

z

NRD ORAL HISTORY PROJECT

Interview of Ann Bleed by  
Jim Barr

July 21, 2014

1 PROCEEDINGS, July 21, 2014:

2 MR. BARR: This is Jim Barr. It is July 21<sup>st</sup>,  
3 2014, in Lincoln, Nebraska, visiting with Ann Bleed. Ann,  
4 would you like to give a little background on yourself?

5 MS. BLEED: Well, I'm originally from New York  
6 City, and came --

7 MR. BARR: You're the first one that we've  
8 interviewed from New York City.

9 MS. BLEED: I'll bet I am. Came to Nebraska in  
10 1972 when my husband got a job at the university, and  
11 promptly had two kids. So I, it took me awhile to get back  
12 into the career path.

13 MR. BARR: What was your college?

14 MS. BLEED: Well, I graduated from a little Quaker  
15 school in Indiana, Earlham College. I got a master's from  
16 Penn State University and a PhD from the University of  
17 Wisconsin. And, then, in the 1980s I got a master's degree  
18 in engineering from University of Nebraska and then my PE,  
19 so I was a professional engineer. And, one of the first  
20 things I did in Nebraska, the summer of 1973, I lived out in  
21 Kearney where my husband was doing archeology for the Mid-  
22 State Project and that was my first real introduction to  
23 what irrigation was about in a very hot summer, mid-part of  
24 the state.

25 MR. BARR: Where had you been previous to coming

1 to Nebraska?

2 MS. BLEED: Well, when I graduated from college,  
3 went to Penn State and then to Wisconsin for my degree work,  
4 and then came here.

5 MR. BARR: Okay.

6 MS. BLEED: Directly after that. So, I've lived  
7 in Nebraska ever since, over 42 years.

8 MR. BARR: Okay. What was your first exposure or  
9 connection to the natural resource district idea?

10 MS. BLEED: Well, I arrived as I said in 1972. I  
11 became involved in the League of Women Voters and the League  
12 did support the natural resources district concept, and I  
13 was very interested in natural resources. And, so I learned  
14 a little bit about it then. I remember talking to Ernie  
15 Chambers --

16 MR. BARR: Oh.

17 MS. BLEED: -- in fact about the NRDs, and it  
18 sounded like a good idea to me.

19 MR. BARR: What all involvement did you have with  
20 the League at that point in relation to, particularly in  
21 relation to natural resource districts?

22 MS. BLEED: Well, I was at first involved with the  
23 environmental quality committee of the local league. I got  
24 a little bit involved in state league issues, particularly  
25 on the water committee. That was chaired by Alice Hamilton.

1 You might remember that name. And I got to know Karen Kerr  
2 who was president of the state league. I actually started  
3 monitoring the Lower Platte South NRD, and I remember the  
4 first meeting I went there, Bob Crosby, who was their  
5 attorney, came up and he wanted to know what the heck I was  
6 doing there because at those, during those days, and this  
7 was in '74 or 5, I believe, so they had already established  
8 their 21 member board, there weren't that many people from  
9 the outside who went to the meetings. And, he very politely  
10 came up and introduced himself, and then asked me what I was  
11 doing there. And, of course, that was also shortly after  
12 the league sued the NRD on the one person, one vote issue.  
13 They were supportive of the NRDs, but they didn't like the  
14 idea that some people had more access to voting for a  
15 director than others.

16 MR. BARR: How did that issue play in the Lower  
17 Platte South?

18 MS. BLEED: Well, the Lower Platte South, if I'm  
19 remembering correctly, was nomination by sub-district and  
20 election-at-large. I believe that's the case. But, it was  
21 also such that there were more people if you looked at it on  
22 a land area and looked at how, the acres -- landowners with  
23 large acres had more say or a larger vote, if you will, more  
24 powerful vote on the board than city folks who didn't own a  
25 lot of acres, and that was one of the concerns.

1                   MR. BARR: Wasn't that by the formation of the  
2 boundaries of the districts?

3                   MS. BLEED: I believe that was the way it was.  
4 Yes. And, we obviously thought that was not one person, one  
5 vote.

6                   MR. BARR: Do you remember some of the issues the  
7 Lower Platte South was dealing with at that point?

8                   MS. BLEED: You bet I do. Hal Schroeder was the  
9 manager of the Lower Platte South. And the big issue there  
10 was flood control in Stevens Creek. And they wanted to  
11 build a number of flood control dams, and there were a  
12 number of people, including the league, who were questioning  
13 whether or not we should build as many dams and where they  
14 should go, et cetera.

15                   MR. BARR: They had built a number of them in the  
16 Salt Valley earlier, is that correct?

17                   MS. BLEED: I believe so. I'm not sure of that.  
18 But, and they are building some now that didn't get built  
19 then, but that was one of the big issues. And the league, I  
20 don't know that we ever formally opposed the building of the  
21 dams, but one of our ways of dealing with issues was to go  
22 and ask questions and that was pretty threatening when we  
23 did that.

24                   MR. BARR: Do you remember if the City of Lincoln  
25 had some thoughts on that subject?

1 MS. BLEED: I do not.

2 MR. BARR: Doug Brogden was planning chief at that  
3 point and did not want to go into the Stevens Creek  
4 watershed with development.

5 MS. BLEED: Right.

6 MR. BARR: And I suspect that was related to some  
7 reluctance to develop dams.

8 MS. BLEED: That might have been, and Doug Brogden  
9 was a very strong, strong individual. Interestingly enough,  
10 later, a little bit of a diversion, but later on when we  
11 were dealing with the water, or the Natural Resources  
12 Commission giving out water funds, one of the issues was  
13 whether or not if you build, wanted to build a dam in, like  
14 in Stevens Creek, you could talk about the fact that  
15 population increases in that Stevens Creek Basin was going  
16 to occur in the future and, therefore, you needed to do  
17 something to protect that increased population. And, at  
18 that time, and it may still be true, you could not speculate  
19 about population. So, that could not be part of the  
20 calculus. And, the Lower Platte South NRD folks did not  
21 like that.

