



Upper Colorado River Endangered Fish Recovery Program

Summary Dated: May 17, 2021

Memorandum

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

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

Subject: Draft April 28, 2021, Recovery Implementation Committee Meeting Summary

Attached are the draft action and assignment summary and the general summary from the April 28, 2021, Implementation Committee meeting.

Attachment

IMPLEMENTATION COMMITTEE MEETING SUMMARY
APRIL 15, 2020

ACTIONS:

1. Approved January 2021 draft Implementation Committee webinar summary as final.

ASSIGNMENTS:

1. PDO will schedule a two-hour Teams meeting in July/August and an in-person meeting in October.
2. PDO will add a discussion of meeting summaries at the next meeting.

PARTICIPANTS: See Attachment 1

MEETING SUMMARY:

CONVENED: 2:00 p.m.

1. Introductions, modify/review agenda, Chair's updates – Noreen welcomed the IC to the meeting and welcomed Greg Johnson as the formal representative from the State of Colorado. Greg Johnson acknowledged Amy Moyer's contribution to the Program and looked forward to working with all the partners. Noreen noted the dedication of this group and thanked everyone for their continued contributions towards recovery of the fish. She said the history of the group demonstrates the importance of discussing the human needs in the group as well as the environmental dynamics of the system. She said that framework has allowed the Program to make real progress towards recovery. Noreen said she is looking forward to the discussions today because of the important juncture we are currently at within the Program.
2. April 2021 D.C. trip update, including authorizing legislation – Tom Pitts commended Melanie Fischer for the 2021 Briefing Book which was well received and heavily used in the briefings. Tom Pitts noted that the programs have been conducting congressional briefings every year since inception. The meetings occur with staffers for all the Representatives and Senators for the four impacted states, some NGOs and high-level Interior Staff. This year, DOI and OMB meetings will occur at a later date. Most of the meetings occurred during the week of April 19. They met also with appropriations committees for both the House and Senate. The partners provided updates on the programs, status of the fish, ESA compliance for the programs, cost and cost sharing and they usually discuss budgets. Because the President's budget was not available, they did not discuss specific funding for FY22. Three amendments are currently being drafted for consideration by the partners. The first is to extend the deadline for the Report to Congress to September 2022 rather than 2021. The second request is restoration of authorization to use hydropower funds to fund the programs. Tom Pitts said the 2019 Dingell Act authorized up to \$10M in appropriations for annual funding. When that occurred, the explicit authority to use hydropower was inadvertently removed. Because Reclamation budgets 3 years in advance, the third request will be to extend authorization through FY24. Tom Pitts said they also discussed post-2023 at the meetings, coupled with discussion about the expiration of cooperative agreements after FY23. Tom Pitts said the downlisting proposals

for humpback chub and razorback sucker were very well received by Congressional staff. He said the partners were well represented at the meetings and thanked the participants for going. At the end of each meeting, each partner told the staff why the programs were important to them, which was also well received. Brian Sadler expressed an interest in receiving the draft language for those revisions to the legislation. Tom Pitts said that language would be broadly shared with partners before being submitted. Leslie called attention to the fact that CREDA has been very supportive of continuing appropriations for the programs but was not at a point where they could join the DC briefings this year. She noted that consensus is necessary before language is submitted. CREDA did support the programs and called attention to post-2023 when they went back to DC earlier this year. Leslie said FY21 funding has come through with some hiccups; and said that was not raised during her DC briefings. Noreen reiterated how important it is that everyone brings their own perspective to this Program and that everyone works together to move towards recovery. She noted the awkwardness that is currently in place because of the post-2023 conversations and asked that we keep lines of communication open and discuss concerns openly because the strong partnership is the foundation of why this Program works. Leslie said that time was potentially a constraint this year, but expressed concern that we could have finessed the discussion more effectively if opportunities were provided. Bart asked if CREDA always conducts congressional briefings separately from the programs and if they are on a broader set of topics. Leslie said CREDA visits Congress annually with the American Public Power Association. Leslie said not having the President's budget was an uncontrollable complication. Tom Chart thanked Leslie for the update, noted how quickly the landscape is changing and expressed concern that CREDA was not able to attend. Tom then thanked all of the non-Federal partners for their consistent efforts in highlighting the programs in DC.

