

TPNRD Stakeholder Meeting #3 Minutes

Project: 2nd Increment Stakeholder Process for Twin Platte NRD Integrated Management Plan (IMP)

Subject: Stakeholder Meeting #3

Date: Tuesday, September 18, 2018 from 7:00 p.m. – 10:00 p.m.

Location: Holiday Inn Express & Suites, North Platte, NE

I. Welcome

- a. Stephanie White, HDR, opened the meeting at 7:04 p.m. CT. She introduced Kent Miller, Twin Platte NRD (TPNRD) general manager.
- b. Kent Miller addressed the stakeholders and public, gave a brief history of past meetings, and stated the purpose of the meeting tonight. Kent stated, “The meeting is not a meeting of the TPNRD Board of Directors, but the third of five meetings of the TPNRD Stakeholders.” He discussed a history of the legislation involved, the task force that was appointed in 2002 by the Governor, and the first IMP of ground water and surface water in Nebraska that was approved in 2004 (LB 962). He discussed the requirements of LB 962 for NRDs to incrementally return the Platte River to a fully appropriated (FA) condition and return the Platte River to 1997 conditions. He stated in 2004, because of the overappropriated (OA) designation and LB 962, TPNRD and other NRDs set a moratorium on the drilling of new wells. Next, all NRDs developed groups of stakeholders who studied the issues and prepared recommendation to TPNRD and NeDNR, in a joint effort. In 2009, the first increment of the plan began, which required that by the end of 2012, 5,804 acre feet be returned to the river annually and by the end of 2019, 6,185 acre feet need to be returned to the river annually. At that time, stakeholders recommended TPNRD find offset water and avoid regulation due to the expenses and disruptions to the producer and the economy. TPNRD has met all points and regulations for the first increment, and continues to look for offset water to avoid regulations. He stated the next stakeholder meetings are November 13th and January 15th. The second increment will be adopted from March to July of 2019, and will include a public hearing. He discussed the new numbers for TPNRD calculated through COHYST & WWUM. He stated there will probably be requirements for offset in the second increment and discussed possible examples (e.g., by September 2022, 11,000 acre feet need to be returned to the river) which are doable. Science will continue to be developed throughout the second increment generating new numbers through analyses in cooperation with TPNRD, other NRDs and NeDNR.
- c. Stephanie White reviewed the agenda (Attachment A) and reminded the group that the previous agendas and minutes can be reviewed online at www.dnr.nebraska.gov/water-planning. She stated stakeholder feedback is important in this process and reminded the group of the basin-wide planning meeting that occurred earlier today and goals and objectives that will inform the TPNRD IMP second increment. She acknowledged the open meetings act

in the room and stated the notice of the meeting was published in the newspaper. She went over safety and logistics and appointed Ann, TPNRD to call 911 in the event of an emergency. Stephanie invited the stakeholders to introduce themselves. The attendance sheet is included.

II. Current IMP Goals and Objectives

a. **Fully Appropriated Portion of the IMP:** Stephanie directed stakeholders to tab three in the stakeholder binder.

b. **Overappropriated Area and Nebraska New Depletion Plan:**

- Stephanie stated existing goals for the fully appropriated portion of the IMP (slide 6).
- Stephanie asked the stakeholders if there is anything missing from the stated goals.
 - No stakeholder comments.
- Stephanie stated the objectives for the fully appropriated portion of the IMP (slide 7).
- Stephanie asked the stakeholders if there is anything missing from the stated objectives.
 - No stakeholder comments.

Goal 1: To incrementally achieve and sustain a fully appropriated condition.