22 MR. BARR: Anything else about your early  
23 experience with the league or the --

24 MS. BLEED: Well, not the early experience --

25 MR. BARR: I was going to follow up with your

1 career after you got to Nebraska --

2 MS. BLEED: Okay.

3 MR. BARR: -- and that sort of thing and --

4 MS. BLEED: Well, when I first got to Nebraska  
5 after my second child was about two, three-years old, I  
6 started looking for a job. I did go over to the Game and  
7 Parks Commission, and it was very clear at that time that  
8 the only women who worked for Game and Parks, thank you,  
9 were secretaries. And I ended up doing, essentially,  
10 substitute teaching at the college level at the university,  
11 but that was such an on-again off-again. And they would  
12 call me up two days after the semester started and, "Can you  
13 teach for us?" And, it was a lot of work with never knowing  
14 whether you were going to be working the next semester or  
15 not. And, I finally decided this is crazy, and that's when  
16 I decided to go back to school in engineering.

17 Would have, or was offered a job at the Department  
18 of Environmental Quality. I think it was Environmental  
19 Control at that point. And, Dan Drain said I had to work  
20 from eight to five and take an hour lunch, and I refused to  
21 do that because of my kids. I wanted more flex-time and  
22 that was not appropriate. So, I took -- I did not take the  
23 job.

24 I eventually ended up going back to school to get  
25 my engineering degree and then started working for the Water

1 Resources Center on a big economics project under Ray  
2 Supalla on the Platte River. We did a multi-objective  
3 optimization model for the Platte, which was a very  
4 interesting project. And then, the water center got merged  
5 in with conservation and survey division. And I worked  
6 there -- developed the Atlas of the Sandhills, which was a  
7 wonderful project. Fell in love with the Sandhills.

8 And then, the job at the state opened up for state  
9 hydrologist and Mike Jess called me up and offered, said,  
10 "Do you want to apply?" I said, "I don't know if I'm  
11 qualified." And he said, "I think you are. Please do."  
12 And I did get the job which --

13 MR. BARR: When was that?

14 MS. BLEED: That was in 1980 -- well, I took the  
15 job in 1988. And, I was state hydrologist for I don't know  
16 how many years. I guess until about 2000. And I saw a lot  
17 of interesting issues come up. I was the state's examiner,  
18 if you will, for both the Prairie Bend Twin Valley Project  
19 and the Landmark Project, which was involving the Upper Big  
20 Blue NRD. I was involved in both the in-stream flow  
21 hearings, both on Long Pine Creek and on the Platte River.  
22 So, it was really quite an interesting time to be the state  
23 hydrologist.

24 In 1999, Mike Jess was not reappointed, and Roger  
25 Patterson became the director. And then, at that point in

1 time, DWR and the Natural Resources Commission merged and  
2 became the Department of Natural Resources. And at that  
3 point in time, I remember Roger Patterson said -- well, I  
4 became deputy director, and he said "Well, do you still want  
5 to be called state hydrologist?" And very frankly, I  
6 thought, you know, I love the title state hydrologist, but  
7 I'm not the only hydrologist in the state and I feel a  
8 little bit arrogant keeping it because there are a lot of  
9 very good hydrologists in the state, and I said, "Why don't  
10 you just drop it." And then I became deputy director and  
11 served in that capacity until Roger Patterson left. I  
12 became acting director and then the director under Governor  
13 Heineman. And then I left that job in 2008.

14 MR. BARR: What were some of the more interesting  
15 challenges you encountered in the natural resource area  
16 that, at least, had some peripheral involvement, at least,  
17 with NRDs?

18 MS. BLEED: Well, there were I'd say two major  
19 ones. One was, of course, the NRDs were the applicants for  
20 a number of these large projects, and we would have a formal  
21 judicial hearing before the department and they operate  
22 pretty much as if you were in a formal court proceeding.  
23 You may or may not have formal rules of evidence, usually we  
24 did not, but we still had the attorneys there and the  
25 applicant would present their case and the objectors would

1 present, or go after the applicant, the normal court  
2 proceeding. And, one of the things that was very  
3 frustrating to me during that whole process and really  
4 turned me against court proceedings as the way to resolve  
5 issues, there is a lot of gamesmanship in a court. And, as  
6 state's examiner, I had to be very careful not to bring up  
7 issues if nobody else brought them up.

8 And I remember in one case in particular, nobody  
9 had brought up the role of storage water in the river, and  
10 we ended up having to deny a certain part of an in-stream  
11 flow application because they had not proven their case  
12 because they had not dealt with the storage water. That  
13 made the, I think it was the NRD in this case, pretty happy.  
14 But it seemed to me in the end that was not really serving  
15 the truth of the issue. And there were a lot of times when  
16 that occurred, I believe, and you just couldn't get at the  
17 truth.

18 Another instance that bothered me a great deal was  
19 on the Prairie Bend Twin Valley Project when they put the  
20 dam for the Prairie Bend Project right in the middle of a  
21 roosting crane site, or whooping crane roost. And, the dam  
22 would have increased the depth of the water. Well, that  
23 would have been so easily dealt with if we could have raised  
24 that issue. Central Platte NRD could've come back and said  
25 well what we'll do during the spring when the whooping

1 cranes are coming, we'll make sure that the dam is low  
2 enough so we don't pile up the water. But because we could  
3 not ask that question in this formal procedure, that was  
4 one, not the only by many means, one of the major, one of  
5 the minor reasons, but a reason that we denied the permit.  
6 Because it would adversely affect the habit of the whooping  
7 crane, and the Endangered Species Act is a pretty hard act  
8 to get around. The other issue in that case was that we had  
9 a lot of rain in the 80s, so some of the people who wanted  
10 the Prairie Bend Twin Valley Project in the 70s no longer  
11 cared and they came in and testified how it wasn't really  
12 needed. So, that did not help the Central Platte NRD's  
13 case. So, that was very frustrating to me.