3. Post 2023

- a. Funding group update - Michelle Garrison reviewed the questions that the group has been wrestling with over the last few months. Michelle said that a variety of alternative funding mechanisms were assessed using a series of 1-page 'cut sheets'. That conversation highlighted that capital project funding may be easier to diversify than annual funding. There are a few more 'cut-sheets' that will be covered at the next meeting. Michelle acknowledged that COVID and budget uncertainty have made the conversations more difficult. Prior to going to DC, the states provided a high-level proposal that touched on all of the elements that need to be covered in a final proposal.
- b. Current proposal and next topics for discussion - The states' proposal looks at a 15-year reauthorization of the programs, with a revisiting of funding at 10 years and a size of the programs which are close to where they are now. The states highlighted the fact that discussing efficiencies are really important from a Congressional perspective. She acknowledged that efficiency discussions will not be resolved within this funding piece, but that they should be considered to continue to put resources on the ground. The proposal included a proportional split of hydropower between the upper basin programs and the lower basin programs and that

the remainder be filled in by federal appropriations. The states committed to maintaining their current level of funding under the Blue Book. The states did not specify which federal agency annual appropriations would come from. The proposal included a short section on capital, noting that more options are possible for capital projects and that those should be considered on a project by project basis. In addition, Michelle called attention to the appendix to the proposal, which outlined the many in-kind contributions from the states and the water users. Michelle noted the states and water users are willing to commit to continued in-kind contributions but that monetizing those contribution can be difficult. The funding group will use this proposal as a basis for further discussion. The next meeting will occur on May 3rd , which will cover the timeline, our last remaining cut sheets and efficiencies if time permits. Michelle thanked the staff of the programs who are already looking at ways to maximize coordination between the two programs. Tom Pitts thanked the states for submitting a proposal and asked everyone to acknowledge that we are in a negotiation process and to avoid taking too firm of a position early on. Tom Pitts reiterated the need for all of the partners to come to consensus before returning to Congress with a proposal. Noreen thanked everyone on the funding group for all the work that has been done. She opened the floor to questions. Bart Miller thanked Michelle for the proposal as well and noted that it serves as a really great starting place for discussion. Noreen asked if Michelle was inviting others into those discussions. Michelle said the post-2023 list is pretty comprehensive, but all are welcome, including all of the MC and CC members. Noreen noted that we still have a ways to go in these discussions. Tom Chart said in addition to the more aggressive schedule, the PDO is recommending a face to face meeting as soon as it is feasible to explore the negotiation space between the partners. Noreen agreed that meeting in person could be helpful. Rob Billerbeck noted that we have proposals that are very far apart, issues in the Dingell Act, and issues with the hydropower split in the states' proposal. Rob is concerned that a lot of time is passing without us reaching consensus. He is looking for ways to bridge the gaps as soon as possible. Rob noted that the programs are facing large issues like nonnative fish expansion and climate change even after these post-2023 discussions are resolved. Noreen thanked Rob for the comments and noted that we are all feeling a sense of urgency and prioritizing open and honest discussions. Noreen said hearing the benefits analysis may be helpful in service of that goal.

- c. Benefits Analysis – Kathy Callister introduced Valerie Deppe who is an economist in Reclamation. The goal of the analysis she presented is to look at who gets the economic benefits from the programs. Kathy said this approach is a tool to help us discuss proposals effectively. Valerie looked at all of the water projects that benefit from the programs. She broke the projects out by state and identified the 10-year average release by purpose for both federal and non-federal projects. The non-federal releases for M&I were assumed 100% depleted; for irrigation 50% depletion was assumed (depletions were doubled to assume diversion amount). Based on these data, three scenarios were developed. Scenario 1 used all purposes and resulted in a 62% federal 38% non-federal split. Scenario 2 removed ESA releases from the totals. Scenario 3 removed ESA and power releases because they are non-

consumptive, resulting in 38% Fed/ 62% Non-fed. Val then examined each scenario by state and assessed the reimbursable portion of the allotment. For scenario 2, Val applied the results to FY20 funding. The USBR/hydropower funding provided in FY20 was \$8.64M. The available hydropower was taken off the top and the remainder was divided by the federal/non-federal split and divided out by state.

