second Increment. Any funding for

Reclamation would need an authority and then yearly appropriations. Sellers said either way we would have to seek an act of Congress, either an extension or a new increment. Lawson said either one could get done with a collaborative effort over a period of time. Kenny said the white paper suggests not extending the First Increment and just adjusting the financing to keep things on track. The building and phasing of a reservoir does not lend itself well to breaking things out into bit-sized chunks of funding. That relates to what Barels was saying because without the water, it will impact the implementation of adaptive management and the ability to learn.

Lawson said from a banker's standpoint, everyone has to look at the risk factor. Nobody knows what is going to happen with the pace of future federal funding. He pointed out that it is not likely we will get the same amount in 2013 and 2014 that we will get in 2012. The white paper assumes that we could get even more in 2014, which is not the scenario Lawson anticipates. Kenny said that would mean we might be short something like $4 million in 2014, under the white paper scenario. Kraus asked what the fallback would be if that happens. Kenny said that makes it tough if we can't get that level of federal funding in 2014. We could press state funds forward a little, but getting a federal budget of at least $12 million in 2014 is critical. There is some time between now and then to do some groundwork to make sure that money is available. Having the program designated as a key America's Great Outdoors project raises its profile at Interior and might make it easier to make the case for more funding in the future. Lawson said there will have to be strong leg-work just to get $10 million in federal dollars in 2013 and 2014. The likelihood of at least that showing up in the budget could be remote. What would happen if 13 and 14 are closer to $8 million instead of $10 million? Kenny said that means we are looking at a time extension and we are jeopardizing the J-2 project. Lawson said this needs serious discussion at the next GC meeting and we need to explore that what-if. Barels said he understands the white paper suggests using existing funds to move things forward on land, but should we look at using those funds to help move the J-2 project forward?

Farnsworth said we may need to clarify that earlier discussions were focused on land acquisition for the J-2 project. Kenny agreed that that should be clarified and said the proposed 2012 budget has money built in to both get the Program at or near the floor-level numbers for complex and non-complex land under the Land Plan, as well as pushing the J-2 project forward through land acquisition associated with that specific project under the Water Plan. Purcell asked Lawson if he has a schedule when we will know with some certainty about funding for 13 and 14. Lawson said the Administration will present to Congress in late January 2012 its estimated FY13 budget (October 1, 2012 through September 30, 2013). The FY14 budget is being formulated internally but it is embargoed. Thabault said we have to remember that there can always be a difference between what is requested and what is ultimately authorized and appropriated – optimism is probably not the word of the day. Purcell said we are faced with adopting a budget in December for FY12 and our first meaningful information won't be available for FY13 probably until February. Purcell asked when the tin-cup tour should start. Lawson said they usually start in late February. Purcell said this is a budget we need to get done by the end of the First Increment. We should adopt that now, and as we get smarter other things can come to the table to help in future years – shifting funds, extension of the First Increment, Second Increment, deviation in the fair share, etc. This is too important for us to lose, so we should have the will to make the adjustments to make this work. What Kenny is proposing is what we need. This cash flow is what we need to meet the objectives in the legislation and in the White Book. For that, we should accept the budget at this time. In February, we will be smarter, we'll have to take the time to go to Congress, and we need to have hard discussions about options.

Lawson said he fully supports Purcell's rationale and Kenny did a commendable job presenting options. There may be other actions that need to be approached in the future, but he does not have any issue with what Purcell described. Purcell said we appreciate what Lawson has told us and Kenny has done the best he can to adapt but still keep the goals of the Program in mind. Schneider said he agrees, but beyond that he is wondering if it would be wiser to use more DOI funds right now because we may have to rely on state money more heavily in the future. Kraus said he was thinking of something similar. In 2012, maybe we should talk about possibly deferring state funding to make sure we use as many federal dollars as possible while they are available. Purcell said as we talk about tools in the tool box, we have to identify what the GC can do versus what will require approval of the Secretary of the Interior and the Governors of the three states. Deviating from the percentages is an example of a tool that would have to go back to the signatories. Schneider asked if what Purcell is proposing is deciding on the budget first, then going back in the near future and deciding about what options are available to deal with future funding issues. Kenny agreed that changing funding responsibilities will require signatory approval. Purcell said the White Book doesn't really talk about extensions. Kenny said he thinks thata time extension is within the purview of the GC, subject to the 2020 limitation of the Authorizing Legislation..

