

SAN JUAN RIVER RECOVERY IMPLEMENTATION PROGRAM
COORDINATION AND BIOLOGY COMMITTEES
30 OCTOBER 1997
FARMINGTON, NEW MEXICO

The meeting was called to order by Renne Lohofener, Geographic Manager - New Mexico with an introduction of the Committee members and the audience. Those in attendance are listed on the attached roster.

The following Coordination Committee members or their representatives were in attendance:

Renne Lohofener	Fish and Wildlife Service, Region 2
Henry Maddux (for John Hamill)	Fish and Wildlife Service, Region 6
Patrick Schumacher	Bureau of Reclamation
Bob Krakow	Bureau of Indian Affairs
Joel Farrell	Bureau of Land Management
John Whipple (for Tom Turney)	State of New Mexico
Scott McElroy	Southern Ute Indian Tribe
Les Taylor	Jicarilla Apache Indian Tribe
Dan Israel	Ute Mountain Ute Indian Tribe
Tom Pitts	Water Development Interests
Stanley Pollack	Navajo Nation

Conflicts in scheduling and the relatively short notice for this joint meeting precluded the attendance by the Colorado representative.

The following Biology Committee members were present:

Jim Brooks	Fish and Wildlife Service, Region 2
Frank Pfeifer	Fish and Wildlife Service, Region 6
Larry Crist	Bureau of Reclamation
Ron Bliesner	Bureau of Indian Affairs
Stephanie Odell	Bureau of Land Management
David Propst	State of New Mexico
Bill Miller	Southern Ute Indian Tribe
Paul Holden	Jicarilla Apache Indian Tribe
Tom Wesche	Water Development Interests
Vince Lamarra	Navajo Nation

Agenda

The proposed agenda for the meeting was reviewed together with the attached memorandum from Mr. Evans of the State of Colorado requesting the deferral of discussion of several proposed items until a regular formal meeting of the Coordination Committee. Mr. Lohofener asked the Committee if they would consider, in light of Mr. Evans' request, making the focus of the meeting an informal information exchange with the Biology Committee. Mr. Israel moved (seconded by Mr. Pitts) that the Coordination Committee address 1) past section 7 consultations with respect to

allocation of water and water rights priorities; 2) what future consultations, based on upcoming flow recommendations, would impact allocation of water and water rights; 3) what approach, standards, criteria are to be used in making the flow recommendations; and 4) other items on the agenda as time allowed. No objection to Mr. Israel's proposal was voiced by the Committee and the agenda followed the general format as outlined.

25 February 1997 Meeting Summary

The summary of the Coordination Committee 25 February 1997 meeting in Durango, Colorado, had been distributed for comment by committee members but was not in final form, due to the change in Service chair and Program Coordinator positions. The final summary will be provided to the Coordination Committee at the next meeting.

Past Consultations and Water Allocations

Mr. Israel opened the discussion with his concern that section 7 consultations are used to determine the priority of use of water. Service representatives explained that the section 7 consultation process answers only the biological question of what effects to protected species would be expected if, as in the case of the San Juan River, a certain amount of water is removed from the natural system. The order of requests for consultation, and thus the "clearing" of projects to use water is not under Service control. Under no circumstances, within the context of the Endangered Species Act or any other statute, does the Service determine priority or reallocation of water rights. Department of the Interior Regional Solicitor Tim Vollmann clarified that the Secretary of Interior, in his trust responsibilities to the tribes, can determine which Interior agencies in the basin go forward in what order for consultation, thus affecting the order in which projects that impact or facilitate the development of tribal water rights are considered.

Mr. Israel asked for clarification between the 1979 and 1991 biological opinions for the proposed Animas-La Plata Project; specifically, the change in Service assessment of the importance of the San Juan River population of Colorado squawfish from 1979 to 1991, and the potential for catastrophic losses cited in the 1991 document. Biologists from the Service and Bureau of Reclamation explained that in the intervening decade between the opinions, the status of the species in the Upper Basin had been reevaluated based on the loss of three years of reproduction and the potential for contaminant incidents on the Colorado, Green, and Yampa rivers. Additionally, the discovery that the population of Colorado squawfish in the San Juan River was reproducing increased its importance to the overall status of the species throughout its range. In response to a request by Mr. Pitts, Service biologists and representatives of the Biology Committee addressed the question of genetic uniqueness of the San Juan population and the role that it played in both the 1991 consultation and subsequent designation of critical habitat for the species in the San Juan River. Although the investigations were underway at the time of the 1991 opinion, no conclusive answers were available concerning the genetic characteristics of the San Juan fish at the time of the consultation. Based upon a draft contract report, currently in revision, there

does not appear to be any detectable genetic differences between extant populations. Designation of critical habitat was based more on geographic separation and security than genetic uniqueness.

Future Consultations and Allocation of Water

Once flow recommendations are made, Mr. Israel was concerned about where the water would come from to provide flows for the endangered fish. Mr. Israel postulated that the Navajo Nation's anticipated development would require all available water, effectively halting future development by other parties. There was no unanimity among the Committee members that there would be a "lid" placed on development and, if such a "lid" existed, that it doesn't necessarily follow that the constraints would fall only on undeveloped supplies, but that adjustments on all existing uses could be explored.

