

IMPLEMENTATION COMMITTEE MEETING SUMMARY
10/2/96



Mail Stop 65115
March 4, 1997

Memorandum

To: Implementation Committee
Management Committee

From: Acting Director, Colorado River Recovery Implementation Program

Subject: Final October 2, 1996, Recovery Implementation Committee Meeting Summary

Attached are the final action and assignment summary and the general meeting summary from the October Implementation Committee meeting. They have been revised based on comments received from Peter Evans and Tom Pitts. The Implementation Committee is scheduled to approve this final summary at their meeting on March 6, 1997. If you have questions, please contact me.

/s/ Angela Kantola

Attachments

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- Summary -

Actions and Assignments

Recovery Implementation Committee--October 2, 1996

COMMITTEE ACTIONS:

1. Approved the March 11, 1996, meeting summary with minor revisions.
2. Approved the Nonnative Fish Stocking Procedures.
3. Approved the FY 97 Recovery Program Work Plan with revisions as noted in this summary. The Committee also agreed to the resolution to provide \$12,000 for the Vernal visitor center in FY 98

ASSIGNMENTS:

1. The Service will provide a report on the implications of the hybrid policy for the Recovery Program.

2. Each Program participant should discuss the Service's proposal for an intra-Service biological opinion on Colorado River depletions and provide their comments at the November 4 Management Committee meeting.

3. The 15-Mile Reach strategy group was encouraged to clarify the information and process required if an intra-Service biological opinion is to be produced and to advise the Management Committee on November 4.

4. When the Steamboat Lake water release decree is issued, Ralph Morgenweck will issue a letter raising the small depletion threshold back to 3,000 acre-feet.

5. The Duchesne River scope of work will be peer-reviewed, then sent to the Biology Committee, and then to the Management Committee for approval.

6. Any additional comments on the Service's draft "Policy for Administration of the ESA on Rivers of the United States" will be given to John Hamill in advance of the November 4 Management Committee meeting.

Colorado River Recovery Implementation Committee

October 2, 1996 Meeting

Attendees:

IMPLEMENTATION COMMITTEE MEMBERS:

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

Charley Calhoun, U.S. Bureau of Reclamation

Peter Evans for Jim Lochhead, Colorado Department of Natural Resources (Jim arrived later)

Clayton Palmer for Dave Sabo, Western Area Power Administration

Dan Luecke, Environmental Defense Fund

Tom Pitts, Upper Basin Water Users

Ted Stewart, Utah Department of Natural Resources

John Shields for 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:

Barry Saunders , Utah Department of Natural Resources

Larry Shanks, U.S. Fish and Wildlife Service

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

Tom Czapla, U.S. Fish and Wildlife Service, Recovery Program

Chuck Lile, Colorado Water Conservation Board

Larry Clever, Ute Water Conservancy District

Charlie Stockton, Ute Water Conservancy District

Gene Shawcroft, Central Utah Water Conservancy District

Harold Sersland, Central Utah Water Conservancy District

Brent Uilenberg, U.S. Bureau of Reclamation

Eddie Kochman, Colorado Division of Wildlife

Mike Stempel, U. S. Fish and Wildlife Service

Gene Jencsok, Colorado Water Conservation Board

Ray Tenney, Colorado River Water Conservation District

Margot Zallen, U.S. Department of the Interior Solicitor's Office

Julie McKenna, Northern Water Conservancy District

Connie Young, U.S. Fish and Wildlife Service, Recovery Program

Jenny McCurdy, Denver Water

Pat Nelson, U.S. Fish and Wildlife Service, Recovery Program

Cheryl Willis, U.S. Fish and Wildlife Service

George Smith, U.S. Fish and Wildlife Service

Chris Karas, Bureau of Reclamation

CONVENE: 9:40 a.m.

Major Topics Discussed/Decided:

(Assignments also are highlighted in text)

1. Introductions, Review/Modify Agenda: The agenda was modified as it appears below. John Shields was presented with a certificate of appreciation for his many years of service on the Biology Committee.

2. Approve March 1996, Implementation Committee Summary: The Committee approved the final summary with minor revisions on page 6 (See Attachment 1 for the revised final summary.) Tom Pitts asked if the Service would be providing a report on the implications of the hybrid policy for the Recovery Program (as assigned at the March meeting), and John Hamill said the Service would provide that report.

