

## **Revised Minutes of The April 8, 1999**

### **Durango, Colorado**

#### **San Juan River Recovery Implementation**

##### **Program Coordination Committee**

The meeting was called to order by Committee Chairman Ren Lohofener at 8:30 a.m. on April 8, 1999. Committee members and members of the audience introduced themselves. Coordination Committee members or their substitutes in attendance were:

**Renne Lohofener**

**Joe Webster (for John Hamill)**

**Jessica Aberly**

**Dan Israel**

**Errol Jensen (for Patrick Schumacher)**

**Bob Krakow**

**Scott McElroy**

**Tom Pitts**

**Stanley Pollack**

**Randy Seaholm**

**John Whipple (for Tom Turney)**

Biology Committee members in attendance were:

**Ron Bliesner**

**Fish and Wildlife Service, Region 2**

**Fish and Wildlife Service, Region 6**

**Jicarilla Apache Indian Tribe**

**Ute Mountain Ute Indian Tribe**

**Bureau of Reclamation**

**Bureau of Indian Affairs**

**Southern Ute Indian Tribe**

**Water Development Interests**

**Navajo Nation**

**State of Colorado**

**State of New Mexico**

**Bureau of Indian Affairs**

**Bill Miller****Southern Ute Indian Tribe**

A replacement on the Coordination Committee for John Hamill should be selected within 2 months. Joe Dowhan, Program Coordinator, has accepted a position in Region 5 with the Fish and Wildlife Service (Service) and will be leaving shortly.

**Agenda:** The agenda was discussed. Any items requiring Ron Bliesner's presence would be covered in the morning. Items A-D under the "Update on Biology Committee Activities" were condensed.

**Approval of the October 15, 1998, Revised Coordination Committee Meeting Minutes:** The minutes were approved with the provision that any recommended changes mentioned in the December minutes be made.

**Approval of the December 15, 1998, Coordination Committee Meeting Minutes:** The minutes were approved.

**Flow Recommendation Report:** The latest edited version of the Flow Recommendation Report (Report) was sent to all Coordination Committee members. Changes made were based on Committee members' comments. Comments on the Report and responses were also listed. After further discussion, the Report was approved unanimously **provided that** additional changes in language are made and some paragraphs deleted, that the response to the comment document be attached as an appendix to the Report, and that the Committee and the San Juan River Recovery Implementation Program (SJRIP) recognize that the flow criteria and operating rules discussed in the Report are only recommendations that are subject to further refinement through the SJRIP's adaptive management process and pursuant to the National Environmental Policy Act (NEPA). Mr. Bliesner stated that the revised Report will be ready with changes in 30 days.

**The following changes will be made to the Report:**

- **Pages S-7 and 8-5: Change "E. Timing" to read as follows: Mean date of peak flow in the habitat range (Rm 180 and below) for any future level of development when modeled for the period 1929-1993 must be within 5 days (+ or - ) of the historical mean date of May 31 for the same period.**
- **Page 8-10: Replace "available water" with "release flow volume computed by application of figures 8.1 or 8.2."**
- **Page 7-24, last paragraph: The flow recommendations specify threshold conditions (e.g. a flow of 9,999 cfs does not qualify in meeting the average frequency requirement of 10,000 cfs for 5 days). Therefore, any inherent model error could cause the model to predict success in meeting the flow requirements in a year when they may actually not be met. However, since the error has equal probability of being high or low, using the model output places the same risk to over- and underestimating compliance with the flow requirements. This uncertainty was considered as conditions of magnitude, duration, and frequency were examined in completing the flow requirement. An adjustment to this threshold condition is**

**provided in the form of a reduction of 3 percent of the required flows (e.g. 9,700 cfs for the 10,000 cfs requirement) to account for adjustment from the Bluff gage to the Four Corners gage when computing the maximum number of years allowed between meeting the specified flow requirement. The reduction was applied to duration between occurrences because this is the controlling condition in all cases.**