- Same as first increment.
- Comments on Objective A:
 - **Stakeholder:** “Do we want comments on how current ones should be modified for the next ones?”
 - **Stephanie:** “Yes, we want to understand the language at the starting point, while also taking comments on what it should be.”
- Comments on Objective B:
 - **Stakeholder:** Stated it is important to acknowledge that the wording for this objective was very specific to what the first increment was supposed to be, in which the only obligation was post 1997, and the pre-1997 requirements were not included.
- Comments on Objective C:
 - **Stakeholder:** “So, this would suggest that the 7,700 acre feet obligation was met?”
 - **Ann Dimmit, TPNRD:** “Yes, we achieved our first increment.”
 - **Stakeholder:** “Between the first part of Goal 1 and this part, there is a conflict.”
 - **NeDNR:** “The 7,700 wasn’t what was necessary to achieve FA condition. That was the estimate of what it took to achieve post-1997 conditions. It is actually more than that.”
 - **Stakeholder:** “But we have to come up with around 14,000 acre feet to meet post 1997 conditions and work toward FA from there.”

Goal 2: To ensure that no act or emission of the Twin Platte NRD would non-compliance by Nebraska with any interstate decree compact or other formal state contract or agreement.

- Comments on Objective A:
 - **Stakeholder:** Suggested to discuss what PRRIP is.
 - **NeDNR:** Platte River Recovery and Implementation Program (PRRIP) is an interstate agreement signed by Nebraska in 2006, that began in 2007. Driven by endangered species concerns in the Central Platte of Nebraska and provides compliance under the ESA. Referred to presentation from last meeting (Meeting # 2, slides 36-38).
 - **Stakeholder:** “How much money has been invested in the program?”

- **NeDNR:** “For Nebraska, \$0. Wyoming and Colorado make contributions along with the Federal contribution which is around \$150 million.”
- **Stephanie:** Stated the four endangered species included in PRRIP: whooping crane, piping plover, least tern and pallid sturgeon.

Goal 3: To maintain consistency with basin-wide plan.

- Comments on Objective A:
 - **Stakeholder:** “How do we know when an IMP is amended? Will it be annual and include a public hearing, that then go to the basin-wide plan with additional public hearings? Would there be two public hearings?”
 - **Ann, TPNRD:** “We wouldn’t have to again engage with the stakeholders for the basin-wide process. If the models happen to give us different numbers, we can get decide at one of our annual meetings. There would be a public hearing.”
 - **Stakeholder:** “How would the meeting be noticed?”
 - **Ann, TPNRD:** The newspaper, webpage, Facebook, etc.

III. Basin-Wide Plan – New Goals and Objectives

a. Discussion:

- **Stephanie:** Discussed goals and objectives of the draft basin-wide plan and noted the changes added.
- **Stakeholder:** Noted this group does not set these goals and objectives, but the basin-wide group instead. Important to understand how we will manage our IMP to the basin-wide plan.
- **Stakeholder:** “How do we find out what is going on?”
- **NeDNR:** “It is included in the basin-wide plan and was written the same as the first increment to notify all stakeholders of annual meeting.”
- **Stakeholder:** “The public participation tonight demonstrates a lack of communication or understanding. Is what we have been doing adequate enough? How do we communicate so things are concise, with good information, timely, instead of asking after the fact?”
- **Stephanie:** Stated there is room in the IMP to change these things going forward. Suggested changes for IMP include: Goal 1B adjusted to reflect the second increment and improved communication.

b. Goal 1: Incrementally achieve and sustain a fully appropriated condition, while maintaining economic viability, social and environment health, safety, and welfare of the basin

- **Stephanie:** 1.1 is new – “the basin will maintain previous increment mitigation efforts” – changed “effort” to “progress” earlier today
- **Stakeholder:** Discussed confusion in basin-wide meeting regarding the meaning of negative and positive results from the models and suggested to make things more understandable, clear, and easily understood.
- **Stakeholder:** Question regarding the “stakeholder involvement in things like drought planning”
- **Stephanie:** Discussed 1.3 and drought planning.
- **NeDNR:** “This is all detailed in 1.3 and in subcomponents of the basin-wide plan. There will be stakeholder involvement, a drought workshop, and impacted water user engagement.”

