

I. Project Title: Colorado's Instream Flow Protection

II. Principal Investigator:

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III. Project Summary:

The purpose of this activity is to provide instream flow protection as necessary for the endangered fishes of the Upper Colorado River Basin. It entails detailed coordination between Recovery Program agencies as well as other interested parties, water users and environmental interests. All protection is done in accordance with Colorado water law, including instream flow rules and regulations and the UCRRIP Enforcement Agreement as applicable.

IV. Study Schedule:

Although target dates were identified in the 1999 RIPRAP, the withdrawal of the 1995 instream flow filings on the Colorado and Yampa Rivers resulted in changes to these dates (with the acknowledgement of Recovery Program members and Committees). Much of the initial project has been deferred. In future years the instream flow issues will be revisited to determine if there is a need for instream flow filings on the Colorado and Yampa Rivers.

V. Relationship to RIPRAP:

Evaluate need for instream flow water rights, assess legal and physical availability of water, assess compact considerations, five-year periodic review of progress to determine if instream flow filings are necessary. Evaluate how identified flows will be legally protected, then appropriate and adjudicate in water court if necessary.

Yampa and Little Snake Rivers: I.B.3.d., I.C.3.d., I.D.2.d  
White River: I.C., I.D.4, I.E.1.  
Colorado Mainstem: I.A.5.[a,b,c,d,h], I.B.2, I.B.3, I.B.4.  
Gunnison River: I.B.4, I.C.1.a, I.C.2

VI. Accomplishment of FY 2005 Tasks and Deliverables, Discussion of Initial Findings and Shortcomings:

Changes to the existing instream flow filings (Case Nos. 5-95CW296 & 595CW297 on the Colorado River, and Case Nos. 6-95CW155 & 6-95CW156 on the Yampa River) occurred at the January and May 1999 CWCB meetings. As a result of concerns expressed by the Service and other Program participants, the CWCB withdrew the baseflow and recovery flow instream flow filings on the Colorado and Yampa rivers. The Colorado Division of Wildlife staff was instructed to develop new flow recommendation methods and to make new flow recommendations when appropriate.

The CDOW submitted a report in 2003 describing their methodology in collecting vast amounts of data at several sites on the Colorado and Yampa Rivers. This methodology directly described the type and amount of habitat available at various flow levels as well as the type, amount, size and weight of fish found at those various flows. The CWCB and CDOW submitted the 2003 report to the Recovery Program in 2004 for review and consideration of adopting this data-intensive methodology for future instream flow recommendations. The UCRRIP is still reviewing the proposed methodology.

The CWCB will continue to review CDOW activities and the performance of the PBO activities and evaluate the need for future instream flow protection. The CWCB staff continues to work with the Attorney General's Office, Board Members, Colorado Division of Wildlife, USFWS and Recovery Program participants to stay current with Recovery Program needs.

The CWCB participates in providing and protecting water to the 15-Mile Reach through contract deliveries from several upstream reservoirs. The CWCB is also providing and protecting water to the Redlands Fish Passage via a contract with Reclamation and the Service.

In addition to the above, the CWCB has been extensively involved in negotiating and preparing the agreements required to allow the Elkhead Reservoir enlargement to move forward. The Elkhead enlargement will provide up to 7,000 AF to supplement base flows in the Yampa River downstream of Craig, Colorado.

The State of Colorado continues to assist in meeting Recovery Goals and maintaining Sufficient Progress for the Recovery Program. The Colorado Division of Wildlife continues its research into new instream flow protection methods and recommendations.

VII. Recommendations:

It is recommended that the State of Colorado continue to participate in all activities concerning flow protection for the endangered fish in the Upper Colorado River basin.

VIII. Project Status:

Much of this project is on hold.

Since withdrawal of the recovery flow and base flow filings on the Colorado and Yampa Rivers by the Colorado Water Conservation Board, there has been much discussion and uncertainty regarding future instream flow filings for endangered fish in Colorado. Meanwhile a programmatic biological opinion has been developed for the 15-Mile Reach, a Management Plan was developed and a programmatic biological opinion is being developed for the Yampa River, and the EIS process is underway for reoperation of the Aspinall Unit to better meet the flow recommendations for the Gunnison River. The Implementation Committee approved the Management Committee's recommended approach to defer instream flow filings:

- a) on the Colorado River, for 5 years, contingent upon implementation of the programmatic biological opinion;
- b) on the Yampa River, pending completion of a programmatic biological opinion; and
- c) on the Gunnison River, pending outcome of the Aspinall biological opinion and, if needed, a programmatic biological opinion on the Gunnison River.

The State of Colorado has had considerable participation in the development of the 15-Mile Reach PBO and Yampa River Management Plan and PBO. The CWCB continues to participate in Recovery Program activities such as Coordinated Reservoir Operations and HUP Management efforts and is a cooperating agency in the Aspinall Reoperations EIS.

The CDOW continues to evaluate appropriate methodologies for instream flow recommendations and protection.

#### IX. FY 2005 Budget Status

A. Funds Provided:	\$15,000	in-kind services, CWCB*
B. Funds Expended:	\$15,000	
C. Difference:	\$15,000	

\*CWCB efforts were mostly focused on the Elkhead Reservoir enlargement and resulted in contribution of more in-kind services than anticipated in the 2004 Scope of Work.

The majority of the work in FY 2005 was performed by the CDOW. Their in-kind contribution to the Recovery Program was significantly greater than that of the CWCB and is not reflected here.

D. Percent of FY 2005 work completed, projected costs to complete:

Specific percentages are difficult to provide due to the indeterminate nature of this issue. At this time, the objective of this element should be considered “ongoing”. Flow protection will be continued by the State of Colorado and other Recovery Program members in compliance with the Cooperative Agreement.

E. Recovery Program funds spent for publication charges: \$0

X. Status of Data Submission:

Not applicable at this time.

The Colorado Division of Wildlife publishes an annual progress report on their investigation of an appropriate standard methodology for instream flow recommendations and protection. The CWCB provisionally accepted the Elkhead donation agreement at its November Board meeting.

XI. Signature: D. Randolph Seaholm

Date: November 22, 2005