

North Platte Decree Committee (NPDC) Meeting

DRAFT MEETING MINUTES

October 26, 2023

Attendees:

Representatives of the NPDC:

Lyle Myler, Bureau of Reclamation (Reclamation)

Erin Light, Colorado Division of Water Resources (CO-DWR) (Virtual)

Brandon Gebhart, NPDC Chair / Wyoming State Engineer's Office (WY-SEO)

Tom Riley, Nebraska Department of Natural Resources (NE-DNR)

Others in Attendance:

Matthew Wells	Reclamation	John Starnes	WY-SEO (virtual)
David Merrell	Reclamation	Jack Morey	WY-SEO (virtual)
George Finnegan	Reclamation	Charlie Ferrantelli	WY-SEO (virtual)
Belay Nerea	Reclamation	Jennifer Schellpeper	NE-DNR
Michelle Hubbard	WY-SEO	Jim Ostdiek	NE-DNR
Cory Rinehart	WY-SEO	Ryan Kelly	NE-DNR
Rob Foreman	WY-SEO	Kody Schwager	NE-DNR
Tylor Hanzlik	WY-SEO	Stefan Remund	NE-DNR
Jeremy Offutt	WY-SEO	Justin Ahern	NE-DNR (virtual)
Kelly Mehling	WY-SEO	Andy Pedley	NE-DNR (virtual)
Connie Kersting	WY-SEO		

The NPDC meeting was called to session at 1:00 p.m. MDT on October, 2023, at the Goshen County Fairgrounds in Torrington, Wyoming with the virtual option. Mr. Brandon Gebhart, the current NPDC chair, conducted the meeting.

1. Introductions

All attendees are listed above and the sign in sheet is listed as (Attachment 1).

2. Review Agenda

A draft proposed agenda was distributed via email to the NPDC members on September 26, 2023. A final proposed agenda was distributed on October 19, 2023 (Attachment 2). Mr. Lyle Myler motioned for agenda item 6.3 "Guernsey Sediment Survey" to be removed from the agenda; there was no opposition and the agenda item was removed.

3. Approve Minutes from April 2023 Meeting

Mr. Gebhart asked for any comments or edits to the meeting minutes from April 12, 2023 NPDC meeting; there were none.

Motion by Mr. Tom Riley to accept the April 2023 minutes; Mr. Lyle Myler seconds, no further discussion. Motion passes by unanimous vote.

4. Approve Minutes from July 2023 Special Meeting

Mr. Gebhart asked for any comments or edits to the meeting minutes from July 26, 2023 NPDC special meeting; there were none.

Motion by Mr. Tom Riley to accept the July 2023 minutes; Mr. Lyle Myler seconds, no further discussion. Motion passes by unanimous vote.

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

5.1 Wyoming

Mr. Cory Rinehart reported the spring and irrigation season conditions were wet: precipitation started in May and continued through June and totaled approximately 15 inches of rain in those two months (precipitation totals for 2022 was 13 inches for the entire year). The precipitation allowed for recovery in storage and significant carry over going into 2024. Runoff on the North Platte River was slow and steady due to the cool temperatures in May and June; peak streamflow was 8,100 cfs on May 20th. There were minimal issues with deliveries over the irrigation season. Mr. Rinehart reported there were 267 active wells in the Triangle area in 2022 and the number of active wells for 2023 is expected to be lower. Inland Lakes ownership was 13,325 AF and historically the ownership is 9,000 AF; total replacement water delivered in 2023 was approximately 6,800 AF. Mr. Rinehart reported Wyoming is working on changing the accounting system and updating instrumentation in the field.