Flow Recommendations

Biology Committee Chair Larry Crist led the discussion of the process by which the Committee is progressing toward flow recommendations for the endangered fish and their habitat. Mr. Crist also explained that, as the researchers are entering the final year of the 7-year research period, the Committee would be addressing not only flows but also other aspects of the research: the role of non-native fish species in the status of the endangered Colorado squawfish and razorback sucker, the efficacy of augmenting populations of the endangered fish, and other research efforts over the past 7 years. To date, the Biology Committee has accomplished the research outlined in each year's work plan, as detailed in each year's subsequent research report. A summary report for 1997 will be available within a month.

Mr. Holden discussed the peer review panel now in place to work with the Biology Committee. Although the panel was established initially to review project documents, the expertise of the panel members will be utilized in the flow recommendation deliberations. There will be a review draft of the recommendation report in January 1998 and a final anticipated by mid 1998.

Mr. Israel requested that the Biology Committee set forth in writing by the end of the day, the process by which the Committee would assess flow recommendations in concert with all other aspects of the research the findings of which may affect the quantity of flows for the endangered fish (non-native control). The Biology Committee referred Mr. Israel and the Coordination Committee to the Program's Long Range Plan, prepared by the Biology Committee for use by the Coordination Committee to discuss the specific factors that influence flow recommendations and the integration of the flows with other aspects of the research. The Biology Committee was asked if other factors such as hatcheries, augmentation, and non-native control would reduce the amount of water needed for the endangered fish. The Biology Committee responded that the flow recommendations will be based on conditions existing and affecting the endangered fish now. Should conditions change through either the mechanical control of non-natives, the augmentation of populations of the endangered fish, or other factors, the recommendations, through adaptive management can be refined. The Biology Committee cautioned against viewing the flow recommendations as final, refinement and modification could require 10 to 15 years in order to fully and

accurately address the response of the endangered fish to all management, not just flow regulation. The flow recommendations will not be an immutable number, they will be based on the variability of supply fitting within a set of criteria or rules and will depend on antecedent environmental conditions.

The Biology Committee was asked if the deadlines for the flow recommendations were workable, given the amount of work to do and the rather constrained time period for its accomplishment. The Committee responded that the deadlines were goals to which they will hold as tightly as they can, but that some slippage might be necessary.

An outline (attached) of the flow recommendation report was provided and discussed by the Biology Committee. It was noted that the report would include a discussion of water quality/contaminants, inadvertently omitted from the current outline.

The Biology Committee also discussed the manner in which the flow recommendations through the Bureau of Reclamation's modelling process would be analyzed. In essence, the tracking is from fish to habitat to geomorphology to flow. Although the recent efforts at augmentation of the Colorado squawfish and razorback sucker appear successful to date, there are too few fish in the river to detect responses to flows. Thus, the effects on habitat quantity and quality will form the basis for the modelling.

The Coordination Committee requested clarification on how depletions are included in the model and if the specificity existed to address individual projects and depletions resulting from those projects. The incoming Biology Committee chair, Mr. Bliesner, explained that the model will be able to utilize progressive levels of development, that 3 alternative scenarios for Animas-La Plata can be input: Animas-La Plata with a 57,100 acre-foot depletion, Animas-La Plata "Light", and Animas-La Plata at full development.

The Coordination Committee asked that they be briefed on the assumptions incorporated into the model, and the capacity of the model to have runs to address situations ranging from environmental baseline to full Compact development.

Long Range Funding

Mr. Maddux provided the Coordination Committee copies of the attached draft letter and legislation, requesting that the Coordination Committee respond with a statement of non-opposition to the Upper Basin States circulating the draft legislation. Based on the concern regarding the interpretation of such a statement of non-opposition, and the desire to review the revisions of the draft that have resulted from comments provided by some tribes and the Bureau of Indian Affairs, the Coordination Committee declined to vote on the request. However, there will be further coordination and discussion of the long-term funding legislation on November 12, 1997, via a conference call among the Committee members.

Proposal by City of Durango for Water Depletion

The Coordination Committee was briefed by Mr. Jack Rogers concerning the recent request for a Clean Water Act section 404 permit from the Corps of Engineers that would allow the City to construct and operate a diversion of water from the Animas River for its municipal supply. Originally included in the overall Animas-La Plata Project, the City's proposal would allow it to obtain water independently of the project. The section 7 consultation was discussed. A July 18, 1997, letter of response to the Corps of Engineers had cited the Secretarial Order concerning the inclusion of the tribes in the consultation. Copies of that letter had been mailed to the tribes in notification of the request for consultation but had apparently not been received by the Coordination Committee members for the tribes. A copy of the letter is attached.

Contracted Review of Biology Committee

Mr. Pitts clarified that the past year's contract with a biological consulting firm was not a review of the Biology Committee by the Water Development Interests. The San Juan Water Commission had contracted with a consulting firm to aid in the Commission's understanding of the research. No report was prepared by the consulting firm.

Critical Habitat

The tribes asked the status of the economic analysis dealing with tribal lands. Mr. Maddux informed them that the document was final and he would check with Mr. Larry Shanks of the Service's Region 6 concerning its distribution.

1998 Workplan and Budget

The 1998 Workplan will be distributed to the Coordination Committee by the first week of December 1997.

