REPORT TO THE WYOMING LEGISLATURE AND GOVERNOR

LITTLE SNAKE RIVER WATER MANAGEMENT PROJECT

Wyoming Water Development Commission
January, 1981
REPORT TO THE LEGISLATURE AND GOVERNOR

ON THE

LITTLE SNAKE RIVER WATER MANAGEMENT PROJECT

PREPARED BY

THE WYOMING WATER DEVELOPMENT COMMISSION
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The Wyoming Water Development Commission has had lead responsibility for the Little Snake River Water Management Project since the project enabling legislation was passed in 1979. The legislation directs the Commission to study the effects of Stage I, II and III, to examine alternative methods of supplying water for the City of Cheyenne, and to project the impact of future needs within the Little Snake River Basin. The relevant legislation, Chapter 126, 1979 Session Laws of Wyoming is attached as Appendix A.

During the 1980 legislative session, the Commission submitted its feasibility report and draft legislation for the construction of Stage II. However, an alternative bill was enacted which authorized the design and construction of Stage II and a feasibility study of Stage III. Under the provisions of Section 2 of Chapter 72 of the 1980 Session Laws, the Commission was directed to submit draft legislation for the construction of Stage III to the 1981 Legislative Session.

While the Commission is cognizant of its responsibility to respond promptly to legislative directives, the federal presence in Stage II has intervened, thereby causing a delay in the progress of Stage II. It has been the traditional and legal prerogative of Wyoming to allocate, develop and manage water resources. Despite the long history of Congressional deference to state water law, federal agencies, particularly the Fish and Wildlife Service, seem intent on using federal environmental laws as a means to accomplish objectives in total disregard of the State of Wyoming's authority to allocate and develop its water resources. This federal presence has led the Commission to recommend to the legislature that no action be taken on Stage III during the 1981 session. The time that is made available to the Commission because of the federal presence can be used to follow up on the following issues:

1. Interstate discussions with the State of Colorado should address diversions and proposed reservoir sites.

2. Additional time will give a golden opportunity to adequately assess present and projected use by industry, municipalities, and agriculture, and to analyze alternative sources of supply.

3. Additional physical factors not addressed in the engineering study can be reviewed and analyzed.

4. Financing alternatives require further study.

5. The time period for public review and comment on the engineering report should be extended to maximize public participation and acceptance.
6. The Commission believes that the complexities of Stage III require additional legislative involvement and participation before any final proposals are developed.

7. Alternative sources of supply and areas of development should be considered.

8. It may also be convenient to use the time delay to assess any change of course in water policy that might be brought about by a new administration.

A detailed discussion of these factors is included below, however, an explanation of the current status of Stages I and II should further illuminate the Commission's concerns in regards to Stage III. More complete coverage of this background information is contained in the Little Snake River Water Management Project: Feasibility Study prepared for the Commission by Banner Associates Inc., which has been submitted to the legislature under separate cover.

The City of Cheyenne's Stage I Project has continuously diverted water from the Little Snake drainage since 1964. Cheyenne currently diverts approximately 7,170 acre-feet of water each year, which is a 100% depletion to the Little Snake River system.

The Stage II Project is an expansion of the existing Stage I facilities. The project can be divided into the west slope and associated facilities and Rob Roy Reservoir enlargement and facilities east of the Divide. Stage II is discussed in greater detail in the Commission's Stage III report by Banner Associates.

Stage II is a proposed use on federal lands requiring a written permit or easement. The need for a Forest Service Special Use Permit for Stage II triggered a full-blown Environmental Impact Statement (EIS). In addition, the Forest Service reexamined Stage I in terms of the requirement for a new Special Use Permit, and has suggested that the issuance of a new permit could depend on instream flow provisions in Stage I streams. The draft EIS was completed in May of 1980, with the final EIS scheduled for release by the end of 1980.

In all, four federal permits are required of the City of Cheyenne:

1. Construction Special Use Permit - U. S. Forest Service, required for construction of the proposed facilities.

2. 404 Dredge and Fill Permit - U. S. Army Corps of Engineers, required any time there is soil disturbance in a lake, stream or river.

3. Pipeline Crossing Permit - Bureau of Land Management, required for any pipeline crossing the Laramie Plains area outside the Medicine Bow National Forest.

4. Operational Permit - U. S. Forest Service, required for the operation of
the system.

In June, 1980, the U. S. Fish and Wildlife Service (FWS) issued a jeopardy opinion, later withdrawn, which stated that the construction and operation of Stage II is "likely to jeopardize the continued existence of the Colorado River squawfish, the humpback chub and the bonytail chub". These three species are identified as endangered. By law, a jeopardy opinion would prevent further development of Stages I and II. The jeopardy opinion was withdrawn in order to examine mitigation alternatives which could allow the project to proceed. The FWS stated that "any course of action which either does not withdraw water from the Little Snake/Yampa River system or could return water to maintain existing flows would eliminate jeopardy to the fishes and would be acceptable for the purpose of this consultation".

In October, 1980, the FWS provided Cheyenne with estimated Yampa River minimum flows required to avoid jeopardizing the three endangered fish species. The FWS is currently in the second year of a 3-year endangered fish study on the Colorado and Green Rivers.

At the conclusion of the studies, FWS will be able to make a final determination of minimum flow requirements for the Yampa River. However, FWS is prepared to make preliminary estimates which now are holding up Stage II. FWS expects to complete their studies by December, 1981, but they do not expect their final values to differ significantly from their estimates.

The minimum flow requirements recommended by FWS are considered unreasonable by the City of Cheyenne. The City is currently in negotiations with FWS.

Obviously, the same jeopardy opinion initially applied to Cheyenne Stage II will also apply to Stage III. The endangered species questions alone will delay Stage III until Stage II is resolved.

In addition to the issues raised by the Endangered Species Act of 1973, the Forest Service issued notice in September, 1980, that a supplemental EIS was needed. The need for a supplemental EIS was based, in part, on a suggestion by the Environmental Protection Agency (EPA) "to readdress water conservation priorities . . " In addition to EPA's comments, the Corps of Army Engineers and BLM also suggested they were concerned with the adequacy of the EIS (letters are attached indicating the federal position).

As a result, the Forest Service requested assistance from EPA, BLM, and the Corps in preparing a supplemental EIS based upon the concerns raised by these agencies. How the supplemental EIS will affect Stage III will not be clearly known until the early summer of 1981.

As the previous paragraphs indicate, the federal presence in Stage II has grown, thereby affecting Stage III. It is the opinion of the Commission that these federal laws have been imposed in disregard of state authority and private water rights. Nevertheless, the federal presence is a reality, and therefore, the issues raised by these agencies must be addressed, contributing to a time delay for Stage III.
But the time delay caused by the federal government allows the Commission an opportunity to dig deeper into the following issues:

1. **Interstate compact questions** - Since two reservoirs, Pothook and Three Forks, are located primarily or completely in Colorado, Article XI of the 1948 Upper Colorado River Basin Compact comes into play. In that article, states are permitted to build dams in other signatory states. By compact, the State of Wyoming is allowed to construct reservoirs in the State of Colorado; however, negotiations would have to be commenced with Colorado.

   Article XI of the compact apports Little Snake River water between Wyoming and Colorado based upon a complicated formula. Any compact questions must be resolved.

2. **Municipal, industrial and agricultural users** - Stage III is designed to provide water to cities, towns, and special districts in the North Platte River drainage. The in-basin portion of the study will provide water for agricultural users in the Little Snake River.

   However, through further study the Commission will be better able to identify municipal and agricultural users. In the case of Stage III, only one entity--Town of Mills-Wardwell Water and Sewer District--have offered funds to the Commission to participate in Stage III at the time of the writing of this report. Appended to this report is a copy of the notice inviting offers from cities and towns. Cities, towns and special districts could contribute up to $50,000 and by so contributing would be assured a share of the Stage III water and the excess water of Stage II. However, it is the Commission's opinion that this formula is inequitable, that some towns, especially smaller towns may be cut off from Stage III by not having the capital to risk that larger towns possess.

