



Financial Affairs Committee (FAC) Meeting Notes

10:00 a.m. November 19, 2021

MS Teams with call-in 279-666-3100 / ID 279 424 615#

The meeting began at 10:00am and adjourned at 11:17am.

Attendees (21):

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|----------------------------------|------------------------------|
| Dana Jacobson – Valley Water | Ann Lubas-Williams – USBR |
| Jonathan Bauer – EBMUD | Brooke White - USBR |
| Juan Vega – SEWD | Christiane Washington – USBR |
| Nicole Branum - Westlands | Cynthia Calvillo - USBR |
| Kevin Kasberg – CVPWA | Lisa Holm – USBR |
| Shelly Murphy – Colusa County WD | Ryan Everest – USBR |
| Skye Grass – Kern-Tulare ID | Sabir Ahmad – USBR |
| Tiffany Montooth – DEID | Steven Melavic - USBR |
| Wilson Orvis – FWA | |

- Barbara Lynch - WAPA
- Judith Shimek – WAPA
- Melinda Rollo – WAPA
- Cori Stewart - WAPA

1. Opening Business and Next Meetings

The 2022 FAC Schedule is planned for the third Friday of the month. Kevin to send out calendar invites for 2022 FAC Meetings.

CVPWA Annual Meeting and FAC at the WUC Tuesday, January 18, 2022. The afternoon prior to main conference start on Wednesday. Kevin to send out information for CVPWA Annual Meeting/ January FAC meeting at the WUC.

2. Report on Executive Committee Meeting

Staffing - Commissioner Touton has been confirmed, just waiting for being sworn in. CBG Financial Management Branch hired Robert Ward to lead Special Projects with a Special Project Economist requisition open, Christiane Washington moved to Accounting Head after

Sabir Ahmad moved to Ratesetting Head upon Jesus Reynoso's retirement – request to Ann Lubas-Williams for an updated org chart.

- **Future costs data request**

Reclamation and CVPWA members would like to develop a spreadsheet that contains upcoming extraordinary costs in the near term or are in the early stages of feasibility or planning. For each project/program, the spreadsheet would provide information on cost allocation, funding authority, beneficiaries, and other information that may help contractors understand potential rate impacts. Furthermore, for those projects that are in planning, it would be helpful to know if there is an opportunity for other contractors to engage or comment.

During this meeting, the FAC requested that Reclamation start off with SOD Folsom SOD. Reclamation agreed to this approach and will be assigning to special projects – check in with Ann Lubas-Williams and Richard Ward at the next FAC meeting

- **Remediation of CVP Costs**

The remediation of 2014-2019 capitalized OMR costs to extended repayment is still in progress and credits/underpayments not finalized. No significant impacts are expected for water or power, except for contractors that have not paid construction costs in the recent past. There is now engagement with WAPA and soon there will be contractor outreach. The first outreach will be to those contractors with impacts.

- **Extraordinary Maintenance**

The recent Reclamation Manual update to the Directive and Standard, PEC 05-03 defined the administering of the Aging Infrastructure Account, a revolving fund for extraordinary maintenance. In the past few years, the CBG region has been developing an XM rate to fund similar projects in the region through annual appropriations and recover the costs through extended repayments. The Basis of Negotiation (BON) language defines criteria for the region's XM rate eligibility and repayment of extended repayment to be able to support projects that range in useful life, cost, and location. Project must meet the XM rate criteria otherwise will have to develop a project-specific repayment contract. The FAC is interested in how the region's XM rate and the Aging Infrastructure Account work together, or if they conflict. Both authorities for funding extraordinary maintenance/aging infrastructure and have extended repayments are expected to be available for use in 2023. An information session on the aging infrastructure account and the BON for XM rate can be scheduled with Reclamation. Kevin to follow up with Sabir when the revised XM BON can be reviewed by the contractors.

- **CVPIA**

The CVPIA Accounting Practices BPG is still under review and the region will be briefing the Commissioner in the next few weeks. The FAC discussed the benefit of scheduling a separate meeting with the Commissioner to communicate our interest in seeing the BPG finalized. The FAC sent a letter to the Commissioner earlier this year on the request for finalization but has not received any communication in return. Brooke White updated the FAC that the CVPIA Finance Plan is starting internal review process and a public version should be available in the February.