Next Meeting

The next meeting of the Coordination Committee will be held in Farmington, New Mexico, from 9:00 am to 3:00 pm on December 16, 1997. Items for discussion and action by the Coordination Committee at that meeting include:

- Briefing on the water operations model
- 1998 Workplan and Budget
- Summary Report of 1997 research
- Ad Hoc Committee's progress on section 7 recommendations
- Minor Depletion Allowance

Attachments



United States Department of the Interior

FISH AND WILDLIFE SERVICE

P.O. Box 1306
Albuquerque, New Mexico 87103OCT 23 1997
10164In Reply Refer To:
R2/ES-SE

OCT 23 1997

To: Coordination and Biology Committee Members of the San Juan River Basin Recovery Implementation Program

A joint meeting of the Biology and Coordination Committees has been scheduled for Thursday, October 30, 1997, in Farmington, New Mexico. The meeting will be held from 9 a.m. to 3 p.m. at the Holiday Inn, 600 East Broadway, (505) 327-9811.

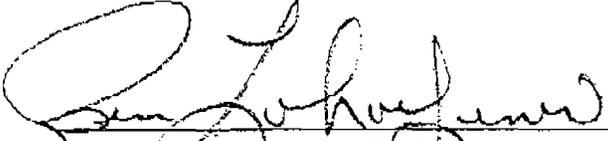
Inasmuch as the Biology Committee will be meeting in Farmington on the two previous days, October 28 and 29, several committee members felt that this would be a good time for the two committees to meet and discuss the status of various pending projects and issues, and to review certain other aspects of the Recovery Implementation Program (RIP). It is also hoped that this meeting will serve to promote a greater understanding and appreciation of the respective tasks and roles of the two committees. In addition, it will be an excellent opportunity for me, as both the new chairman of the San Juan River RIP Coordinating Committee and newly-arrived Geographic Manager for New Mexico, and Joseph Dowhan, the Fish and Wildlife Service's (Service) Coordinator for the San Juan and Lower Colorado rivers, to meet with all of you and to come up to speed on some of the more important issues pertaining to the San Juan River Basin.

Several agenda topics have already been suggested by members of both committees, though a final agenda has not been established. Proposed agenda items are:

1. Discussion of applicable Endangered Species Act (Act) law and regulations; Administrative Procedure Act; Secretarial Order on Tribal-Act matters. (Discussion led by the Service).
2. Brief overview of Section 7 consultation history in the San Juan Basin. (Discussion led by the Service).
3. Review of Critical Habitat designation in the Basin. (Discussion led by the Service).
4. Review of the 1991 Memorandum of Understanding: trust responsibilities of the various parties; discussion of tribal water rights and water right priorities. (Discussion led by the Service).
5. Discussion of future consultations and anticipated projects that might require consultations, including time frames for bringing these projects to consultation.

6. Status of research in the San Juan River Basin and findings to date (Discussion led by the Biology Committee).
7. Discussion of the process for determining the flow recommendations, including the time line (Discussion led by the Biology Committee).
8. Status of the review of the Biology Committee and the ongoing research funded by the water development interests.
9. The Service has received preliminary notice from the Corps of Engineers that consultation may be requested for the City of Durango to construct its own water supply diversion. How would this impact the proposed Animas-LaPlata project that has, to date, incorporated the water needs of Durango as part of the purpose of Animas-LaPlata? (Discussion led by the State of Colorado and Water Development representatives).
10. Status of the proposed renewal and extension of the water contract to Public Service Company of New Mexico (Discussion led by the Bureau of Reclamation and Navajo Nation representatives).
11. Status of the Regional Water Planning Effort in the San Juan Basin (Discussion led by the New Mexico representative).
12. Status of the planning to renovate the Hogback and other diversion dams in the San Juan River (Discussion led by the Bureau of Indian Affairs representative).
13. Discussion of the funding bill for implementation of the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins (Discussion led by the Colorado state representative).

I look forward to meeting all of you in Farmington and working with you on the Recovery Implementation Program. If you have any questions or wish to submit any additional agenda items, please contact Joe Dowhan, San Juan Coordinator, at (505) 248-6667.



Renne Lohofener, Chairman
San Juan RIP Coordination Committee

San Juan RIF
 Joint Coordination/Biology Committee Mtg

10/30/97
 NM
 1 of 2

NAME ORGANIZATION ADDRESS/TELEPHONE

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SAN JUAN RIVER BASIN
RECOVERY IMPLEMENTATION PROGRAM
JOINT COORDINATION/BIOLOGY COMMITTEE MEETING

30 October 1997
Farmington, New Mexico

9 a.m. to 3 p.m.

Meeting Agenda

- I. Opening Remarks and Introductions - Renne Lohofener, U.S. Fish and Wildlife Service, Geographic Manager/New Mexico
- II. Review of Minutes of Previous Meeting.
- III. Specific Agenda Items:
 1. Discussion of applicable Endangered Species Act (Act) law and regulations; Administrative Procedure Act; Secretarial Order on Tribal-Act matters. (Discussion led by the Service).
 2. Brief overview of Section 7 consultation history in the San Juan Basin. (Discussion led by the Service).
 3. Review of Critical Habitat designation in the Basin. (Discussion led by the Service).
 4. Review of the 1991 Memorandum of Understanding: trust responsibilities of the various parties; discussion of tribal water rights and water right priorities. (Discussion led by the Service).
 5. Discussion of future consultations and anticipated projects that might require consultations, including time frames for bringing these projects to consultation.
 6. Status of research in the San Juan River Basin and findings to date (Discussion led by the Biology Committee).
 7. Discussion of the process for determining the flow recommendations, including the time line (Discussion led by the Biology Committee).
 8. Review of stocking of endangered fish (Colorado squawfish and razorback sucker) in the San Juan Basin in 1997, including genetic issues and consistency with long-range plan. (Discussion led by Biology Committee).
 9. Status of the review of the Biology Committee and the ongoing research funded by the water development interests (Discussion led by Water Development representative).