   Cities and towns have not been rushing to get Stage III water. Perhaps typical of town reaction is this response from the Town of Saratoga:

   "Because of the uncertainties of the project and the unanticipated budget costs and the lack of a firm commitment for water for the Town of Saratoga, the Town Council has decided not to participate financially in the project at this time".

   These "uncertainties" include how much will it cost, how much water is available, when will it be available, etc. To the extent that the Commission has additional time to continue the study, these uncertainties may be answered.

3. **Physical Factors** - There are still some engineering and other physical factors which need further study. For example, the proposed Jack Creek Reservoir pipeline to North Platte River is one item which needs additional study. In times of water management, conveyance loss must be addressed, as well as other water management concerns.
4. **Financing** - The feasibility of the entire Little Snake River Water Management Project including in-basin needs depends upon the accuracy of cost estimates and upon the sale of water to consumers at rates sufficient to maintain and operate water works and to pay the principal and interest of any loans, unless the state wishes to subsidize the project to whatever level deemed necessary.

The sheer magnitude of the project, approaching nearly $200 million, provides a formidable challenge in terms of assessing the financial issues. Because no one can presently predict with absolute certainty the users and costs involved in the project, financial decisions could be made in the face of uncertainty if legislation prematurely authorizes the project. A paper briefly assessing the financial issues and options is attached, in Appendix D.

Under separate cover the Commission is recommending that the ceiling to the water development account be lifted and increasing revenues for water projects be examined.

5. **Public Involvement** - The Commission wishes to allow sufficient time for interested citizens to review the Commission's study and participate fully in the decision making process. The time frame prior to the 1981 legislative session does not allow sufficient time to conduct public meetings and at the same time to allow the public adequate time to digest the study.

Public involvement can be maximized by having public hearings in late spring or early summer, when good weather combines with ample time for review of the study. This time frame allows the Commission an opportunity to collect, organize and spread accurate information about the project.

6. **Legislative Involvement** - Because of the complexities of Stage III, it is the Commission's opinion that more time is needed to make legislative members fully aware of Stage III, and it is desirable to have more legislative input.

7. **Other Alternatives** - Energy project development may be located near the Little Snake River Valley. Rocky Mountain Energy has considered Creston Junction as a possible site for a synthetic fuel plant. Tri-State Generation Company has also narrowed its possible sites for a power plant to four locations, including Creston Junction. In both cases, Little Snake River water and the Green River have been considered as possible water supply sources. The diversion of water from the Green River must be taken into account for study purposes.

8. **New Administration** - Obviously federal water policies for the last few years have been controversial. The "hit list" circulated earlier included the Savery-Pothook project through the Water and Power Resource Service. The state's Little Snake Project also studies reservoir sites that may be included in the Savery-Pothook Project. With a new administration in the White House, water policy and its effect on specific water
projects may change. Additional time permits a timely opportunity to assess any changes that may be in the offing.

In conclusion, the Water Development Commission believes that the best course of action in regards to the development of the Little Snake River Water Management Project is to delay any final decision until the issues raised by the federal presence are resolved. In addition to the federal presence, the time delay can be used for other purposes as outlined above.
APPENDIX A

CHAPTER 126, 1979 SESSION LAWS OF WYOMING
LITTLE SNAKE RIVER WATER MANAGEMENT PROJECT
CHAPTER 126

Little Snake River Water Management Project

An Act to create W.S. 41-2-204 through 41-2-208 relating to creation of a water management project for the areas of the south central and southeastern portions of Wyoming; authorizing stage II of the Cheyenne water supply project subject to certain conditions; providing for a feasibility study of the total effects of stage I, stage II and stage III and alternatives for the Cheyenne water supply project and of the future in-basin needs and rights within the Little Snake River drainage; requiring certain contents in the feasibility study; providing for legislation to be submitted to the 1980 session of the legislature; providing that no condemnation of agricultural water rights is allowed; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:
Section 1. W.S. 41-2-204 through 41-2-208 are created to read:

41-2-204. Definitions.

(a) As used in this act:

(i) “Interdepartmental water conference” means the conference created by W.S. 41-1-106 or a successor conference or agency responsible for the development and coordination of Wyoming's water and related resources;

(ii) “Stage I” means the existing Cheyenne water supply project in south central Wyoming, which consists of water collection, storage and transmission facilities to bring water from the headwaters of the Little Snake River drainage into the North Platte River drainage and to bring water from the headwaters of the Douglas Creek drainage into the Crow Creek drainage and from the North Platte River and Crow Creek drainages into the Cheyenne water system;

(iii) “Stage II” means the expansion of the existing stage I facilities. Stage II proposes to construct new water development facilities including but not limited to interception lines and diversion, collection and storage structures to collect additional water in the Little Snake River drainage on the west side of the Continental Divide, increase the capacity of the pipeline to Hog Park Creek, enlarge Hog Park Reservoir, enlarge Rob Roy Reservoir on Douglas Creek, construct new interception lines and diversion structures to collect additional water from Douglas Creek and its tributaries, construct additional pipelines from Douglas Creek to Lake Owen and from Lake Owen to the Crow Creek drainage, and increase storage or diversions of water to the existing Cheyenne system. Water right applications, maps and permits for the facilities are on file in the office of the state engineer;

(iv) “Stage III” means a transbasin diversion of water from the headwater of the Little Snake River and its tributaries on the western side of the Continental Divide north and west of stage I and stage II. Stage III proposes to, construct storage structures to increase storage for in-basin use and to construct interception lines and diversions and collection structures to increase availability of water for transportation of water across the Continental Divide from the Little Snake River drainage into the North Platte River system, and increase storage and availability of water for use by cities, towns and other water users located in Carbon, Albany, Natrona, Converse, Niobrara, Goshen, Platte and Laramie counties. Water right applications, maps and permits for the facilities are on file in the office of the state engineer;

(v) “In-basin needs” means the assessment and study, which will consider existing rights, future needs and in-stream flow requirements for fish, wildlife and recreational purposes within the Little Snake River drainage and provide for protection of these rights and needs.
41-2-205. Authorization of stage II.

(a) Subject to completion of the report of the feasibility study and holding of public hearings by the interdepartmental water conference as required by W.S. 41-2-114 and 41-2-115, stage II is authorized.

(b) Stage II shall be given priority in the year 1979 by the state agencies and officials responsible to act hereunder. Appropriate draft legislation, which shall include funding, shall be submitted to the 1980 session of the legislature in accordance with W.S. 41-2-115. The feasibility report shall include in addition to contents otherwise required:

(i) A statement of the relative costs of water to users for various possible state and municipal cost shares;

(ii) A statement of the needs for water up to the year 2000 for the city of Cheyenne and surrounding communities at a minimum of three (3) different levels of population growth;

(iii) A statement of the needs for water up to the year 2000 at a minimum of three (3) different levels of population growth for the counties of Laramie, Albany, Carbon, Natrona, Converse, Niobrara, Goshen and Platte and other users of municipal water from the North Platte River tributaries that may have insufficient water for probable growth;

(iv) A statement of the amount of water from stage II that could be used to meet the needs identified in paragraph (iii) of this subsection. Nothing contained herein or any actions taken hereunder shall affect, infringe upon, or diminish in any manner any water rights and permits or the future needs of the city of Cheyenne.

41-2-206. Report and feasibility study to be prepared. The interdepartmental water conference shall, in cooperation with the office of the state engineer, other appropriate state agencies and officials and members of the public make a feasibility study of the total effects of stage I, stage II and stage III and of the in-basin needs and rights which will be considered in the final plan and hold hearings thereon in compliance with W.S. 41-2-114.

