

NORTH PLATTE DECREE COMMITTEE MEETING

DRAFT Minutes

October 17, 2018

Attendees:

Representatives of the NPDC:

Carlie Ronca, Bureau of Reclamation (Reclamation)

Erin Light, Colorado Division of Water Resources (CO)

Patrick T. Tyrrell, Wyoming State Engineer's Office (WY)

Gordon W. "Jeff" Fassett, Nebraska Department of Natural Resources (NE), NPDC Chair

Others in Attendance:

Rob Foreman	WY	Jeremy Gehle	NE
Kent Becker	WY	Art Hill	Reclamation
Brian Pugsley	WY	Daryl Kohut	Reclamation
Jeff Cowley	WY	Lyle Myler	Reclamation
Charlie Ferrantelli	WY	Dennis Strauch	Pathfinder ID
Wray Lovitt	WY	Levi Mickelsen	Basin Electric
Beth Eckles	NE	Troy Tweeten	Basin Electric
Melissa Mosier	NE	Anine Merkens	Basin Electric
Tom Hayden	NE	Barb Cross	North Platte NRD
Carrie Wiese	NE	Steve Smith	NPNRD/NPVIA Atty.

1. Introductions

The NPDC meeting was called to order at 10:05 a.m. MDT on October 17, 2018, at the Torrington Volunteer Fire Department in Torrington, WY, and began with introductions by meeting attendees. The sign-in sheet / attendance list from the meeting is *Attachment A*.

2. Review Agenda

A draft proposed agenda was distributed to the NPDC members on September 18, 2018, and a final proposed agenda was distributed on October 1, 2018. There were no changes recommended and the meeting proceeded per the agenda, which is *Attachment B*.

3. Approve Minutes from April 11, 2018, Meeting

The minutes for the April 11, 2018, NPDC meeting held in Scottsbluff, NE, were distributed via email by Nebraska.

Motion to approve the April 11, 2018, NPDC meeting minutes: Wyoming motioned, Reclamation seconded, the motion carried.

The signature page for the April 2018 NPDC meeting minutes is *Attachment C*.

4. Water Administration, Operational/Accounting, Allocation Issues, Other

4.1. Wyoming

Brian Pugsley provided the water administration report for Wyoming. Despite below average snow pack in both the Upper and Lower North Platte Basins, the season went relatively well and most ownerships filled. Wheatland Irrigation District #2 did not fill, accruing only 92,000 of their 98,000 af; Wheatland #3 accrued up to 61,000 of their 70,000 af; Grayrocks filled in February; Hawk Springs Reservoir filled in March; LaPrele Irrigation District did not fill, accruing about 10,000 af, approximately half of their supply.

Peak flows on the North Platte River occurred on May 29th at the Sinclair gage, measuring 4,196 cfs, about half of the 10-year average peak. The Medicine Bow peak was about 600 cfs, which is approximately one-third of average. The Sweetwater peaked at about 341 cfs, also below average.

Irrigation districts: Goshen ID ran from May 6 – May 19 and June 9 – September 5; Pathfinder ran from April 23 – June 4 and June 14 – September 9.

The WY replacement water obligation this year was 6,304 af for 242 wells, out-of-priority tributary diversion. This water came out of the WY Glendo and Pathfinder WY accounts. The estimated number of wells in 2018 for replacement in 2019 is approximately 244.

Environmental and Wyoming account water was released starting on September 1, 2018.

There were no weather events in 2018 that impacted accounting and we should be going into next year with a relatively good supply.

4.2. Bureau of Reclamation

Lyle Myler provided the report for Reclamation. It was a below average water year: April – July inflow above Seminoe Reservoir was 396,000 af, about 57% of average; April – July contribution from Sweetwater was 35,100 af, about 66% of average; and April – July contribution from Alcova to Glendo was 71,000 af, about 53% of average. Carryover from 2017 allowed for a full irrigation supply in 2018.

Ownerships: Pathfinder, irrigation portion, filled on June 7th; Wyoming account filled on September 19th; EA portion did not fill; Kendrick ownership did not fill; Glendo, irrigation pool filled on March 28th, the evaporation pool filled on September 22nd; Guernsey filled on March 10th; Inland Lakes did not fill.