- **Stephanie:** Reminded the group they have a copy of the draft, it is also on the website, and new versions will be sent out if there are any questions regarding specific requirements for drought planning included in the basin-wide plan.
 - **Stakeholder:** “We are getting away from the purpose of this meeting. Shouldn’t we become FA before we move on to drought planning?”
 - **Stephanie:** Reminded the group that the IMP must respond to the basin-wide goals, which includes the drought component.
 - **NeDNR:** “We have to get to 1997 levels and also try to implement drought planning that will help get to FA.”
 - **Stephanie:** “This will be the last meeting dedicated to education and informing stakeholders on the full context of the planning process.”
 - **Stakeholder:** Question on 1.5: “Who’s ‘data’ is it? Where is it? Who is paying for it? Who has access to it? Can we clarify in our IMP?”
 - **Stephanie:** “There is space in your IMP to clarify how your district wants to handle that and answer questions.”
 - **NeDNR:** “In the basin-wide plan, the data is public.”
 - **Stakeholder:** Voiced concerns with protecting data of producers and security for our own IMP. “If we are providing data, and paying to provide it, it is a concern.”
- c. Goal 2: Prevent or mitigate human-induced reductions in the flow of a river or stream that would cause non-compliance with an interstate compact or decree or other formal state contract or agreement**
- **Stephanie:** Not changed.
- d. Goal 3: Partner with municipalities and industries to maximize conservation and water use efficiency**
- **Stephanie:** This goal is new – related to partnering with municipalities and industries to maximize conservation and water use efficiency. We will discuss later in the meeting.
- e. Goal 4: Work cooperatively to identify and investigate disputes between groundwater users and surface water appropriators and, if determined appropriate, implement management solutions to address such issues**
- **Stephanie:** Not changed.
- f. Goal 5: Keep the Upper Platte River Basin-Wide Plan current and keep stakeholders informed**
- **Stephanie:** There is room for change in the IMP regarding improved communication for stakeholders and the public.

IV. 2nd Increment Topics

- **Stakeholder:** “Should drought planning be postponed?”
- **Stephanie:** “We will ask the questions today, but we won’t have the dialogue about it tonight. I will set up the conversation for you to think about and then we will revisit it at the next meeting.”

a. Municipal & Industrial Statute

- **2026 Offsets:** Ann Dimmit, TPNRD, gave an overview of what is in the current IMP including the current statute language. She discussed the responsibilities of NRDs prior to 2026 and future responsibilities. “Currently, municipalities report average pumping minus discharge from August 1st to July 31st. The baseline runs from 2001-2006. In 2026, we would like to make things easier (for example, report by using the calendar year instead). Would like feedback from the stakeholders on what the baseline should be. Should it be a 5-year baseline? The highest pumping year? The average of two highest pumping years?” She asked for thoughts and ideas for how to calculate baseline number going forward. She stated that in TPNRD, there is not much growth and the outputs of agriculture can be used for offset. “There is an exception with North Platte, which has a permit from the state for what they can pump, meaning their baseline is based on their permit.” She gave an example of what municipalities can pump vs the actual data (chart on slide 28). She stated that other municipalities will be different than the City of North Platte. She provided the example of the village of Brady. “For non-municipal industrial use, it is a similar process in which they all have to report to the NRD. It would also be beneficial to use the calendar year in this situation.” Asked stakeholders to think of what the baseline should be, and stated changes may want to be considered. She discussed the situation if there is a new industrial water user that comes into the area and how they will first be asked about their water use and then be required to offset above 25 million. “As it is written, after 2026 the industrial user will have to offset all use.” Asked for feedback on this aspect of the plan as well.
- **Stakeholder:** “Is that per new use or cumulative for each new industry?”
- **Ann:** Responded that it is per each new use.

b. Stakeholder feedback:

- Calendar year makes a lot more sense
- Suggested to use average over 5 or 7 years for baseline calculation
- The baselines are set in law, seems like we are only worried about industrial here
- Makes sense to use an average to set baseline due to drastic changes in dry/wet years
- **Stakeholder:** “What is the mechanism by which an increase in industrial is handled? Is it only when they need a new well? Is every industrial user given a baseline?”
 - **TPNRD:** “Currently, anybody with an industrial well that pumps greater than 50 gallons per minute is required to report and a baseline is devised for them - so it already exists. Going forward they will continue to report.”
- **Stakeholder:** “Why does the city of North Platte have so much water they are allowed to use?”
 - **TPNRD:** “They applied for a permit that allows them to do so. It is a fairly old permit.”
- **Stakeholder:** You shouldn’t have a reporting year that reports to a baseline, you’d want to have an upper baseline and a running average. There are wet periods all over the place and an annual report to the average would cause non-compliance.

c. Basin-Wide Plan – Municipal & Industrial

- **Example in the TPNRD – NPPD GGS Wellfield:** Jeff Shafer, NPPD, presented background on GGS cooling wellfield. He stated that it was developed for cooling purposes in 2004, due to severe drought. He noted the purposes are to maintain the water levels in the Sutherland Reservoir in the case of lack of in-flows and to help comply with discharge water temperature requirements. He displayed a map of the Sutherland Reservoir including the wells that are part of the wellfield (slide 38). Discussed the

variability faced when using the wellfield including the highest year of pumping in 2007. Noted testing and flushing of the wells and the low numbers shown due to this. Most pumping for cooling purposes occurs from June to September.

- **Stakeholder:** “Which wells still have pumps?”
- **NPPD:** “27 of the 38 are active and equipped with pumps. The wellfield was designed for all to provide under various groundwater levels, drought conditions, etc.”
- **Stakeholder:** “Can you clarify? This is not supply water to maintain lake level, but to cool. This water does not go down the canal, it is strictly to maintain the lake level and to cool the plant. It does not offset, but maintains and makes sure the plan operates. Not a supply system.”
- **NeDNR:** Does that wellfield allow for cooling water year-round if needed?
- **NPPD:** Yes, if we need reservoir pumps to cool year-round we can.

d. Drought Planning:

- Stephanie discussed basin-wide drought planning goals. She noted the questions and topics to be discussed at the next meeting. The intent is to give the basin-wide plan to stakeholders ahead of the next meeting so that stakeholders can read what the basin-wide plan outlines regarding drought.

e. 2nd Increment Target:

- **Ann, TPNRD,** discussed the second increment target, starting with reviewing the first increment, in which the goal of 7,700 acre feet was met. She displayed a visual (slide 44). For the second increment, there are currently possible ideas for other water to be used and various projects, but would like stakeholder input and ideas on how to get the remaining water.
- **Stakeholder:** “What are the existing ideas for the second increment? Where are they coming from?”
- **Ann:** “Excess flows, projects with irrigation companies, ways to expand on using existing infrastructure.”
- **Stakeholder:** “What is our goal in acre feet?”
- **Ann:** “The number that the NeDNR has presented – probably within the 17,000-22,000 range. Don’t want to get weighted down with exact numbers.”
- **Stakeholder:** “So, we can meet our goals without pumping restrictions?”
- **Ann:** “That might be part of it, we probably can do better than the first increment. These are just estimates, as of now.”
- **Stakeholder:** Would like details on current ideas for the second increment before giving new ideas.
- **Stakeholder:** “In the next 10-year period, is this an aggregate number? Or do we have to meet this number every year?”
- **NeDNR:** “The number grows over time and since 1997, that number has continued growing. By 2029, of that 60,000 acre feet of pumping, stream flow will be reduced by about 20,000-25,000, which is a number that keeps growing as well.”
- **Stakeholder:** “Why is that number growing?”
- **NeDNR:** “We are using that supply, the amount we are pumping comes from somewhere. There is a delayed effect. In the chart given, it shows 50 years out. Ultimately, pumping affects streams.”
- **Stakeholder:** “It depends on what you are doing to offset. If you wait to do anything, you will have to make up for more with a large pumping reduction to catch up.”

