



# Upper Colorado River Endangered Fish Recovery Program

Summary Dated: January 5, 2021

CR/FY-17 UCRRIC  
Mail Stop 65115

## Memorandum

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

From: Deputy Director, Upper Colorado River Endangered Fish Recovery Program

Subject: October 2, 2020, Recovery Implementation Committee Meeting Summary

Attached are the final action and assignment summary and the general summary from the October 2, 2020, Implementation Committee meeting. Comments have been provided by Jojo La, Melissa Trammell, Ryan Christianson, and Kathy Callister.

Attachment

## IMPLEMENTATION COMMITTEE MEETING SUMMARY

October 2, 2020

### ACTIONS:

1. Approved April 15, draft Implementation Committee webinar summary as final.

### ASSIGNMENTS:

1. Julie will finalize and post the summary from April (*done*).
2. Reclamation and WAPA will update the Committee regularly on the status of FY21 funds.

PARTICIPANTS: See Attachment 1

### **CONVENED: 8:00 a.m.**

1. Introductions, modify/review agenda, Chair's updates – Noreen Walsh welcomed everyone to the virtual IC meeting and appreciated everyone's participation. Noreen called attention to all of the challenges that 2020 has presented, with all the stresses taking a toll on all of the people in our organizations. She noted ongoing anxiety around health, drought, and intense wildfire occurring throughout the west. Noreen said there are bright spots, including the Program. This spring, Noreen made the decision that our Vernal Fisheries field office could complete sampling efforts in our managed wetlands, using safety precautions. Biologists documented overwinter survival of wild-spawned razorback sucker for the first time. Hatchery staff, after implementing safety precautions, fulfilled all hatchery goals on time while keeping each other safe. Noreen said that employees continue to be stressed by the new normal, but a lot of discussion is needed on how we can move forward as a program into our post-2023 future. She invited others to share any thoughts or opening comments.
  - a. Welcome WAPA's new representative, Tim Vigil - Noreen asked Tim to introduce himself to the group. Tim is replacing Steve Johnson who is now with the Southwest Power Pool in Arkansas. Tim has been working for Steve for a number of years as the power manager. He is worked for 17 years in CRSP, in generation scheduling and marketing and has a heavy economics background.
2. Approve draft April 15 meeting summary – Julie said comments were received from Ryan Christianson, Jojo La, Shane Capron, Brian Sadler, and Leslie James. The summary was approved. >Julie will post it on the website (*done*).
3. Update on FY2021 Program Funding –Noreen noted the Dingell Act authorized appropriations for the program through FY2023, but that funds from hydropower are typically used for this program. A continuing resolution passed continuing FY20 funding levels through December 11<sup>th</sup>. No language was included in the continuing resolution specific to this program, but it did exempt WAPA from returning funds to the Treasury. Section 127 notes that no funds should be

transferred directly from the Department of Energy – Power Marketing Administration - Colorado River Basin’s Power marketing fund to the General fund of the Treasury in FY2021 (this language is from 2020 but mirrors 2021 language as passed).

o pleted as if it were in effect on September 30, 2020.  
7 SEC. 127. (a) No funds shall be transferred directly  
8 from “Department of Energy—Power Marketing Admin-  
9 istration—Colorado River Basins Power Marketing Fund,  
10 Western Area Power Administration” to the general fund  
11 of the Treasury in fiscal year 2020.

Reclamation will be funded at a similar level to last year, so Kathy does not anticipate a problem in funding over the next few months. An appropriations bill has passed the House but it has not yet passed in the Senate. Language in that bill authorized hydropower funding for the Program. Tom Pitts said that in conversations with congressional staff, they understand the importance of continuing funding and the adverse effect of additional transfers from the basin fund to the Treasury. Tom Pitts expects that WAPA will be able to transfer funds to Bureau of Reclamation for both programs this year. Brian Steed asked what the effects of Section 127.a. would be on the program. Kathy said Reclamation has carryover and appropriations which can provide funding during the continuing resolution period. Tom Pitts asked if funds will be transferred during the CR. Tim Vigil said conversations are ongoing within WAPA to determine how that might work. Tim said the authorization in the new Dingell bill refers to appropriations and not to power revenues causing some confusion. Jojo La asked if the language in the FY2020 appropriations bill will continue through the CR period. Tim clarified that is what is being sorted out now. Leslie said WAPA transferred money in February for environmental programs. The CR language only refers to transferring money to the Treasury. Steve Wolff asked if there were concerns about using power funds. Tim said when the change happened that moved funds to appropriations in the Dingell Act, their legal opinion is that it restricts the transfer of hydropower funds. WAPA and Reclamation are working through that concern. Rob Billerbeck noted that this sounds like a major issue and asked what could be done to address it. Tim Vigil said they are working with Reclamation to ensure that funding continues through the CR period. Tom Pitts asked about the difference between the appropriations bill and the CR bill. As Tim understands, in the FY20 appropriations bill, WAPA was directed to transfer funds to Reclamation and not to return money to the Treasury. Tom Pitts asked why the Dingell Act would take precedence over the appropriations bill. Tim Vigil said the confusion is that the funding is provided in the annual appropriations bill by transferring \$21.4M from WAPA to Reclamation, but the authorization to spend those funds on the programs is not provided. Steve Wolff said the Dingell Act provided authorization to spend Reclamation appropriations, but unintentionally removed the authorization for power revenues to be spent on the environmental programs, which removed the

