

SEO FORUM

SEPTEMBER 6, 2006

Presentations by
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Non-Irrigation Season Administration

Primary Questions Answering

- Administration of out-of-priority reservoirs that cannot return water to the river
- Keeping track of the call for non irrigation season
- Winter replacement requirements for well user groups



Out of Priority Storage Under 37-80-120 C.R.S.

- In every case in which the state engineer finds that water can be stored out of priority under circumstances such that the water so stored can be **promptly made available** to downstream senior storage appropriators in case they are unable to completely store their entire appropriative right due to insufficient water supply, the state engineer may permit such upstream storage out of priority, but such storage water shall be **promptly released** on demand of a downstream senior whenever needed by such senior for **actual use**.

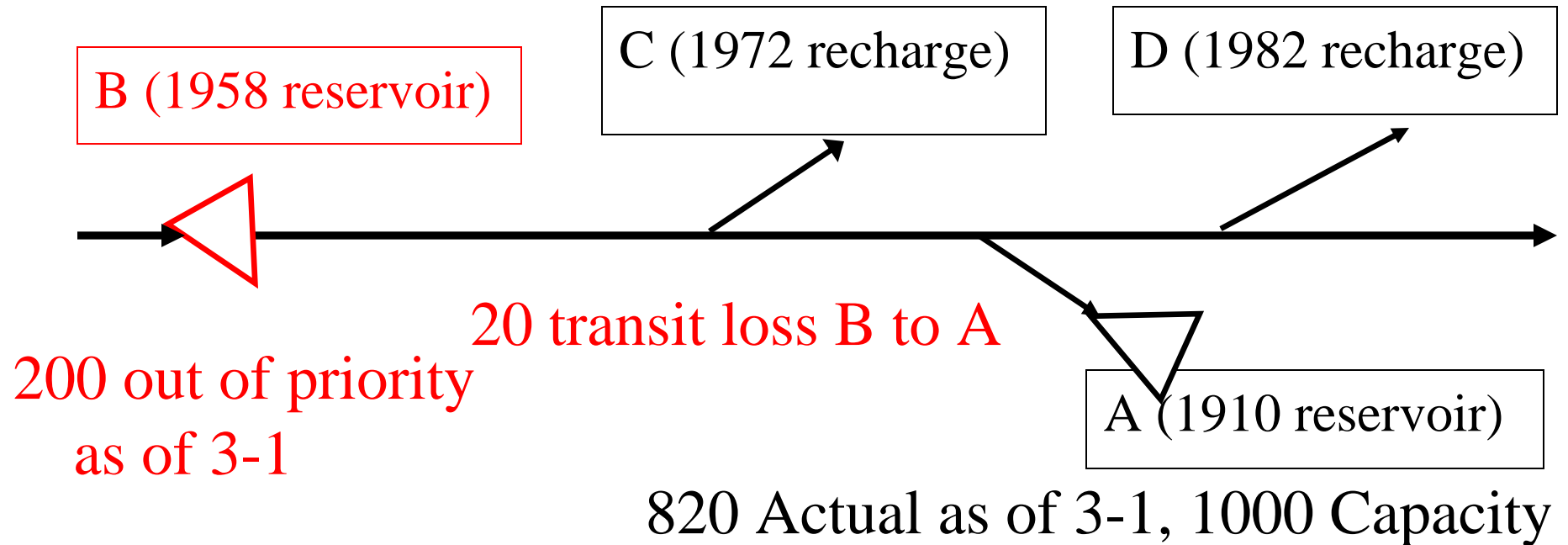
Key Out Of Priority Considerations

- Statute
- Most respondents believed we should not allow out of priority storage if cannot promptly release
- No respondent gave us a legal basis to allow out of priority storage if cannot make prompt release
- Allowing out of priority storage helps assure maximum utilization
- One proposal was to allow alternate source of replacement, no mechanism to approve this, could the court?
- General tenor of letters was concern that users want to know what is going on

Conclusions

- No out of priority storage against South Platte unless can meet the statutory requirements (release promptly for actual use)
- No storage against direct flow and refill rights
- If impact to South Platte reservoirs, must submit plan to allow out of priority storage
 - Commitment and Capability to Release
 - Recognition of requirements assoc. transit charge
 - Accounting to keep track
 - Special requirements – release rate for North Sterling
- Users comment on the plan
- Written approval

