

IMPLEMENTATION COMMITTEE MEETING SUMMARY
3/7/95



ES/CR/FY-93 UCRRIC
Mail Stop 65115
Memorandum

To: Implementation Committee
Management Committee, Consultants, and Interested Parties
Meeting Attendees

From: Director, Colorado River Recovery Implementation Program

Subject: Final March 7, 1995, Recovery Implementation Committee Meeting Summary

Attached are the final action and assignment summary and the general meeting summary from the recent Implementation Committee meeting. No comments were received on the draft summary, so it was finalized without changes. If you have comments or questions, please contact Angela Kantola (ext. 221) or myself (ext. 223).

Attachment

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- Final Summary -

Actions and Assignments

Recovery Implementation Committee Meeting -- March 7, 1995

COMMITTEE ACTIONS:

1. Approved the September meeting summary.
2. Tentatively approved the updates to the RIPRAP pending review of the final revision.
3. Approved the FY 96 Program Guidance.

ASSIGNMENTS:

1. Recovery Program participants are invited to submit comments on the draft Nonnative Fish Stocking Procedures concept (Attachment 3) for consideration by the review group.
2. The Service will update the Section 7 consultation list with several pending Reclamation consultations and Flaming Gorge.
3. The Management Committee will resolve remaining concerns about FY 95 funding for the Moab flooded bottom site.
4. Reclamation will follow up on the subordination of M&I diversions from Flaming Gorge Reservoir and include the Water Acquisition Committee in their discussions.
5. The Management Committee will look at the fiscal feasibility of the RIPRAP items and schedules over the next year.
6. The Service will provide the Duchesne River flow recommendations separate from the biological opinions.
7. John Hamill asked for assistance from Utah in determining the scope of work for the Duchesne River water availability study so he can include this in the Program Guidance.

8. John Hamill will send out the final RIPRAP revision within a week and comments will then be due within 5 working days.

- Final Summary -

Colorado River Recovery Implementation Committee

March 7, 1995, Meeting

Convene: 9:30 a.m.

Attendees: (Attachment 1)

Major Topics Discussed/Decided:

1. Introductions

2. Review/Modify Agenda: The agenda was modified as it appears below.

3. Approval of September 1994 Implementation Committee Meeting Summary: Ralph Morgenweck asked about Reclamation's concern (as noted in their comments on the draft meeting summary) regarding funding for the Recovery Program instream flow coordinator. Chris Karas said they are concerned not about the position, per se, but rather,

that we not over-commit our base funds and not leave enough for vital research (i.e., Flaming Gorge and Aspinall). Charles Calhoun said they don't mean to be over-critical of Service staffing; perhaps there's some funding the Service could bring to this and provide greater assurance for long-term funding. Ralph said these positions are hired for, and the organization plan was designed for, the benefit of the Recovery Program as a whole, not the Service. Charles said Reclamation believes the greatest emphasis should be on funding field activities and that they continue to have concerns about overall funding and the cost-effectiveness and efficiency of that funding. Tom Pitts said the water users supported the staffing plan on the basis of efficiency, effectiveness, accountability and good management, and would thus place a high priority on hiring and retaining an instream flow coordinator. John Shields said the issue goes beyond staffing, noting that concern also was expressed over the Recovery Program absorbing the cost of moving the Program Director's office and an additional overhead assessment. Ralph said the Service has determined not to move the office because it's too expensive. Clayton Palmer asked if Reclamation's point was that new positions should be contract positions? Chris said that's one option. Charles said Reclamation agreed to the staffing plan in September, including the instream flow coordinator position. Ralph summarized that the Implementation Committee agrees to his filling that position.

The Committee approved the September meeting summary.

4. Recovery Program Update: John Hamill gave an update on Program activities and accomplishments (see Attachment 2). Regarding Reclamation's budget recisions, it now appears only about \$300,000 will be cut, and that will come out of the floodplain restoration program. Peter Evans added that the Management Committee came to agreement on the debate about how the Section 7 Agreement should be implemented; but has not yet reached consensus on long-term funding. The Management Committee has agreed that they need to establish a specific ongoing process to review long-term cost estimates which clearly do get changed and revised as we go along. Regarding the staffing plan, the Management Committee met with all three technical committees to discuss their concerns and arrive at a common understanding. Dan Luecke said the environmental groups have concerns about nonnative fish management and litigation in Colorado over instream flow appropriations. Jim Lochhead said we need to continue to work with the water users and educate them regarding the benefits of the Recovery Program.