- **Page 8-28: Delete the last two paragraphs.**
- **Add the following definition to the Glossary: Base Release: the Navajo Dam release required to meet downstream water right demands during the runoff and summer base flow periods. The release volumes shown in Figures 8.1 and 8.2 assume a base release of 600 cfs during the runoff period. If the base release is not 600 cfs, then a volume adjustment is required to provide the correct release pattern.**

Once corrections are made to the Report, a camera ready copy will be sent to Service for reproduction and distribution. It was suggested that the Report be distributed to all interested parties, libraries, and colleges and universities in the area. A copy of the Report will be placed on a web site once it is developed.

John Whipple stated that the State of New Mexico does not fully agree with the methodologies, assumptions, and data used by the San Juan River Basin RiverWare model, which is the model described in the Report. The model will undergo review and improvement over time. Hopefully, concerns over the model can be resolved through frequent review and working with the ad hoc San Juan River Basin Modeling Team.

Concern was expressed that once the Report is approved and the NEPA process has begun, will the Service be ready to undertake the section 7 process on the re-operation of Navajo Dam. Renne Lohofener indicated that once the Report is approved, it is the responsibility of the Bureau of Reclamation (Reclamation) to decide whether there will be a "not likely to adversely affect" determination. At that point, the Service would concur with Reclamation. If the flow recommendations could not be met by Reclamation, then there could be adverse affects. However, if a project description meets the flow recommendations, the Service presently believes there would be no adverse affects.

It should be noted here that on April 7, 1999, (the day before the Coordination Committee meeting) the Navajo Dam Operating Committee for the SJRIP recommended that flow released for 1999 from Navajo Dam follow the procedures outlined in the Report. Reclamation was asked if it would be able to follow the flow recommendations this year. The Committee was told that Reclamation would strive to follow the flow recommendations. However, considering the low runoff projected for this year, Reclamation must take into consideration all impacts to other resources before a final decision can be made. Discussions will take place with the Coordination Committee members and the Service before any final decision is made. During the interim period prior to completing the NEPA process for Navajo Dam Operations, Reclamation will make every attempt to meet flow recommendations. However, Reclamation must take into consideration all impacts to other resources before a final decision on Navajo Dam Operations can be made.

There was some disagreement over the baseline in the Report and how it would be used in a section 7 consultation. It was mentioned that the environmental baseline is determined by the Service based on the best available information.

The environmental baseline is subject to review and may not be the same as the depletion base used in the San Juan Basin model as presented in the Report.

According to Mr. Seaholm, the impact on species due to the flow recommendations will not be known until the NEPA process begins. There could be adverse affects on water supplies of communities by drawing down water to meet flow recommendations. Analysis is needed to determine adverse impacts to other resources. He further expressed concerns over informal consultations between the Service and the Bureau of Indian Affairs on completion of the Navajo Indian Irrigation Project because the Project might develop all the water identified by the Report as being available for new development within the flow recommendations, which would leave no water for other new depletions for future water uses. Any further water use might then cause jeopardy to the species. The question was raised as to whether it would be possible to invest more money in modeling runs to optimize Navajo Dam operating rules in such a way as to provide more water in the future while still meeting the flow recommendations. Ron Bliesner stated that a new set of operating rules would provide additional water. However, Recovery Program funds would be needed to optimize operations so as to provide for additional water development. It is the hope of water developers to continue to develop water through such means as fish passages and flooding of floodplains. It will be important to see how the Service will utilize the Report in section 7 consultations for future depletions. Tom Pitts said that water users and the states are expecting Recovery Program actions to provide the reasonable and prudent alternatives and measures for ESA compliance. Mr. Seaholm wants to be able to tell his water users that there is capability to still move projects forward.

In the Report, page 8-1, a review on the model/flow recommendations would be held every 5 years. Concern was expressed on how important this would be to section 7 consultations. The latest information needs to be utilized in making decisions regarding endangered fish species.

