

## **Exhibit 5**

### **Procedure for Administration Upstream of Guernsey Reservoir During Allocation Years**

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Guernsey Reservoir  
During Allocation Years**

I. Water Right Administration

A. When the Bureau of Reclamation (Bureau) has advised the other NPDC representatives that the current water year is likely to be an allocation year, as defined in the Allocation Year Stipulation dated December 17, 1998, surface and hydrological connected groundwater rights will be administered in the following manner:

Pathfinder Reservoir

With respect to water rights administration upstream of Pathfinder Reservoir, until May 1<sup>st</sup> during such allocation years, the Bureau of Reclamation shall be deemed to have placed a priority call for Pathfinder Reservoir, excluding the Pathfinder Modification Project, without the need to formally request such call. Consistent with applicable state law, the Wyoming State Engineer shall determine whether the call is valid and warrants the regulation of water rights upstream of Pathfinder Reservoir. If the State Engineer determines that the call is not valid or that such regulation is not warranted, he/she shall so notify the Bureau and the NPDC and describe the basis for that

determination. However, the Wyoming State Engineer's refusal to honor a call cannot be based upon the provisions of the North Platte Decree or this Final Settlement Stipulation other than the provisions of this Procedure.

In all other circumstances, the call will be applied by the Wyoming State Engineer to discontinue diversions under water rights junior to Pathfinder Reservoir and limit diversions under water rights senior to Pathfinder Reservoir to 1 cfs per 70 acres.

#### Guernsey and Glendo Reservoirs and Inland Lakes

With respect to water rights administration along the mainstem North Platte River and the tributaries of the North Platte River between Pathfinder Dam and Guernsey Reservoir, until May 1<sup>st</sup> during such a year that the Bureau has advised is likely to be an allocation year, the Bureau shall be deemed to have placed a priority call for Inland Lakes (April only), Guernsey and Glendo storage rights without the need to formally request such a call.

Consistent with applicable state law, the Wyoming State Engineer shall determine whether the call is valid and warrants the regulation of water rights upstream of the calling water right. If the State Engineer determines that the call is not valid or that such regulation is not warranted, he/she shall so notify the Bureau and NPDC and describe

the basis for that determination. However, the Wyoming State Engineer's refusal to honor a call cannot be based upon the provisions of the Modified North Platte Decree or the provisions of this Final Settlement Stipulation other than the provisions of this Procedure.

In all other circumstances, for water rights along the mainstem North Platte River and the tributaries of the North Platte River between Pathfinder Dam and Guernsey Reservoir, the call will be applied by the Wyoming State Engineer to discontinue diversions under junior water rights and to limit diversions under senior water rights to 1 cfs per 70 acres, with the exception that if Guernsey Reservoir has filled and Glendo Ownership has not filled, water rights with priorities senior to March 1, 1945 will be allowed to divert up to 2 cfs per 70 acres.

B. Nothing in this procedure shall prevent any water right holder from requesting a call on the river.

## II. Cumulative Irrigation Diversions Procedure

### A. Introduction and Purpose

The purpose of this procedure is to specify the surface water diversion data collection, accounting and reporting processes that Wyoming will use for measuring, reporting and administering the cumulative irrigation diversions from the main stem North Platte River between Pathfinder Dam and Guernsey Reservoir during allocation years to no more than 6,600 acre-feet per two-week period.

These procedures will be applied during the May to September irrigation season of an allocation year, which will be determined in the manner specified in the Allocation Stipulation dated December 17, 1998.

**B. Definitions**

1. Allocation year - Is a water supply situation determined pursuant to the methods and procedures described in the stipulation dated December 17, 1998 and the technical appendix referenced in said stipulation.
2. Forecasted water supply for the North Platte Project – Is the set of methods and procedures that are used by the Bureau of Reclamation to determine the forecasted water supply on or before May 1 for the North Platte Project that are described in the technical appendix attached to the Allocation year stipulation dated December 17, 1998.
3. Point of Diversion – The point from which an irrigation water right diverts or pumps water from the surface water source to which it is entitled.

**C. Measurements**

During each allocation year between May 1 and September 30, Wyoming will use the following procedures to collect, account for, report and administer surface water diversions from the main stem of the North Platte River between Pathfinder Dam and Guernsey Reservoir so as to limit the

cumulative amount of surface water diversions from the main stem of the North Platte River for irrigation purposes to 6,600 acre-feet per two-week period throughout the irrigation season. The two-week period of time will be blocked into consecutive 14-day periods beginning on May 1, with the first period established to end on the second Friday in May.