14 The other issues that I thought were really good  
15 with the NRDs after the water policy task force, which was a  
16 really amazing process in and of itself, we had to develop  
17 integrated management plans. And part of my job, then, was  
18 to go out and work with the NRDs on developing these plans  
19 in a stakeholder advisory process. And I really felt good  
20 about those processes, because you did get a group of people  
21 together, in some cases the farmers particularly would be  
22 frustrated because they don't like sitting around at  
23 meetings and jabbering when they've got work to do. But I  
24 think in the end, where there were integrated management  
25 planning processes involving stakeholders, it turned out

1 very well and what was developed eventually was very much  
2 accepted. That was not the case on the Republican River,  
3 because we had to develop the plans quickly because we were  
4 under a lawsuit with Kansas. And I think the fact that  
5 there wasn't that kind of involvement of all the  
6 stakeholders, particularly surface water users, does show  
7 now in that we don't have as good of plan as we would have  
8 had if we could have really involved them in a stakeholder  
9 process.

10 MR. BARR: What experience did you have in  
11 relation to compacts and interstate agreements?

12 MS. BLEED: Oh, quite a bit. When I first started  
13 working for the State, we were involved in the North Platte  
14 decree case. That was, we filed suit against Wyoming in  
15 1984 or '86. I think it was four. So, I was very much  
16 involved, first, in the lawsuit itself. We had several  
17 settlement attempts that didn't work and then finally,  
18 literally, on the courthouse steps the night before we were  
19 to go to trial, the parties, which were the Bureau of  
20 Reclamation and the U.S. Fish and Wildlife Service, the  
21 states of Colorado and, primarily, the state of Wyoming and  
22 the state of Nebraska, we looked at each other and said "You  
23 know, we should be able to settle this ourselves." And so,  
24 we decided to go for a settlement. The special master, who  
25 was an environmentalist, which was part of what scared us, I

1 think, into trying to settle it, said okay. And then  
2 something very interesting happened, the governor of Wyoming  
3 and the governor of Nebraska got together and said, "You  
4 know, these attorneys have been fighting each other for  
5 years. Let's try to settle this with them out of the room."  
6 So, they formed what was eventually nicknamed The Gang of  
7 Six, which was two people from Wyoming, that was Jeff Fasset  
8 and Mike Purcell, and two people from Nebraska, Roger  
9 Patterson, who was the director, and me, and then two people  
10 from the Bureau of Reclamation, Ken Randolph and John  
11 Lawson. And we started meeting, we met for months, once,  
12 twice a month. I spent a lot of time at a cheap hotel right  
13 by the Denver airport before it was really developed. About  
14 the only place you can get a meal nearby was at the  
15 Moonlight Cafe. And we went through a really intense  
16 negotiating process. And I'll say one thing that I think  
17 was critical to that process. Early on, we learned to trust  
18 each other. The Bureau of Reclamation, Ken Randolph, would  
19 have a lot of detailed data. We stopped when we realized we  
20 didn't have to question whether that data was the best data  
21 he could find. It was. If Wyoming said this is the best  
22 data we have, we learned to trust that. Now, did they tell  
23 you their whole game plan? No. Were they fighting for  
24 their rights? Yes. But, we learned to trust each other  
25 and, as a result, we were able to come to a settlement.

1       There were a lot of hard words, but we ended up as friends.  
2       And, then we called the attorneys back in to write it up.  
3       So, that worked very well.

4               On the Republican case, it was a little bit  
5       different. We tried to settle that early on. The republic  
6       -- Kansas started complaining about groundwater pumping in  
7       Nebraska in the middle 80s. And we first said, the compact  
8       doesn't include groundwater pumping. At the same time, we  
9       were arguing against Wyoming that their groundwater pumping  
10      was depleting the river. But in the case in the Republican,  
11      it's not in the compact was our statement. Meanwhile,  
12      Kansas was saying the State (of Nebraska) has been robbing  
13      us of water since the late 70s because of their groundwater  
14      pumping and they owe us millions and millions and millions  
15      of dollars. Tried to settle it once. Didn't work. And so,  
16      Kansas filed a lawsuit. And, in this case, the special, in  
17      lawsuits, the court usually appoints a special master who  
18      actually hears the case and then writes up an opinion which  
19      goes to the Supreme Court, and then there's often a hearing  
20      before the Supreme Court which can only last about an hour.  
21      And then, the court says, yes, we like the special master's  
22      opinion or, no, we don't and we're going to change it to do  
23      this. In this case, the special master was from Maine.  
24      He'd never seen a center-pivot before. I have a picture of  
25      him looking at the nozzle going, "Oh, my gosh." So, we were

1 a little concerned about what he would do with this  
2 irrigation. He was also in his late 80s, so -- but very  
3 sharp.

4 The first thing he did was he ruled against  
5 Nebraska. He said, "Sorry folks, groundwater pumping is  
6 part of the compact to the extent it depletes the stream  
7 flow." And he ruled against Kansas and he said, "No, no,  
8 no, you didn't object to the groundwater pumping formally.  
9 You accepted all the engineering reports until" 19(?) or  
10 2000 -- or "1998, so anything before that doesn't count.  
11 The only damages you can count are damages after that."  
12 Which was a very shrewd move because it took away the big  
13 wins? And again, everybody looked at each other and -- oh,  
14 the other thing we did when we were talking -- no, this was  
15 after -- we looked at each other and said, "We should be  
16 able to settle this. We don't want someone from Maine  
17 telling us how to run this river." And then we were  
18 talking, we said, "Well let's figure out just how big this  
19 problem is." Because both sides had this idea that it was a  
20 four-foot wide difference. When we actually looked at the  
21 numbers, it became a one-foot wide difference. Well, then  
22 you start thinking, we can deal with this. And we did  
23 develop a settlement.

24 Again, trust was very important. One of the  
25 dynamics of that negotiation was we would work all day on

1 various and sundry things, and then about 5:00 o'clock, we'd  
2 break and Dave Pope, who was the state engineer from Kansas,  
3 and Roger Patterson, who was the negotiator and director  
4 from Nebraska, would go have a beer. About 7:30, I'd get a  
5 tap on my room, "Ann, what if we did this?" And then I'd  
6 spend half the night and my counterpart in Kansas would  
7 spend half the night, trying to figure out what the impact  
8 of that would be and we'd come back the next day and discuss  
9 it. But, they were able to talk individually, and so, we  
10 did come up with a settlement then.