- Annual O&M Variance Worksheet
This document, published annually, should be available for contractor review by the end of the month.
- CVP CAS True-Up
The calculations of credits and overpayments due to the finalized Cost Allocation Study are near complete and Reclamation will be engaging with contractors in February. Each contractor will determine how to apply a credit (if applicable) or make up the underpayment (if applicable). Credits due to overpayment cannot be refunded but can be moved to advanced accounts for future costs. Underpayments can be made in a lump sum, keep it in rates and pay off by 2030, or repayment contract amortized up to 10 years. The effort this year will remediate most of required the changes from CAS by 2030 except for IDC or IOI accounts.
- Contracting & Charging for Non-Project Use of Excess Capacity in Reclamation Project Facilities – Revenue collection prior to new 2023 rates
Special rates in January or February still working on the “r” component of the rate.
- San Luis Joint Use O&M Cost Reallocation Study
No recent movement on this topic but the 5 year O&M plan was recently published.
- Trinity PUD – Converting to a PUE type account
Reclamation seeks 2-3 contractors to volunteer to pre-pay the annual cost with credit applied toward annual rates. This will reduce administrative effort of Trinity PUD collections Sabir to see if there is a document to provide to contractors that explains this arrangement
- Refunds from annual accounting analysis in progress

3. **Reclamation Directives and Standards**

The following are CVPWA meeting notes from a Reclamation hosted a webinar on 11/12/2021 at the request of stakeholders to share the motivation and key revisions to four Reclamation Manual updates. A fifth D&S update, BGT 02-02, was not on the agenda as it has been removed from the external review list to make additional edits. A new external review period will commence once these edits are complete.

Reclamation Attendees: Washington, DC: David Palumbo (Deputy Commissioner - Operations), Grayford Payne (Deputy Commissioner - Policy, Administration and Budget), and Mat Maucieri (Assistant Deputy Commissioner - Operations)
Denver (Reclamation Law Administration Division): Karl Stock, Kat Wheeler, Jerome Jackson, Owen Walker, Madeline Franklin, Scott Hutchins,

Intro by Chris Palumbo
Reclamation Manual Listserv set up Nov 9

Early December meeting covering title 9 of the infrastructure bill \$8.3 Billion, spending plan due to Congress in 60, \$2.5 for Water Rights Settlements

Reclamation Manual Background by Kat Wheeler (sitting in for Chris Beardsley)
The Reclamation Manual documents internal functions and was established in 1995. There are four Reclamation Manual Components: Delegation of Authority, Policies, Directives and Standards, and Temporary Reclamation Manual Releases. Within Directives and Standards and Policies, there are Program and Administrative series.

PEC 10-05 and PEC 10-06 by Jerome Jackson

PEC 10-05 Reclamation Standard Water-Related Contract Articles, Standard Article 5: Operation and Maintenance of Transferred Works (Federal Construction) (comments by 12/9/2021)

PEC 10-06 Reclamation Standard Water-Related Contract Articles, Standard Article 6: Operation and Maintenance of Project Works (Federally Assisted Construction) (comments by 12/9/2021)

Both of these D&S contain standard articles that include an indemnification from liability clauses for OMR transferred works contracts. Revisions apply to both D&S. The two primary revision:

One is in response to concerns from stakeholders requesting flexibility in the indemnification clause. Revisions includes an alternative option for contractors to obtain commercial general liability insurance naming Reclamation as insured within the policy. This option satisfies the intent of the indemnification clause while it follows state law that prohibits indemnification of the insured policy.

The second revision includes exclusion of liability within the indemnification clause based on the sole negligence of a Reclamation employee.

In addition, minor, non-substantive comments were added.

These two substantive comments and non-substantive comments address the concerns of the stakeholders.