41-2-207. Report and draft legislation to be submitted to 1980 session of legislature. The interdepartmental water conference shall make findings and transmit the findings and recommendations together with draft legislation to the 1980 session of the legislature in accordance with W.S. 41-2-115. The proposed legislation shall authorize the department of economic planning and development to proceed with the design and construction of stage III and of any additional project features required to provide for the rights and future needs for water within the Little Snake River drainage, including but not limited to a storage dam on Savery Creek.

41-2-208. Agricultural water rights. There shall be no condemnation of agricultural water rights as a result of the planning, development and
operation of stage I, stage II and stage III of the Little Snake River water management project.

Section 2. This act is effective May 25, 1979.

Approved February 27, 1979.
APPENDIX B

ENROLLED ACT NO. 43, HOUSE OF REPRESENTATIVES
(CHAPTER 72, CHEYENNE WATER PROJECT, 1980 SESSION LAWS)
AN ACT to create W.S. 41-2-209 through 41-2-211 relating to Stage II and Stage III of the Little Snake River water management project; providing for the design and construction of a portion of Stage II; providing for a grant of money from the Wyoming water development account; providing for a loan of money from the permanent mineral trust fund to the city of Cheyenne; providing for the completion of the study of Stage II as provided by W.S. 41-2-204(a)(iii); providing for a study of Stage III including the in-basin needs of the Little Snake River Basin; providing for city, town and special district contributions to the study; providing for an appropriation; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 41-2-209 through 41-2-211 are created to read:

41-2-209. Authorization for the construction of Stage II of the Little Snake River Water Management Project.

(a) The department of economic planning and development is authorized to proceed with the construction of Stage II of the Cheyenne Little Snake Diversion Facilities in south-central Wyoming. Stage II is specifically defined in W.S. 41-2-204(a)(ii) and (iii). Prior to the commencement and construction of the project, the department of economic planning and development shall:

(i) Enter into a signed project agreement, in a form acceptable to the Wyoming attorney general, with the city of Cheyenne, Wyoming, for the construction, operation and maintenance of the project by the city as specified in W.S. 41-2-209 through 41-2-211;

(ii) Approve the final design, plans, specifications and construction schedules for the project facilities and development of the water supplies, construction of new interception lines, collection, storage and transmission facilities;
(iii) Approve changes, analysis and plans of the city of Cheyenne for establishing, operating and maintaining the project; and

(iv) Prepare and obtain conveyances and approval by the state engineer of all water rights and permits from the city of Cheyenne to the state in connection with Stage III of the Little Snake River water management project. Stage III is specifically defined in W.S. 41-2-204(a)(iv) and (v) which conveyances shall be held in escrow until all of the Stage II project has been funded, at which time the documents shall be released to the state.

41-2-210. Projects authorized; state grant; permanent mineral trust fund loan.

(a) The following construction is authorized within the Stage II project:

(i) Enlargement of Rob Roy Reservoir, estimated to cost eighteen million dollars ($18,000,000.00);

(ii) Little Snake River collection system, estimated to cost twenty-five million dollars ($25,000,000.00);

(iii) Enlargement of Hog Park Reservoir, estimated to cost thirteen million dollars ($13,000,000.00);

(iv) Hog Park to Encampment River pipeline, estimated to cost two million dollars ($2,000,000.00).

(b) The projects enumerated in subsection (a) of this section shall be financed as follows:

(i) The city of Cheyenne shall finance the total cost of the project under paragraph (a)(i) of this section and one-half (1/2) of the total cost of the projects under paragraphs (a)(ii), (iii) and (iv) of this section as provided by
subsection (c) of this section;

(ii) The state shall finance one-half (1/2) of the total cost of the projects under paragraphs (a)(ii), (iii) and (iv) of this section as provided by subsection (d) of this section.

(c) The Wyoming farm loan board with the advice of the executive director of the department of economic planning and development is authorized to loan not more than forty million dollars \($40,000,000.00\) from the permanent mineral trust fund to the city of Cheyenne or as much thereof as deemed necessary by the department of economic planning and development to design and construct the portion of Stage II of the Little Snake River water management project provided by subsection (a) of this section. The revenue shall not be advanced until:

(i) The qualified electors of the city of Cheyenne approve creation of debt totaling forty million dollars \($40,000,000.00\) and approve the pledging of the revenue from the operation of the water project as the primary source of repayment of the debt as evidenced by the issuance of general obligation bonds to the state of Wyoming;

(ii) The city of Cheyenne submits a financing plan designed to reimburse the state of Wyoming subject to the following specific conditions:

(A) The city will pay interest charges computed at a rate which will be no more than one-half percent (.5%) below the rate for which the city of Cheyenne could sell the general obligation bonds on the open market, and shall not be less than five percent (5%) per annum. This rate determination shall be made by the farm loan board;

(B) Principal payments may be deferred on request of the city with the approval of the farm loan board but not beyond the original final payment date set by the farm loan board;
(C) The city shall apply available revenue from secondary sources of revenue, designated within the financing plan, to the repayment of the loan.

(iii) The city agrees not to sell water except as provided by W.S. 41-2-210(e) outside its service area without prior approval of the state engineer and the water development commission;

(iv) A rate study is conducted for the city by a professional municipal finance and rate firm;

(v) The city agrees to mortgage to the state all facilities constructed with funds provided by the farm loan board and assign all easements, right-of-way, water rights and permits as approved by the state engineer appurtenant thereto, in such form and to such extent as is required by the Wyoming attorney general. The conveyances shall be held in escrow. The state engineer shall not change the priority date of the water rights and permits as a result of this conveyance or escrow. Upon payment in full of the loan to the state of Wyoming, the conveyances shall be returned to the city of Cheyenne; and

(vi) The city agrees that any water sold to an industrial user by the city of Cheyenne shall be sold for a minimum rate which shall be calculated as the cost of service plus a pro-rata share of all the capital and interest costs of this project if the interest rate were ten percent (10%) and were due on the grant as well as the loan. This minimum rate shall apply only to water which is in excess of one thousand (1,000) acre feet annually of the average use of city of Cheyenne water of that industrial user for the years 1975 to 1979 inclusive. The revenue resulting from the difference between this rate and the residential water rate shall be used to accelerate repayment of the loan.

(d) The state treasurer shall pay not to exceed twenty million dollars ($20,000,000.00) from the Wyoming water develop-
ment account provided by W.S. 39-6-305(g) to the city of Cheyenne as deemed necessary by the department of economic planning and development as provided by paragraph (b)(ii) of this section. The payments are grants and not loans to the city of Cheyenne and shall not:

(i) Be disbursed until the loan pursuant to W.S. 41-2-210(c) is fully obligated;

(ii) Deplete the balance remaining within the Wyoming water development account to less than ten million dollars ($10,000,000.00) for projects listed within W.S. 41-2-210(a);

(iii) Be disbursed until the city of Cheyenne, in consultation with the farm loan board and the department of economic planning and development, develops a proposed financing plan for funding the completion of the Stage II water project as defined in W.S. 41-2-204(a)(ii) and (iii). Copies of the plan shall be mailed to the governor and members of the legislature. This provision shall not be construed as requiring any approvals of such a financing plan.

(e) All water in excess of the needs of the city of Cheyenne within the service area of the city produced by Stage II of the project shall be marketed by the city and proceeds thereof shall be applied to the repayment of the loan under subsection (c) of this section. The first option to purchase not more than eighty percent (80%) of the surplus water shall be extended to cities, towns and special districts, who had contributed to a feasibility study of the Stage III water project, for the benefit of their inhabitants at a cost of twenty-five cents ($0.25) per thousand (1,000) gallons. The amount of water available to each city, town or special district shall be determined by the department of economic planning and development.