5. Update on Nonnative Fish Stocking Procedures: Ralph Morgenweck distributed a memo regarding recent work on the Procedures (Attachment 3). He met with Perry Olson at end of January to discuss a series of lake management plans on which there was remaining disagreement between Colorado and the Service. He and Perry developed a draft concept that they would like Recovery Program participants to consider incorporating into the Procedures. They have asked a group consisting of the States, the Service, and 3 independent biologists to review this within the next couple of months from a biological and management perspective to determine if it could work. If it's feasible from a scientific and management perspective, then it will go forward for review by all Recovery Program participants and the public. However, this will result in a delay in some of the RIPRAP deadlines. At this point, Ralph said he would like to know if Recovery Program participants think this concept will work, and invited their comments for the review group to consider. The Colorado Wildlife Commission has been briefed on this concept and given their approval to continuing discussions. Peter Evans said the Commission believes they can still meet the January 96 regulation deadline. Ralph Morgenweck noted that a number of people (especially the conservation groups) are somewhat skeptical as to whether this concept will be biologically sound. That's his reason for getting an independent biological review. Tom Pitts noted that it is important to recognize that this is only one aspect of nonnative fish management. Ralph Morgenweck said they're also trying to find a way to provide incentives for private pond owners to stock fish that don't threaten the native fishes. He said that the Service is prepared to provide some funds for this from their Partners for Wildlife program. Dan Luecke said it seems that Perry and Ralph's concept represents a very substantial softening of the position on nonnative fishes in the Interim Procedures. Management of private ponds might be the only thing in this concept that will benefit endangered fish. Dan asked if data suggest that private ponds contribute significantly to the nonnative fish problem. Ralph said he believes over 70% of ponds along the river are privately owned. Ralph pointed out that the concept also contains a provision for fish screens on ponds containing problem nonnative fishes. Cost-effectiveness of the screening will be a crucial evaluation point. Peter added that we probably don't have hard data about how much private stocking goes on. We know there's lots of private ponds and that the private aquaculture industry sells lots of nonnative warmwater fishes. Chris Karas asked who would bear financial responsibility for things like item 4? Ralph said they are looking at sources outside the Recovery Program (the Service and Colorado have some funds outside the Program, and they envision some cost-sharing by private pond owners), but they have not yet clearly identified who would bear all the costs.

6. Section 7 Consultation Activities

a. Update on Consultation Activities - John Hamill distributed a list of consultations on water projects in the Upper Basin (Attachment 4). Projects consulted on total 195 with the potential to deplete a total of 185,547 acre-feet of water. Clayton Palmer suggested it would be useful to include Flaming Gorge (as a project which does not deplete water) in the summary of consultation projects and John Hamill agreed. John said reinitiation on Ruedi Round II water sales should be on the pending list, but isn't. Chris Karas said that there are some small water sales that Reclamation has just recently completed consultation that aren't on the list yet. The Service will add the missing Reclamation consultations. John said the Service did an intra-Service consultation to exempt projects under 100 acre feet (up to a cumulative total of 1,000 acre-feet) from payment of the depletion charge last July. We already have reached the 1,000 acre-foot cap and the Service intends to update the consultation and establish a 2,000 acre-foot cumulative total or 1 year, after which they'll review the consultation again. Tom Pitts said he has lingering concerns about the Service's field offices' approach to consultations and noted a memo from Bob Williams that discusses upcoming consultations and says "the Service will first work with applicants to avoid or minimize the impacts of their projects." Tom said he wants to be sure that water users understand they don't have additional responsibilities beyond what's outlined in the Section 7 Agreement. Henry Maddux said that the Section 7 regulations of ESA require the Service to work with project proponents up front to avoid or minimize impacts. Bob Williams noted that Section 7.A.1 responsibilities of other Federal Agencies also apply. Henry said the Service's "up front" work with applicants frequently prevents their having to go to full-scale consultation on nondepletion related aspects of projects. Clayton Palmer wondered if this "up front" work causes any activities which should be put in the RIPRAP and implemented by the Recovery Program to be carried out by project proponents instead. Barry said he's sure any water developer would appreciate suggestions as to how to make his operation more efficient, but they should understand there's a difference between the Service's responsibility to determine potential impacts and their responsibility to help someone refine their project. Barry emphasized that the Recovery Program says the Service has the responsibility to determine flow needs and the Recovery Program has the responsibility to determine the best way to provide those flows. Henry clarified that the Service is not dictating to project proponents how to provide flow (e.g., on the Duchesne). Harold Sersland asked about prioritization of consultation reinitiation and noted that the Uintah-Upalco consultation needs to be added to the Service's pending list.

