



TO: FINANCE COMMITTEE (FC)
FROM: EXECUTIVE DIRECTORS OFFICE (EDO)
SUBJECT: INTERPRETING THE MEANING OF “MAKING THE COUNTIES WHOLE”
DATE: JUNE 30, 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 a starting point for interpretation of the terminology “making the counties whole” and establishment of 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) associate with the J2 project, the counties are receiving compensation to mitigate the impact of lost property tax revenue.
- The Program has no legal or contractual obligation to provide compensation to the counties or any other governmental body for property 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.
- The degree of input solicited from the counties will be at the discretion of the GC.

II. Issues

A number of issues must be considered in developing the process and mechanics of implementing the policy of “making the counties whole”, among these are:

- What is the timeline required to develop a process?
- What amount is to be paid?
- Over what time period will payments be made?
- Will the amount paid vary over time, and if so how will the change be determined?
- How and when will the payments be made?

Before delving into the specific issues, a few basic assumptions will be made.

A. Basic Assumptions

- 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 roles for the J2 Regulating Reservoir will be eligible for compensation.
- Only compensation for lost 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 governmental body.
- Perception from the public as to meaning of “making the counties whole” is an issue that should be considered in the deliberations and managed carefully.

B. Exploration of Issues and Associated Options

- What is the timeline required to develop a process
 - A property was acquired in 2014, so a lost revenue compensation payment this year would be timely. Until last year, the property was tax exempt, and the tax paid last year by the last private owner was small. Financially it is not a significant action, but establishing the process and making the precedent before year end is the the more critical concern.
- What amount is to be paid?
 - The base 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. See subsequent questions for potential escalation of payments.
 - i. All of the lost revenue even though only a proportion of the benefits accrue to Program.
 - ii. A proportionate share of lost revenue corresponding to the proportionate benefit received by the Program.
- Over what time period will payments be made?
 - In perpetuity.
 - For a period of 50 years, with a 20 year option for renewal, corresponding to the term of the water service agreement. An alternative way of looking at this is, as long as the Program is deriving benefit from the project.
 - A set time period with options for extending. For example, guarantee payment commencing at time of acquisition and extending through a period 5 years after reservoir operations commence, and then consider extensions of 5 or 10 year blocks.
 - A set time period only, allowing time for county to adjust to lost revenues and compensate in other fashions.

As many of these options extend past the first increment, provisions such as making an endowment to provide assurance that the payments will be covered into the future would need to be developed. The Land Interest Holding Entity, the Platte River Recovery Implementation Foundation (PRRIF) and /or the Nebraska Community Foundation (NCF) would be the likely



candidates for housing such a financial instrument. The existing contracts/agreements with these entities will need to be modified to accommodate an expanded function.

- Will the amount paid vary over time, and if so how will the change be determined?
 - The base amount every year with no escalation.
 - A set escalation factor (say 3% or some number that is fair and reasonable).
 - A variable escalation determined in proportion to changing property taxes in county in vicinity of property.
 - A variable escalation rate tied to some other general index.
- How and when will the payments be made?
 - PRRIF determines amount based on established formula, sends “invoices” or notice that payment is due to EDO, notices are processed through normal Request for Disbursement procedure with payment through NCF.
 - Funds provided to PRRIF annually for payment by PRRIF, which would require modification to LIHE agreement.
 - Endowment established for PRRIF or NCF to make payments, with endowment structured to pay itself out if a set term for payments is established. Modifications to PRRIF and/or NCF agreements would be required.