LUNCH BREAK

10. The Service has received preliminary notice from the Corps of Engineers that consultation may be requested for the City of Durango to construct its own water supply diversion. How would this impact the proposed Animas-LaPlata project that has, to date, incorporated the water needs of Durango as part of the purpose of Animas-LaPlata? (Discussion led by the State of Colorado and Water Development representatives).
11. Status of the proposed renewal and extension of the water contract to Public Service Company of New Mexico (Discussion led by the Bureau of Reclamation and Navajo Nation representatives).
12. Status of the planning to renovate the Hogback and other diversion dams in the San Juan River (Discussion led by the Bureau of Indian Affairs representative).
13. Discussion of the funding bill for implementation of the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins (Discussion led by the Water Development representative).

IV. Adjourn - 3 p.m.

STATE OF COLORADO

Colorado Water Conservation Board
Department of Natural Resources

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Roy Romer
Governor
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Executive Director, DNR
Daries C. Lile, P.E.
Director, CWCB

MEMORANDUM

To: Renne Lohofener, Chairman
SJRIIP Coordination Committee

From: Peter Evans 
Colorado Representative to the SJRIIP Coordination Committee

Date: 29 October, 1997

Re: **AGENDA FOR OCTOBER 30 MEETING**

As we discussed this afternoon on the telephone, Colorado will not be able to send a representative to the October 30, 1997 meeting between the Coordination Committee and the Biology Committee. I have explored the possibility of sending an alternate representative to the meeting but cannot do so.

I first received notice that the proposed meeting topics had been expanded on October 22, 1997 while I was out of the office. I apologize that the expanded agenda was not detected as a significant change sooner, but it wasn't until I returned earlier this week. This meeting was initially scheduled as an informal discussion between the two Committees concerning the process for developing flow recommendations. Now the proposed agenda includes many issues that should be addressed at a regular formal of the Coordination Committee.

I was under the impression that the Coordination Committee was planning to meet on November 18, 1997 and I have already secured airfare and hotel accommodations for that meeting. I do not believe we were properly notified of the changed plans for these meetings and feel compelled to object to most of the proposed agenda distributed by FAX on October 28, 1997. As we discussed this afternoon, I do not understand the basis for many of the proposed discussion items (including proposed items 1-5) and I am uncomfortable that Colorado will not be represented in the discussion. We wanted to participate in the discussion of item 7, the original issue for the meeting between the two Committees, but felt that we could accept the process developed by the other participating interests. We are not so comfortable with respect to the other 12 items and ask that they be deferred to a regular meeting of the Coordination Committee proceeded by adequate notice.

Having registered Colorado's objection to the proposed agenda and our request for a properly noticed meeting, I also want to express my regrets to you, to the other members of both Committees and to any other participants that were able to attend the meeting for the inconvenience our objection and request may cause.

DRAFT
**SAN JUAN RIVER SEVEN YEAR STUDY INTEGRATION
FLOW RECOMMENDATION REPORT**

October 29, 1997

overall responsibility - Paul Holden - January 31, 1998

1. Scope (*Larry - December 1*)
2. Background (*Larry - December 1*)
 - a. Historic characterization and conditions (*brief*)
 - b. Current description of system (*brief*)
 - c. Comparison to other parts of the Colorado River Basin
3. Geomorphology/Hydrology — basic overall characterization (*Ron - December 1*)
 - a. Geomorphology/physical description
 - i. Description: (gradient, geology, structure, etc)
 - ii. Reach breakdown (narrative description), references
 - b. Hydrology
 - i. Basic hydrology/sediment transport regimes and description
 - ii. Hydrology data summaries (characterization of pre-regulation and post regulation hydrographs)
 - c. Relationships between flow and habitat (*Ron & Vince*)
 - i. Channel formation and maintenance
 - (1) Single event process
 - (a) spawning
 - (b) low velocity
 - (2) Multiple year effects
 - (a) frequency discussion relative to available flow
 - ii. Habitat/flow model for preferred habitat (*Vince - December 1*)
4. Biological and physical response to test flows
 - a. Channel morphology (*Ron - December 1*)
 - b. Habitat
 - i. Quantity (*Vince - December 1*)
 - ii. Quality (*Vince & Yvette - December 1*)
 - c. Species (by life stage)
 - i. Colorado squawfish (*Yvette - input from Bill, Dale - December 1*)
 - ii. Razorback sucker (*Dale - December 1*)
 - iii. Other native fish (*Keith - input from Yvette, Dale, Dave, Bill - December 1*)
 - iv. Non-native fish (*Dave, Mike, Yvette - December 1*)
 - d. Summary (*Paul December 15*)
5. Species Information
 - a. Colorado Squawfish (*Yvette - December 1*)

- i. General life history information described in brief text
- ii. Tables of existing specific life history information by life stage and river system
- iii. Seasonal habitat requirements by species and life stage (use hydrograph diagram)
 - (1) Spring (Runoff period)
 - (a) reproduction (spawning and larval)*
 - (b) age-0 to age-1*
 - (c) juvenile to adult*
 - (2) Summer/Fall (Post-runoff)
Same as above
 - (3) Winter (Pre-runoff)
Same as above

* with each of these categories, discuss specific analyses based on final reports and subgroup summaries (should we outline specific questions or hypotheses in this section to provide a framework?)