11 MR. BARR: I think, maybe, we should pause here.

12 MS. BLEED: Okay.

13 (Took Break for Meeting)

14 MR. BARR: But, I would like to continue --

15 Okay. This is Jim Barr. We're back with Ann  
16 Bleed. One of the things I was -- wanted you to talk a  
17 little bit about was the water task force and what all was  
18 involved there, how it was organized, what all it did, and  
19 et cetera.

20 MS. BLEED: Well, that was an amazing effort in my  
21 view. It started out during the 80s, which were pretty wet.  
22 There wasn't a lot of well development. (There was) a lot  
23 of well development in the 70s. The 80s were wet. And  
24 then, the 90s it was dry again. We had a lot more  
25 groundwater wells that had been put in, and between the

1 wells and the increased dryness there was less water in the  
2 streams. And surface water users were complaining and  
3 threatening lawsuits. And they started pressuring the  
4 legislature to say, "You've got to do something about this."  
5 And in my view, the legislators said, "We don't want to do  
6 anything about this. It's too politically hot. It's too  
7 complicated, both legally because water law is it's own set  
8 of laws and technologically, the hydrologic aspects of water  
9 are confusing." They did not want to touch it. And due to  
10 the leadership of Senator Schrock, who was from Holdrege  
11 area, and of the then governor, Mike Johanns, who used to be  
12 a water attorney, so he understood water law very well, in  
13 fact, they said, yes, we really need to do something. And,  
14 also, at that point in time, Roger Patterson was the  
15 director of the Department of Natural Resources. We had  
16 just merged. And they got together and said, "Yes, we  
17 really need to do this. And the way to do it would be to  
18 form a task force with all the basic stakeholders that would  
19 be involved." So, Senator Schrock passed -- got a bill  
20 passed through the legislature that gave the task force some  
21 money to work with and the ability to hire a facilitator and  
22 18 months. And one of my jobs at that point was to figure  
23 out how to get the task force members appointed. So -- and  
24 there were a few requirements in the law about who should be  
25 in the task force to make sure that the surface water and

1 groundwater irrigators were about equal in power and so  
2 forth -- or in numbers. What I did was that I went out --  
3 sent letters out to the basic groups, stakeholder groups  
4 involved, like the municipalities or the surface water  
5 irrigators, the groundwater irrigators, and I said, "You  
6 suggest who you think would be, represent you well on the  
7 task force understanding that these people are going to have  
8 to represent you as well as work with you in the task  
9 force." And that process worked very, very well. And we  
10 ended up with -- there were, I think, three to five could be  
11 appointed at-large by the governor, but we ended up with 49  
12 members of the task force which was similar to our 49-member  
13 unicameral. And, for the most part, there were people from  
14 all over the state. The middle of the Sandhills was not  
15 represented, and that became a bit of an issue for those  
16 folks. But for the most part, we had people from all over  
17 the state, and about an equal number of surface water users  
18 and groundwater users because that conflict was a huge part  
19 of why the task was formed.

20 The charge to the task force was to review the  
21 existing laws, surface water and groundwater laws, of the  
22 state and to determine what, if any, changes needed to be  
23 made to hopefully reduce and resolve the conflicts between  
24 surface water users and groundwater users. And then, there  
25 were some peripheral charges to look into banking, whether

1 we should establish a water bank, and a couple of other  
2 things.

3 So, the task force was convened. And one of the  
4 first things that the natural resources committee did was to  
5 hire a facilitator, which we did, a group from CDR  
6 Associates out of Boulder, Colorado. And they facilitated  
7 the task force. The meetings were all open, except for some  
8 subcommittee meetings. We established an executive  
9 committee that was voted for by task force members.  
10 Thinking that the executive committee would do some of the  
11 heavy lifting and then the 49-member task force would say  
12 yea or nay. As it turned out, anytime the executive  
13 committee met, the whole task force was there anyway. And  
14 it was open meetings, so there were a number of people who  
15 came regularly from the public, which was always very good.

16 At the beginning, most people were there basically  
17 with their arms crossed across their chest saying, "I'm  
18 going to sit here and make sure they don't do anything  
19 that's going to harm me." And our facilitators were very  
20 good, as well as Senator Schrock and Roger Patterson from  
21 the department were also very good leaders on that task  
22 force. And so, things actually went fairly well.

23 Another major decision which was, I think,  
24 critical was we agreed to work on a consensus basis. And a  
25 consensus is not unanimity. We did not say everybody had to

1       agree. But the way we worked was if you liked it, you'd  
2       vote for it with thumbs up. If you could live with it, you  
3       didn't like it, but you could live with it, it was a thumb  
4       sideways. If you didn't like it, it was thumb down. And  
5       then, you had to explain what it was you didn't like. And  
6       then, because everybody wanted to get a consensus, then  
7       people would start going and say, "Well, Jim, what -- you  
8       said you didn't like this. What if we did it this way?  
9       Could you live with that?" And we would take pieces at a  
10      time without saying anything was final until we got to the  
11      very end. So, when we got to the end, there was nobody who  
12      stood to say, "I object." There were some people who didn't  
13      care for everything, but they went along and we had a  
14      consensus. We did allow a minority report, so people could  
15      explain what they didn't like about it. And if it hadn't  
16      been for that consensus, I think, especially some of the  
17      more minority groups, such as the environmental groups,  
18      would have felt very outnumbered. But the reality is, one  
19      strong voice could stop the task force, and it didn't matter  
20      how many were on your side. If you had a good leader on  
21      that side, you could do it. So, the process worked very  
22      well.

23                   At the end, well, first of all, we looked at  
24      whether we should have everything first in time, first in  
25      right. Get rid of the correlative rights for groundwater.

1 We also looked at whether there should be one agency in  
2 charge of water and not have the split. Fairly early on,  
3 the task force decided there should be a split between the  
4 NRDs in charge of groundwater, DNR in charge of surface  
5 water under the appropriation system. And, I think, given  
6 our hydrology in the state, that makes sense, because our  
7 groundwater aquifers are fairly widespread and trying to  
8 administer those first in time, first in right, groundwater  
9 for surface water, I think, would have been impossible. I  
10 really do. And so then, we worked through all that.