Melissa asked for further explanation of the 50% for irrigation. Val explained that they assumed the depletion amount was only 50% of the original diversion, so diversion returns are included in the numbers to make the federal and non-federal projects more comparable to each other. Tom Chart said a couple of federal projects have not been included and suggested that lots of questions could stem from this as people dig in to the analysis. He noted this is a tool that could be used to backstop the cost-sharing proposal submitted by Reclamation and asked if it was ripe for that purpose. Val said there are likely parts that would need to be revised and refined if it were explored further. Tom Chart understood the concepts as presented in the analysis. Wayne thanked Valerie for all of her work in putting this together and said this tool is very similar to the tools that Reclamation uses to allocate costs when new projects are proposed. The analysis gave Reclamation a sense of how things may play out using their tools. Wayne said on an annual per acre foot basis, the program cost is a relatively manageable amount. He praised the program for keeping costs reasonable in relation to the benefits provided. Noreen thanked everyone for their efforts thus far in looking at funding post-2023. She said we have some time before these discussions need to be resolved, but that we all need to stay motivated to complete these discussions. Rob appreciated Reclamation's work on the analysis.

- d. Report to Congress – Don Anderson said the legislation currently requires a Report to Congress covering descriptions of the accomplishments of the programs, listed status of the fish, expenditures, activities expected after 2023 and the costs expected to be needed for those activities. The current deadline is September of this year but efforts are underway to get that deadline extended to September of 2022. Despite the extension, we are still aiming to provide the report to the Secretary of the Interior well in advance of that deadline. Don has been working on drafting sections that do not depend on post-2023 discussions. He has received feedback from a variety of program partners (including the full MC and CC) and is working on revising those chapters to ensure they meet the needs expressed in the legislation. Tom Chart thanked Don for all of the work he has done on that report. Noreen was impressed by how far those discussions have gone at this point and supported the streamlining recommended by the partners.
4. Program Funding – Kathy Callister said most of the funds for FY21 have been transferred from WAPA to Reclamation. Her staff is working through getting projects funded as soon as possible, with a priority on field work. Kathy expects all projects to be funded in full. Kathy noted they have not seen the President's Budget yet, but that the Congressional Appropriations process needs to

occur after that is released. Kathy is planning now to ensure that they are prepared in case of continuing resolutions. Kathy said Dingell has been addressed for FY23. Jojo asked what authorization is appropriate for FY23. Kathy said Dingell does allow for appropriations through FY23.

5. Recovery Planning and Federal Register Update – Tildon Jones and Kevin McAbee are currently working on revisions to the Colorado pikeminnow recovery plan after a 5-year review completed in 2020 recommended continuing endangered status and plan revisions. A 10-member recovery team of species experts is working with them on the federally mandated portion of the recovery plan. The recovery planning process leans heavily on the SSA written by Tildon Jones, the recovery plan and a third portion, the Recovery Implementation Strategy, which steps down the actions from the recovery plan. Tildon and Kevin believe that the recovery plan will be drafted later this calendar year to share with this Program and the San Juan Recovery Program. The plan will then be signed by Noreen and published in the Federal Register. The new process is much more streamlined allowing for efficiencies in adaptive management. Tom Chart reviewed the two proposed reclassifications that are still moving through the system. The final downlisting rule for humpback chub is currently in FWS Headquarters awaiting review. The proposed downlisting rule for razorback sucker is with the Principal Deputy Secretary of Fish Wildlife and Parks. It will then go to the Secretary and then to the Federal Register. Leslie said Congressional staff were looking forward to those rules and thanked the PDO for their good work. Leslie praised Craig Hansen for his presentation to the MC on the new process as clear and helpful. Tom Chart noted that Craig has been really instrumental in helping the PDO staff in drafting these documents. Noreen said the pacing of new administrations are always a challenge. She is hoping the rules moves quickly. Tom Chart highlighted the fact that the collaborative programs have really provided the foundation for these reclassifications. The management actions for razorback sucker especially were essential in coming to a determination that the species was not in danger of extinction in the near term. Tom noted the importance of these actions and programs into the future.
6. Delegating review/approval of RIPRAP revisions and assessment to MC – Noreen wanted to highlight a few things from the last sufficient progress memo that she signed. She noted the incredible work done by the field crews to collect wild Colorado pikeminnow for broodstock to ensure survival of the species should declines continue. Noreen noted we are all hoping for good news from the Colorado River, as estimates wrap up this fall. She noted the status of the Green River populations as a key factor in maintaining the species as endangered and said implementation of summer base flows are essential in improving that population. She also highlighted the reporting commitment associated with the 15-Mile Reach PBO is overdue. She noted that the State of Colorado completed a depletion accounting report which indicated that depletions are not close to the limits set forth in the PBO. The PDO has drafted up a report and distributed it last summer for review. The PDO is currently working to incorporate comments and get concurrence from another section within FWS. Julie reviewed that the annual RIPRAP assessment is being conducted digitally again this year. The PDO drafted the assessment and sent it out to the technical and management