(f) Any city, town, or special district purchasing water from the development of Stage II shall agree to charge any industrial user a minimum rate which shall be calculated as the
cost of service plus a pro-rata share of all the capital and interest costs if the interest rate were ten percent (10%) and were due on the grant as well as the loan. This minimum rate shall apply only to water which is in excess of one thousand (1,000) acre feet annually of the average use of water from that city, town, or special district of that industrial user for the years 1975 to 1979 inclusive. The revenue resulting from the difference between this rate and the residential water rate shall be paid to the state of Wyoming to accelerate the repayment of the loan to Cheyenne from the permanent mineral trust fund.

41-2-211. Approval of project expenditures; state engineer duties.

(a) After commencement of design and construction of the project and until completion, the department of economic planning and development shall approve expenditures for project engineering and construction. The city of Cheyenne shall provide to the director of the department of economic planning and development monthly progress reports confirming that the construction, design and specifications for the project are being followed and complied with.

(b) The state engineer shall conduct a study based on records available from prior years and actual measurements to determine the level of water at the Dixon measuring station required to satisfy water rights senior to the rights of the city of Cheyenne. He shall use the results of this study to aid in the regulation of the Little Snake River drainage provided that the result does not give junior rights priority over senior rights.

Section 2. There is appropriated from the Wyoming water development account of the state of Wyoming to the Wyoming water development commission the sum of four hundred thousand dollars ($400,000.00), or so much thereof as may be necessary, to pay the cost and expenses of preparing a feasibility study and providing for preliminary engineering plans and development pro-
grams and submitting of draft legislation to the 1981 session of the legislature in connection with Stage III of the Little Snake River Water Management Project. Stage III is specifically defined in W.S. 41-2-204(a)(iv) and (v). As part of the Stage III feasibility study, the Wyoming water development commission shall conduct a study of a reservoir or reservoirs to provide water for agricultural and municipal users in the Little Snake River Basin. Any city, town or special district may contribute up to fifty thousand dollars ($50,000.00) to be used for the study in lieu of a like amount of the state appropriation and by so contributing shall be assured a share of the Stage III project which the contribution bears to two hundred thousand dollars ($200,000.00) and shall purchase for twenty-five cents ($0.25) per one thousand (1,000) gallons any surplus water not usable by the city of Cheyenne from the development of Stage II water project as provided by W.S. 41-2-210(e). If the Stage III project is authorized by the Wyoming legislature, the water rights to the Stage III project conveyed to the state under W.S. 41-2-209(a)(v) shall be conveyed without change of priority date to the cities, towns and special districts contributing to the study in accordance with their respective interests and subject to financing requirements the Stage III project shall be constructed and operated by the participating cities, towns and special districts.

Section 3. In connection with the completion of Stage II of the Little Snake River water management project the water development commission shall study the feasibility of constructing in the Little Snake River drainage, above the confluence of the river and Savery Creek, a reservoir of at least three thousand (3,000) acre feet and the reservoir shall satisfy immediate in-basin agricultural, recreational and municipal needs and shall promote in-basin water purity. In connection with the completion of the State II study of the project, draft legislation shall be submitted to the 1981 session of the legislature.
Section 4. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

________________________
Speaker of the House

________________________
President of the Senate

________________________
Governor

TIME APPROVED: __________

DATE APPROVED: __________
APPENDIX C

MATERIALS RELATING TO FEDERAL INVOLVEMENT IN STAGE II
MEDICINE BOW NEWS RELEASE

Release Date: Immediately

SUPPLEMENTAL DRAFT EIS FOR CHEYENNE STAGE II

New data received by the Forest Service, USDA during public review of the Draft Environmental Impact Statement (EIS) for the Cheyenne Stage II Water Diversion Proposal will cause delay in issuing the Final Statement, Regional Forester Craig W. Rupp announced today.

The draft environmental statement issued May 19, 1980, analyzed various alternatives for expanding the City of Cheyenne's water collection system in the Snake River and North Platte River watersheds.

New cost and design data submitted by the Cheyenne Board of Public Utilities and the suggestion by the Environmental Protection Agency to readdress water conservation priorities may change the rationale for a preferred alternative.

Because of the significance of the new information, the Forest Service will file a supplement to the draft EIS to allow public review of additional alternatives and effects, said Rupp.

A supplemental draft EIS will be reissued about February 1, 1981. After public review, a final EIS will be issued about July 1, 1981.
Comments on the Cheyenne Stage II Draft Environmental Impact Statement included new data and suggested changes. As a result, the Forest Service will prepare a supplement to the Draft EIS that describes new alternatives and environmental effects. The new data could change the rationale for a preferred alternative.

The Cheyenne Board of Public Utilities submitted new data on costs and design.

The Environmental Protection Agency suggested the Draft EIS be reissued and include the following changes:

1. An evaluation of actual water needs.
2. Water conservation and recycling should be thoroughly evaluated.
3. Environmental and economic impacts of downstream salinity should be discussed.
4. Secondary impacts from an oversupply of water should be analyzed.
5. A conformity determination in accordance with the Clean Air Act should be included.
6. These changes are needed to recognize the national priority for water conservation and to address other issues.

We are formally requesting the Environmental Protection Agency, Corps of Engineers, U.S. Fish and Wildlife Service, and Bureau of Land Management to participate in the preparation of the supplement to the Draft EIS. This should provide the level of data and information needed by each cooperating agency.
Mr. Michael Reese  
Wyoming Water Development Commission  
4th Floor Barrett Building  
Cheyenne, Wyoming 82002  

Dear Mike,

As a result of new information received during the review period for the Cheyenne Stage II Water Diversion Proposal Draft Environmental Impact Statement, a supplement will have to be written.

A portion of the task involves evaluating three additional alternatives; water conservation, additional wells and purchase of agricultural water rights. To evaluate these alternatives and update data pertaining to other concerns, we would again appreciate your cooperation to insure we properly address these items.

There are as yet some other unresolved situations such as mitigation, streamflows, water releases, Stage III, and downstream impacts. We do not have the total expertise to resolve these and would appreciate your help in one or more of these areas.

The time period for the various phases would be as follows:

a. All data input would be needed prior to October 9, 1980.

b. We would appreciate the opportunity to have you work closely through informal contacts with our specialists during the writing of the supplement and Final Environmental Impact Statements. These steps would occur between October 9 and December 11, 1980 for the supplement and March 30 to May 25, 1981 for the FEIS.
Again we appreciate your cooperation in putting the first Draft together. The information you supplied helped greatly.

Hopefully if we can get these items resolved quickly we can avoid further delay. We will look forward to your response at the earliest possible date. If you should have any questions please feel free to call on us.

Sincerely,

DONALD L. ROLLENS
Forest Supervisor
### CHEYENNE STAGE II SCHEDULE REVISION

<table>
<thead>
<tr>
<th>ACTION</th>
<th>Completion Date</th>
<th>Actual Number of Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Inform Affected Parties.</td>
<td>8/28/80</td>
<td>7</td>
</tr>
<tr>
<td>- Letters to Affected Parties</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- News Release</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Letters to Cooperating Agencies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Revised Notice of Intent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Get Commitment and New Data from Cooperating Agencies (EPA, BLM, FWS, COE) and Internal Teams.</td>
<td>10/9/80</td>
<td>42</td>
</tr>
<tr>
<td>3. Write and Review Acceptable Document (includes informal contact with Regional Office staff and Cooperative agencies).</td>
<td>11/20/80</td>
<td>42</td>
</tr>
<tr>
<td>4. Review and Sign Off by Regional Forester and Other Agencies.</td>
<td>12/11/80</td>
<td>21</td>
</tr>
<tr>
<td>5. Final Preparation for Printing.</td>
<td>12/25/80</td>
<td>14</td>
</tr>
<tr>
<td><strong>6.</strong> Printing Supplement to Draft Environmental Impact Statement (GPO Denver).</td>
<td>1/22/81</td>
<td>28</td>
</tr>
<tr>
<td>7. File Supplemental to Draft Environmental Impact Statement and Distribute Copies.</td>
<td>1/29/81</td>
<td>7</td>
</tr>
<tr>
<td><strong>8.</strong> Public Review.</td>
<td>3/30/80</td>
<td>60</td>
</tr>
<tr>
<td>9. Write Final Environmental Impact Statement.</td>
<td>5/4/81</td>
<td>34</td>
</tr>
<tr>
<td>10. Review Final with Regional Forester and Cooperating Agencies.</td>
<td>5/25/81</td>
<td>21</td>
</tr>
<tr>
<td><strong>11.</strong> Print Final. (GPO Denver)</td>
<td>6/25/81</td>
<td>30</td>
</tr>
<tr>
<td>12. File Final Environmental Impact Statement.</td>
<td>7/2/81</td>
<td>7</td>
</tr>
</tbody>
</table>

* Dates or Time Periods Required by NEPA.