ability of the funds to serve as a constructive return. Tom Pitts asked how it worked in FY20 if the Dingell Act removed that authorization. Tim said WAPA's legal opinions on this issue are changing over time. Brian Steed said he understands the problem, especially with new appropriations bills. Brian asked if it might be difficult to include transfers in the Senate bill as they exist in the House appropriations bills. Kathy said the concern with appropriations process is that requests for new funds must be made three years in advance so Reclamation did not get the chance to request appropriations. Kathy said she can request funds, but she cannot make that decision. Leslie has not heard anything different, but she recommends that we let Reclamation and WAPA figure out the problem and recommend a solution. Jojo agreed that we should hear from Reclamation and WAPA, but asked about how the 306 language below affects that authorization.

HR7617 Appropriations Bill passed by House

SEC. 306. (a) Of the offsetting collections, including unobligated balances of such collections, in the "Department of Energy—Power Marketing Administration—Colorado River Basins Power Marketing Fund, Western Area Power Administration", \$21,400,000 shall be transferred to the "Department of the Interior—Bureau of Reclamation—Upper Colorado River Basin Fund" for the Bureau of Reclamation to carry out environmental stewardship and endangered species recovery efforts.

(b) No funds shall be transferred directly from "Department of Energy—Power Marketing Administration—Colorado River Basins Power Marketing Fund, Western Area Power Administration" to the general fund of the Treasury in the current fiscal year.

Tim was unsure. Tom Pitts agreed with Leslie and asked Reclamation and WAPA to update the programs with potential future actions. Tom Pitts asked how we will be funding activities for the duration of the CR. Kathy said Reclamation is working on determining the answer to this issue. Noreen recognized the uncertainty and thanked everyone for their efforts on this issue.

4. Program Director's report on the Recovery Program and status of the fish – Please see attached PDF. Tom Chart noted that the MC and CC have developed cost estimates post-2023, so each coordinator will present a comparison between the current costs and the post-2023 estimates. Tom Pitts noted that many of the increases in funding may apply to both capital and annual funding, not just annual funding. In addition, he noted that any additional floodplains should be determined based on what is needed for recovery. Kevin McAbee agreed and noted there is a lot of information discovered since razorback sucker recovery goals were written and noted that recovery plan revisions are planned for this species. Steve Wolff noted that the increases presented in the update were not approved by the MC but were the result of an exercise meaning that approved cost estimates for the Program have not yet been agreed to.
5. Summary of Post 2023 Program Planning – Tom Chart thanked all the participants for all of the efforts in post-2023 planning. He noted the incredible amount of work that has gone into these discussions in the past few months.
  - a. A discussion of the State's economic situation (COVID related) and how it affects their ability to commit to a long term funding solution - Michelle Garrison noted that state, regional, and local governments are all really struggling as the pandemic has progressed. Because Colorado's fiscal year ends in June, many of the effects were felt very strongly