3. Program and Fish Status Update:

John Hamill provided an update on the Program and the status of the endangered fishes in the Upper Basin (Attachment 2). Tom Pitts asked whether the Recovery Program's \$200,000 in Section 6 funding was secure and Ralph Morgenweck replied that Region 6 has committed to take it from the Region's allocation when Congress does not earmark it to come "off the top" of the national allocation. John Hamill and Ralph Morgenweck suggested that the Program may want to consider this when developing the funding strategy for FY 98 (it might be easier to get \$824,000 in resource management earmarked instead of \$200,000 in Section 6 and \$624,000 in resource management).

4. Approve Nonnative Fish Stocking Procedures:

Mike Stempel provided an overview of the Nonnative Fish Stocking Procedures which were developed by the Service and the State wildlife agencies and approved by the Management Committee. The purpose of the Procedures is to ensure that all future stocking of nonnative fish will be consistent with recovery of the endangered fishes in the Upper Basin. The Colorado Wildlife Commission passed a resolution adopting these Procedures at their last meeting (Attachment 3), recognizing that it will take considerable effort to implement them (especially in working with landowners). The Commission remains concerned about the Procedures' potential fiscal impact and has asked that a cost-share agreement be developed. The Implementation Committee approved the final Procedures.

5. Section 7 Consultation:

- a. Section 7 project update - John Hamill referred to the August 1 list of biological opinions, noting that the most controversial consultation right now is on the Ute pipeline.

- b. Goals, objectives, and schedule of 15-Mile Reach Strategy - Peter Evans outlined activities of the 15-Mile Reach strategy group, which has met several times over the summer. They developed a list just over 120,000 acre-feet of depletions they believe are reasonably likely to require consultation over the next decade or so. The group reached an impasse regarding how historic depletions are defined (only depletions in effect prior to 1988 or also the unused capacity of infrastructure in place in 1988). They reviewed both flow and nonflow recovery activities in the RIPRAP that will help the Reach in coming years, and have most recently focused on goals and objectives of the strategy, as proposed by various participants in the group (Attachment 4). The Service has proposed issuing an intra-Service biological opinion that would: 1) address impacts of historic depletions and up to the 100,000 and 400,000 acre-feet of new depletions in the Colorado River with emphasis on the 15-Mile Reach; and 2) assess the ability of the Recovery Program to serve as the reasonable and prudent alternative for new and historic depletions upstream of the 15-Mile Reach (Attachment 5).

Tom Pitts said the water users support the biological opinion approach, have provided comments on the Service proposal (Attachment 6), and believe the 15-Mile Reach strategy group is the appropriate forum for working out the issues on it. Dan Luecke said the sticking point will be the importance of the Reach, since the water users seem to be suggesting the Service "trade" it for other subbasins in the system. Tom countered that the water users are only saying that it's illogical to make the Recovery Program hinge on what happens in the Reach. Dan said that the environmental community won't support an opinion if it means revisiting the biology of the Reach with regard to its importance to recovery.

Ralph Morgenweck clarified that the question before the Committee is "does the biological opinion approach generally make sense?" Clearly each agency will need to carefully consider this. If we agree it's the right approach, then we'll get into scoping the process. Ralph recommended and the Committee agreed that each Program participant should discuss the Service's proposal internally and provide their comments at the November 4 Management Committee meeting. Meanwhile, the 15-Mile Reach strategy group was encouraged to clarify the information and process required if an intra-Service biological opinion is to be produced and to advise the Management Committee on November 4. With regards to the requirement in his April 5 sufficient progress memo to develop and agree to the scope and objectives the 15-Mile Reach strategy, Ralph said he believes the process is headed in the right direction and he will consider the accomplishments thus far as meeting that requirement.