11 Another big issue was how to deal with  
12 municipalities. And eventually, we worked that one out as  
13 well. So, in the end, we came up with a consensus. I think  
14 there were some surface water users who didn't like it, but  
15 given the fact that most of the irrigated acres in the state  
16 are groundwater irrigated, they figured this was about as  
17 good as they were going to get and that it was better than  
18 what they had before. So, they went along with it. And we  
19 sent it to the legislature. When it was sent to the -- oh,  
20 I should mention that Jim Cook was the one who essentially  
21 wrote the actual law, and he worked extremely hard on that.

22 When we sent it to the legislature, the  
23 legislators were told, "Don't mess with this." Because if  
24 you start pulling out one piece, that might be just the  
25 piece that allowed somebody else to say yes and the whole

1 thing could unravel. And Ernie Chambers was the only person  
2 who had to mess with it. Senator Chambers did make one  
3 minor change, but then it passed the legislature by an  
4 overwhelming majority. And the governor signed it, of  
5 course, cause he was a strong supporter. But the leadership  
6 there was very, very important. And the governor made it  
7 very clear he was behind the task force, he expected it to  
8 work, and it did. I think mid-way through people thought  
9 you know, "This is going to go. I better get serious about  
10 working on this."

11 MR. BARR: Do you want to kind of summarize the  
12 major elements?

13 MS. BLEED: The major elements -- after our first  
14 decision to maintain the existing system of surface water  
15 rights and groundwater rights, the decision was made that  
16 the Department of Natural Resources every year would survey  
17 the river basins or sub-basins in the state and determine  
18 which ones are fully appropriated. And by fully  
19 appropriated, the idea was that it was right on the balance  
20 so that if you had an additional consumptive use in the  
21 basin, the only way you could add that would be by taking  
22 water away from somebody else. So, the idea was to protect  
23 the existing users from future depletions, sort of a  
24 security of water rights, if you will. And if the basin is  
25 determined to be fully appropriated, there was a preliminary

1 determination and then a final. But once the final  
2 determination is made, then that basin, sub-basin, or reach,  
3 whatever NRDs were involved in that, have to work with the  
4 Department of Natural Resources to develop an integrated  
5 management plan. And there are some requirements for this  
6 plan. The first was that it had to have clear goals with  
7 the purpose of sustaining a balance between water supplies  
8 and water uses so that the environmental health, safety,  
9 economics, and welfare of the basin -- and, I'm not quoting  
10 that right -- the economic, health, environmental, safety,  
11 and welfare of the basin could be sustained for both the  
12 short term and the long term. And that is a required goal.  
13 And then, there are some other requirements. One of which  
14 was that you have to enact controls, and there was a list of  
15 controls already in the act -- you had to list at least one  
16 or more surface water controls or groundwater controls to  
17 achieve those goals. And one of the requirements was that  
18 the surface water users dependent on stream flow and the  
19 groundwater wells dependent on recharge from stream flow  
20 should be protected from any new uses of water. Later on,  
21 the NRDs actually requested some further requirements for  
22 data and so on be put into the law. So, it's a fairly  
23 specific list of requirements that must go in the law. At  
24 the same time, it gives the basins a lot of leeway to decide  
25 how they're going to do this and what they want to do.

1           One of the big issues was whether or not a basin  
2 would be over-appropriated. And that's an issue because  
3 that means there's more uses than can be sustained in the  
4 long term. And, therefore, in order to get back to a fully  
5 appropriated condition, which was one of the requirements in  
6 the law, you would have to reduce existing uses, which, of  
7 course, is always hard to do. How do you tell people they  
8 can't use their water anymore? And that was a huge issue in  
9 the Republican basin because, partly because of the Kansas  
10 lawsuit. And the attorney general's office had said, "We do  
11 not want to admit to Kansas that we are, in fact, over-  
12 appropriated." Although, the legislation creating the task  
13 force and the charge to the task force and the task force  
14 report all admitted that. But the -- basically, folks from  
15 the Republican basin said, "We won't agree to this if you  
16 declare our basin over-appropriated." So, they developed  
17 language in the law that said that the basin, an over-  
18 appropriated basin is a basin that is subject to a three-  
19 state agreement and on or before, I think it was 19-- , the  
20 year 1997, had been determined -- or the surface water users  
21 had not been allowed to add more uses and there was  
22 something else in there. The bottom line was there was only  
23 one portion of one basin that could meet that, and that was  
24 the Platte River, the north Platte, south, and Platte above  
25 Elm Creek. So, that sub-basin was determined to be over-

1       appropriated.

2                   And one of the other things that we discussed at  
3       great length in the sub-committee meeting was the Central  
4       Nebraska Public Power and Irrigation District and NPPD were  
5       part of that over-appropriated area, and they were  
6       concerned, as surface water users, that they would be out-  
7       numbered. And, oh, I should go back. During the task force  
8       meetings, the question was should the -- who should be in  
9       charge of this integrated management plan. The basic  
10      decision was the regulating agencies. The NRDs were the  
11      government regulating agencies and DNR, which left out the  
12      surface water irrigation districts. They did not like that  
13      at all. So, they argued that they should, at least, be  
14      involved in the process of developing the IMP. So, we put  
15      in there, not only did they have to consult with, which was  
16      true for every fully appropriated basin, but in the over-  
17      appropriation, they had to consult and collaborate with  
18      surface water irrigators, reclamation districts, power  
19      districts, municipalities, and environmental groups, or  
20      something like that. And there were rules for how to do  
21      that. So, that was another big issue. And it went and  
22      passed the legislature.

23                   MR. BARR: Did you have most of the  
24      recommendations of the task force combined into the  
25      legislation, or were there some issues that did not get into

1 the legislative action?

2 MS. BLEED: One of the charges was to deal with  
3 banking, and we just ran out of time. And we just did not  
4 do that.

5 MR. BARR: What about funding?

6 MS. BLEED: And that is, I'm glad you mentioned  
7 that. Funding was huge. The task force recommended  
8 increased funding. And they particularly wanted funding  
9 that would not be subject to the year-to-year debates over  
10 the budget. They wanted some ongoing funding. And one of  
11 the major reasons they wanted that is they knew,  
12 particularly in these over-appropriated basins, that that  
13 funding would be critical for them to solve their problems  
14 without taking a lot of irrigated acres out of irrigation,  
15 which nobody really wanted to do. And the task force worked  
16 very hard with the legislature to get funding. They did not  
17 succeed. So, the bill passed, but the funding that the task  
18 force wanted did not. And there were a lot of people who  
19 were very upset about that.