Water deliveries included 462 af for CNPPID, as well as the Wyoming and EA account delivery mentioned in Pugsley's report. Ownerships ended the year at: 1,013,000 af in Kendrick Project, 118% of average; North Platte Project 450,000 af, 113% of average; Glendo 138,700 af, 107% average; total system storage 1,614,000 af in 2018, about 300,000 af less than the end of 2017. 2018 was not an allocation year. They have had early snowstorms, so stay tuned for info on the upcoming season's water supply.

4.3. Nebraska

Tom Hayden reported for Nebraska. It was a pretty good year and the early diversions really helped out in the section between the state line and Lewellen by priming the river. Warm temperatures from October to March, above the 30-year average, and about average snowfall (40 inches) primed the ground, allowing farmers in the valley to start irrigating earlier. Mitchell Irrigation District came on April 12th. Precipitation during irrigation season was just about average, with bigger events occurring in May. The larger, upstream canals came on between April and June (Mitchell April 23), and the smaller canals downstream came on later, in July (Browns Creek July 12; Chimney Rock ordered water on July 15). Larger canals shut off in early September, allowing smaller water rights to fill. There was a lot of hail during the growing season and an early freeze.

Question: Did you notice conditions in the river between the state line and McConaughy when the EA water was coming down in September? What is your estimate of conveyance?

Answer: Estimate of conveyance is 96% due to amount of water in the river.

Question: Were there any problems with the sand dams in that area?

Answer: No, and people appreciate the timing of those flows to protect their dams.

4.4. Colorado

Erin Light provided the report for Colorado. Northwestern Colorado experienced above average temperatures and below average precipitation throughout the summer, resulting in decreased streamflow despite starting the season with decent snowpack. Colorado also saw a longer period of administration this year, the most significant length of administration since 2012.

Colorado typically reports water storage for irrigation numbers in March or April, and same will be done in 2019. The year following the 2012 and 2002 droughts, they experienced problems exceeding storage for irrigation. This year they'll be watching closely and likely won't have a problem because 2018 wasn't as dry (for storage) as 2012 and 2002.

Drought in Colorado was worse in the southern part of the state. Surprisingly, in northwest Colorado (Yampa-White River Basins) the drought was as bad as in 2012 and 2002. In the White River Basin, stream gage readings at Meeker were the lowest on record at 80 cfs (over 100 years of record); the headwaters of the Yampa River were also very low and it went on call for the first time ever.

Question: So, 2018 was worse than the drought year 2002 in those Basins?

Answer: Yes, especially in the White River Basin, but can't speak for the entire Yampa Basin.

Same Questioner commented: In the North Platte in 2002, they were about 30% of the previous low- which was from the Dust Bowl. So if Yampa and White River Basins are below that, that's tough, we want to get away from those years.

5. Informational Items

5.1. Diversion of Natural Flow with Inland Lakes water (Pathfinder Irrigation District)

Dennis Strauch from Pathfinder Irrigation District reported that they diverted only Inland Lakes water beginning on April 22nd, and on May 1st, began to divert natural flow as well. The Inland Lakes transfer was completed on May 19th. Irrigation deliveries occurred from May 7th to May 31st.

Wyoming stated their concern with the diversion of natural flow with Inland Lakes water from the 20th of May to the 6th of June, the Inland Lakes accrued an additional 11,600 af of water – natural flow taken down and not delivered could potentially be an injury. At that point in time, the Glendo evaporation account had not filled, the Pathfinder EA and Pathfinder WY accounts had also not filled. Therefore, the natural flow water diverted to the Inland Lakes may instead be transferred Pathfinder ownership, because that water could have been used to fill the accounts that hadn't been filled yet. Historically, this additional water was stored temporarily in Inland Lakes. This may work well in full water years, but may not in dryer years.

*The Ad Hoc Natural Flow and Ownership Accounting Subcommittee will investigate and discuss this issue and notify the NPDC if adjustments to accounting or operations need to be made. The Subcommittee will include Dennis Strauch in these discussions.