5.2 Bureau of Reclamation

Mr. George Finnegan summarized the highlights of water year 2023. The overall system inflows from October 2022 to September 2023 were 1,636 KAF (124% of average); system storage at the end of September was 1,674 KAF (113% of average) and 59% of capacity which was a total increase of 559 AF of storage to the system. Kendrick Ownership was 918 KAF (76% full and 103% of average); North Platte Storage was 591 KAF (53% full and 134% average); Glendo storage was 145 KAF (85% full and 111% of average); Inland Lakes has zero storage at this time. The following summarizes ownership status throughout 2023: Guernsey ownership filled May 2nd, Glendo irrigation pool filled May 16th, Glendo evaporation pool filled May 19th, Glendo power head pool filled June 8, Inland Lakes ownership filled April 30, Pathfinder irrigation account with modification filled June 11, Pathfinder Wyoming account filled May 20, Pathfinder Environmental account filled June 11, and Pathfinder without modification filled June 5. Kendrick with or without ownership and Glendo operational pool did not fill this year. On June 8, 2023 the cumulative irrigation procedure forecasted a supply greater than 1.1 MAF, there was no allocation in 2023. The October 1 allocation supply forecasted 1.76 MAF, there is no allocation expected at this time. Winter flows from Seminoe and Kortess are 530 cfs; Pathfinder was lowering Alcova to 5488' elevation

which is predicted to be completed at the end of October, Alcova and Grey Reef are releasing 500 cfs, Glendo is releasing 25 cfs and Guernsey is closed. Environmental water was released at two different times: June 21-30 9,600 AF was released from the Wyoming Account and the entire Environmental account was released from September 10-25 for a total of 30,033 AF after conveyance and evaporation losses.

5.3 Nebraska

Mr. Jim Ostdiek reported the drought conditions across the state improved from 100% in 2022 to 66% in 2023. Administration for natural flow irrigation rights started on July 25, only administering back to 1964. The deepest administration went back to 12/28/1894 but that was only administered for two days. Opened all natural flow rights on September 15, leaving only rights closed for instream flow levels not being met and senior storage rights. The average precipitation for Scottsbluff is 15.79 inches however 21.36 inches were reported for 2023 which was a drastic improvement from 10.2 inches in 2022. The May through September average is 9.64 inches and the actual for 2023 was 16.7 inches. There were several large hail storms in June and July which caused significant damage to crops. The Environmental account in Lake McConaughy started the year at 87,275 AF and approximately 50,000 AF was released for germination suppression. Credits for leased water totaled 18,883 AF. Transfers from Wyoming totaled 33,792 AF and actual gains to the Environmental account were 25,920 AF. The environmental account ended the year with 116,000 AF which was roughly 29,000 AF more than 2022. Lake McConaughy started the year at 654 KAF, the highest elevation was July 17 which reached 995 KAF and ended the water year with 902 KAF; the lake gained 248 KAF, after losing 331 KAF the prior year. Inflows at Lewellen dropped to 457 cfs on August 24th.

Mr. Myler asked if Lake McConaughy was under any fill restriction. Mr. Riley responded the dam on Lake McConaughy had erosion at a range in elevation that FERC requires repair along the whole length of the dam. The district is undergoing analyses on the type of repair, however there is a possible risk from potential high snowpack and runoff which FERC may allow the district to exceed the impacted elevations with their operations but they cannot hold the reservoir at that impacted elevation. Mr. Riley reported that this restoration project could allow for some of the current elevation restriction to be lifted.

Mr. Riley adds to the update the State of Nebraska is also looking to update and improve instrumentation across the state, which could include adding instrumentation to reservoirs, and stream gaging information for flood protection and warnings.

5.4 Colorado

Ms. Erin Light reported Colorado is currently working on installing satellite telemetry on 20 ditches in the headwaters of the Yampa River through funding of the round table process through the Colorado Water Conservation Board. There were no administrative calls on the North Platte mainstem or tributaries in 2023 due to the good snowpack. The peak runoff on the North Platte at North Gate was approximately 75% of average and

current flows continued to be 75% of average. Water Year 2023 irrigated acreage data was not yet finalized. The Michigan ditch, the larger of the two trans-basin ditches, diverted just over 5,300 AF of water and data from the Cameron Pass Ditch diversion will be finalized prior to spring 2024. Colorado will not exceed the trans-basin diversion amount of 65 KAF in 10 years for Water Year 2023. Water stored for irrigation purposes was estimated to be about 13,500 AF; Colorado will not exceed the limit for 2023. Ms. Light provided an update on the measurement rules which require people to measure all of their diversions and storage of water that Division 6 is working to implement. About 20% of the structures in the North Platte Basin do not have measuring devices and CO-DWR will continue to work with the water users to install measuring devices on the structures. Those rules were filed in the court in October 2022 and one of the protesters was the Jackson County Water Conservancy District which covers the entire North Platte Basin in Colorado, but Ms. Light is hopeful CO-DWR will be able to stipulate with them, and does not think the measurement rules case will go to trial in 2024. Ms. Light announced that Mr. Kevin Rein is retiring on January 1, 2024.