**Status and Schedule for EIS for Navajo Dam Re-operation:** There has been no formal work on the Environmental Impact Statement (EIS) for the Navajo Dam Re-operation. The Bureau of Reclamation has been waiting for formal approval of the Report. Since the Report has been approved, the Committee was informed that Reclamation is ready to move forward on preparation of the EIS once formal buy-offs by Reclamation and the Service are complete. There was a substantial amount of discussion concerning a public involvement program during the meeting. It was suggested that at least two public meetings be held to describe and explain what the SJRIP and the flow recommendations consist of. Through discussions, it was agreed that the Service should take the lead in conducting the public meetings. The Committee was informed that it was Reclamation's desire to have the public meetings take place before Reclamation conducts its formal scoping meeting for the Navajo Dam Operations National Environmental Policy Act (NEPA) work. It was agreed that the public meeting should take place by July 31, 1999.

**Update on Biology Committee Activities (Items A-D):**

**Monitoring Plan:** The Biology Committee is currently working on the development of the Monitoring Plan, which is in its third draft. It has been reviewed at length with the peer review panel with the recommendation that it remain in draft form until the protocols outlined have been tested in the field. The data collected over

the last 7 years will be used to establish the statistical criteria for determination of trends. These criteria will be incorporated into the Monitoring Plan. It is anticipated that the final plan will be completed by the end of calendar year 1999.

Issues on monitoring protocol need refinement. There is a need to establish what "change" means statistically. There also is a need to establish criteria for monitoring. This will be looked at through the summer and criteria added to the final monitoring plan next fall. It was suggested that members of the Upper Colorado River Basin Recovery Implementation Program be contacted to see how they look at data.

**Research Reports:** Draft final research reports are due May 1, 1999, to the Biology Committee and peer review panel. There will be a meeting July 8, 1999, in Durango, Colorado, between the Biology Committee and the Peer Review Panel.

Comments need to be added to the Bridge Document. There are changes to the Long-Range Plan which includes updated goals and objectives. December 1999 is the target date to have some of the reports out to the Committee.

**Program Evaluation Report:** This report is scheduled for completion by the end of calendar year 1999. It will include a section on recommendations for update to the Long Range Plan. These will be incorporated into the Long Range Plan by March 2000. The deliverable that is added to the Bureau of Land Management Work Plan is an annual progress report to be submitted by March 31 of the following year along with the data collected for incorporation into the database.

Some comments on the Long-Range Plan included the need to get it finalized as quickly as possible after the Bridge Document if finished. Most activities ended in the 1997-1998 period. However, there are still some things that are unknown such as limiting factors for fish/endangered species. Some Coordination Committee members want a target date for determining long-range plans and goals. There are big questions on physical habitat modification-but no data.

**Status of Passage Structure at Hogback Diversion:** There are two diversions near Shiprock, the Hogback and the Cudei. A siphon to service Cudei directly from the Hogback canal system will be built after the Hogback fish passage structure is completed in the fall of 2000.

-Hogback: The final design for fish passage at Hogback is almost complete. There will be a meeting with farmers at the end of April 1999. Construction should begin in the fall of 1999. There will be a natural-looking, step-pool design fish ladder and a flat slope dam in the overflow section. It will be a non-selective fish passage.

Given the population of catfish in between Hogback and the PNM weir, the majority of biologists did not think that all catfish could be removed from the reach. Therefore, selected passage was not recommended at Hogback. Success would not be high enough to get nonnatives out of the reach above Hogback. Catfish usually do not bother squawfish during spawning; the main thing to do for the squawfish is expand their

range.

There will be some "take" in the Hogback canal of larval fish due to entrainment, but they are trying to make the canal unattractive to fish. The issue of incidental take will be dealt with later.