committees for concurrent review. The PDO has requested a single set of combined comments from the MC reps including their tech committee reps' comments. Final approval is the responsibility of the IC, but the IC has traditionally delegated the task to the MC. Tom offered to provide the IC a review of the RIPRAP assessment highlights if the committee delegated it to the MC.

7. Approve draft January meeting summary – Julie showed comments on the draft summary from Brian Sadler and asked if anyone on the committee still needed time to review the meeting summary. Melissa asked about the status of whether a memo had been distributed to the group as outlined in the action items of the January summary. Brian responded that based on the nature of the memo, it was not appropriate to share. Questions were asked about the nature of meeting summaries and the intent. Julie said it was a practice dating back to the program's beginning, and that the PDO has found the meeting summaries helpful in referring back to understand what was discussed in a meeting. Ideas were offered on making notes more general and not attributing statements to individuals. It was also raised that we should consider the benefits, and that it is helpful to have someone keep a record. The committee agreed to consider the issue further at a later meeting.
8. Guidance for scheduling the next IC meeting – Julie reviewed the typical semi-annual meeting schedule, with an in-person meeting occurring in later summer/early fall. The committee agreed that an in-person meeting in October would be valuable if possible and a 2-hour meeting in late July would be a good check in. > Julie will create doodles.

Noreen closed the meeting by thanking everyone for the discussion. She said it is healthy for us to review successes and challenges for the program and said the discussions are really important. She said FWS will start discussions about pros and cons of merging the programs and how to make the programs more efficient. She noted the Post-2023 time period is approaching quickly and that is likely causing stress in the system, but that it is good government to make sure the programs are operating efficiently. She asked the IC to continue to celebrate successes and seek consensus to provide unified messaging from all the parties.

Tom Chart informed the IC that Don will be retiring at the end of July. That job has been posted and we are currently interviewing for that position. We are seeking to have Don's replacement online before he closes out his career to pass the torch. Tom noted how important Don is in our office and how much he has done for the Program.

Tom Chart announced his own retirement from the Program in August of this year. Partners expressed their thanks for all Tom's work and contributions to the Program.

ADJOURNED: 4:25 p.m.

Attachment 1 – Participants

IMPLEMENTATION COMMITTEE MEMBERS:

Noreen Walsh, U.S. Fish and Wildlife Service (Chair)

Ed Warner, U.S. Bureau of Reclamation

Rob Billerbeck, National Park Service

Greg Johnson, State of Colorado

Tom Pitts, Upper Basin Water Users

Rodney Bailey, Western Area Power Administration

Todd Adams, 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)

Bart Miller, Western Resource Advocates

OTHERS:

Wayne Pullen, U.S. Bureau of Reclamation

Kathy Callister, U.S. Bureau of Reclamation

Michelle Garrison, Colorado Water Conservation Board

Ryan Christianson, U.S. Bureau of Reclamation

Jojo La, Colorado Water Conservation Board

Derek Fryer, Western Area Power Administration

Dave Speas, US Bureau of Reclamation

Chris Keleher, State of Utah

Julie Stahli, Recovery Program

Don Anderson, Recovery Program

Kevin McAbee, Recovery Program

Melanie Fischer, Recovery Program

Tildon Jones, Recovery Program

Shane Capron, Western Area Power Administration

Melissa Trammell, National Park Service

Colleen Cunningham, State of New Mexico

Brian Sadler, Western Area Power Administration

Paul Badame, Utah

Tom McDowell, USFWS

Valerie Deppe, U.S. Bureau of Reclamation

Colleen Cunningham, State of New Mexico