b. Service's Sufficient Progress Determination - John Hamill said the Service believes the Recovery Program continues to make sufficient progress for projects under 3,000 acre-

feet based on accomplishments to date and expected continuation of accomplishments.

7. Approve Updates to the Recovery Implementation Program Recovery Action Plan (RIPRAP): John Hamill outlined the process which led to the recommended revisions to the RIPRAP. Most changes were: 1) to identify a lead agency responsible for accomplishing each task; and 2) dates which have slipped based on the original over-aggressive schedule and complexity of tasks, etc. (however, John senses that we're still getting the job done as quickly and efficiently as possible). John said that the Management Committee generally concurred with most of the recommendations provided by the technical committees. The Implementation Committee identified and discussed the issues below.

a. Dan Luecke said he has issues regarding how the budget is treated (budget for items approved now versus long-term projections). Dan provided a memo from himself and Robert Wigington and some proposed language changes (Attachments 5 and 6) that clarify the RIPRAP actions agreed to so far. The Implementation Committee agreed that for purposes of discussions with Washington, we'll discuss a list of projects and total cost, not project-by-project cost. Peter Evans asked how we can finally come to agreement on the RIPRAP activities in question (Elkhead expansion, hatchery construction, etc.). Dan replied that he believes we can come to closure once we have the information necessary to determine whether or not the projects in question have a sound scientific justification. The Implementation Committee made a few minor changes to the proposed text changes and approved them. With regards to the proposed change to the table name, Ralph Morgenweck asked if it unduly suggests that we have no agreement on what needs to be done. Dan Luecke said he was willing to drop that change.

b. Barry Saunders proposed a change to the flooded bottomlands program, explaining that he was unable to meet with the Division of Wildlife before the Management Committee meeting and the Division was very concerned about not doing anything on Moab Slough restoration in FY 95. Barry proposed a revision to Pat Nelson's memo of March 1 regarding approved work for FY 95 (Attachment 7). John Hamill said the Management Committee agreed Moab should be deferred at least until FY 96, but Barry is proposing that it not be deferred and \$55,000 be spent on it in FY 95. John said the Moab site has been discussed for almost a year, with the latest proposal generated at the end of

November. There are technical concerns regarding high contaminant levels, high salinity levels, large numbers of nonnative fishes, and potential impact to Moab of increased mosquito population. The Management Committee accepted a recommendation from the Biology Committee to separate the two objectives of stabilizing the razorback sucker population and restoring the floodplain. The majority of the Biology Committee members felt that Moab should be looked at as a site which might be used to propagate razorbacks not as floodplain restoration. Based on this, John recommended deferring work at Moab until we've had time to discuss it in FY 95. That's what the Management Committee agreed to and what he's been operating on since then. Kevin Christopherson said Utah agrees to scaling back the effort at Moab, but not to drop it entirely for FY 95 because they are concerned that would get it out of sync with the rest of the restoration program. Kevin said the work they propose in FY 95 would help determine the extent of the salinity problem, and show diligence on their Moab Slough water rights which they otherwise will lose. Tom Pitts asked if there are any competing water rights that would prevent re-filing. Kevin said he didn't know, but given that it's near Moab that would not be unexpected. John Hamill said he requested a revised proposal to address the issues at Moab almost a month prior to the Biology Committee meeting, but did not receive one until the day of the Management Committee meeting. Dan suggested approving the RIPRAP contingent on Management or Biology Committee reconsideration of this proposal. John Hamill noted that the Biology Committee chairman specifically asked that this not be sent back to them. Tom Pitts suggested that since we don't know what role Moab may play (propagation or otherwise), we just approve doing the contaminants survey at Moab to help determine that role, and perhaps provide the funds to firm up the water rights. Ralph said he understood the Management Committee deferred consideration of this until FY 96 (however, they hadn't seen this proposal and may not have been aware of the need to show diligence on the water right). Therefore, he thinks it should go back to the Management Committee, not the Biology Committee. Barry said he would appreciate an opportunity for the Utah Division of Wildlife to make their case before the Management Committee. The Implementation Committee agreed.

