



TO: Governance Committee (GC)
FROM: Executive Director's Office (EDO)
SUBJECT: Interpreting the meaning of "Making the Counties Whole"
DATE: November 25, 2015

I. Introduction

The Governance Committee (GC) of the Platte River Recovery Implementation Program (PRRIP or Program) at their meeting of September 3, 2014 in Kearney, Nebraska passed the following motion:

"To utilize the Program's Good Neighbor Policy to ensure affected counties are made whole due to lost tax revenues from removing lands on those county tax rolls for the J2 Regulating Reservoir project."

The purpose of this memorandum is to provide an interpretation of the terminology "making the counties whole" and establish the process and associated mechanics for implementing the agreed upon interpretation.

A. Key Understandings

Key understandings associated with this motion include:

- The Program is not paying taxes to the counties for land acquired and owned by the Central Nebraska Public Power and Irrigation District (CNPPID) associated with the J2 project, the counties are receiving compensation to mitigate the impact of lost annual property tax revenue.
- The Program has no legal or contractual obligation to provide compensation to the counties or any other governmental body for real estate removed from the tax roles as a result of acquisition by CNPPID, it is being done voluntarily under the auspices of the Good Neighbor Policy.

II. Consensus on Issues

A number of issues were considered in developing the process and mechanics of implementing the policy of "making the counties whole", all of which were discussed at the Finance Committee and Governance Committee Levels. Consensus was developed on these items and will be summarized below. However, before delving into the details and nuances of the specific issues, a few basic understandings are provided to explicitly establish foundational concepts and definitions.

A. Basic Understandings

- The base year for computations will be the last year taxes were paid by a private owner.
- The base amount of taxes for computations will be the amount of taxes paid by a private owner in the last year taxes were paid by a private owner.
- Only the counties where land is removed from the tax rolls for the J2 Regulating Reservoir will be eligible for compensation.
- Only compensation for lost real estate tax revenue associated with land acquired by CNPPID for the J2 Regulating Reservoir will be made, no consideration will be made for any third party, indirect, or any other potential tax ramification to the counties where the acquired land is located, or other counties in the state of Nebraska or any other state, or to any other governmental body.
- Under the terms of the Water Service Agreement, payments for compensation to lost revenue are to be made to CNPPID, and they will pass the money over to the counties.

**B. Consensus on Issues and Actions**

- What is the timeline required to develop a process?
 - A property was acquired in 2014, but the county collected all of the 2014 due and payable in 2015 real estate tax payments from the previous owners. A second property was acquired in 2015, but the county collected all of the 2015 due and payable in 2016 real estate tax payments from the previous owner. The 2015 taxes due in 2016 from the 2014 acquisition are the revenue at issue, so a process should be implemented and payment made prior to April 30, 2016. A decision at the December 2015 or the March 2016 GC will meet the required timeline.
- What amount is to be paid?
 - The basis tax amount (property tax amount paid by private owner in the last year of private ownership) will be the starting point with no distinction made between house, buildings, and basic land valuation proportions. The Program will pay the entire compensation amount to make good on the promise to “make the counties whole.”
- Over what time period will payments be made?
 - The commitment will extend only to the end of the first increment. The option to extend compensation into a second increment would be part of the second increment negotiations. There are provisions in the Water Service Agreement that provide for the opportunity to renew or terminate the agreement at that juncture.
- Will the amount paid vary over time, and if so how will the change be determined?
 - The base amount will be escalated annually by applying the Consumer Price Index from the Bureau of Labor Statistics for the Midwest region. The ratio of annual values will be used as the escalation factor. For example, using 2013 to 2014 (2015 annual value not yet available), the ratio would be 1.015 (225.425/222.170), and the 2014 compensation amount would be the 2013 compensation amount multiplied by 1.015. These calculations will be performed by the EDO.
- How and when will the payments be made?
 - The EDO will determine the initial compensation amount required for all J2 acquired properties based on the base tax amount and the escalation factor. In subsequent years, the previous compensation amount will be escalated using the defined escalation factor (which may be less than one). The EDO will process this amount through normal Request for Disbursement procedure in the first quarter of each year, with payment through the Nebraska Community Foundation (NCF) remitted to the CNPPID who will then pass the payment on to the respective counties.

Approval of a motion directing the EDO to implement the process as described in this memorandum, or as so modified by the GC, is required to memorialize the decision and initiate the process of “making the counties whole.”