20 MR. BARR: What was lost by not having the  
21 recommended funding to go along with the original  
22 recommendations?

23 MS. BLEED: Well, I think, the major thing that  
24 was lost is the ability to do things that would allow us to  
25 do a better job of managing water so we wouldn't have to

1 simply reduce our uses. Some of those projects have since  
2 been developed by the NRDs primarily, but they had a heck of  
3 a time getting the funding to do that. And there's a whole  
4 another chapter involved with how they got some of the  
5 funding to do work on the Republican, in particular. Some  
6 NRDs, like the Central Platte NRD, has a pretty strong tax  
7 base. They were able to work on reducing their consumptive  
8 uses by buying acres out, willing seller, willing buyer, and  
9 by doing conjunctive management projects, but not everybody  
10 has that.

11 I should also mention, the over-appropriated area  
12 also corresponds almost directly with an area that was  
13 subject to the Platte River Endangered Species Act  
14 requirements.

15 MR. BARR: Do you want to kind of -- originally  
16 some of this started with the re-licensing --

17 MS. BLEED: Right.

18 MR. BARR: -- of McConaughy and -- do you want to  
19 just kind of go over some of that story of the three-state  
20 involvement in the Platte River?

21 MS. BLEED: Sure. When the Endangered Species Act  
22 passed, one of the keystone species, if you will, was the  
23 whooping crane. Big white bird that was very rare and very  
24 much loved. And they, of course, have as one of their  
25 primary stopover places is the Platte River. And so, the

1 Fish and Wildlife Service very early on started saying,  
2 "We've got to create more habitat for the whooping cranes on  
3 the Platte. And we'd need water in the river for them to  
4 roost in." At one point, and this was before I got  
5 involved, but there was apparently an attempt by the Fish  
6 and Wildlife Service, maybe you remember this Jim, to  
7 actually create a wildlife refuge on the Platte, in which  
8 case the --

9 MR. BARR: That was a matter of the discussion in  
10 the Level B Study even.

11 MS. BLEED: And the feds would've owned that.

12 MR. BARR: That general idea. Yeah. I mean I  
13 don't remember the details of it, but that was an issue that  
14 was involved in the 70s in the Platte River Level B Study.

15 MS. BLEED: And needless to say, the people along  
16 the Platte were not very excited to have that happen.

17 MR. BARR: And had it not probably been for the  
18 need to relicense McConaughy, which triggered involvement  
19 there that may have lingered further.

20 MS. BLEED: Yeah. Right. And the Lake McConaughy  
21 was actually closed in 1942, but their license ran out in,  
22 oh --

23 MR. BARR: Mid 70s or 80s --

24 MS. BLEED: -- mid 70s. I think, I want to say  
25 '78.

1 MR. BARR: -- I've kind of lost track of that.

2 MS. BLEED: And so, they started negotiating with  
3 the Fish and Wildlife Service on getting a renewed license,  
4 and I was involved in some of that. The Fish and Wildlife  
5 Service, at first, wanted fairly strict requirements at  
6 Grand Island, that there had to be so many cubic feet of  
7 water flowing past the gauge at Grand Island changing by  
8 month. But, and then if they didn't meet that, if they were  
9 two cubic feet per second less, they would get fined or  
10 dinged somehow. And you're dealing with projects all the  
11 way up above Pathfinder Dam in Wyoming that might be 23  
12 travel days distant, and how the heck you meet that. And  
13 even going from McConaughy to Grand Island, I believe, is  
14 seven days, if my memory is correct. And you just can't run  
15 a river like a pipe. It doesn't work that way. So, the  
16 districts really fought that. And they eventually came up  
17 with, and I'll take a little bit of credit here, it was my  
18 idea. I remember sitting on my couch one Sunday afternoon  
19 thinking there's got to be a better way of doing this. And  
20 I came up with the idea of creating an environmental account  
21 in Lake McConaughy to be run by either the Game and Parks  
22 Commission or the Fish and Wildlife Service. And a certain  
23 amount of water would go into that account, and then they'd  
24 get, decide how and when to use it. And there were two  
25 reasons for that. One is the whooping cranes are such a

1 small population as they're flying north; they may have all  
2 flown north. There's no sense in having water requirements  
3 at the Grand Island gauge when the whole population is  
4 already up in northern Canada. So, it didn't make sense to  
5 me to have these rigid rules and, of course, then it was too  
6 hard to really control. So, I said give them some water.  
7 Let them manage it. And when I first proposed this to Game  
8 and Parks Commission, they didn't want to have anything to  
9 do with it, but eventually that's what, in fact, was put  
10 into the Platte River agreement and into the FERC -- no. It  
11 wasn't. The FERC licensing still had some pretty strict  
12 controls. But what the FERC licensing folks said was, "If  
13 you can come in -- up with a Platte River agreement that  
14 would be a reasonable and prudent alternative to the FERC  
15 licenses." So then, there was a series of meetings over --  
16 I don't know how many years. It seemed like forever, where  
17 the Colorado, Wyoming, and Nebraska, and the Fish and  
18 Wildlife Service, and the Bureau of Reclamation would get  
19 together to try to figure out how to develop this program.

20 I should also mention that the Bureau of  
21 Reclamation reservoirs in Wyoming and a few in Colorado were  
22 also feeling the heat from the Endangered Species Act. They  
23 had to come up with water to, for the, water for the birds  
24 as well. And then, there were a whole series of smaller  
25 permits on federal land in Colorado and Wyoming that cities

1 and little towns got involved with where they were subject  
2 to the Endangered Species Act. Not to mention, Two Forks  
3 Dam in Colorado, this was nixed because of the endangered  
4 species. So, there were a lot of people that were being  
5 hung up by this. At the same time, the Fish and Wildlife  
6 Service was fighting all these lawsuits and nothing was  
7 happening on the river. So, they decided, let's try to get  
8 together with the program. And so, that would -- is what  
9 happened. They met for years.

