

Proposed Motions related to the J2 Project

I. Whereas, the State of Colorado is planning to contribute monies to the program in excess of its disbursement percentage of 12.82% in anticipation that the State of Wyoming and the Bureau of Reclamation will ultimately contribute their portion of monies obligated to the Program prior to the end of the first increment and prior to additional commitments requested of Colorado for subsequent increments.

The following motions are offered to help alleviate some of the financial risk that Colorado is assuming through making these upfront contributions:

a. The GC hereby declares that so long as Colorado continues to meet its Milestones (Nos. 1 and 8) as described in the Program Document and so long as the Colorado monetary contribution remains in excess of its disbursement percentage of 12.82% (or adjusted for inflation indexing as discussed below); then in the event of Program dissolution, there will be a presumption that such actions by Colorado are sufficient to provide ESA compliance through December 31, 2019 pursuant to paragraph III.B of the Finance Document.

b. The FC hereby recommends the following motion for GC approval:

The GC hereby clarifies that the Bureau of Reclamation (BOR) indexing method is calculated for each cash party separately, based on each party's percentage payment of PRRIP invoices in a given year. Additionally, the BOR shall increase its total payment up to 49.999% of total ceiling to cover indexing impacts to the Program ceiling when BOR contributions fall behind those payments made by the States. Furthermore, if this modification to 49.999% does not cover all indexing impacts by December 31, 2019, the BOR shall seek additional appropriation to cover these costs during the reauthorization of DOI participation in the Program. This modification to the total BOR payments shall also result in Colorado's, Wyoming's and BOR's disbursement percentage (12.82%, 3.21% and 83.97%, respectively) being adjusted accordingly.

II. Whereas, the J-2 Reservoir Water Service Agreement dated _____ ("Agreement") requires certain routine and time-sensitive approvals by each of the Parties, including the Nebraska Community Foundation. The Finance Committee has determined that the formation of a J-2 Subcommittee (an ad hoc committee of the Finance Committee) may best effectuate these obligations.

- a. The Finance Committee hereby adopts the proposed J-2 Subcommittee Charter (below) and establishes the J-2 Subcommittee. The J-2 Subcommittee shall act in accordance with its charter and the existing Finance Committee Charter.

Formation of the J-2 Subcommittee
(an ad hoc committee of the Finance Committee)

J-2 Subcommittee. The J-2 Subcommittee is hereby created and empowered to act on behalf of the Finance Committee regarding its administrative functions in directing the Nebraska Community Foundation (“Foundation”) to carry out its duties and responsibilities on matters related to the J-2 Reservoir and as required in the J-2 Reservoir Water Service Agreement dated ____ (“Agreement”). The J-2 Subcommittee shall have the authority to direct the actions required of the Foundation under the Agreement. The J-2 Subcommittee shall operate pursuant to the Finance Committee Charter. Any member of the Finance Committee may be a member of the J-2 Subcommittee. However, a quorum requires attendance by the representative or alternate for each state, the BOR and the FWS.

Chairperson. The chairperson of the Finance Committee shall be the J-2 Subcommittee chairperson.

Emergency Meetings. During construction of the J2 facility, in the event of an operations emergency of the J2 facility, or at the request of any Party to the Agreement; the chairperson may call a meeting of the J-2 Subcommittee by providing no less than seven (7) days advance written notice of the date and time of any such meeting to the other members.

Consensus. The J-2 Subcommittee shall work in good faith to try to reach an agreement on all issues brought before it. As required by the Finance Committee Charter, the decisions of the J-2 Subcommittee regarding administrative functions will be made only if approved by the representatives for the states and the DOI during a meeting in which there is a quorum. Additionally, the decisions of the J-2 Subcommittee regarding the advisory functions will be made only by consensus during a meeting in which there is a quorum.

No right to alter or modify Agreement. The J-2 Subcommittee shall not have the authority to 1) alter, amend, change, modify, add to, or subtract from any provision of the Agreement, 2) to direct the Foundation to assign or assume interests under the Agreement, or 3) take any action inconsistent with the provisions of the Agreement. Authority related to these actions remains with the Governance Committee.