in the state's final quarter. She acknowledged that each state has a different portfolio of revenue, but Colorado uses oil and gas severance tax revenue to support native species programs, which has been hit exceptionally hard. Michelle said the long-term effects are not yet known, but many are concerned that these impacts could last well into the future. Colorado had some cash on hand to deal with those shortfalls, but now much of their financial cushion has been depleted. Unlike at the Federal level, state governments must balance their budgets each year. Michelle said funds that CWCB has on hand will be stretched to cover more years than anticipated. In addition, the state has announced some furloughs though those will likely not affect the programs. Amy Moyer noted that the dual collapse between oil and gas revenue and COVID are hitting water and endangered species programs hard, with loss of severance tax revenue. August severance tax collections are currently -\$18.9M, so every deposit will just fill in that negative value until it is recovered. Amy noted the difficulty of having discussions around post-2023 with all of the uncertainty. Jojo La said the Species Conservation Trust Fund is the source of the majority of the funding that is provided to this Program. She noted that funding will not likely be available in FY2021, but it will not affect the funds for the Ridgway fish screen or the Grand Valley Power Plant update that have already been committed. Jojo also said that despite the furloughs, Colorado staff remains committed to fulfill their commitments in scopes of work. Steve Wolff said Wyoming is in a similar position. Revenues are down 30%, requiring reductions in the current state budget of 20%. Steve said state agencies will not understand the full effects until the Wyoming legislature meets next spring. Todd Adams said the Utah State Legislature has met 6 times in special session in recent months. The sales tax in place (1/16<sup>th</sup> cent) which funds water and endangered species remains in place and is continuing to be collected. The full effects on Utah's budgets also remain unknown for a while. Leslie James noted that the funding from WAPA that currently funds these programs really comes from municipalities, tribes, and small conglomerates. Those organizations are also struggling to remain afloat during COVID. Leslie also noted that the extremely hot temperatures have affected the power system, in terms of price and availability. During some periods, the price of energy jumped to \$2K to \$4K per Mwh hour for electricity. COVID-19 has had an impact on non-payment of retail and commercial electrical bills which can cause dramatic cash shortages for the wholesale distributors. Leslie summarized that the effects on these communities are similar to the impacts described by the states and municipalities.

- b. Funding scenarios – Tom Pitts reported that the Funding Subgroup met last week and agreed to assess a variety of different funding sources for the program. Tom noted annual funding for both programs currently totals \$11.2M, including \$8.6M from hydropower, state funding of the Upper Colorado Program of \$0.8M, and USFWS funding of both programs of \$1.8M. Post-2023 annual funding needs are estimated by the programs total to \$15M, an increase of \$3.8M. WAPA has projected about a 40% cut in hydropower funding, which would reduce hydropower revenues for both programs to approximately

\$5.6M if the reduction between programs were equitable. This creates a funding gap of about \$6.8M post-2023. Both programs have estimated total capital funding needs over the next 15 years to be \$144M, including rehabilitation and maintenance of existing facilities. (About \$5M in appropriations per year on average has been received since passage of the authorizing legislation. In addition, \$34M total has been received from power customers and the four states. The \$144M capital funding request would require over \$9M per year, creating a deficit of about \$4M per year. Tom Pitts noted that the requests for more funding, coupled with COVID related issues make the conversation very difficult. Tom said there are two pieces of this discussion, the amount of funding and its sources, and the estimated needs. The subgroup agreed to evaluate multiple sources of funding at their next meeting. Then the group will need to balance the funding available with the funding requested and come to an agreement on needs and funding sources. He noted the importance of continuing ESA compliance for 2,500 water projects by the two programs. Tom Pitts said he remains certain that we will reach an agreement and noted that no one has suggested that these programs are not essential moving forward. Tom said we may end up with a phased proposal likely requiring more federal contributions up front to allow the states to recover from the impacts of COVID19. Leslie asked if the \$11.2M was cash or cash and in-kind. Tom Pitts said that that is cash and as a program, we are still working to document all of the in-kind efforts of the partners.

- c. Schedule for post-2023 planning activities; changing due date and timeline for Report to Congress – Tom Pitts said our original goal was to provide a report to the Secretary of the Interior by September 2020. The Secretary would provide that to Congress by September 2021. The report will contain funding needs and sources, accomplishments, and anticipated activities post-2023. Because of the large amount of uncertainty around available state funding, we have been unable to meet the September, 2020 deadline. One proposal on the table is to delay the deadline by one year, requiring the final report by the Secretary due in September of 2022. The Subgroup agreed to try to complete the report and reevaluate in a few months. Bart Miller asked if we are aiming to complete the report by March, 2021. Tom Pitts said yes, but we will have to see where we are in March, 2021. Tom Chart asked for perspectives from each of the federal agencies on the call regarding how much time it will take the agencies to review the document and send it forward to the Secretary. Noreen noted the importance of this question. Noreen said that often the driver of how quickly things move through the evaluation process depends on external deadlines. Noreen said that waiting any longer than April would not be recommended. Kathy Callister agreed. Tom Pitts noted that the document will be a consensus of all parties, which may facilitate review. Leslie thanked Noreen for her thoughts. Brian Steed said the delay sounds like a reasonable approach. Utah will likely understand more regarding future financing once the legislative session concludes in March, 2021.