Keeping track of the call for non-irrigation season

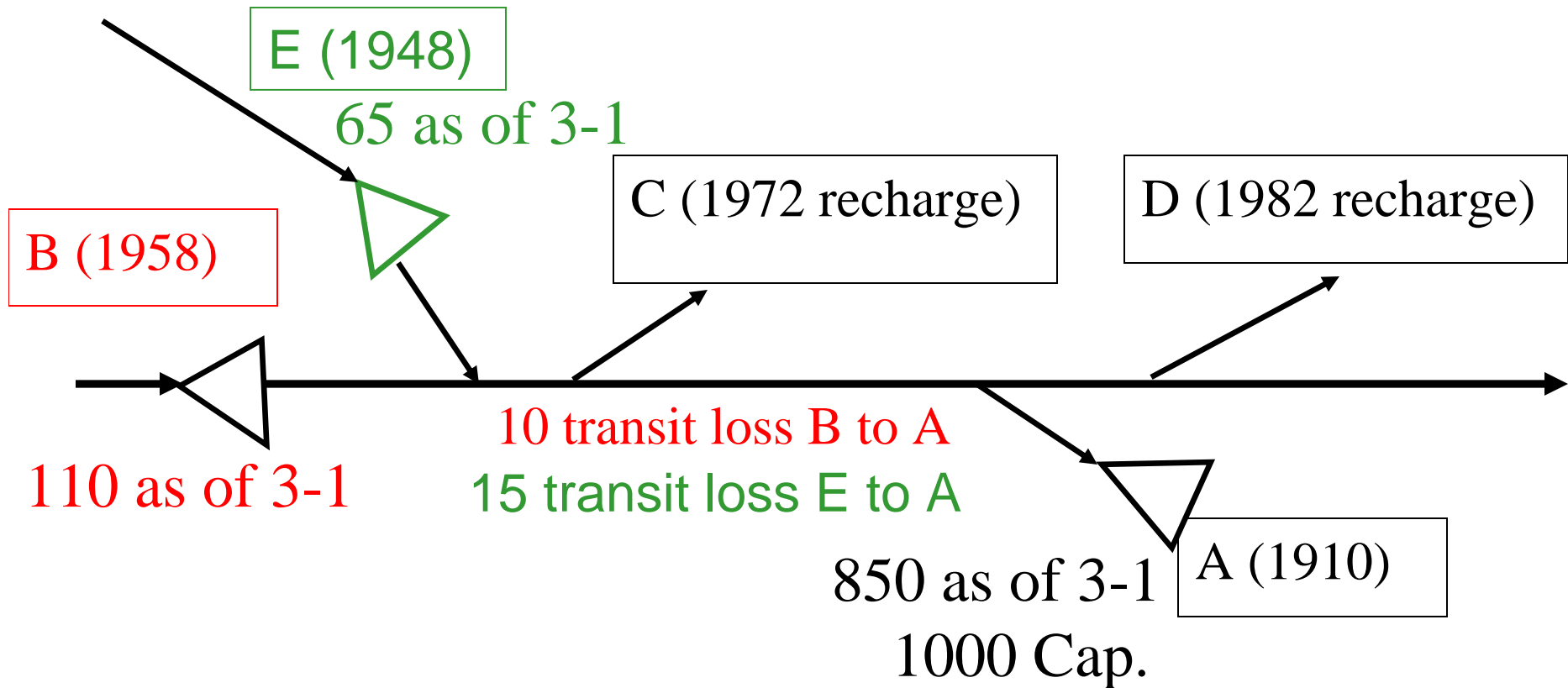


A is deemed “paper” full ($820 + 200 - 20$), take A call off

Assume A puts B on call, then A and B can divert, because “paper” full

Alternative: 2A B elev B physical capacity 400, to A until B calls, full, the days in priority 5 days 3-1 priority until B full with in priority water out-of-priority water to A and replaces with in priority water.

Keeping track of the call for non-irrigation season



A is deemed “paper” full $(850 + 65 - 15 + 110 - 10) = 1000$

If A only gets 950 prior to end of storage season, then B must release part of out-of-priority storage

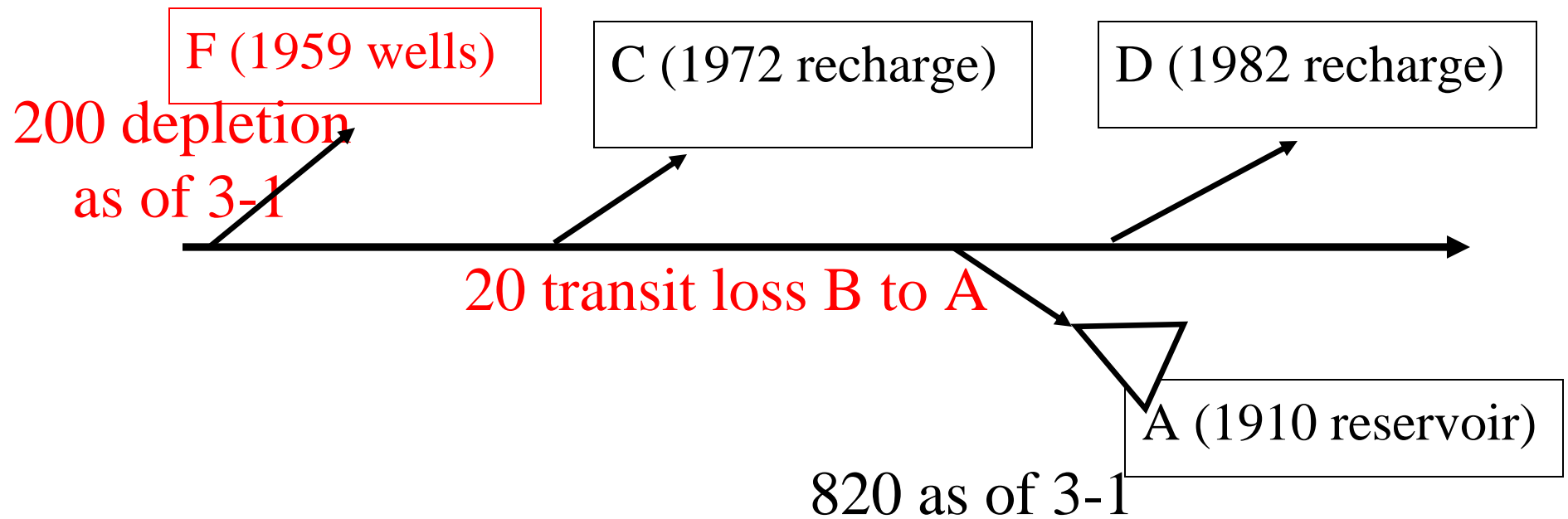
Present Status of Out-Of- Priority Plan Submittal