Lawson said his understanding is that Kenny's proposal for 2012 is an aggressive budget to move forward using most of the available federal dollars. Kenny agreed. It taps heavily into the DOI funds that we have before they are reallocated. That should help strengthen the story that we need this cash flow into the future to avoid slowing down or losing projects. Lawson said he likes Table 4, and it is 2014 where the problems may be and there could be a $4-$6 million shortfall in terms of available federal funds. Kenny said he understands that and he is optimistic that re-direction or strong convincing can help make up that possible shortfall so we don't jeopardize the J-2 project or the Program as a whole. Schneider says his suggestion would be for the water projects, maybe we should defer the use of state funds in 2012 for the water projects if those funds are going to be relied on more heavily in the future. Kenny said the current structure buys some time to explore if we can get signatory approval to change those percentages. Schneider said he is wondering if the percentages can be changed from year to year without signatory approval as long as the final percentages are what was initially agreed to. Kenny said he does not know the answer to that. Purcell said there is nothing in the White Book that says how we should pay our dues.

Kenny said even if we spend all available federal funds in 2012, we will still be short on the $25 million budget. Schneider clarified that his suggestion is to only use federal dollars for any expenditures up to about $23 million, assuming there are that many expenditures, and carrying over available state dollars into FY13 and beyond. Purcell asked Lawson if it is important to spend down the available federal funds. Lawson said yes. Purcell said then Schneider's proposal has merit. Schneider said that Schellpeper's recollection from the NCF agreement is that they can receive funds in different proportions. Lawson said there is a difference between what they can receive versus how expenditures are made. **Purcell asked Kenny to look into that. Kenny agreed.**

Purcell said the FC looked at the entire budget and recommended approval of the Executive Director's budget, along with having Kenny look at options for future funding. Schneider asked that if anyone has specific questions on the budget to share those with Kenny and the questions and ED responses will be shared with the full group prior to the December GC meeting. Barels asked about the drop-off in AMP Experimental Design funding from FY12 to FY13. Smith said the EDO is optimistic that sediment augmentation management actions and several FSM/MCM actions can be accomplished to a large degree in 2012 and further expenditures on those items in FY13 and beyond will be at a lower pace. For example, if islands are built at several complexes or there is significant channel widening completed in

FY12, those areas will have to be maintained in future years but funding needs for maintenance will be less than funding needs for initial construction. Schneider asked about the equipment memo. Kenny discussed the equipment memo and Headwaters is trying to cover costs with the equipment, not trying to make money. Purcell asked about equipment that has already been purchased by the Program. Kenny said the issue is the NCF won't hold title to any equipment that needs licensed. This approach is to clean up ownership and title for existing equipment to get it off the Program's books through purchase by Headwaters, but allow Headwaters to recover the costs of purchasing and operating this equipment through a usage fee structure. New equipment leased or purchased in the future will be treated the same way.

Closing Business

Upcoming GC meetings:

- December 6-7, 2011 in Denver, CO at the Warwick Hotel in downtown Denver

Meeting adjourned at 11.37 a.m. Central time.

Summary of Action Items/Decisions from November 2011 GC conference call

1) Approved motion to move discussion of Tracts 1101 and 1102 to December 2011 GC meeting.
2) Requested that Kenny investigate options for changing year-to-year allocations of funding.
3) Requested that GC members direct questions about specific FY12 budget line items to Kenny, and Kenny will develop a response and share all questions and responses with the GC prior to the December GC meeting.