Wyoming will collect data regarding the volumetric irrigation diversion of surface water from the main stem of the North Platte River using any of the following devices: 1) in-line totalizing flow meters; 2) electric power meters, which, with conversion can be used to compute the volume pumped; or 3) direct measurement of discharges from the pump diversion systems using flumes or similar devices and a continuous recorder for open channel flow measurements. The collection and compilation of surface water diversions will be on a continuous rotating two-week interval. As a result, all the recording devices for every diversion will not be read on the same day. However, the recording devices for all diversions will be read at least once during every two-week interval and once the day for a reading is established, except due to extenuating circumstances, the same schedule for data collection will be maintained throughout the rest of the season. For example, if the continuous recording device for a river pump was first read on the last day of a two-week period, it would continue to be read on the last day of the two-week period, whenever possible. The NPDC may adjust the data collection, recording and compilation intervals in the future.

Cumulative diversions will be calculated by dividing the last recording interval's cumulative diversion

measurement by the number of days over which it was recorded. This value will be assumed to represent the daily diversion volume until the next interval's cumulative measurement is recorded. This value will be used in calculating the total cumulative diversions for the Pathfinder Dam to Guernsey Reservoir reach until the next two-week measurement is taken and a new calculation of daily diversion volume for that diversion is made. Once the later measurement is made, daily diversion volumes from the end of the last two-week reporting period to the current day will be corrected. Diversions will be assumed to take place at a constant rate between measurements. The cumulative diversions accounted for each two-week period will thus be a combination of direct measurements and projections of previous diversion rates. The data collection and recording intervals may be adjusted by the NPDC in the future after further experience working with this procedure.

#### D. Transfers (Change of use)

In addition to all existing direct flow diversions for irrigation purposes, all changes of use approved by the Wyoming State Board of Control after January 1, 2001, for irrigation use water rights that divert from the main stem North Platte River within this reach to any other type of use, will also be counted against the 6,600 acre-foot cumulative two-week volume limit. The pre-transfer diversion amount, rather than the transferred consumptive use, will be applied against the 6,600 acre-foot cumulative diversion limit. Wyoming will monitor these transfers by requiring measurements and collecting information on the amounts of water diverted by the new use and then

proportioning this amount against the historic amount diverted under the pre-transfer conditions for the original irrigation use. For example, if the pre-transfer diversion was 10 acre-feet in two weeks for irrigation purposes and the State Board of Control approves a change of use that allows 5 acre-feet in two weeks for municipal use (which represents the historic amount consumed at a 50% overall irrigation efficiency rate for this example); then under this procedure, in a future allocation year when the municipality consumes 2 acre-feet in a two-week period using the transferred irrigation water right, 4 acre-feet will be counted against the cumulative diversion limitation for the two-week period. The transferred water, as adjusted to represent diversions, will be counted against the two-week cumulative diversion limitation.

In accordance with other NPDC procedures, the NPDC will be provided with all municipal and industrial permit applications and petitions for changes of use on a monthly basis. Beginning after court approval of the Final Settlement Stipulation, all final State Board of Control Orders granting a transfer (change of use) of irrigation water rights that originally diverted from this reach of the main stem of the North Platte River will be provided to the NPDC.

#### E. Calibration

Wyoming will ensure that the measurement devices are properly installed, calibrated, and maintained. Installation, calibration, and maintenance will be according to industry standards for the type of diversion installation and measurement device

selected. Wyoming must ensure that all the devices are installed and calibrated by June 1st of the irrigation season following three years after court approval of the Final Settlement Stipulation.

#### F. Storage Water

Diversion of storage water will not count against the 6,600 acre-foot two-week limit. The amount of storage water diverted for irrigation purposes will be accounted for separately by the Wyoming State Engineer's Office as a part of routine water administration duties and by the Bureau of Reclamation under their storage contracts. Wyoming will provide a report to the NPDC setting forth the total amount of storage water diverted for irrigation purposes by each storage contractor on a monthly basis.

#### G. Implementation

Wyoming will implement this procedure as required during each allocation year. However, no such accounting will be required until the first irrigation season three years after court approval of the Final Settlement Stipulation. Wyoming will limit the cumulative irrigation diversions to 6,600 acre-feet for each two-week period and take appropriate administrative action to prevent diversions from exceeding 6,600 acre-feet in a two-week period.

#### H. Records, Review, and Monitoring

All surface water diversion measurements and calculations of cumulative diversions will be recorded, compiled, and provided to the

representatives of the NPDC. A summary report of the recorded and compiled data will be provided to representatives of the NPDC after the end of each two-week period. Representatives of the NPDC will have the right to review all aspects of this administrative procedure.