c. John Hamill proposed changes to the schedules for the Nonnative Fish Stocking Procedures. The Implementation Committee discussed and agreed on changes. Dan Luecke raised several questions for clarification regarding other nonnative fish control activities. Dan said it seems to him that some of the changes back off a bit from managing nonnative fishes. John Hamill replied that the nonnative fish management strategy will provide the definition to what species we're going to control and where. Once that strategy is developed, we'll likely have a major rewrite of the nonnative fish management sections of the RIPRAP.

d. Tom Pitts said he needs clarification on what we decided to do regarding retirement of senior conditional water rights. John Hamill agreed the deadline will be 1/98 with no "ongoing" activity in prior years (e.g., no "X's" in prior years).

e. Clayton Palmer asked about the outcome of item IA4a3 on page 29 under flow protection in Utah regarding need to have subordinated contracts. Barry provided a memo (Attachment 8) and said that Jerry Olds spoke with Reclamation's water right specialist in Salt Lake City and found that the M&I diversions could be subordinated but Reclamation would not support doing that. Jerry recommended supporting Reclamation because the rights are so small they can't be measured at Jensen, anyway. Bob Williams asked if there was potential for these M&I diversions to increase with privatization of Dutch John. Charles Calhoun replied that he did not expect they would increase significantly. Barry said the policy refers to subordinating new water rights applied for to the endangered fish flows, so this should be considered ongoing, not complete. The Implementation Committee agreed that Reclamation will follow up on this and include the Water Acquisition Committee in their discussions.

f. Jeff Fassett asked if we'd analyzed the impact of the RIPRAP changes on budget and staffing. John Hamill said this is a fair question, that we have not done it, but his general sense is that these changes won't add significantly to the cost of the Program. Jim Lochhead asked if it would be appropriate to assign costs to each of the line items. John Hamill said that would be very difficult given the aggregation of many of the items. Ralph Morgenweck suggested giving interim approval to these changes with the idea that we double-check to see if there are any major budget consequences. Jeff Fassett said his concern is that there just isn't enough time to carefully consider all the changes. John Hamill said the only way to solve that would be to review the RIPRAP every 2 years instead of annually. Clayton Palmer noted that we still haven't done a "reality check" for out-years (beyond FY 95). Peter Evans said that he thinks we're just now beginning to get to the question of whether all the RIPRAP actions are financially feasible. This will take more than a month or so to determine, so Peter recommended approving the RIPRAP and asking the Management Committee to look at the fiscal feasibility of the RIPRAP items and schedules over the next year. Tom Pitts agreed with Jeff that he'd like to see a final revised copy of the RIPRAP before giving final approval to the revised RIPRAP. Jeff Fassett asked that in the future we be given an analysis of how the changes to the RIPRAP

impact the budget. The Implementation Committee agreed their approval of the revised RIPRAP would be contingent upon a review of the final revisions.

g. Tom Pitts asked for clarification on Duchesne River Water Availability Study. John Hamill said it would be scaled back and would not cost \$75,000 - \$100,000. Harold Sersland reminded the Committee of the five scheduled biological opinions in the Duchesne basin (due by Spring of 1996) which will require the Recovery Program to meet certain flows in the Duchesne. Barry Saunders said he doesn't think the Recovery Program needs to know the impacts of each of those 5 projects, just what flows are required in the critical habitat. John Hamill said the Service will write an opinion identifying the required flows and it will be the Recovery Program's responsibility to determine how to achieve them. Barry said he'd like to get the flow recommendations separate from the biological opinions. John Hamill said he would make sure the Service provides that. John said he'd like assistance from Utah in determining the scope of work for the water availability study so he can include this in the Program Guidance.

h. Tom Pitts asked that we take out IC2 and ID2 on page 30 (Price/San Rafael flow recommendations). The Implementation Committee agreed.