5.2. Basin Electric Power Company

Levi Mickelsen from Basin Electric Power Company passed out a handout of the Johnson Well Monthly Production Report (*Attachment D*). The Johnson wellfield has been one source of supplemental water for the Basin Electric hydropower project since the 1970's. Early studies of the wellfield indicated that it might be a productive source of water and Basin Electric entered into a contract with the Johnsons for about 5,000 af of water. Following contracting, it was determined that the wellfield could only be permitted to pump 2,800 af. This sparked a lawsuit and resulted in a settlement agreement in which Basin Electric could use this water for 35 years (the expected life expectancy of the hydropower plant), after which the wells go back to the Johnson family. The wellfield is not used extensively by Basin Electric, but is a backup supply in drought years. The contract with the Johnsons expires in February 2019 and it is Basin Electric's intent to work out an agreement in order to maintain the wellfield as a backup supply, but Basin Electric is not sure what will happen in contract negotiations. The loss of this wellfield as a source of supply would not impact Basin Electric's obligations to the Laramie River. If the contract for the Johnson wellfield were not renewed, Basin Electric would have access to other sources of water and does not expect a change in impact to the river.

The Johnson wellfield is mentioned in Exhibit 3 of the North Platte Decree, addressing the Laramie River, and details the order by which Basin Electric will use different sources of water, but not necessarily that each source must be used. The charter and exhibits can be modified by the NPDC representatives, but the Decree and final settlement stipulation would be much more complicated to revise and would require a motion to the U.S. Supreme Court.

*Basin Electric will let the NPDC know how the early 2019 negotiations on the Johnson wellfield go. If necessary, this will be an agenda item on the spring 2019 NPDC agenda. NPDC is not taking action until the outcomes of the Johnson wellfield negotiation are determined.

5.3. Platte Alliance Water Supply – PAWS

There was not a designated speaker on this topic. Jeff Fassett stated that this project is under evaluation by the Wyoming Water Development Commission and the City of Scottsbluff, to develop a single water treatment plant and a treated water pipeline system from Guernsey to Bridgeport, for municipal water supplies. PAWS is currently exploring water supplies from Glendo as an option, but many questions still exist and this would be a complicated situation. Pat Tyrrell stated that the current struggle is trying to find the source of the supply.

Carlie Ronca has continued conversations with Jeff Fuller of PAWS; on June 27th a letter was sent to Ronca from PAWS requesting they be put on a waitlist for a Glendo Reservoir water contract. Currently there is not water available, but if a current contract terminates there may be water available. On July 9th, CNPPID inquired about adding M&I to their contract (currently only for irrigation water), she responded on August 22nd that it may be possible but would require an amendment to the contract and would need a formal letter, which has not yet been received. This amendment would require a NEPA review.

Question from Steve Smith: Historically, has the CNPPID right filled every year?

Answer: No. There was a period in 2003-4 where Glendo did not come into priority, so there was no accrual. There is a 2.5-year built-in supply to back-up dry years.

Comment: Another option for the Wyoming portion would be to look at a Pathfinder Modification of the Wyoming account.

5.4. PRRIP extension – update

Jeff Fassett: Platte River Recovery Implementation Program's (PRRIP) congressional authorization ends at the end of 2019. Program participants: Reclamation, Fish and Wildlife Service, three states, and water users, have negotiated an extension for an additional 13 years, and draft Federal Legislation for Congress has been developed. Not expecting action on the extension until after the 2018 mid-term election cycle, but there is a strong push by the States. Note that Wyoming and Colorado are getting new governors.

Carlie Ronca clarified that the Pathfinder proposal that was discussed earlier in the year was not included in the current draft of legislation.

5.5. Banner Mountain Energy Park project

Jeff Cowley heard from Banner Mountain in April 2018. He described the project as a reservoir on the top of a mountain and another reservoir on the bottom, and they move water back and forth between the two to generate power. The project would take the peaks off the power grid, with the ability to switch to generating power in just a few minutes. The project requires about 4,000 af to fill the reservoirs and a certain amount of af to maintain them. Banner Mountain is just south of Casper, WY, about a half mile from Deer Creek. They haven't contacted Reclamation yet. The project mentioned they may have enough money to purchase a ranch with irrigation rights to get out from under possible regulations.