** Minimum Time Indicated by Participant.
Mr. Roger Williams, Regional Director  
Environmental Protection Agency  
1860 Lincoln, Room 810  
Denver, Colorado 80203

Dear Mr. Williams:

As a result of the comments received during the review period for the Cheyenne Stage II Water Diversion Proposal Draft Environmental Statement (DEIS), new information was received that necessitates the writing of a supplement.

There were several areas of concern expressed in your response letter of July 13, 1980, RE: DEIS to the Cheyenne Stage II Draft. We have reviewed your comments and have determined that we need your assistance in adequately addressing them. In accordance with the Council on Environmental Quality Regulation 1501.5 (Cooperating Agencies), we request your assistance in preparing a supplement to the DEIS and also preparation of the Final Environmental Impact Statement (FEIS) for the Cheyenne Proposal.

The explicit assistance we need will be:

1. Data input and assistance in determining methodologies to assess project need, conservation methods, population and consumption projections. We have received data from your office subsequent to the DEIS and would like to review it with a representative from your agency to select the proper items to address. This process will be completed by October 9, 1980, and would involve about five days on an as-needed basis.

2. We need a representative from your agency available during the writing periods of October 10 to November 20, 1980, for the supplement to the DEIS and March 31 to May 4, 1981, for the FEIS. This will be the period where we incorporate the data from item 1 above. Again this will be on an as needed basis involving about five days. Keeping this person(s) abreast of the developments will aid in the review process.
3. We need a representative from your agency to review the content of the documents prior to public distribution. The purpose of this phase is to concur with the content of selected portions in the documents or suggest changes to meet your needs. There will be two review periods, each three weeks long. These will be from November 20 to December 11, 1980, for the supplement to the DEIS and May 5 to May 25, 1981, for the FEIS. The actual time spent during these periods is up to the discretion of the reviewer to meet your agency's needs.

It will be helpful to have the same person(s) available through all three steps to insure continuity in the process.

Your further cooperation in the preparation of these documents will be appreciated and of great help in expediting a conclusion to the Cheyenne Stage II proposal.

We would appreciate your earliest possible written response to this request.

Sincerely,

CRAIG H. RUPP
Regional Forester

cc: Forest Supervisor, Medicine Bow NF
    Cecil Armstrong, EPA
Mr. John E. Velehradsky  
Chief Engineer - Planning Division  
Omaha District Office Corps of Engineers  
6014 U.S. Post Office and Courthouse  
Omaha, Nebraska 68102

Dear Mr. Velehradsky:

As a result of the comments received during the review period for the Cheyenne Stage II Water Diversion Proposal Draft Environmental Statement (DEIS), new information was received that necessitates the writing of a supplement.

There were several areas of concern expressed in your response letter of July 21, 1980, KROPD-A. The last paragraph of this letter indicates your willingness to assist us in developing further documents. We have reviewed your comments and find in fact we do need your assistance in addressing them. In accordance with the Council on Environmental Quality Regulation 1501.6 (Cooperating Agencies), we request your assistance in preparation of a supplement to the DEIS and also preparation of the Final Environmental Impact Statement (FEIS).

The explicit assistance we need will be:

1. Data input and assistance in addressing wetland sites within the proposal area, coordination with EPA on determining project need, specific requirements to meet 404 Permit stipulations and socio-economic assessments. This data input phase will be completed by October 9, 1980. About five to seven days of a person’s(s) time would be involved during this period on an as-needed basis.

2. We need a representative from your agency available during the writing phase between October 10 to November 20, 1980, for the supplement to the DEIS and March 31 to May 4, 1981, for the FEIS. This will be the period where we incorporate data from step one. About five to seven days would be involved on an as-needed basis. Keeping a person from your agency abreast of the progress will aid greatly during the final review process.
3. We need a representative from your agency to review the content of the documents prior to public distribution. The purpose of this review is to concur with the document content or suggest changes to meet your needs. There will be two review periods, each three weeks long. They will be from November 20 to December 11, 1980, for the supplement to the DEIS and May 5 to May 25, 1981, for the FEIS. Actual time spent during this period is up to the discretion of the reviewer to meet your agency's needs.

It will be helpful to have the same person(s) available through all three steps to insure continuity in the process.

We appreciate your past cooperation in preparing the Draft and look forward to a continued close working relationship.

We would appreciate your earliest possible written response to this request.

Sincerely,

David W. Refup
Regional Forester

cc: Forest Supervisor, Medicine Bow NF
    Cecil Armstrong, EPA

Boelinger/Anderson:ch 9/5/80
Max Lieurance, State Director  
Wyoming State Office  
Bureau of Land Management  
2515 Warren Avenue  
Cheyenne, Wyoming  82001  

Dear Mr. Lieurance:

As a result of the comments received during the review period for the Cheyenne Stage II Water Diversion Proposal Draft Environmental Impact Statement (DEIS), new information was received that necessitates the writing of a supplement.

During the scoping process for the Draft, your agency expressed an interest since BLM lands would be involved with pipelines crossing the Laramie plains. Contacts between your office and our Medicine Bow National Forest office in Laramie indicate that you will have to issue pipeline crossing permits and wish to have our Environmental Impact Statements address your needs. This would eliminate a separate statement on your part.

To insure your needs are met, and in accordance with the Council on Environmental Quality Regulation 1501.5 (Cooperating Agencies), we request your assistance in preparing a supplement to the DEIS and also preparation of the Final Environmental Impact Statement (FEIS).

The explicit assistance we need will be:

1. During the writing periods, October 10-November 20, 1980, for the supplement to the DEIS and March 31 to May 4, 1981, for the FEIS, we will need to have someone from your State and designated Area Office available as a contact to make sure we are addressing your concerns. The total time involved would be about five to seven days on an as-needed basis. Keeping this person abreast of the process will aid in the review period.
2. We will also need your assistance to review the documents prior to public distribution. The purpose of the review is to either concur with the document content or suggest changes needed to meet your needs. Review periods are three weeks each from November 20 to December 11, 1980, on the supplement to the DEIS and May 3 to May 25, 1981, for the FEIS. The actual time spent during these periods is up to the discretion of the reviewer to meet your agency's needs. It would be helpful to have the same person(s) during both phases to provide continuity.

We have appreciated the cooperation received from you and the Rawlins office during the preparation of the Draft. We would appreciate your written response to this request at the earliest possible date.

Sincerely,

[Signature]

CRAIG RUPP
Regional Forester

DBOLINGER/DAANDERSON;ch 9/5/80
Don Minnich, Regional Director
U.S. Fish and Wildlife Service
P.O. Box 25487, Denver Federal Center
Denver, Colorado 80225

Dear Mr. Minnich:

As a result of the comments received during the review period for the Cheyenne Stage II Water Diversion Proposal Draft Environmental Impact Statement (DEIS), new information was received that necessitates the writing of a supplement.

