



**PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM**  
**Finance Committee Conference Call Minutes**  
 June 28, 2012

**Meeting Attendees**

**Finance Committee (FC)**

**State of Wyoming**

Harry LaBonde – Member

**State of Colorado**

Suzanne Sellers – Member

**State of Nebraska**

Jim Schneider – Member

**Bureau of Reclamation (BOR)**

Gary Campbell – Member

Brock Merrill

Coleman Smith

**U.S. Fish and Wildlife Service (Service)**

Mike George – Member

**Environmental Entities**

No participants

**Colorado Water Users**

Alan Berryman – Member

Kevin Urie – Alternate

**Downstream Water Users**

Don Kraus – Member

Brian Barels

**Welcome and Administrative**

FC Chair Campbell called the meeting to order at 10:02 a.m. Central time. No agenda modifications.

*George moved to approve the May 31, 2012 FC minutes; Schneider seconded. Minutes approved.*

**Choke Point RFP**

Kenny pointed out a change in the Action Item Table for this item. There is \$97,500 remaining for this item in 2012. Steve Smith then discussed the RFP. The RFP is the first step and will cover the surveying, engineering, and permitting work. A separate RFP will be developed for project construction, likely in early 2013. The budget estimate for this item (\$75,000) comes from a local engineer that has done work for the Program before in the choke point area. There is a WAC Choke Point Workgroup that



reviewed and supports the RFP. Kenny said this is a cost proposal. Smith said Seller's editorial change on line 281 will be made (term of contract). Campbell asked about this change. Smith said this contract is for just the surveying, design, engineering, and permitting work, but the permitting piece is the wildcard so it is not certain how quickly permits can be obtained so the contract timing will be flexible enough to capture this flexibility. Barels asked in what phase of this project will agreements with landowners or the Department of Roads be developed, and who is responsible for the maintenance of those agreements. Kenny said in this phase, and our intent is for one of the local entities to be the holder of those agreements, likely the local NRD. But, that has not been fully established yet. Barels asked if this is required before the permitting. Kenny said that would be part of the permitting process in this stage of the project. Barels asked if the EDO will be doing that or if the consultant hired under the RFP will be doing that. Kenny said that aspect will require minimal involvement of the consultant. Smith said they will not be negotiating those agreements. Kenny said the EDO would conduct those negotiations.

*Sellers moved to approve the RFP; Kraus seconded. RFP approved.*

Kenny said we do not yet have a Proposal Selection Panel and it makes sense to pull that from the Workgroup. Smith said the members of the Workgroup are: Steinke, Schafer, Econopouly, Goltl, Miller, and Taddicken. Kenny asked if that group plus Smith and Kenny would work for a selection panel. George said that is fine with him. Schneider agreed.

### **Bid Packages**

Farnsworth discussed the three bid packages for habitat enhancement work. Farnsworth said Sellers asked about the size of the bid packages. The EDO utilized the standard bid documents that cover a large range of contingencies when projects are over \$50,000. He noted that Brei and Baasch in the EDO will be in the field for a couple week with the contractors selected to do the Elm Creek tern/plover islands to make sure the work is completed to Program specifications. Campbell asked about the remaining budget for this line item. Farnsworth said that will be used for projects that are started later in the year.

*LaBonde moved to approve all three bid packages; Urie seconded. Bid packages approved.*

### **Indexing Projections**

Merrill discussed the indexing example spreadsheet. Campbell asked if the value of water and land from each entity is indexed like cash. Merrill said that is correct. Kenny asked if the revised sheet shows things equalizing back out by maintaining the 50/50 split. Merrill said in his mind it does. Berryman asked if then all the adjustment is in the value of the cash equivalent with no more cash expenditures. Merrill said no it is on the cash and the cash equivalents. Sellers asked if this occurs no matter how this is calculated. Merrill said yes. The value for both cash and cash equivalents will be higher than when we began. Sellers asked what the implication is of that statement. Merrill said the important thing is that no matter if money is spent now or later, the 50/50 cost share is maintained. Berryman said by not having money to earn interest to offset those indexing values Colorado will earn interest by paying early.