- **Stakeholder:** “Isn’t our objective to be offsetting the annual rate at the end of the second increment?”
- **NeDNR:** “Yes, and it is anticipated that the second increment will have similar triggers to the first increment.”
- **Stakeholder:** “When the model was recalibrated and we met our first increment, now we are not automatically supposed to get to the corrected number next year, but rather by 2029?”
- **NeDNR:** “That is what the basin-wide plan says.”
- **Stakeholder:** “Is there a number that we can tell consumers, ‘if you pump this, we can achieve our goal’? The public here today thinks allocation is the only option.”
- **Stakeholder:** “We should discuss all other options before allocation. Ways to get credit for conservation in the modeling would be helpful. NRD needs to take steps to educate and present that to the producers, so they know that it is required by law to meet these numbers and they have to abide by this, change farming practices *or* regulation will occur.”
- **Stakeholder:** Suggested more meetings than just the two that are set as of now.
- **Stakeholder:** “Who is responsible to inform the group if I come up with an idea? Who will do the number crunching to estimate the impact of the idea? NRD, University, stakeholders? Is there enough time to make decisions?”
- **NeDNR:** Discussed example from the first IMP. “One of the main suggestions by stakeholders was to examine the availability of excess water in the system. That was one of the first studies completed after implementing the plan. It was driven by stakeholders as a high priority.”
- **Stakeholder:** “In the first increment there were three options. First: reduction of irrigated acres, second: pumping restrictions, third: NRD needed to look for offset water and come up with projects to offset depletions. That was the one they picked. We will continue to pursue that.”
- **Stakeholder:** Important to consider economics and amount of water that will actually come out of it, before making a decision. Important to be informed quickly.
- **Stephanie:** Reminded the group that in the basin-wide plan, there are calls to continue to study and continue to model, to get to a place where we can make better informed decisions about these things. Could implement that kind of language in this IMP as well.
- **Stakeholder:** “Based on the first increment, as an estimate, how much will the next increment cost?”
- **TPNRD:** “It could get close to the cost of the first increment.”
- **Stakeholder:** Reiterated the importance of education and getting information out to the surrounding towns, the users. “We need to challenge the water users with goals that they must achieve – they are competitive. There are better ways than regulation.”
- **Stakeholder:** “Wasn’t aware, before tonight, that there are possibilities other than regulation – this is a positive thing.”

V. Next Steps: Stephanie stated the group will pick up with this conversation at the next meeting and will decide if more meetings need to be set at that time.

VI. Public Comment

- **Mike Groene, Senator:** “To address the 3-cent tax: I fought that and filibustered it and Twin Platte has never used it. You have authority of about 7-cents – they’ve never reached that – you had an extra 3 cents. We replaced the 3 cents with a \$10 an acre occupation tax. Those two NRDs (NPNRD and SPNRD) have never used their \$10, but they want the 3-cents authority. [landowners in] The Republican have paid their \$10 an acre and those guys (NPNRD and SPNRD) need to pay something before they ask the dry land farmer to

be taxed another 3 cents. It is not necessary. I want to clarify that the \$30-40 million is N-CORPE. When you say you have reached your 7,700, you have not. You had 10 years to reach 7,700 to get back to 1997. The first year you will do that is in 2019 or 2020. 4,000 acre feet of that is N-CORPE. We are done with N-CORPE. \$40 million to get 4,000 acre feet. NeDNR said 20,000 acre feet is the estimate for 2019. 7,700 of that goes toward that overall estimate. We have another 12,300 we've got to come up with. How are we going to do that? By buying more ditch water? You've already done that and you blew \$40 million for 4,000 acre feet. What is the plan? I want to clarify that N-CORPE is used up. We already have an IMP that doesn't match the amount of water to the acres of irrigation used. I want to point out that Colorado is not in good shape. They have pulled a lot of wells. Augmentation that started in the 90's didn't work. They have lawsuits now, where farmers are suing farmers. They have not solved anything. We are in better shape here. You are going to have to look at allocations. The NeDNR is pushing that. Don't believe things are fixed. You have to come up with 13,000 acre feet in less than two years. We need to face the truth. The easy answers are used up. More taxation isn't the answer. If they come to you telling you to propose a plan to the legislature to get that 3 cents back, say 'no' because if you haven't used your \$10 an acre, you don't need that. I'm a farmer and I will pay my own way, not dump it on someone in town. I wanted to add some reality in this. You can't look to N-CORPE because you blew it already. You've been paying for five years and haven't gotten one gallon of water. They have pumped 100,000 acre feet of Platte River water and it all went South. We have paid 25% of the operation cost of that down there and we haven't gotten one gallon of water. Who negotiated that deal? And when we finally start pumping, we only get 4,000 acre feet and they're 30,000 acre feet ahead of us – with our water. Fire Blankenau at the NRD and have a lawyer that represents all four NRDs.”