Your agency expressed concern on the lack of addressing impacts on terrestrial wildlife. Those items will be expanded upon to meet individual concerns expressed in the July 14, 1980, (FS) memo from your Billings office.

We want to insure that your concerns are adequately addressed and are in accordance with Council on Environmental Quality Regulation 1501.5 (Cooperating Agencies), requesting your assistance in preparing a supplement to the DEIS and also preparation of the Final Environmental Impact Statement (FEIS).

The explicit assistance we need will be:

1. During the writing periods, October 10-November 20, 1980, for the supplement to the DEIS and March 31 to May 4, 1981, for the FEIS, we need to have a representative from your agency available as a contact to make sure we are addressing your concerns. The total time involved would be about five to seven days on an as-needed basis. Keeping this person abreast of the process will aid in the review period.

2. We will also need assistance in review of the documents prior to public distribution. The purpose of the review is to either concur with the document content or suggest changes needed to meet your needs. Review periods are three weeks each from November 20 to December 11, 1980, on the supplement
to the DEIS and May 5 to May 23, 1981, for the FEIS. The actual time spent during these periods is up to the discretion of the reviewer to meet your agency's needs. It would be helpful to have the same person(s) during both phases to provide continuity.

We have appreciated the excellent cooperation received from the Billings Area Office in preparing the original DEIS.

Your written response to this request will be appreciated at the earliest possible date.

Sincerely,

CRAIG N. RUPP
Regional Forester

cc: Forest Supervisor, Medicine Bow NF
    Cecil Armstrong, EPA
In Reply Refer To:
FWS/OES

Mr. Elmer Garrett
President, Board of Public Utilities
2100 Pioneer Avenue
P.O. Box 1469
Cheyenne, Wyoming 82001

OCT 24 1980

Dear Mr. Garrett:

It was a pleasure meeting with you and your colleagues on October 1, 1980, to discuss the Cheyenne Water Supply Project. Pursuant to that meeting we have conducted an analysis from which we have estimated the minimum Yampa River flows that would be required to avoid jeopardy to the Colorado River squawfish (Ptychocheilus lucius), the humpback club (Gila cyprina), and the sorrytail club (Gila sligla). These flows are the best estimates possible with the data presently available and can serve as interim values until more refined values can be validated by actual studies of the Yampa River. These studies are scheduled to be completed by December 1981. However, it is our belief that the estimated low flow values are reasonably accurate and should not differ significantly from the final values.

To assist you in understanding how these flow values were derived and the various factors which may influence the subsequent revisions, we have included a brief narrative of our biological and hydrological considerations.

As you know, one of the problems in dealing with the endangered fishes of the Colorado River Basin is our lack of knowledge concerning these species. We are presently conducting studies which will help to correct this situation. Our intent is to learn enough about the species so as to be able to manage for them in such a fashion that the species can eventually be removed from the Endangered Species List.

At the present time we are in the second year of a 3 year endangered fish study on the Colorado and Green Rivers. We have initiated studies on the Yampa and White Rivers which should be completed at the same time as the referenced 3-year study. At the conclusion of these studies we will be able to identify with a high degree of certainty the habitat needs of the subject fishes. It is these studies which will be used to make a final determination of minimum flow requirements for the Yampa River.

Detailed data are lacking on the listed fishes in the Yampa River; however, there are several items known which can allow us to make preliminary estimates of minimum flow needs. For the purposes of this exercise the needs of the Colorado River squawfish can be taken to represent the needs of all three subject species. It is known that the squawfish was abundant prior to 1960.
On the basis of this, we feel that those flows of the Tampa River prior to 1950 must have been suitable for the squawfish. It is also our feeling that the primary months for squawfish production are May through October. The high flows of May and June are believed to create habitat that is required for the spawning and rearing of young. It is during those months that many of the sandbars and associated backwater areas are created in the Tampa and Green Rivers. The flows in July, August, September, and October are required to maintain those backwater areas.

The following flow values represent the average monthly flows between the years 1940 and 1960. These values are to serve as an estimate until definitive values can be devised from studies which are presently underway and are scheduled for completion by December 1981. It should be realized that the studies may demonstrate that minimum flows other than the estimated averages are required. It is possible the studies will show that factors other than a minimum flow are critical, e.g., periodic flood flows and associated sandbar formations.

On the basis of these considerations, our biological opinion to the Forest Service will provide for the following alternative to avoid jeopardy to the listed species.

"Jeopardy to the listed fish species may be avoided if the project sponsors agree that the CSWP is not to reduce the flow of the Tampa River, below the confluence of the Little Snake River, less than the indicated minimum flow or natural flow, whichever is less. The minimum flows are as follows:

<table>
<thead>
<tr>
<th>Month</th>
<th>Flow (in cfs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>May</td>
<td>8210.0</td>
</tr>
<tr>
<td>June</td>
<td>7046.0</td>
</tr>
<tr>
<td>July</td>
<td>1457.0</td>
</tr>
<tr>
<td>August</td>
<td>427.5</td>
</tr>
<tr>
<td>September</td>
<td>208.5</td>
</tr>
<tr>
<td>October</td>
<td>398.3</td>
</tr>
</tbody>
</table>

We will be happy to discuss this concept with you or your representatives. If additional information is desired, please contact Larry Thomas, Office of Endangered Species, (703) 235-2760.

Sincerely yours,

[Signature]

Lynn G. Grimmell
Director
AGREEMENT

This agreement is made and entered into by and among the United States of America acting through the U.S. Army Corps of Engineers (COE), Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (FWS), U.S. Forest Service (USFS) and Water and Power Resources Service (WPRS) and the States of Colorado, Nebraska and Wyoming through their respective Governors, and the City of Cheyenne Water Board.

The City of Cheyenne has filed application for a project which would among other things divert water from the Little Snake River (a part of the Upper Colorado River System), through a series of diversions, tunnels, pipelines and reservoirs for the purpose of providing municipal and industrial water for the expanding population of Cheyenne, Wyoming. Delays have been encountered because this project has experienced difficulties in complying with various Federal laws, regulations and management decisions. Those laws and subsequent regulations which are of utmost importance are the Clean Water Act, Endangered Species Act (ESA), Fish and Wildlife Coordination Act (FWCA), U.S. Forest Service Organic Act, and the National Environmental Policy Act. The project is subject to issuance of a section 404 permit by the COE with overall approval by EPA, a section 7 biological opinion pursuant to the ESA, a FWCA report, a USFS special use permit (right-of-way) and an environmental impact statement (EIS) under development by USFS.

The purposes of this agreement are to establish how the involved agencies and organizations will work together efficiently and expeditiously so that additional delays and complications are minimized, and to ensure that all parties understand their roles and responsibilities.

Thus far, a preliminary biological judgment under section 7 indicates that the project as presently planned is likely to jeopardize the continued existence of endangered Colorado River fishes: colorado squawfish,
bighorn sheep and humpback whale. A final biological opinion stating the same conclusion would have the potential of causing a delay or a decision not to approve or issue the section 404 permit, USFS special use permit, implementation of recommendations of the FWS report, and issuance of a final EIS favorable to the project as planned.

The preliminary biological judgment indicates that reasonable and prudent alternatives are available which will preclude jeopardy to the endangered fishes while still allowing for completion of the project, in whole or part. Jeopardy to the endangered fishes could be avoided if the project sponsors agree. The project shall not reduce the flows of the Little Snake to such an extent as to diminish the value of the essential habitat of the endangered fishes in the Yampa River as determined by FWS. This could be done by project modifications, acquisition of water or water rights, manipulation of existing reservoirs, or other means deemed feasible.

Whereas it is mutually desirable by all parties to this agreement that the project be allowed to proceed as expeditiously as possible consistent with the spirit and intent of Federal and State laws and regulations.