Sellers said Colorado has a proposal that if they pay early, they somehow offset that loss of interest. The state is OK with not paying early, or with paying early with that offset. It is up to the group to decide if they are OK with that offset or if they just want to keep things the way they are now. Schneider said it seems like the offset is that Colorado would earn more interest if they paid now. Merrill said that is correct. Sellers said the index is spread out over the four parties instead of just Colorado, so there is a difference between calculating it individually as opposed to a group. Campbell said he thinks he is



hearing that the cash or cash equivalents contributed early is earning interest based on the indexing versus a party like a state earning interest outside the Program. Sellers said she believes that is the case. Campbell asked why Colorado would get a special break for paying early. Sellers said it isn't a problem if payments are made as previously agreed, but paying early is a new approach. Campbell said all he has to work with is the \$157 million that is being indexed and he has to live within that. Sellers said they are not asking the DOI to exceed the 50% in the legislation's timeframe, but if there is still money owed that would be built into new legislation if the Program is extended. Campbell said there is no guarantee legislation would be passed or that the Program will be extended at this point. If money is put in now, that money is earning interest through indexing. Sellers said it doesn't appear it will work for Colorado to pay early, but the downside of that might be that the Program has a cash flow problem.

Schneider asked if Colorado thinks the other states will benefit by Colorado paying now. Sellers said the more money paid early as the group, the less is indexed. Schneider said it is all indexed – land and water from Nebraska is indexed the same as unspent state and federal dollars. Sellers said she could put a spreadsheet together that shows Colorado's concerns. Kenny said that would be helpful. Kraus said it seems like Merrill laid this out in his spreadsheet. Sellers said the issue is that if Colorado pays early they will not get interest on the outside and in that case they don't want to share the interest earned on the inside through indexing because of the loss of outside interest. Sellers said we can stay as is and then if there is a cash flow problem on something like the J-2 reservoir we will be in a lurch. This is an attempt to mitigate that lurch. Schneider said he is trying to figure out what is being mitigated. Sellers referred back to Kenny's memo from last year laying out potential funding implications. Colorado could pay early to help avoid that, but that money will not be in Colorado's bank earning interest. Colorado plans to use that interest to help pay its cash obligations for the Program. Nobody has explained to Colorado how paying early is a benefit. Schneider said it is not a benefit, but it does not seem to be a detriment either. Sellers said paying early helps the Program overall with the index, but it is not enough of a benefit to Colorado to offset what would have been made in interest.

Schneider asked if the solution is for Colorado to index individually if they pay early. Sellers said yes. Kenny said you can't build a reservoir on layaway. Given the federal budget situation, whether federal funds next year are at \$8 million or closer to what we have seen in the past is unknown but it seems likely we will be on the lower end. At some point before letting a contract to build the reservoir, the cash contributors are likely going to need to make disproportionate contributions. It seems like regardless of the scenario that plays out, we will confront a point in time in which cash contributors will be anteing up more than the proportionate percentages already worked out. The consequences of that to the states would be not earning interest you could of. How much that is depends on when the expenditures come and how large they are. Colorado and Wyoming may be faced with the decision of do we want this reservoir or do we not do the reservoir for the difference of a few hundred thousand dollars. Sellers said she would frame it as a lack of federal funds and it is really back on DOI – if they want this project, they should be willing to compensate parties for having to help deal with a federal cash problem. Kenny said we are all in it together so there will soon be a point of "gut check" time – do we want the project, and how important is it to the Program? Sellers said another option might be for parties that contributed land to pay some more. Schneider said he wanted to be clear – is all Colorado wants the individual indexing? Sellers said yes. Schneider said DOI is already paying now, so maybe they want to consider individual indexing as well. Sellers said that was done as a favor to help the feds meet their obligations. Campbell said why we agreed to do that was because there were obligated funds sitting in the bank that needed to be used before it was pulled and used for another BOR project. That should help BOR get more Program dollars in the future. Campbell said it seems like Colorado wants the best of both worlds. We are all one



Program and the issue is do we continue on together as a Program or try to continue on as individuals. Sellers said she would counter by saying if Colorado pays ahead of time that means one individual in the Program will take a hit. Campbell said do we go back in some point in time and say if Nebraska puts all of its land in at one time does we have to go back and compensate them for that? Sellers said Colorado is fine sticking to all the existing agreements, but when it comes time to deal with a cash flow problem how do we deal with Colorado and Wyoming having the money but the federal government not having the money?

Campbell agreed to report back at the next FC meeting on additional options for dealing with this indexing issue.

### **Closing Business**

The next FC meeting is from 2:00-4:00 p.m. Central time on August 2, 2012.

**FC meeting adjourned at 11:27 a.m. Central time.**

### **Summary of Action Items/Decisions from June 28, 2012 FC meeting**

- 1) Approved the May 13, 2012 FC minutes.
- 2) Approved the Choke Point RFP.
- 3) Approved the three habitat enhancement bid packages.
- 4) BOR agreed to evaluate additional options related to the indexing issue for the July FC meeting.