Dan Luecke noted that he doesn't see this as a mechanism for changing the fundamental Program agreement. Clayton Palmer said he doesn't want this strategy to focus on offsetting depletions undergoing section 7 consultation as opposed to focusing on recovery.

c. Water user concerns regarding section 7 consultation - Tom Pitts discussed water user concerns with recent consultations (especially the Ute pipeline consultation) as outlined in his memo of September 5 (Attachment 7), noting that they are meeting to discuss these issues with Ralph on October 30. Tom said these issues must be resolved if the Recovery Program is to proceed. Ted Stewart says he thinks these discussions ultimately need to come back to the full Program and Ralph agreed.

d. Sufficient progress threshold - Ralph Morgenweck said that all 5 conditions for raising the threshold back to 3,000 acre-feet have been met, except for the Steamboat Lake water release decree. As soon as that is issued, he will issue a letter raising the small depletion threshold back to 3,000 acre-feet.

e. Duchesne consultation and studies - Barry Saunders said a committee similar to the 15-Mile Reach Strategy group was formed, and their first task was to draft a scope of work to determine the biological importance of the critical habitat portion of the Duchesne River. He sent the draft out for the group to review last week and received comments from the District and the Ute tribe that will need group discussion. They'll meet October 25th and hopefully will have a revised scope out very shortly thereafter. Ralph Morgenweck asked if the scope would be peer-reviewed and Barry said he hadn't planned on it. John Hamill suggested having the scope peer-reviewed, then sending it to the Biology Committee, and then to the Management Committee and Barry agreed to that process. Harold Sersland encouraged the Program to proceed on this as quickly as possible. He noted that the District needs a draft biological opinion by November 1. Ralph Morgenweck said that the Service will try to comply with this request. The District and the Service disagreed as to whether the depletion is historic or not (and thus, whether construction can proceed before the referenced RIPRAP items are completed).

6. Orchard Mesa Check Settlement:

Brent Uilenberg said that the stipulation and agreement settling the Orchard Mesa Check case was signed by all parties in late August and the court signed it yesterday. This will deliver 30,000 acre-feet indirectly to the 15-Mile Reach (via the Grand Valley Power Plant). Reclamation now will develop the surplus water delivery contracts and conduct NEPA on them (probably writing environmental assessments) and will develop the annual Green Mountain Operating Plan (due June 1). Settlement of this case paves the way for the Grand Valley water management project which will increase efficiency of canals etc., and protect and deliver an additional 28,500 acre-feet of water. Along with the water from Ruedi Reservoir, Brent said he believes we will come close to meeting the late summer

flow recommendations for the Reach. Achieving recommended spring peak flows will be more difficult.

7. Yampa River Plan Update:

John Hamill outlined the history of this project and summarized work to be done under the Yampa River Basin Recovery and Water Management Plan. Detailed scopes are being developed for FY 97 and will be considered by the Management Committee in November. Related to this work, the Colorado Division of Wildlife will be assessing how to manage some of the nonnative fishes in the Yampa Basin, as well as looking at other native fishes in the Yampa that may be in need of management. Peter Evans said he knows local residents are concerned that the Recovery Program will just study this project forever. They will be pushing us to commit to making a decision (particularly with regards to enlarging Elkhead) when the 2-3 year study process is complete.

8. Review/Approve Recommended FY 97 Work Plan:

John Hamill provided an overview of the work plan, outlining the development process and noting that it is supported by the Management and technical committees and his office.

Clayton Palmer noted that the Management Committee's recommended change to fund \$20,000 of Flaming Gorge public involvement from Reclamation's program management budget hadn't been incorporated and Angela Kantola agreed to rectify that.

Tom Pitts referred to his memo of September 10 (Attachment 8) which contains the following recommendations for recovery from the water users: a) downlist the Colorado squawfish and humpback chub; b) aggressively stock bonytail and razorback; c) construct additional hatchery and growout facilities to support that stocking; d) immediately implement effective nonnative control measures; e) develop habitat; and f) recognize that the States are going to develop their Compact apportionments and incorporate that into recovery actions, including de-emphasis of the 15-Mile Reach and re-emphasis of recovery activities effective throughout the basin. Tom noted that they'd like a response from the Service on the downlisting recommendation.

The Committee then discussed the water users' proposed modifications to the FY 97 work plan (Attachment 9). Several participants were generally supportive of the concepts but objected to these kinds of last minute changes given the time and effort put into preparing, reviewing, and modifying the work plan. To make major modifications at this point would send a terrible signal to those who have worked through the Program's laborious work-planning process. It would be more appropriate to integrate the water user recommendations into the FY 98 process and see where they shake out. After much discussion, the Committee agreed to the following:

- a. Duchesne River scope of work - Agreed to Tom's proposal to fund this with FY 88 or Section 7 funds (up to \$150,000).