6. Informational Items

6.1 Gering-Ft. Laramie/Goshen Canal – Reclamation

Mr. Belay Nerea updated the group that HDR submitted the 30% design in June 2023 and Reclamation provided feedback to the design. The cost is estimated to be \$44 million for Tunnel 1 and \$40 million for Tunnel 2 totaling \$84 million, with a 5% annual inflation rate. Currently HDR is working on 60% design and are planning to procure Construction Manager at Risk (CMAR) program delivery to bring on a contractor at the same time modeling and design are developed. Mr. Gebhart questioned how the CMAR and Reclamation review process will interact. Mr. Nerea explained Reclamation is working with other Reclamation offices to determine the standard procedures since the CMAR is new to them. Mr. Myler adds Reclamations wants to ensure the project design is acceptable and continued communications with the Denver group to make sure there is no issue related to the CMAR. Mr. Myler added as long as HDR continues to provide design plans and meet project deadlines he does not foresee any issue. Mr. Myler reported the initial costs has most likely increased; there's currently an application to receive Bipartisan Infrastructure funding (BIL) and also potential for the districts to apply for additional funding. Mr. Riley questioned if the BIL was a grant or loan. Mr. Myler responded the monies are a reimbursable loan. The districts are hopeful for construction to begin in fall of 2024.

Mr. Myler reported Gering Fort Laramie Irrigation District approached Reclamation in August about I beam steel ribs in Tunnel 3 causing backwater and interfering with gaging. The District asked Reclamation about the possibility of adding flatter ribs to improve the flow through the tunnel. Reclamation asked the district to get a consultant/engineer to confirm the spacing and design on the ribs. Mr. Riley questioned

if the designs and plans are approved, is the intent to have these installed prior to the 2024 irrigation season. Mr. Dave Merrell responded that the district does not have the funds and are hoping to stage the repair year by year.

6.2 Seminole pump/storage project update – Reclamation, WY

Mr. Merrell reported that Reclamation continued to work with rPlus Hydro on the permitting of a hydropower pumped storage system that will utilize Seminole as the lower reservoir and the creation of a new upper reservoir. The current project design includes an upper reservoir with 14,500 AF capacity and approximately 1000' elevation gain above the full capacity of Seminole, three turbines with a max capacity of 972 MW and a max flow rate of 1250 cfs. The operational plan showed the estimated time for the upper reservoir to fill is 10-12 hours and roughly 10-12 to empty therefore the upper reservoir is expected to fill once per day. The final FERC license was filed earlier in 2023; based on comments from state and federal agencies, FERC is requiring additional studies pushing the NEPA process to begin in November 2024. At this point in time, Reclamation plans to have an excess capacity contract with rPlus Hydro to store non Reclamation water in Seminole and pump their water back and forth. Eventually the accounting of this project water will be discussed by the NPDC.

Mr. Gebhart added rPlus Hydro filed an application for the Upper Reservoir with the WY-SEO and continued discussions related to the water rights.

6.3 Review of NPDC By-laws

Mr. Myler suggested the creation of the Bylaws ad hoc subcommittee to perform a review on the NPDC bylaws. Mr. Gebhart questioned the difference between the italicized versus non-italicized text in the bylaws of Appendix G. Ms. Schellpeper stated the non-italicized text is the Charter of the NPDC as Appendix G and the italicized text are the bylaws as created by the Bylaws ad hoc subcommittee in the mid-2000s. Mr. Gebhart voiced his support to modernize the bylaws and questioned if review of the charter was also warranted. Ms. Schellpeper referenced a statement in the Final Settlement Stipulation that would allow the NPDC to make changes to the original charter if it is agreed upon by all NPDC members and completed in writing. Mr. Riley supported the establishment of the subcommittee to review the by laws and charter and provide recommendations to the NPDC. The NPDC members understand that any changes made to Appendix G would require a resolution for all NPDC members to sign if the changes were agreed upon. Ms. Light voiced her support for the development of the ad hoc subcommittee. The members assigned to the subcommittee are: Ms. Christi Davis-Kernan for Reclamation, Ms. Erin Light for Colorado, Ms. Jennifer Schellpeper for Nebraska, and Ms. Michelle Hubbard for Wyoming. Mr. Myler suggested the ad hoc subcommittee provide a check-in at the spring 2024 meeting and recommendations for the fall 2024 meeting.