The Implementation Committee gave their interim approval to the RIPRAP revisions pending review of the final revisions. John will send out the final revision within a week and comments will then be due within 5 working days. The Implementation Committee delegated resolution of the Moab issue to the Management Committee.

8. Recovery Program Long-Term Funding, Cost Sharing and Strategies: Charles Calhoun said the FY 97 capital projects are expected to total about \$14M; Reclamation's work plan will provide about \$7M of that. Tom Pitts observed that we're relying on the long-term funding (legislative) initiative to provide the solution to this funding shortfall. Charles said he had a productive discussion with Colorado regarding how to address the funding shortfall and he would be happy to discuss it with Wyoming and Utah as well. Peter Evans said Reclamation made it clear that they believe they should only provide 50% of

the capital project costs in the future. Peter said Colorado is willing to arrange financing for a number of projects in Colorado, but it's clear this could have some dramatic implications for the Section 7 Agreement. The concern is that the legislative initiative will not be in place by FY 97. Dan Luecke said the last item of their memo (Attachment 5) points out that Reclamation's annual funding contribution was shifted from power revenues. The environmental groups think this shift was inappropriate, and are addressing this in the context of the legislative initiative.

9. Approve FY 96 Program Guidance: John Hamill outlined the process leading to the development of the Guidance and highlighted the recommended new projects. John noted that the Green River hydrology model was dropped due to lack of consensus at the Management Committee. With regard to the upper Colorado River flow recommendations, Tom Pitts said he would very much like to see an integrated approach that includes geomorphology and food web analysis. John Hamill replied that we will do that as best we can, but the intent is to develop interim recommendations based primarily on geomorphology and physical measurements. Tom Pitts agreed, but noted that biologists doing transects doesn't qualify as geomorphology. John Hamill agreed. John said that all of these proposals will be subjected to independent peer review which should result in much better proposals this year. The Implementation Committee approved the guidance with understanding that the Management Committee changes will be incorporated.

10. Washington, D.C., Briefings: Tom Pitts said the briefings have been scheduled for the week of March 20. Tom distributed copies of the draft delegation letters. Tom said he can't predict how much delegation support we can expect for these letters or how much Congressional support we can expect for the Recovery Program this year. Our message will need to be that we need to keep the Program going.

11. Other Items and Next Meeting: The next regular meeting was tentatively set for September 7, 1995 in Denver, Colorado (somewhere near the airport, perhaps at the Rocky Mountain Arsenal).

Adjourn: 3:30 p.m.

Attachment 1

Attendees

Recovery Implementation Committee Meeting

March 7, 1995

IMPLEMENTATION COMMITTEE MEMBERS:

Ralph Morgenweck, U.S. Fish and Wildlife Service (Chairman)

Charles Calhoun, U.S. Bureau of Reclamation

Jim Lochhead, Colorado Department of Natural Resources

Clayton Palmer, Western Area Power Administration

Dan Luecke, Environmental Defense Fund

Tom Pitts, Upper Basin Water Users

Barry Saunders for Ted Stewart, Utah Department of Natural Resources

Jeff Fassett, State of Wyoming

Joe Hunter, Colorado River Energy Distributors Association (nonvoting)

John Hamill, U.S. Fish and Wildlife Service (Program Director) (nonvoting)

OTHERS:

Cliff Barrett, Colorado River Energy Distributors Association

Peter Evans, State of Colorado

Ray Tenney, Colorado River Water Conservation District

Mark Wieringa, Western Area Power Administration

Angela Kantola, U.S. Fish and Wildlife Service, Recovery Program

Bob Williams, U.S. Fish and Wildlife Service

Henry Maddux, U.S. Fish and Wildlife Service

Chris Karas, U.S. Bureau of Reclamation

John Shields, Wyoming State Engineer's Office

Harold Sersland, Central Utah Water Conservancy District

Kevin Christopherson, Utah Division of Wildlife Resources

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