- b. Flaming Gorge Winter Flows Study (issue raised by Clayton Palmer) - When this scope is developed and has gone through the review process and been approved, the Program may fund it from available surplus annual, FY 88, or Section 7 funds.

- c. Propagation facilities - It was agreed that Recovery Program staff will review stocking and related hatchery facility needs and, if needed, develop a scope of work. This scope would be brought to the Program for consideration for funding with available funds (e.g. with capital funds that may be carried-over from FY 96 or contingency capital funds, including funds previously programmed for Craig propagation facilities). Funds will not

be withheld from the floodplain restoration program for this as recommended by the water users. John Hamill noted that it will take time to develop consensus among Program participants on the appropriate role of stocking in recovery. Tom Pitts noted that there are no bonytail in the Upper Basin and only about 500 adult razorbacks, and that stocking is needed to restore these species.

d. Nonnative - The nonnative control strategy will be reviewed and any areas where we need to accelerate our efforts will be identified. When these proposals are scoped out, they will be considered for funding with any available surplus funds. Projects already in the recommended work plan will proceed as planned. John Shields questioned whether the States have enough staff available to implement additional nonnative control.

The Implementation Committee approved the FY 97 Recovery Program Work Plan with the foregoing modifications. The Committee also endorsed a resolution to provide \$12,000 for the Vernal visitor center in FY 98.

9. Status of Long-Term Funding Legislation and FY 98 Funding Strategies:

Charley Calhoun stressed the need to have cost-sharing lined up because Reclamation won't be providing the full funding needed to implement all the contemplated capital projects. The water users are not willing to support the legislation until the 15-Mile Reach strategy and Section 7 consultation issues are resolved. Tom Pitts said their position hasn't changed and that they need to see some indication that the Program is going to work as it's intended to on a long-term basis. (Tom believes the draft biological opinion on the Ute Pipeline indicates otherwise.) However, they are willing to continue discussing the legislation so that we have something to take forward when the other issues are resolved. Tom said they need to have some kind of affirmation from the Service that the dual goals of the Program are achievable. Jim Lochhead expressed concern about funding for the Program and indicated that the legislation should move forward soon. Jim asked the water users what is needed to regain their support for the funding legislation and Tom agreed to meet with his clients and provide a specific response.

10. Draft Policy for Administration of the ESA on Rivers of the United States:

Ralph Morgenweck urged the Committee to give the proposed policy and its merits serious thought over the next few months, noting that the opportunity to implement it could diminish after the November elections. Dan Luecke said it's so general and vague that he wouldn't object strongly to any of it, but wasn't sure how it would help. Jim Lochhead said perhaps some specificity could be added with regards to how Interior implements the Endangered Species Act. For example, #3 might say where there's major Federal involvement, Interior is committed to working with all the agencies to direct their programs towards the shared goals of recovering listed species and preventing additional listings. With regards to multi-species adaptive management, perhaps the policy could talk about river processes and the importance of riparian habitat protection and lay out some strategies for working with local land management agencies and others. Jim also suggested adding an item saying that Interior is committed to working within existing compacts and State water law systems. Joe Hunter said he also thought the draft policy was a bit general, but noted that it's striking how the different processes developed for major endangered species programs around the country are all basically trying to do the same thing. Maybe a review of these processes and how the stakeholders view them would be useful, then the policy could recommend the process that works best. Tom Pitts said the water users haven't had time to review the policy, that he thinks there would be some benefit to it, but he wonders what a policy would actually look like after it's been through all the review and is finally released by Interior. Dan Luecke noted that if such a policy had existed when the Recovery Program began, we might have incorporated water quality and land use considerations. John Hamill summarized that the response to the policy seemed rather lukewarm, especially with regard to the lack of specificity (which is difficult to achieve in a nationwide policy). If anyone has any further thoughts, please send them to John or call him. John Shields suggested adding this to the November 4 Management Committee meeting and making that the timeframe for providing comments.

11. Meeting Summary: No time remained for a summary.

12. Next Meeting: March 6, 1997, 9:30 a.m. - 4 p.m., Fish and Wildlife Service, Denver.

ADJOURN: 4 p.m.

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