

RECLAMATION

Managing Water in the West

Federal Perspective: Gathering Information and the Role of Technicians in Negotiations

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Gathering information

- **Meaningful settlement negotiations typically cannot proceed without a sufficiently developed technical foundation**
 - Local hydrologic conditions
 - Water budget
 - Surface and groundwater models
 - Technical settlement solutions – proposed infrastructure
 - Ideally, proposed settlement infrastructure should be fully planned, designed, and cost estimated

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Gathering information

- Technical work is expensive and the negotiation parties often lack the resources to conduct all of the needed technical work on their own
- Technical work often takes a long time to complete

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Technical Committee

- The parties' technical experts working together often can achieve common goals, promote efficiencies, and share costs
 - Collaborative process
 - Shared resources and expertise
 - Creates relationships
 - Enhances communication
 - Promotes transparency – data sharing
 - Ensures that the settlement is workable

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Technical Committee

- **Leadership and direction of the Technical Committee should be provided by the principal negotiators**
 - **Monitor work and provide guidance**
 - **Communicate settlement goals and objectives**
 - **Provide updates on the current status of the negotiation**
 - **Technical Committee – should not set its own direction**

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Role of the technical experts: What they should do

- **Technical experts should be problem solvers – propose creative solutions that are applicable to the local setting and needs of the settlement parties**
- **Technical experts should be educators, advisors, and problem solvers – explain or translate complex technical information so that it understood by their client and attorneys**
- **Technical experts should communicate frequently with their client and attorneys – be aware of current issues and the overall shape of the settlement discussions**

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Role of technical experts: What they should not do

- **Technical experts should not be policy advocates**
- **Technical experts should be aware that they are not the principal negotiators – the settlement agreement will not be developed by the technical experts**
- **Technical experts should stick to the facts – do not bias or manipulate technical information to favor the positions of their client**

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Design, Estimating, and Construction (DEC) Reviews by the Bureau of Reclamation

- Purpose – to provide an independent technical review to assess whether products related to design, cost estimating, and construction are technically sound and provide a credible basis for decision making
 - Determine if cost estimates for a project are appropriate for their intended purpose
 - Identify potential fatal flaws in the designs or estimates
 - Determine whether major risks and uncertainties have been fully addressed in the cost estimates

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Design, Estimating, and Construction (DEC) Reviews by the Bureau of Reclamation

- **When – DEC Reviews are generally performed at the feasibility level of planning when the components and associated cost of the project are more precisely defined**
- **Composition of Review Teams – senior Reclamation technical experts**

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Design, Estimating, and Construction (DEC) Reviews by the Bureau of Reclamation

- Modified DEC Reviews have been used to evaluate proposed settlement infrastructure
 - Crow
 - White Mountain Apache
 - Aamodt (Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque)
 - Tule River
 - Blackfeet

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Design, Estimating, and Construction (DEC) Reviews by the Bureau of Reclamation

- General observations about the use of the DEC Review process in Indian water rights settlement
 - Project planning for settlement related infrastructure is often at an early stage of development
 - Review of proposed infrastructure late in the settlement process typically does not provide the best opportunities for refining project plans, designs, and cost estimates
 - Ideally, technical assistance and guidance should be provided early in the settlement negotiation as part of the information gathering phase

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End

- Please hold questions until the panel concludes its presentations

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