Now therefore it is mutually agreed as follows:

1. The States of Nebraska and Wyoming agree to facilitate and approve actions necessary to provide waters acquired or made available for the project subject to the jurisdiction of the State of Wyoming.

2. The State of Colorado agrees to insure that waters acquired or made available for the expressed purpose of conservation of the endangered fishes will reach the confluence of the Little Snake River and Yampa River and continue on to the Green River.

3. The City of Cheyenne Water Board agrees to design, construct and operate the project in such a manner as required to provide water for the conservation of the endangered fishes if necessary.

4. USFS agrees to issue necessary permits and other documents which stipulate or provide conditions to carry out the terms of this agreement.

5. USFS agrees to determine the availability of water supplies in the North Platte River system or those that could be developed in the Yampa-
and Wyoming, and the City of Cheyenne in making such water available for
the Cheyenne water supply project.

6. FPES also will review operational flexibility of other Colorado
River Storage projects in the Upper Colorado River System so that FPES
and FWS can determine what feasibility exists for the conservation of
the listed fishes.

7. FWS agrees to complete all appropriate studies on the endangered
Colorado River fishes by December 1981 and issue a final biological
opinion by March 1982.

   a. The biological opinion will state needed flows, by time of year
   and quality.

   b. The biological opinion will also recommend alternatives that
   have been thoroughly discussed or developed through items 1 through 5
   above with parties to this agreement.

8. COE will issue the required section 404 permits after the State of
Wyoming, City of Cheyenne and the FPES agree to the terms of items 1
through 6 above.

9. EPA will not oppose the Cheyenne Water supply project through use of
its various statutory obligations if items 1 through 7 have been met to
the satisfaction of all parties.

10. It is understood by the parties to this agreement that any activity
carried out by the United States, pursuant to this agreement that may
require appropriation of money by the Congress of the United States or
the allotment of funds shall be contingent upon such appropriation or
allotment being made. No liability shall accrue to the United States in
the event such funds are not appropriated or allotted.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on
APPENDIX D

FINANCIAL ISSUES
FINANCIAL ASPECTS

Feasibility of the entire Little Snake River Water Management Project in terms of finance depends upon the accuracy of cost estimates and upon the sale of water to consumers at rates sufficient to maintain and operate water works and to pay the principal and interest of any loans. That is, unless the state wishes to subsidize the project to whatever level deemed necessary. This paper is organized into two parts: Part I raises general financial issues that should be considered in terms of the project; Part II summarizes Wyoming's financial programs.

Part I
Financial Issues

The magnitude of the project and the unique nature of the issues provide a formidable challenge in terms of assessing the financial issues. Because no one can presently predict with absolute certainty the users and the costs involved in the project, financial decisions unfortunately must be made in the face of uncertainty.

Issues

1. Agricultural, municipal and other water users may not be able to pay for charges necessary for the project and may, therefore, require subsidization.

2. Industrial users, if any, may be required to begin water payments immediately upon project completion, although the industrial project has not started their operation nor has their need for water been perfected. However, the practical aspects of this arrangement, i.e. whether any industrial user might in fact be willing to enter into such an agreement, may not be feasible.

3. Although the project is probably feasible in terms of its engineering aspects, several major legal, organizational, environmental and financial problems remain.

4. Formational considerations are important. The 1980 legislation authorizing the Stage III study provides the Stage III project "shall be constructed and operated by the participating cities, towns, and special districts". One arrangement which would vest such authority on the cities and towns is the joint powers method, either under authority of the Joint Powers Act (W.S. 9-1-129 to 9-1-136) or W.S. 18-2-108, which provides for joint establishment, construction, operation of public facilities including water facilities.

Practical aspects of running a project this size raises serious concern. Because of concern for the formation or structure of an operating and managing entity, other arrangements should be examined. Other reasons include:

- problems with transferring water rights from the state to cities and towns.
. because of many other issues, i.e., special use permits, eminent domain, environmental impact statement, acquisition of rights-of-way and the sheer complexity of financing, perhaps the state is in a better position to construct and operate the project.

5. The formula for allocated costs is yet to be determined. For example, for purposes of project commodity pricing, should costs be allocated for recreation, enhancement of fish and wildlife, quality control, or such other functions that may be performed by the project. Who pays for wildlife mitigation?

6. If contracts for water supply are executed, how long should the terms be? A specified period of years like 50 years. Contracts should be written to provide for flexibility.

7. A cushion for contingencies such as escalation of construction costs is desirable.

8. Once a city is committed to buying water from Stage III, can it then turn around and sell the water to a potential industrial customer?

The feasibility study prepared for the Commission in connection with the project indicates the sheer magnitude of the project could approach and exceed $200 million in 1980 dollars, depending on which option the state may proceed with. For example, one scenario of projects could read like this:

1. Collection System $76,197,717
2. Jack Creek Dam 20,210,000
3. Jack Creek to Platte River Pipeline 8,900,000
4. Sandstone Dam 37,350,000
5. Three Forks Dam 56,970,000

Total $199,627,717

9. Leveraging of financing options should be assessed to develop a financing package for the project.

Obviously, Stage III and in-basin projects could be the most expensive projects in the state's history. Financing of this magnitude may have to be done in stages.

Part II
Existing Financing Mechanisms

Cities and Towns

Cities and towns may create a general obligation debt of up to 4% of the assessed valuation for general purposes and another 4% for sewage disposal systems. Indebtedness for supply water to cities and towns has no limitation. Article 16, Section 5.
State of Wyoming

Permanent Mineral Trust Fund

Constitutionally, a permanent Wyoming mineral trust fund is created, and the legislature is charged with levying a 1\% severance tax. The fund is "inviolatE" except monies can be invested as prescribed by the legislature. Political subdivisions may also receive loans from the fund as prescribed by the legislature. Article 15, Section 19.

In fact, the legislature by statute has levied a 2\% severance tax on coal, uranium, trona, oil, gas and other minerals and an additional 1\% on coal with proceeds going to the permanent Wyoming mineral trust fund. The Legislature has authorized loans of monies to Wyoming schools from the permanent mineral trust fund. W.S. 21-15-104. Over $10 million has been advanced to the Cheyenne School District from the permanent mineral trust fund. The City of Gillette has been authorized a loan from the permanent mineral trust fund of $15 million for its well supply and water transmission project as described in the interdepartmental water conference feasibility report to the 1978 legislative session. W.S. 41-2-201 and 41-2-202.

Each loan can be structured differently but any loan will have to be secured.

As of September 30, 1980, the cash balance of the permanent mineral trust fund was $212,050,909.22.

Permanent Funds of the State

The Farm Loan Board (FLB) is authorized to loan for water projects no more than $60 million or 33 1/3\%, whichever is less, of the permanent funds of the state. W.S. 11-34-301. One-half, or $30 million, can be loaned to a variety of entities, including water districts, agencies, persons, corporations to finance the construction of water development projects at a loan rate of 4\% to 6\%. The Department of Economic Planning and Development (DEPAD) determines the engineering and economic feasibility for FLB.

Small Water Loans

DEPAD administers a small water development revolving loan fund (W.S. 9-3-311 and 9-3-312). The maximum loan allowable is $100,000 for a term not to exceed 40 years and the interest is 4\%. These funds are not from the permanent funds of the state.