- b. Razorback Sucker (same as CSF) (*Dale - December 1*)
 - c. Other Natives (*Keith, Bill, Dave - December 1*)
 - d. Related non-natives (*Dave, Mike, Keith, Yvette - December 1*)
6. Summarize (*Paul - December 31*)
- a. Tabular summary of habitat requirements by species & life stage
 - b. Relate habitat needs to flow
 - c. Summarize species related target flow requirements prior to integration of multiple species/habitat preparation & maintenance flows
7. Flow Recommendation Development Process (*Ron - December 1*)
- a. Summarize model components and approach
 - i. Habitat Preference (by species and life stage)
 - ii. Flow/Habitat Model
 - iii. Sediment transport/habitat preparation and maintenance model
 - iv. River operation model
 - b. Generate biology based flow requirements (results of components i and ii)
 - c. Determine ideal hydrographs for habitat preparation and maintenance
 - i. Spawning Bars (squawfish - check conditions for razorback)
 - (1) Preparation
 - (a) Large flows (magnitude and duration)
 - (b) Lateral channel movement
 - (c) Construction of new bars
 - (d) Not required each year
 - (2) Maintenance
 - (a) Determine range of suitable flows
 - (b) Must induce incipient motion on parts of the bars
 - (c) Cleaner water produces cleaner cobble
 - (i) Hydrograph shape important

- (ii) Storm events during runoff can be negative
 - (d) Need varying flow conditions year to year
 - ii. Low Velocity (Nursery Habitat)
 - (1) Preparation
 - (a) Mouths of secondary channels
 - (b) Mouths of intermittent tributaries (tributary flows necessary)
 - (c) Backwaters behind sand/gravel bars
 - (d) Scallops in sand and gravel bars
 - (e) Embayments at the top of secondaries and bars
 - (f) Slackwater and channel margins
 - (g) Maintenance of channel complexity important
 - (h) Periodic high flows for construction of bars
 - (i) Development of clean secondary channels (flow through/pools)
 - (2) Maintenance
 - (a) Backwaters fill with sediment during storm events
 - (b) Flushing flows are necessary for maintenance
 - (c) Low-intermediate flows can fill in backwaters
 - (d) Magnitude, duration and shape of runoff important
 - iii. Sediment Transport Modeling required for optimizing conditions
 - (1) Cobble bar construction & maintenance - calibrated test sites
 - (2) Mouths of secondaries - calibrated test sites
 - (3) Effects of test releases on secondary channel development and maintenance (from habitat mapping, surveys and modeling of inlet control in secondaries)
- d. River Operation Modeling (modeling group consists of USBR, States, BIA, FWS, water users)
 - i. Magnitude, duration, timing, shape and frequency of runoff hydrograph critical for transport modeling and flow-habitat modeling
 - ii. Objective of re-operation of Navajo dam is to "mimic" a natural hydrograph
 - iii. To maintain both objectives of the program requires "mimicry" to optimize habitat with the least quantity of water
 - iv. Due to the importance of antecedent conditions in habitat creation and maintenance, modeling time series is important
 - v. Flow recommendations that include operating rules will allow incorporation of the complex temporal issues dealing with optimum habitat creation and maintenance with minimum water
- e. Integrated Modeling Approach (consider adaptive management - rules may change as we know more about the fish)
 - i. Development of flow recommendations requires integration of operational, sediment transport and habitat-flow modeling based on fish needs
 - ii. An iterative approach is required
 - (1) Model sediment transport for single event conditions

- (a) Mass cobble movement for bar development
 - (b) Insipient motion for bar cleaning
 - (c) pre-conditioning requirements to produce clean cobble (threshold flow, duration)
 - (d) Runoff conditions for backwater development
 - (e) Backwater cleaning process (threshold flow, optimum flow, duration, descending limb impact)
 - (f) Analysis of impacts of high flow frequency on channel complexity
- iii. Analyze flow-habitat relationships to develop non-runoff period preliminary recommendations
 - iv. Incorporate non-habitat related species requirements
 - v. Develop a range of preliminary rules to meet transport conditions and habitat-flow requirements
 - vi. Run operational model over a range of depletion conditions and operating rules to examine availability of conditions sought under preliminary rules
 - vii. Analyze results for impact on habitat and development
 - viii. Rerun sediment transport models based on results of operational model to analyze impacts of the range of conditions seen
 - ix. Adjust operating rules and rerun operational analysis. Iterate until optimum conditions result for a range of water development options from baseline depletions to full allocation development.
8. Present modeling results (*Ron-December 31*)
- a. Present optimal flow statistics for 64 years of data for each development level
 - i. Frequency plot of magnitude, volume and duration of peak runoff.
 - ii. Summarize water available for development vs water delivery for fish
9. Conclusions (*Biology Committee makes final recommendation after operational analysis by modeling committee - January 7, 1998*)
- a. Reservoir operating rules based on recommended operating scenario (*Ron*)
 - b. Resulting flow requirements relative to available supply (*Paul/Ron*)