Motion by Mr. Lyle Myler to form the Bylaws ad hoc subcommittee to review the bylaws and Appendix G, the Decree Committee Charter, and provide any recommendations as far as updates, edits, or changes to reflect current business practices of the NPDC. Mr. Tom Riley seconds the motion, no further discussion. Motion passes by unanimous vote.

7. Reports of Standing Subcommittees

7.1 Consumptive Use Subcommittee (CUSC; Chair: Schellpeper)

Ms. Schellpeper summarized the CUSC (Attachment 4) and reported the CUSC continued to review the methodology of Exhibit 6 and develop ideas to update the existing methodology. The milestones document presented at the Spring NPDC meeting has been updated to reflect current progress of the group. The CUSC does not have finalized recommendations for the NPDC but there are draft recommendations provided in the report. The comprehensive review of the methodology is taking longer than expected due to the complicated existing methodology. The CUSC asked the NPDC to continue working on the review of the consumptive use methodology and asked for any feedback related to the documents provided in the report. Mr. Gebhart suggested if the CUSC ends up going down rabbit holes and are unsure of the direction of the NPDC then pause those discussions and seek the guidance of the NPDC. Mr. Riley recognized the progress the CUSC has made and voiced his appreciation for the work completed so far.

7.2 Replacement Water Subcommittee (RWSC; Chair: Gehle)

Ms. Schellpeper presented the RWSC report (Attachment 5) for Mr. Jeremy Gehle; the RWSC continually meets with the CUSC and the work of the RWSC is on pause to continue the work on Exhibit 6.

7.3 Finance Subcommittee (FSC; Chair: Hubbard)

Ms. Hubbard presented the FSC report (Attachment 6) and summarized the balances in each account. The FSC asked the NPDC for the approval of the Flatwater Group contract to continue the database migration and management. Ms. Hubbard noted that invoice WS-8 (approved at April NPDC meeting) has not been paid because the NCF is waiting for the approval of the Flatwater contract to approve both payments at once.

7.4 Official Files Subcommittee (OFSC; Chair: Kelly)

Mr. Ryan Kelly presented the OFSC report (Attachment 7). Mr. Kelly summarized the technological insufficiencies with the current database system and the updated contract between the Nebraska Community Foundation and the Flatwater Group allowing the Flatwater group to continue annual NPDC database maintenance and data migration. Mr. Kelly reported the interface for the database will be similar to the previous database and demonstrated the new database platform. Mr. Kelly reported the invoice for the Flatwater Group for the period of July 2022 to June 2023 is \$5,484, to be split between the three entities.

Motion by Mr. Tom Riley to accept the subcommittee reports and recommendations within the reports. Ms. Erin Light seconds the motion, no further discussion. Motion passes by unanimous vote.

8. Review NPDC Representative & Subcommittee Membership

Mr. Kelly reported the list provided only shows the active members of the subcommittee membership. The only update to the Subcommittee Membership is the creation of the Bylaws Ad Hoc subcommittee with the membership listed under agenda item 6.3.

9. Meeting Summary

9.1 Future Agenda Items

None discussed.

9.2 Schedule Spring 2024 NPDC Meeting and Location

The Spring 2024 NPDC meeting will be on Wednesday April 10, 2024 in Scottsbluff, Nebraska from 1-4 PM, confirmed by NPDC members via email.

9.3 NPDC Chair Rotation for 2024-2025

The NPDC Chair rotates to Nebraska for 2024-2025 and Reclamation as the Vice Chair.

The meeting adjourned at 2:40 MDT.