Carlie Ronca stated the Federal Energy Regulatory Commission did accept the project's amended preliminary permit application. Reclamation reviewed and commented on the permit asking about water rights. Banner Mountain has not approached Reclamation about getting water.

5.6. Glendo Reservoir – Flood control pool repurposing

This is a study effort lead by the Wyoming Water Development with Reclamation. The draft report of their study is still being reviewed and comments were due a couple weeks ago. USACE indicated to Reclamation that they believed USACE lacked the authority to make permanent changes to their operations of Glendo Reservoir for any purpose other than flood control and navigation, and that storage accumulated in the flood control operations of Glendo should be evacuated as rapidly as practical and consistent with downstream limitations. Therefore, USACE believes a reallocation of storage would be required to make more water available for irrigation purposes.

6. Reports of Standing Subcommittees

6.1. Ground Water Wells Subcommittee (Chair: G. Moser)

There was no report. This will be removed from future agendas, unless there is something to report.

6.2. Control Crest Subcommittee (Chair: B. Pugsley)

There was no report. The subcommittee will meet after the first of the year, and a report will be issued in April 2019.

6.3. Consumptive Use Subcommittee (Chair: M. Mosier)

Melissa Mosier reported that the subcommittee met via conference calls since the April 2018 NPDC meeting and has two topics for discussion by the NPDC.

1) The next Above Guernsey Area survey of irrigation practices is to be conducted in 2021. The subcommittee has looked into other options for finding the data provided through the survey (easier, cheaper) and the cost of hiring a third party to conduct the survey (*Attachment E*). The subcommittee has three discussion items in its report for NPDC to consider:

- Considering that there has been little expansion of irrigated land in the Above Guernsey Area, is a survey of irrigation practices in order to determine if a change in consumptive use has occurred, necessary?
- If a survey is still necessary, what is the NPDC willing to spend in order to carry out the Above Guernsey Area survey?
 - o Does the NPDC agree that the CUSC should contract with a third party to conduct the survey?
- If a survey is still necessary, does the CUSC have the NPDC's consent to move forward with planning and coordination for the 2021 Above Guernsey Area survey of irrigation practices?

The CUSC would need about two years to contract for and prepare for the survey: one for contracting and two for survey drafting for revisions. The RWSC has the same discussion items for their Triangle Area Survey, scheduled for 2022. Currently, the surveys are to be conducted every 10 years, but the NPDC does have the ability to extend the time between surveys. It was mentioned that the original purpose of surveys, to study the impacts of changes in overall consumptive use, is valid, but wouldn't want to waste resources if this is not the most opportune time to conduct the survey in a financially responsible way. Financially, NPDC isn't expecting any other major costs over the next two to four years, aside from the usual invoices for the official files database and weather stations maintenance.

Irrigation practices aren't changing much and survey response rates are fairly low. The group wants the survey to be meaningful compared to the effort and cost of doing it. Rob Foreman (WY) noted that field staff are seeing the same irrigation activities every year, with only a few new pivots going in here and there. Wyoming reported that acreage inspectors gather number of acres and crop type, maybe they take personal notes on new pivots, but Wyoming is not formally collecting that information. The surveys also ask about haying, fertilizer application, grazing, etc., which would require personal discussions with producers that Wyoming does not have the resources for. Wyoming reported that it is likely that they could estimate through LANSAT the number of new pivots put in since 2011, the last time that the survey was conducted.

* Wyoming will look into the information that it can collect on changes in irrigation practices in the survey area that may impact consumptive use, and report back to the group at the April 2019 meeting.

*This item will remain on the agenda for April 2019

2) Second CUSC item for discussion: Wyoming's Consumptive Use Annual Reporting procedures have become more expensive, data that they have used in the past is no longer available, and methods are outdated. The subcommittee has three discussion items for NPDC:

- Does the NPDC approve of the CUSC exploring alternative methods in one for more face-to-face workshops and report back at the spring 2019 NPDC meeting?

- What parts of Exhibit 6 can be modified?
- What happens if the CAP changes because of changing methods?