COKANUT/CR/FY-97
Mail Stop 60140

DRAFT

Memorandum

To: Implementation Committee, Upper Colorado River Recovery Program
Coordinating Committee, San Juan River Recovery Program

From: Associate Manager-Colorado, Region 6, Denver, Colorado

Subject: Draft Legislation to fund the Upper Colorado River Basin and San Juan River Endangered Fish Recovery Programs

In October 1994, the Implementation Committee of the Upper Colorado River Recovery Program created an ad hoc committee (Committee) to identify and evaluate options for securing long-term funding for Upper Colorado River Recovery Program and to develop an acceptable arrangement for sharing costs among Recovery Program participants. I am pleased to report that after three years of work and several false starts, a Bill (attachment 1) has been drafted which authorizes funding for capital projects (e.g., fish ladders, water acquisition), operation and maintenance of facilities, and the annual budget for the Upper Colorado River and San Juan River Recovery Programs (Recovery Programs). The Bill applies to both the Recovery Programs and is based on a 50-50 cost sharing between the States/power users and the Federal Government. Major elements or provisions of the bill are summarized on attachment 2.

The draft Bill enjoys the support of all the Upper Colorado River Basin States. However, the Committee was unable to reach consensus on all aspects of the Bill. Specifically, the Environmental Defense Fund believes that States need to contribute more cash to the Recovery Programs in order to reduce the Federal contributions. The Colorado River Energy Distributors Association opposes the provision of the Bill that would require an increase in power rates. Water users support circulating the Bill in Congress for review, but do not support introduction of the Bill until the biological opinions for the Colorado River and the Duchesne River have been "satisfactorily" completed. Federal agencies (Fish and Wildlife Service, Bureau of Reclamation, Bureau of Indian Affairs) will not take a position on the Bill until it is introduced and undergoes formal review by Department of Interior and the Office of Management and Budget (OMB). The amount of Federal funds authorized and the cost sharing arrangements will be carefully scrutinized by OMB and the Secretary's office. The position of the Indian Tribes is uncertain at this time.

While there is not consensus on the Bill at this time, the Committee does not oppose the States moving forward with the introduction of the Bill. The Committee believes that it is now time to broaden the discussion to include Congress, the Administration and other interested parties.

The following is the proposed plan for proceeding:

- o San Juan Coordinating Committee and Upper Colorado River Implementation Committee agreement not to oppose moving forward with the circulation the draft Bill in Congress and the Department of Interior (DOI) and OMB (November 7, 1997).
- o Circulate the Bill in Congress, DOI and OMB; line-up Congressional sponsor(s), letter of support, etc. (Nov 7-December 12, 1997).
- o Ad Hoc Committee Meeting (December 12, 1997, Denver, Colorado).
- o Revise the Bill based on comments received (January 9, 1998).
- o Introduce the Bill (next session of Congress).

Wayne Cook of the Upper Colorado River Commission has agreed to assume responsibility as chair of the Committee. The Committee believes that the States, as sponsors and drafters of the Bill, are in the best position to chair the Committee. In addition, I will no longer be the Service's primary contact for the project. The responsibilities have been transferred to Henry Maddux, the Director of the Upper Colorado River Recovery Program.

Attachments (2)

cc: Ad Hoc funding Committee
Director, FWS
Commissioner, Bureau of Reclamation
Management Committee, Upper Colorado River Recovery Program

DRAFT

105th Congress
Session

IN THE SENATE/HOUSE OF REPRESENTATIVES OF THE UNITED STATES

Mr. _____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To authorize the Secretary of the Interior to provide funding for the implementation of the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. SHORT TITLE.--This Act may be cited as the "Upper Colorado River and San Juan River Endangered Fish Recovery Act of 1997."

Section 2. PURPOSE.--The purpose of the "Upper Colorado River and the San Juan River Endangered Fish Recovery Act of 1997" is to authorize and provide funding for the Secretary, acting through the Bureau of Reclamation, to continue implementation of the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins in order to assist in the accomplishment of the objectives of these programs within a currently established time schedule.

Section 3. DEFINITIONS.--As used in this Act:

- (a) the term "Recovery Implementation Programs" means the intergovernmental programs established pursuant to the 1988 Cooperative Agreement to implement the Recovery Implementation Program for the Endangered Fish Species in the Upper Colorado River dated September 29, 1987 and the 1992 Cooperative Agreement to

1 implement the San Juan River Recovery Implementation Program dated October 21,
2 1992, and as they may be amended by the parties thereto.

3 (b) the term "Secretary" means the Secretary of the Interior.

4 (c) the term "Upper Division states" means the states of Colorado, New Mexico, Utah
5 and Wyoming.

6 (d) the term "Endangered Species Act" means the Endangered Species Act of 1973 (16
7 U.S.C. 1531 et. seq.) and any federal regulation implementing the Endangered Species
8 Act.

9 (e) the term "Reclamation" means the U.S. Bureau of Reclamation.

10 (f) the term "Service" means the U.S. Fish and Wildlife Service.

11 (g) the term "capital projects" means planning, design, permitting or other compliance,
12 construction, construction management, and replacement of facilities, and the
13 acquisition of interests in land or water, as necessary to carry out the Recovery
14 Implementation Programs.