10 One of the key aspects of that, which I think was  
11 important, they decided -- the first thing was, well, how  
12 much water do the species need? The Fish and Wildlife said  
13 that they needed an extra 417, I think it was, thousand acre  
14 feet from what we've got now. And the states said, "Screw  
15 that." Excuse my language. But that is not what we need.  
16 That's way too much. So, the big question was well, how  
17 much do the birds really need. And there were other species  
18 involved at this point. The -- there was no easy answer.  
19 And there was obviously not going to be an agreement on  
20 that. So, we agreed to use an adaptive management approach  
21 whereby the program would actually do some tests to figure  
22 out what is it the species needs and we would do that in the  
23 first 13-year increment. And then, ideally, at the end of  
24 the increment, we would decide, okay, is this right or not.  
25 Meanwhile, the program said that the states had to come up

1 with between 130,000 and 150,000 acre feet of water to  
2 offset shortages from what the Fish and Wildlife Service had  
3 determined they needed out of the four hundred and -- 417,  
4 anyway. And so, we agreed to that. And we agreed to meet  
5 certain compliance standards. That was another issue. If  
6 the species for no reason that we had anything to do with  
7 went extinct, maybe they got shot on their breeding grounds  
8 or something, then we shouldn't be held liable in Nebraska.  
9 So, the only thing we were held liable for was whether or  
10 not we met these specific compliance standards, which was a  
11 good thing. And then, we had the adaptive management.

12 The other thing that was important, once we got  
13 that program developed and signed, or developed and agreed  
14 to by the committees, then each of the states had to sign on  
15 to it. And by that time, Governor Heineman was the  
16 governor, and he held a series of meetings all over the  
17 state. And the dynamics were fairly interesting. The  
18 people in the North Platte Valley wanted it because they  
19 were so dependent on the Bureau of Reclamation reservoirs  
20 which would be severely curtailed if we didn't have the  
21 program. The surface water users, Central Nebraska Public  
22 Power and Irrigation District particularly and NPPD, who  
23 wanted their FERC license, they were in favor of it.  
24 Although, by this time, they weren't so sure it was going to  
25 be then -- really a good deal or not, but they were

1 basically in favor of it. But that left the groundwater  
2 users. In order to come under compliance with the  
3 Endangered Species Act, there has to be a federal nexus. In  
4 other words, there has to be some federal requirement  
5 involving your water use that would then hook you into the  
6 Endangered Species Act which says no federal agency can do  
7 anything to adversely affect an endangered species. Well,  
8 groundwater users didn't need a permit to divert water from  
9 the river from the feds. They didn't have a 404 permit  
10 requirement like a number of people had when they build  
11 dams. So, one of the questions that was asked was, "Well,  
12 what about the farm programs?" Because, of course, there is  
13 a huge federal nexus in terms of farm subsidies. And so,  
14 the Fish and Wildlife Service was asked, "Does that give  
15 them a nexus or not?" And they decided no. I think, I  
16 don't know this for sure, but I'd guess for political  
17 reasons. Because, if they had said yes, I think they would  
18 have had every state in the union going after them. So,  
19 here you had a situation where it didn't matter to the  
20 groundwater users. And they could easily opt out. And yet,  
21 if they were in, then they became part of the requirements  
22 and, also, 962 was part of the requirements requiring them  
23 to cut back on their uses. So, that was a huge issue. But,  
24 eventually, they decided that they could, they would support  
25 it. And a big part of it was understanding that a lot of

1 the water along the Platte River comes from Wyoming from  
2 those Wyoming reservoirs, either directly or as return flows  
3 from the projects. And if that water is curtailed, a lot of  
4 the groundwater, particularly into the Mound and Tri-Basin,  
5 which is a build up of a lot of Central and NPPD's use of  
6 water, would be depleted. So, they realized that, by gosh,  
7 this is one resource and maybe we should go along with it.  
8 But, it was only for the first 13 years, and any party to  
9 the agreement could pull out at any time. So, with all that  
10 in place, Governor Heineman did finally decide to sign on to  
11 the Platte River program. We were the last state to sign  
12 on. And so, it got put in place. But at the end of the 13  
13 years of increment, there will have to be a decision by  
14 every --

15 MR. BARR: Participant probably.

16 MS. BLEED: I think that's 2019, I believe.

17 MR. BARR: One other follow up, and I don't  
18 remember if we talked about this on record or not. But did  
19 we talk about the Wyoming, Nebraska settlement on record, or  
20 do you want to --

21 MS. BLEED: I think we did.

22 MR. BARR: Did we?

23 MS. BLEED: I think we did.

24 MR. BARR: Okay. Alright.

25 MS. BLEED: I talked about the settlement on the

1 courthouse steps. Yeah. I think we did. If we didn't,  
2 call me up and we'll do it again.

3 MR. BARR: That's ok.

4 MS. BLEED: But, I'm pretty sure we did.

5 But, so, you know, at the end of the first  
6 increment, there'll be some important decisions made of  
7 whether or not we want to stay in it, and whether the Fish  
8 and Wildlife Service wants to stay in it. We'll have to  
9 see.

10 MR. BARR: How big of a role was the COHYST effort  
11 in this?

12 MS. BLEED: I'm glad you asked about that. The  
13 COHYST effort to me is another amazing effort. I remember  
14 very specially the day when Ron Bishop came into the  
15 department. Mike Jess was the director. And Mike called me  
16 into his office and Ron was sitting there, and he said, "I  
17 have this idea that we really need to do a groundwater model  
18 for the Platte River. We're going to need it. And we want  
19 your help." And I immediately said, yes, I think that's an  
20 excellent idea. So, he established the cooperative  
21 hydrology study or COHYST. That involved the DNR, the NRDs  
22 along the Platte, the Game and Parks Commission, Central  
23 Platte or Central Nebraska Public Power and Irrigation  
24 District, and then the NPPD, and some of the municipalities.  
25 And at first, the idea was simply to get enough information

1 together into one database so that people could do their  
2 individual models, and then it morphed in to let's do a  
3 groundwater model, surface water/groundwater model for the  
4 entire basin. And that effort is still going. It's  
5 certainly had its up and downs with lot of squabbling. But  
6 the reality is people are still working on it, and that  
7 model became the basic model to determine how much a well  
8 depletes stream flow that is used now by the Platte River  
9 program. And it's a beautiful example of where the NRDs  
10 really were the ones to show the leadership and take the  
11 initiative to get something done. The state went along, not  
12 as a reluctant partner by any means, but it wasn't our idea.  
13 And I don't think it would've been done without the NRDs.