- **Kurt Olsen, Producer:** “This is a state mandated project without any funding. We wouldn't be here if the state did their job and funded the project. The state needs to come up with some money and pay for this project. Allocations should be the absolute last resort.”
- **Dewey Schaffer, Producer:** “We have a terrible fear factor here in the TPNRD. There are more people who don't know about this than who do. We need to get the information out to the people.”
- **Stakeholder:** “How many wells were put in after the moratorium was put in place?”
- **Ann:** “Zero. No new wells. The only way anybody gets a new well now is if they retire it somewhere else.”
- **Stakeholder:** “How many wells were drilled after the announcement was made of the moratorium?”
- **Kent:** “TPNRD initiated the moratorium in November of 2004, and it was put in place in July of 2005. There was about six to seven months between there where they could've drilled a new well.”
- **Stakeholder:** Would like to know the exact number.
- **Dewey Schaffer, Producer:** Question for NeDNR regarding why the NeDNR hasn't cleaned out the river? (Russian olives, salt cedar, etc.)
- **NeDNR:** “There is a task force for riparian vegetation, established by the legislature. Many efforts in early 2000s with continued efforts to control phragmites in the central Platte. Some paid for by the PRRIP, state dollars, NRD contributions. Salt cedar and Russian olive has also been handled. Funding right now is through the Department of Agriculture.”
- **Stakeholder:** “How did it change the flow at Nine Mile?”
- **NeDNR:** “The flow is not much different today than it was historically. Often, the grass that comes in after uses about the same amount of water as the removed invasives.”
- **Mike Groene, Senator:** “Have we looked at doing a pilot project and trying to see if we can divert some of the excess flood water? Nobody claims that water. Is that in the plan?”

- **NeDNR:** “We do excess flow diversions now. As a basin, we have diverted over 200,000 acre feet of excess flow since 2011.”
- **NeDNR** asked the group what they would like to see at the next meeting to help further the conversation:
 - Wells
 - Concepts that are already being used by other IMPs
 - Practices beyond state lines
 - Voluntary set aside with reimbursement
 - Estimate of how many acres needed – actual numbers
 - Suggested more meetings will be needed
 - Suggested for stakeholder to read the basin-wide plan before next meeting since it will help focus this IMP
 - Conservation within the model and getting credit

Stephanie thanked the stakeholders for their time. Meeting adjourned at 9:59 p.m. CT.

Next Meeting: November 13, 2018

Appendix A: Agenda

Agenda

Project: 2nd Increment Stakeholder Process for Twin Platte NRD Integrated Management Plan (IMP)

Subject: Stakeholder Meeting #3

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Agenda:

- I. Welcome
- II. Current IMP Goals and Objectives
 - a. Fully Appropriated Portion of the IMP
 - b. Overappropriated Area and Nebraska New Depletion Plan
- III. Basin-Wide Plan – New Goals and Objectives
- IV. 2nd Increment Topics
 - a. Municipal & Industrial Statute
 - i. 2026 Offsets
 - ii. Basin-Wide Plan – Municipal & Industrial
 - iii. Example in the TPNRD – NPPD GGS Wellfield
 - b. Drought Planning
 - c. 2nd Increment Target
- V. Next Steps
- VI. Public Comment

Next Meeting: November 13, 2018