The consultant who provided this annual report for Wyoming in the past has increased their cost. One reason for this increase is that the Medicine Bow weather station is no longer operational and converting data from another weather station to look like data from the Medicine Bow station is very time consuming. They also stated that they are not interested in working on the report any longer. Methods used to generate the annual consumptive use report are outlined in Exhibit 6, which states that better methods should be used when available. The NPDC can modify Exhibit 6, but updating the consumptive use methods would also require a revision to the consumptive use cap, which is mentioned in the Decree. Modifying the Decree would require the parties to get court approval. NPDC administrators agreed that a CUSC workshop would be a reasonable approach to initiating discussions on alternative methods.

Motion by Wyoming to approve CUSC's exploring alternative methods for producing the annual consumptive use report, or of providing the same information in another manner, via subcommittee workshops (first discussion point), including exploration of the means through which any agreed upon change can be implemented in the NPDC controlling documents. Second by Reclamation, motion carried.

6.4. Replacement Water Subcommittee (Chair: M. Mosier)

Mosier stated the RWSC had same discussion items in their report (*Attachment F*) as the CUSC, but applicable to the Triangle Area survey. WY will also consider the Triangle Area when looking into information it is able to collect via LANDSAT on new irrigation practices that may impact consumptive use.

*Will keep this item on the agenda for April 2019.

6.5. Finance Subcommittee (Chair: J. Cowley)

Cowley reported (*Attachment G*) that the weather station invoices (CUSC) were taken care of as well as The Flatwater Group invoice (OFSC). The Nebraska Community Foundation has a new computer accounting system, so the report looks a bit different. Balances: Nebraska \$4,257.59, Reclamation \$0.00, Wyoming \$13,639.70 (due to weather stations). No action items.

6.6. Official Files Subcommittee (Chair: M. Mosier)

Mosier reported (*Attachment H*) that official files sent to SharePoint Inbox since April 2018 have been reviewed and approved. The NPDC Representative and Subcommittee membership list had no changes, and is included as *Attachment I*. An invoice from the Flatwater Group for official files from July 2017 – June 2018 for \$5,225.00 was in line with contract, and the OFSC is asking for approval of this invoice. The Flatwater Group discovered an issue with the security of the SharePoint site, a third party had gained access. Gordon Coke worked with Microsoft to scan for malicious code and everything looks fine. Gordon proposed that they move to multi-factor authentication method for logging in: each

party would have their own account for SharePoint with ID, password, and PIN. This will cost \$5 per user per month. Current contract with Flatwater for official files maintenance is \$5,244, with 4 additional user accounts it will increase to \$5,484 annually. Action items presented to the NPDC were:

- Approve multifactor authentication security system for SharePoint account, at a cost of \$5,484/year to be paid to the Flatwater Group, and an amendment to the contract with Flatwater to increase to that annual cost.
- Approve invoice #18-2240 for database support provided by the Flatwater Group between July 2017 and June 2018, for \$5225.00, split equally between Nebraska, Wyoming, and Reclamation.

Motion by Wyoming to approve both action items, second by Reclamation, motion carried.

6.7. Ad Hoc Natural Flow and Ownership Subcommittee (Chair: Pugsley)

Pugsley did not have report for this meeting. The Control Crest Subcommittee/Ad-hoc Natural Flow and Ownership Subcommittee will meet after the first of the year and report to the group in April 2019.

Motion by Wyoming, that with the exception of 6.3 and 6.6 which both had motions, all other subcommittee reports should be accepted, second by Colorado, motion carried.

7. Review NPDC Representative & Subcommittee Membership

Mosier distributed this list during OFSC report 6.6, with no changes (*Attachment I*).

8. Meeting Summary

8.1. Future Agenda Items

- Basin Electric
- Dennis Strauch with Pathfinder Irrigation District
- CUSC workshop report
- Remove Banner Mountain from agenda
- Remove Ground Water Wells Subcommittee report from agenda

8.2. Schedule Spring 2019 NPDC Meeting and Location

Reclamation will hold a spring 2019 water users meeting in Torrington, WY on April 11, 2019, time and location TBD. The NPDC meeting will follow on April 11, 2019.

The fall 2019 NPDC meeting will be held in Scottsbluff.

Adjourned at 12:12 p.m. MDT.