14 MR. BARR: What do you see as some of the  
15 challenges still before NRDs and natural resource issues, in  
16 general, in the state of Nebraska?

17 MS. BLEED: Well, I think we have some very  
18 significant challenges. Water quality is a huge one. As  
19 somebody once said, "You know, it took us a long time to  
20 pollute our water. It's going to take us a long time to get  
21 rid of it, the pollution." We do have nitrates problems.  
22 In most areas of the state, they are slowly but surely  
23 increasing. We have atrazine problems. The Central Platte  
24 NRD was one of the earlier NRDs to take action on water  
25 quality, and they've actually seen areas where the water

1 quality has improved. But it takes a long time. But we  
2 still have a lot of work to do on that. There are some  
3 areas of the state where we still have water table declines.  
4 The Upper Republican has consistently declined even during  
5 the wet years. In other areas during the 1980s -- declined  
6 in the 70s, as you well know, and the 1980s, which was a  
7 period of above-average precipitation, the water tables came  
8 back. Meanwhile, the NRDs were very effective at getting  
9 people to use water use efficiency; to do conservation  
10 tillage, which saves water; and a lot of education efforts,  
11 teaching people that you save money if you don't pump all  
12 the time. That kind of thing. So, you know, why the water  
13 tables came up in certain areas, I think it's probably a  
14 combination of above-average precip(itation) and some of the  
15 efforts of the NRDs. For the most part, there were not  
16 heavy regulations in place. The Upper Republican was the  
17 earliest one to put on some heavy regulations, because they  
18 do have a declining water table. That was important. So,  
19 those are still issues that we have before us. Whether or  
20 not we will have to do increasing regulations, I don't know.  
21 It looks like in some areas, we may. In other areas, we may  
22 not.

23 Another area that I think is somewhat of a problem  
24 is domestic wells being interfered with by irrigation wells.  
25 And in some NRDs, they have spacing requirements to try to

1 protect the domestic wells. The domestic wells don't need a  
2 permit. They should be registered, but they don't all, even  
3 all have to be registered now. But that is an issue.

4 And I think one of the basic issues that we've got  
5 is the NRDs are locally controlled, which I, on the whole,  
6 think is excellent. But those are also the people who have  
7 to say we need to tighten our belts. And that's hard to do,  
8 especially if you're tightening your belt for the future.  
9 You may be fine now, but if you're worrying about whether  
10 your kids or grand-kids will have water, then you may need  
11 to tighten your belt and that's a lot harder to do.

12 The other issue which I think is important is that  
13 the NRD laws say that each NRD is supposed to treat the  
14 impacts of their uses on users outside of their district as  
15 if those users were within their district. That's intent  
16 language. So, it's -- again, it's hard for an N- -- one NRD  
17 to say, well, those users downstream are being impacted by  
18 what we're doing here. We need to cut back on our water  
19 use. Which all gets to the fact that, as long as something  
20 is somewhat parochial in fact, and originally groundwater  
21 was considered to be kind of local, it didn't really have  
22 long range impacts -- if you want to mess up your own water  
23 supply, maybe that's your problem? But as we've learned,  
24 it's usually -- it's not local. That what people do in one  
25 NRD does affect people in another NRD. And I still think we

1       need to get a better handle at a state level to set some  
2       broad guidelines of -- to make sure that one NRD does not  
3       adversely affect another NRD or surface water users. And in  
4       fact, a number of the NRD managers and officials, other  
5       board members, when I talked about what is the role of the  
6       state and asked them that, indicated just that, that we  
7       probably need some more broad guidelines and a little bit  
8       more ability for the state to step in if somebody is not  
9       meeting those guidelines and make sure they do.

10               MR. BARR: That's pretty much the questions I had,  
11       but I've usually had a question at the end that says,  
12       anything else you'd like to add?

13               MS. BLEED: Well, I will, I will just add one  
14       thing. I have been doing a study of the NRDs and their  
15       governance structure. And I think we have a really terrific  
16       governance structure with the NRDs to manage water and  
17       groundwater, in particular, in this state. It's not  
18       perfect, but it's a lot better, I think, than most other  
19       states. I think it gives people the ability to tailor their  
20       management actions and their controls to their local  
21       situation. And I think that's a good thing. I think  
22       they've done a lot of things, and initiated things like  
23       COHYST that would never have been done if it had simply been  
24       up to the state. I think that people are much more  
25       accepting of what the NRD does. They've done a lot of

1 education. So, in some cases, regulations aren't necessary  
2 because people understand, through education, that they need  
3 to do it anyway. And a lot of the rules of the NRD are set  
4 up that, as you start to see a problem, you're going to have  
5 increased education efforts, maybe certification to learn  
6 that you have to know -- certify that you know how to  
7 irrigate in a water-wise way. But then, if those don't  
8 work, there may be stricter regulations for both water  
9 quality and quantity and increasingly strict regulations.  
10 So, you set up a system where we don't want to be regulated,  
11 so we better do this voluntarily. And I think that's very  
12 effective. People make their own rules and, I think, that  
13 is helpful.

14 So, in general, I think the NRD system has worked  
15 very well. There is a problem with surface water users.  
16 They do not feel they're getting their fair share of the  
17 water supply, and I think that's a serious problem in some  
18 basins, not all. And we need to deal with it. I think  
19 we're going to have to deal with the question of domestic  
20 wells. Our preference system says they are the most  
21 important use, but they are often the wells that get  
22 affected by a higher irrigation wells and without much  
23 recourse to get that system corrected. So, a few tweaks and  
24 I think we will have a really great system.

25 The only final thing I'll say is that, like any

1       governmental system, it depends on the leaders involved, and  
2       we've had some wonderful leaders. The NRD system helps  
3       train leaders, some are not so good leaders. And that's  
4       true of any governmental situation.

5                   MR. BARR: Well, thank you.

6                                   - - -

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22