- No plans submitted to date
- Talked to Cherry Creek Reservoir representatives and North Sterling representatives
- FRICO has court case this fall may deal with small portion of these issues (1921 agreement)
- Don't foresee much out-of-priority storage on the South Platte

Well Replacement Requirements During Non-Irrigation Season Considerations

- Responses sharply divergent
- Allowing keeps concept of maximum utilization
- How do you assure replacement will be made
- Previous decreed augmentation cases require court approval to aggregate replacement
- Thought would be decided in Central WAS case
- Still may be resolved in Central WAS court case
- If allowable, treat same as out-of-priority storage

Keeping track of the call for non-irrigation season

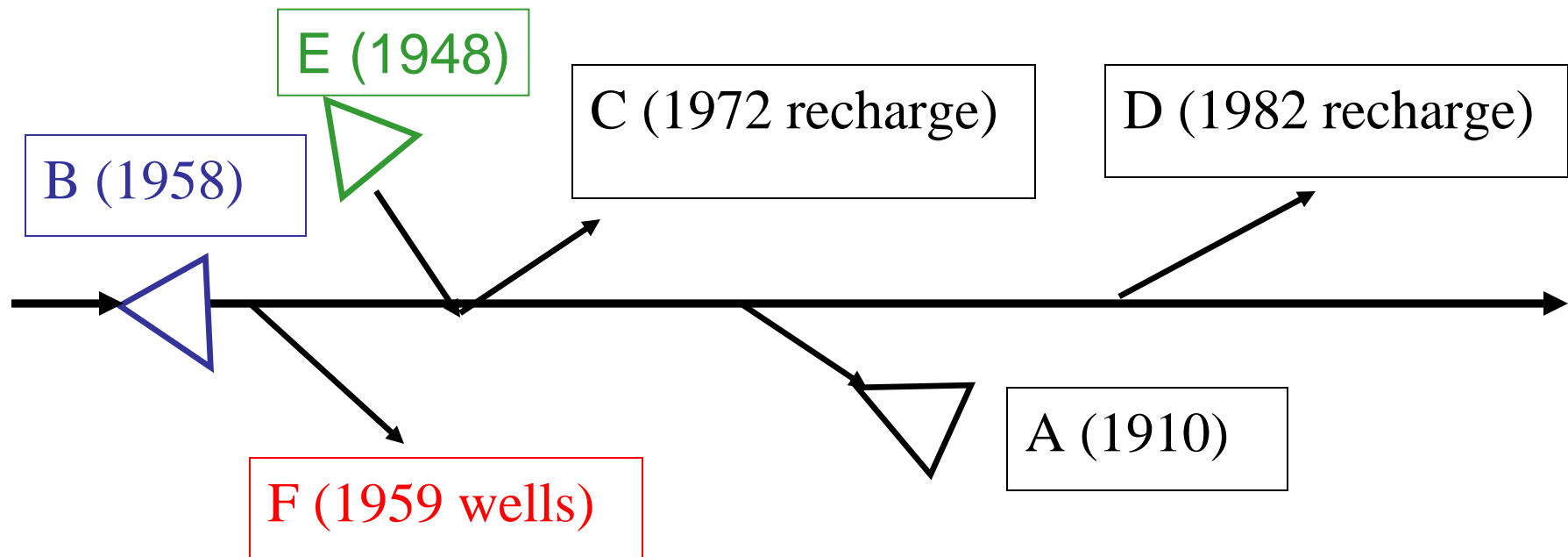


A is deemed full

1000 Capacity

If necessary, well user group F would replace up to 180 ac-ft at A if A does not fill

Keeping track of the call for non-irrigation season



If A doesn't fill then wells F must replace first, then reservoir B release out of priority storage if necessary, then reservoir E release if necessary

Well Replacement Requirements During Non-Irrigation Season Conclusion

- “We believe objectors to delayed aggregated replacement should have their day in court on this issue. Thus, for the time being, we will no longer allow delayed aggregated replacement to occur if there is a reservoir call unless it is specifically confirmed by statute or the court.”

Well Replacement Requirements During Non-Irrigation Season Conclusion (continued)

- Will allow limited aggregation to occur during a month for efficiency of replacement purposes
- Also will allow aggregated prepaid replacement of depletions if there will not be injury