PEC 05-03 by Owen Walker

PEC 05-03 Extended Repayment of Extraordinary Maintenance Costs (comments by 12/9/2021)

These updates address PL 116-260 rules for extended repayment of extraordinary maintenance (XM) (a subset of OM, where OM is normally required to be repaid in the year the costs are incurred). In 2009 PL 111-11, allowed for extended repayment for eligible XM and advance funds for the same kind of work and has been funded through general appropriations. PL 116-260 created the Aging Infrastructure Account and H.R.3684 - Infrastructure Investment and Jobs Act put \$3.2B in the account. Money will come into the account through repayment (revolving fund) back and annual appropriations. The revisions to PEC 05-03 reflect the authorization and the associated requirements of the Aging Infrastructure Account. One requirement is to establish and application process and requirements for applicants. This account allows for the funding of XM and advanced payment. Law requires Reclamation to declare funding plan (which projects were selected to be funded) within 90 days of closing of application period. That is why there is an application timeline and Reclamation will not be reviewing applications as they come. Projects need to also appear in the Major Rehabilitation and

Replacement Database (MRR), which will be used to track the progress, along with shovel-readiness. Reclamation is looking for input to ensure t

CMP 11-01 by Scott Hutchins and Madeline Franklin

CMP 11-01 Title Transfer for Reclamation Project Facilities (comments by 12/9/2021)

These revisions incorporate input received on the last 11 completed title transfers. The updates reflect best practices and lessons learned, certain steps, such as the final review process is more streamlined. New Appendix that references categorical exclusion for NEPA (no new information, just easier to access the information as opposed to referring to the Federal Register). Additionally, there is an update the NPV calculation. Make it less speculative and more conservation on the Reclamation's future share of O&M.

Question and Answer by Mat Maucieri

Reclamation was seeking feedback on the "pushing out" approach to Reclamation Manual updates. The group was supportive of their efforts in creating the list serv, including redline versions, and notifying the group of any upcoming comment periods. They are open to discussing any future D&S in this forum.

- Drafts accepting comments until December 9, 2021
 - **PEC 10-05** Reclamation Standard Water-Related Contract Articles, Standard Article 5: Operation and Maintenance of Transferred Works (Federal Construction)
 - **PEC 10-06** Reclamation Standard Water-Related Contract Articles, Standard Article 6: Operation and Maintenance of Project Works (Federally Assisted Construction)

CVPWA will collect member comments on PEC 10-05 and PEC 10-06

- **PEC 05-03** Extended Repayment of Extraordinary Maintenance Costs

CVPWA will collect member comments on PEC 10-03

- **CMP 11-01** Title Transfer for Reclamation Project Facilities

*CVPWA will **not** comments on CMP 11-01*

- **BGT 02-02** Recharacterization of Reimbursability of Project and Program Costs has been removed from the external review list to make additional edits. A new external review period will commence once these edits are complete.
- **Other Reclamation Draft Directives and Standards upcoming:**
 - **LND 02-01** Cultural Resources Management: Internal review and should be completed this month.
 - **RSHS 23** Tunnel and Shaft Construction: Internal review and should be completed this month.

- **CRM 08-02** Informal EEO Complaint Process and Counseling: External review (I think closed)
- **RSHS 42** Collateral Duty Safety Representative: Internal review and should be completed this month.
- **RSHS 45** Heat Stress and Cold Stress: Internal review and should be completed in Dec.

4. Sites Reservoir Project – Public Review of NEPA Document until January 11, 2022

- Alt 3 includes 25% Reclamation Involvement
- Link to Documents

The FAC is interested in commenting on the Sites DEIR/DEIS, purely to understand if Alt 3 will have CVP-wide benefits, and therefore CVP-wide cost recovery.

Attachments

1. USBR Webinar on Four Reclamation Manual Releases
2. PEC 10_05 Redline for Stakeholders
3. PEC 10_06 Redline for Stakeholders
4. Summary of OMR Standard Articles Revisions
5. PEC 05-03 Redline for Stakeholders
6. Aging Infrastructure Account Overview
7. CVPWA 10.24.21 Comment Letter on Draft PEC 05-03
8. CMP 11-01 Redline for Stakeholders
9. Title Transfer D&S Updates
10. BGT 02-02 Redline version - from TRMR 118 - Reimbursability and Recharacterization of Project and Program Costs

Save the Date: Water User's Conference January 18-22 2022 Reno, NV

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