Wyoming Water Development Account

W.S. 39-6-302(c) imposes a 1\% excise or severance tax on the production of coal on behalf of the Wyoming Water Development Account. W.S. 39-6-305(g) further sets the maximum parameters of the account at $100,000.00. After $100 million the State Treasurer transfers revenue to the general fund.
Each time the balance is reduced to $50,000,000 the revenue collected shall again be deposited to the account. Only the legislature can authorize water development projects, compared to the discretion the FLB has with its $60 million. What follows in the fund balance for the account between July and October, 1980:

<table>
<thead>
<tr>
<th>Date</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 1980</td>
<td>- $14,681,806.02</td>
</tr>
<tr>
<td>August 1, 1980</td>
<td>- 15,339,381.75</td>
</tr>
<tr>
<td>September 1, 1980</td>
<td>- 15,344,715.22</td>
</tr>
<tr>
<td>October 1, 1980</td>
<td>- 23,804,109.94</td>
</tr>
</tbody>
</table>

Severance taxes are due and payable on a quarterly basis. The Minerals Division of DEPAD, using their estimates of coal production and also the Geological Survey, has arrived at an average projections of coal production for 1980 through 1984.

<table>
<thead>
<tr>
<th>Year</th>
<th>Production</th>
<th>Value</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>80,333,333</td>
<td>$8.91</td>
<td>$715,770,000</td>
</tr>
<tr>
<td>1981</td>
<td>90,666,667</td>
<td>9.67</td>
<td>876,746,670</td>
</tr>
<tr>
<td>1982</td>
<td>102,666,667</td>
<td>10.46</td>
<td>1,073,893,337</td>
</tr>
<tr>
<td>1983</td>
<td>113,333,333</td>
<td>11.31</td>
<td>1,281,800,000</td>
</tr>
<tr>
<td>1984</td>
<td>122,000,000</td>
<td>12.48</td>
<td>1,522,560,000</td>
</tr>
</tbody>
</table>

*Severance tax on 1980 production will be collected in 1981 and so on.

The calculated income growth of the Water Development Account is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Income</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>715,770,000</td>
<td>$10,735,550</td>
</tr>
<tr>
<td>1981</td>
<td>876,746,670</td>
<td>13,151,200</td>
</tr>
<tr>
<td>1982</td>
<td>1,073,893,337</td>
<td>16,104,400</td>
</tr>
<tr>
<td>1983</td>
<td>1,281,800,000</td>
<td>19,227,000</td>
</tr>
<tr>
<td>1984</td>
<td>1,522,560,000</td>
<td>22,838,400</td>
</tr>
</tbody>
</table>

The State Treasurer has computed the growth of the Water Development Account based on the above coal projections:

<table>
<thead>
<tr>
<th>Year</th>
<th>Income</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>10,735,550</td>
<td>$47,690,860</td>
</tr>
<tr>
<td>1981</td>
<td>13,151,200</td>
<td>4,769,086</td>
</tr>
<tr>
<td>1982</td>
<td>16,104,400</td>
<td>16,104,400</td>
</tr>
<tr>
<td>1983</td>
<td>19,227,000</td>
<td>6,856,435</td>
</tr>
<tr>
<td>1984</td>
<td>22,838,400</td>
<td>19,227,000</td>
</tr>
</tbody>
</table>

$94,647,781
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1983 Interest</strong></td>
<td>9,464,778</td>
</tr>
<tr>
<td><strong>1984 Income</strong></td>
<td>22,838,400</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>1984 Interest</strong></td>
<td>12,695,096</td>
</tr>
<tr>
<td></td>
<td>139,646,055</td>
</tr>
</tbody>
</table>

It is estimated by 1984, the water development account will exceed its $100 million maximum. The City of Cheyenne has a commitment for a $20 million grant. However, payments to the City of Cheyenne cannot deplete the balance below $10 million.
APPENDIX E

NOTICE OF INVITING OFFERS TO CITIES, TOWNS AND SPECIAL DISTRICTS FOR PARTICIPATION IN STAGE III
IMPORTANT NOTICE

PROCEDURES FOR INVITING OFFERS IN CONNECTION WITH THE LITTLE SNAKE RIVER MANAGEMENT PROJECT

During the 1986 legislative session the Wyoming Legislature enacted an act authorizing the design and construction of a portion of Stage II and providing for a study of Stage III, including contributions to the study by cities, towns and special districts.

Stage III, according to W.S. 41-2-204(iv) is defined as follows:

"Stage III" means a transbasin diversion of water from the headwater of the Little Snake River and its tributaries on the western side of the Continental Divide north and west of stage I and stage II. Stage III proposes to construct storage structures to increase storage for in-basin use and to construct interception lines and diversions and collection structures to increase availability of water for transportation of water across the Continental Divide from the Little Snake River drainage into the North Platte River system, and increase storage and availability of water for use by cities, towns and other water users located in Carbon, Albany, Natrona, Converse, Niobrara, Goshen, Platte and Laramie counties. Water right applications, maps and permits for the facilities are on file in the office of the state engineer.

Many of you perhaps will identify Stage III as part of the Cheyenne water project. Stage III is not part of the Cheyenne water project, other than that the original water filings were made by the City of Cheyenne which will be transferred to the State.

According to the 1980 act "any city, town or special district may contribute up to fifty thousand dollars ($50,000) to be used for the study in lieu of a like amount of the state appropriation and by so contributing shall be assured a share of the Stage III project which the contribution bears to two hundred thousand dollars ($200,000) and shall purchase for twenty-five cents ($0.25) per one
thousand (1000) gallons any surplus water not usable by the City of Cheyenne from the development of Stage III. . ." 

In other words, up front money is required by the legislation to be assured of water from Stage III and the opportunity to purchase excess Stage II water. 

A number of concerns have been raised by several cities and towns about uncertainties in the legislation, i.e., how much will the water cost, when will it be available, etc. Because of these uncertainties, WWDC had earlier established a moratorium on inviting offers from municipalities. This moratorium is now being lifted. Offers to contribute in the feasibility study are now being invited by WWDC. The time period is open until the start of the legislative session. 

No priority is established by when an offer is made. When the legislative session convenes, WWDC will review the offers for participation in Stage III in light of the many uncertainties raised by the legislation. 

An offer may only be made by forwarding a check to this office in an amount not to exceed $50,000. These monies are not refundable unless offers to participate in the Stage III studies exceed $200,000. If offers exceed $200,000 than a portion or all of these funds may be returned. 

If you have any questions, please contact the Administrator of the Wyoming Water Development Commission. 

-48-
<table>
<thead>
<tr>
<th>Towns</th>
<th>Special Districts</th>
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<tbody>
<tr>
<td>Encampment</td>
<td>South Torrington Water &amp; Sewer District</td>
</tr>
<tr>
<td>Saratoga</td>
<td>South Cheyenne Water &amp; Sewer District</td>
</tr>
<tr>
<td>Rawlins</td>
<td>Allendale Water &amp; Sewer District</td>
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<tr>
<td>Hanna-Elmo</td>
<td>Evergreen Water &amp; Sewer District</td>
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<tr>
<td>Sinclair</td>
<td>Wardwells Water &amp; Sewer District</td>
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<tr>
<td>Casper</td>
<td>North Platte Water &amp; Sewer District</td>
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<tr>
<td>Evansville</td>
<td>Brooks Water &amp; Sewer District</td>
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<tr>
<td>Midwest-Edgerton Mills</td>
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<td>Mills</td>
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<td>Glencrock</td>
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<td>Glendo</td>
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<td>Guernsey</td>
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<td>Lingle</td>
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<td>Fort Laramie</td>
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<td>Cheyenne</td>
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<td>Elk Mountain</td>
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<td>Medicine Bow</td>
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<td>Rock River</td>
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<td>Laramie</td>
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<td>Torrington</td>
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<td>Pine Bluffs</td>
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<td>Albin</td>
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<td>Burns</td>
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<td>Chugwater</td>
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<td>Hartville</td>
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<td>La Grange</td>
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<td>Lost Springs</td>
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<td>Riverside</td>
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<td>Van Tassell</td>
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<td>Yoder</td>
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<tr>
<td>Dixon</td>
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<tr>
<td>Baggs</td>
<td></td>
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