15 (h) the term "facilities" includes facilities for the genetic conservation or propagation
16 of the endangered fishes, those for the restoration of floodplain habitat or fish passage,
17 those for regulation or supply of instream flows, and those for the removal or
18 translocation of non-native fishes.

19 (i) the term "interests in land and water" includes long-term leases and easements, and
20 long-term enforcement or other agreements protecting instream flows.

21 (j) the term "base funding" means funding for operation and maintenance of capital
22 projects, implementation of recovery actions other than capital projects, monitoring and
23 research to evaluate the need for or effectiveness of any recovery action, and program
24 management, as necessary to carry out the Recovery Implementation Programs. Base
25 funding also includes annual funding provided under the terms of the 1988 Cooperative
26 Agreement and the 1992 Cooperative Agreement.

27 (k) the term "recovery actions other than capital projects" includes short-term leases
28 and agreements for interests in land, water, and facilities; the re-introduction or

1 augmentation of endangered fish stocks; and the removal, translocation, or other
2 control of non-native fishes.

3 Section 4. AUTHORIZATION TO FUND RECOVERY PROGRAMS.--

4 (a) COST OF CAPITAL PROJECTS.--The costs of the capital projects undertaken for
5 the Recovery Implementation Programs shall not exceed \$120,000,000.

6 (i) For the Recovery Implementation Program for Endangered Fish Species in
7 the Upper Colorado River Basin through the year 2003, such costs shall not
8 exceed \$102,000,000.

9 (ii) For the San Juan River Recovery Implementation Program through the year
10 2007, such costs shall not exceed \$18,000,000.

11 (iii) These costs will be adjusted for inflation. The total non-Federal
12 contributions and credits to these costs shall not exceed 50 percent.

13 (b) AUTHORIZATION FOR APPROPRIATIONS FOR FEDERAL PARTICIPATION
14 IN CAPITAL PROJECTS.--There is hereby authorized to be appropriated to the
15 Secretary, acting through Reclamation, \$60,000,000 to undertake capital projects
16 pursuant to this Act. Such funds shall be considered a non-reimbursable Federal
17 expenditure.

18 (i) The authority of the Secretary to request appropriations to implement capital
19 projects for the Recovery Implementation Program for Endangered Fish Species
20 in the Upper Colorado River Basin shall expire in the year 2003 unless
21 reauthorized by an Act of Congress.

22 (ii) The authority of Secretary to request appropriations to implement the capital
23 projects for the San Juan River Basin Recovery Implementation Program shall
24 expire in the year 2007 unless reauthorized by an Act of Congress.

25 (c) NON-FEDERAL CONTRIBUTIONS TO CAPITAL PROJECTS.--

26 (i) The Secretary, acting through Reclamation, may enter into agreements with
27 the Upper Division states, political subdivisions or organizations within the
28 Upper Division states which contribute to the payment of capital project costs.

1 Such non-Federal contributions may include cash, interests in land and water, or
2 in-kind services and shall not exceed \$17,000,000.

3 (ii) The Secretary may utilize power revenues not exceeding \$17,000,000
4 collected pursuant to the Colorado River Storage Project Act for undertaking
5 capital projects pursuant to this Act. Such funds shall be treated as
6 reimbursable costs assigned to power for repayment under Section 5 of the
7 Colorado River Storage Project Act. The Secretary is also authorized to accept
8 funds from the Upper Division states in lieu of such power revenues upon
9 execution of an appropriate agreement for repayment of the state funds.

10 (iii) All contributions made pursuant to subsection (c)(i) and (c)(ii) shall be in
11 addition to the cost of replacement power purchased due to modifying the
12 operation of the Colorado River Storage Project; of the capital value of the
13 long-term lease of water from Ruedi or Wolford Mountain reservoirs in
14 Colorado; or of similarly specified costs borne for capital projects, not to
15 exceed \$27,000,000.

16 (d) BASE FUNDING.--The annual funding contributions of Reclamation and the
17 Service to the base funding of the Recovery Implementation Programs may utilize
18 power revenues collected pursuant to the Colorado River Storage Project Act. Such
19 funding will be treated as non-reimbursable and as having been repaid and returned to
20 the general fund of the Treasury as costs assigned to power for repayment under
21 Section 5 of the Colorado River Storage Project Act.

22 (i) For the Recovery Implementation Program for the Endangered Fish Species
23 in the Upper Colorado River Basin, such contributions shall not exceed
24 \$4,000,000 per year.

25 (ii) For the San Juan River Recovery Implementation Program, such
26 contributions shall not exceed \$1,500,000 per year.

27 These limits on the annual contributions to base funding will be adjusted for inflation.
28 Any transfer of power revenues within these limits from Reclamation shall not be

1 subject to the recovery of indirect costs. No later than December 31, 2010, the
2 Secretary shall submit a report on such utilization of power revenues to the
3 Subcommittees on Energy and Water Development for the Senate and House
4 Committees on Appropriations and making a recommendation regarding the continued
5 need for such funding as may be required to fulfill the goals of the Recovery
6 Implementation Programs. Nothing in this Act shall otherwise modify or amend
7 existing agreements among participants regarding base funding and depletion fees for
8 the Recovery Implementation Programs.

9 (e) **AUTHORITY TO RETAIN APPROPRIATED FUNDS.**—At the end of each fiscal
10 year any unexpended appropriated funds for capital projects shall be retained for use in
11 future fiscal years. Unexpended funds which are carried over shall continue to be used
12 to implement the capital projects needed for the Recovery Implementation Programs.