- d. Post-2023 survey results and next steps – Julie Stahli summarized the results from the Post-2023 questionnaire filled out by all partners in both the Upper Colorado and San Juan programs. Questions were asked about benefits, threats, risks, gaps, opportunities, and uncertainties. Respondents also provided new ideas for funding sources. Overarching messages include a need for clear recovery goals, universal concerns around lack of funding, a desire to examine governance and add more adaptive management, an increased list of threats, concern that we are running out of time, and noting that Congress will be looking for a solutions from us.
6. Capital projects update – Ryan Christianson reviewed the capital projects table. The Ridgway Reservoir screen is in contracting and should be awarded by the end of the calendar year. The screen will be built after water levels come down in 2021. An O&M agreement has been developed and is in review. The contributed funds agreement is being finalized. The Red Fleet Reservoir screen has been constructed. Some modifications are likely needed to make sure it can handle large flow volumes. \$600,000 has been spent out of the \$700,000 allotted so there is a little room for adjustment in the construction. If additional funds are needed, UDWR and Ryan will bring back proposals to the program. UDWR is looking at alternatives for Starvation Reservoir, including permanent and non-permanent options. The Provo Reclamation office will lead a value engineering discussion for potential construction in June 2021. Stirrup wetlands construction is still slated for fall of 2021 in conjunction with Starvation Reservoir. The program is working with the Grand Valley Irrigation Company to resolve the hydraulic head issues associated with the fish screen. Ryan said the Grand Valley Power Plant has received a grant to rehabilitate the existing power plant and those funds are now being redirected to the new power plant construction that accomplishes the same goal with a lower overall cost. The Program has committed \$1,500,000 to this project. The scope of the grant will likely need to be changed, but the purpose and the fund level will stay the same.
7. Schedule the next IC meeting – the group agreed to have a meeting in January and April, to be scheduled via doodle.
8. Noreen reflected that there is a lot to be encouraged about, hearing a lot about cooperation and progress in the Program update. She said future needs do have large price tags. Noreen is proud of all of the work that we have done to this point, but also acknowledged the uncertainty that she is feeling right now regarding future funding sources, continuing resolutions, and the continued financial impacts of COVID 19. She said there is a lot of conversation needed to determine our post-2023 future, but also noted the success in our history and the commitments and efforts made by all parties over the years. >Noreen asked Reclamation and WAPA to keep the Committee informed as the funding conversations proceeds and noted that all of the partners are ready and willing to engage if conversations are needed.

**ADJOURNED 12:02 p.m.**

## Attachment 1 – Participants

### IMPLEMENTATION COMMITTEE MEMBERS:

Noreen Walsh, U.S. Fish and Wildlife Service (Chair)  
Kathy Callister for Ed Warner, U.S. Bureau of Reclamation  
Rob Billerbeck, National Park Service  
Bart Miller, Environmental Groups (Western Resource Advocates)  
Amy Moyer, State of Colorado  
Tom Pitts, Upper Basin Water Users  
Tim Vigil, Western Area Power Administration  
Brian Steed, State of Utah  
Leslie James, Colorado River Energy Distributors Association  
Steve Wolff, State of Wyoming  
Tom Chart, Program Director, U.S. Fish and Wildlife Service (nonvoting)

### OTHERS:

Michelle Garrison, Colorado Water Conservation Board  
Ryan Christianson, U.S. Bureau of Reclamation  
Jojo La, Colorado Water Conservation Board  
Marj Nelson, U.S. Fish and Wildlife Service  
Derek Fryer, Western Area Power Administration  
Dave Speas, US Bureau of Reclamation  
Chris Keleher, State of Utah  
Harry Crockett, State of Colorado, CPW  
Julie Stahli, Recovery Program  
Don Anderson, Recovery Program  
Kevin McAbee, Recovery Program  
Melanie Fischer, Recovery Program  
Todd Adams, State of Utah  
Bart Leeflang, Central Utah Water Conservancy District  
Shane Capron, Western Area Power Administration  
Gene Seagle, National Park Service  
Melissa Trammell, National Park Service  
Lee Traynham, Bureau of Reclamation  
Greg Johnson, Colorado Water Conservation Board  
Katie Duncan, Colorado Attorney General's Office