13 (f) **ADDITIONAL AUTHORITY.**—The Secretary may enter into agreements and
14 contracts with federal and non-federal entities; acquire and transfer interests in land,
15 water and facilities in order to carry out the purposes of this Act.

16 Section 5. **EFFECT ON RECLAMATION LAW.**—Construction of facilities and acquisition of
17 land and water interests as contemplated herein shall not render these facilities or land and
18 water interests or associated processes and procedures subject to the Reclamation Act of 1902,
19 as amended.

Major Elements
Colorado and San Juan River Recovery Program Funding Legislation
October 29, 1997

1. The Bill authorizes funding for capital projects, annual operation and maintenance (O&M) of capital projects, and the annual budget for the Colorado and San Juan River Recovery Program's. Annual O&M costs and the annual budget will be funded entirely with power revenues on a non-reimbursable basis. (Capital projects include but are not limited to facilities for the genetic conservation and propagation of the endangered fish, for the restoration of floodplain and other habitat, for fish ladders, for acquiring and regulating instream flows, for possible enlargement of a reservoir in the Yampa River basin, for preventing fish entrapment in canals, and for the removal or translocation of nonnative fishes).
2. The Bill establishes a cost sharing formula for all the costs of the Recovery Programs:
 - a. It provides authorization and a cost ceiling for the annual budget and the annual O&M costs of capital projects. Funding for these purposes would come from power revenues with credit given as though those costs had been repaid. This results in a Federal contribution of \$6 million per year from the date of the Bill's enactment through 2010.
 - b. It provides authorization and a cost ceiling for capital project costs of both programs (about \$74 million in the Upper Colorado program and about \$18 million in the San Juan Program). The capital project costs will be shared on the basis of a 50 percent from Federal appropriations, 50 percent from other sources. The States and power users will be given credit for costs associated providing water for improving instream flows and for impacts to power revenues due to modified operation of Flaming Gorge dam (about \$27M). The shares are approximately:

Total costs = \$74 (UCR) + \$18 (SJ) + \$27 (credits) = \$119 million (round to \$120M)
Federal share @50 % = \$60 million
Other sources @50% = \$60 million
Less credit State/Power User Contributions = \$27 million
Cash needed from other sources = \$33 million
-States contribution = \$16.5 million
-Power revenue contribution = \$16.5 million (These revenues will not be credited as if repaid and will, therefore, be non-federal funds and create a rate impact).
3. The Bill establishes a time limit for funding of the Recovery Programs (2003 for the Upper Colorado River Recovery Program and 2007 for the San Juan River Recovery Program). Re-authorization by Congress would be necessary after each limit is reached.

4. It provides a clear statement of authority for Reclamation to participate in the Recovery Programs, dispose of property, and to contract work with other entities.
5. It waives the overhead charges associated with transferring funds between Federal agencies (e.g., from BR to FWS).



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Western Colorado Office
764 Horizon Drive, South Annex A
Grand Junction, Colorado 81506-3946

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IN REPLY REFER TO:

ES/CO:COE
MS 65412 GJ

July 18, 1997

Lt. Colonel Dorothy F. Klasse
U.S. Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, California 95814-2922

Re: Permit Application Number 199775126, City of Durango, Gateway Pump
Project, Animas River, La Plata County, Colorado

Dear Colonel Klasse:

This responds to your July 2, 1997, letter requesting section 7 consultation for the subject project. The Fish and Wildlife Service concurs with your determination that the proposed project may affect the Colorado squawfish (*Ptychocheilus lucius*) and razorback sucker (*Xyrauchen texanus*) and their critical habitat on the San Juan River.

The proposed project would provide domestic water to the City of Durango. According to your letter, the City of Durango has a historic depletion of 388 acre-feet (30 acre-feet from Terminal Reservoir and 358 acre-feet from the 29th Street pump station) and a proposed new depletion of 1051 acre-feet. Water would be pumped from the Animas River at Gateway Park to Terminal Reservoir.

As you may be aware, the Interior Secretary and Commerce Secretary recently signed a Secretarial Order regarding the Endangered Species Act and enhanced Native American participation. The Order requires the Service to provide timely notification to affected tribes as soon as the Service is aware that a proposed federal agency action subject to formal consultation may affect tribal rights or tribal trust resources. Because the proposed project involves a sizable water depletion from the San Juan River, it may affect tribal rights. The Order states that when the Service enters into formal consultations with agencies not in the Departments of the Interior or Commerce, on a proposed action which may affect tribal rights or tribal trust resources, the Services shall notify the affected Indian tribes and encourage the action agency to invite the affected tribes and the Bureau of Indian Affairs to participate in the consultation process.

By copy of this letter the Service is notifying the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, the Jicarilla Apache Indian Tribe, the Navajo Nation, and the BIA of the subject project. This letter also serves to encourage the Corps to invite the affected tribes and the BIA to participate in the consultation process. The Service recommends the Corps provide these

tribes and the BIA copies of the draft biological opinion, when it is available, and request comments or additional information from them.

If the Service can be of further assistance, please contact Patty Schrader at the letterhead address or (970) 243-2778.

Sincerely,



Richard P. Krueger
Acting Assistant Field Supervisor-Colorado

pc: FWS/ES, Lakewood
CDOW, Durango
FWS/ES, Albuquerque FO
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