**PNM Passage Structure:** Based on known information, Mr. Bliesner said that the Biology Committee believed that a "selective passage" should be placed at the PNM weir. The weir is submerged at high flows but catfish would not move upstream. In low flows, there is still velocity in the center which prevents catfish from moving upstream-the habitat is unattractive. The better catfish habitat is between the two weirs.

**Hydrology Committee:** A paper from the Hydrology Committee was distributed at the meeting. (They deal with modeling and related hydrology issues.) The paper (attached) contains bullet statements on how the San Juan River Recovery Implementation Program (SJRIP) might utilize the San Juan Basin RiverWare model in evaluating flow recommendations and how the model could be used in section 7 consultations. It was suggested that a formal recommendation be made to the Coordination Committee that would decide if a Hydrology Committee should be formally set up under the SJRIP, and if so, what the charge to the Hydrology Committee should be. One option is that this committee could be formed by reorganizing the Navajo Dam Operations Committee. Alternatively, oversight of the San Juan Basin RiverWare model could continue through the current ad hoc Modeling Team. In any event, an accurate, updated model of the San Juan Basin is needed-maintenance could run \$30,000 annually. Reclamation can commit to maintain custody of the model. However, they need money to keep it up-to-date. And, some members felt the model should be reviewed regularly. This issue will be developed and a recommendation made to the Coordination Committee by the end of July.

The ad hoc San Juan River Basin Modeling Team is working on documentation which will be completed by June 15, 1999.

### **Funding:**

**-Program Coordinator:** The scope of work for the Program Coordinator provided that there are deliverables that include two public meetings to be held this year (1999), a work plan to be developed for Fiscal Year 2000, a public outreach plan to be developed and presented to the Coordination Committee, and the development of a web site in the year 1999. The Work Plan also was changed to include the older budget of \$38,000. The following is a synopsis of the discussion that was held.

Duties for the Program Coordinator have expanded since the program was set up. Members were asked what duties should be included in the job description in the future. Current duties are outlined in the *San Juan River Basin Recovery Implementation Program* on pages 44-45. Members indicated they wanted to see the following included in future duties:

- **Maintain Website:** to include, but not limited to, background information (including species information), Navajo Dam operations, meeting minutes, flow recommendation report, original long-range plans/documents, and future meeting information. Once the web page is set up, its address could be included in future public meeting notices along with meeting agendas. (Local libraries could also become repositories for program documents.)
- **Have additional public outreach** for affected communities to explain flow recommendations and the ramifications of those recommendations, as well as explain the overall program, the direction the program is going in, and what has already been accomplished. It was recommended that two public outreach meetings be held in Farmington, New Mexico, and Durango, Colorado. The meetings would also include EIS scoping. The meetings would require a facilitator, need to be advertised, and experts from the different agencies/cooperators would need to attend the meetings to explain different areas to the public.

Bureau of Reclamation representative Errol Jensen, however, wanted informational meetings held before the scoping process would begin. Informational meetings should include information on the overall program, what has been achieved, water user benefits, etc.. He indicated that it would be good to have both meetings within the next 2 months so scoping could begin soon afterwards. However, some Coordination Committee members felt it might be July 1999 before meetings could be held. It was felt that Reclamation and Service representatives need to discuss what will be covered at the meetings and by whom and that there should be a joint release between the Service and the Bureau of Reclamation on the meetings. It was further suggested by another member that Aztec and Bloomfield be considered as sites for public meetings. Reclamation is willing to help pay for the meetings in conjunction with the Service. Before the meetings are held, news releases should be sent out to various news media and especially to all persons on the *interested parties list*.

The possibility of having an outside contractor as the Program Coordinator was discussed. Long-term funding might be obtained from Federal legislation that would fund base program activities for the San Juan River Recovery Implementation Program in the amount of \$2 million per year from Colorado River Storage Project revenues. Some members felt this might be a good option to consider since the person would not be a stakeholder in the program. Everyone agreed that stability in the position is key to the program's success-someone with no vested interest with a good background in the issues. Real effectiveness and cost are considerations.

Tom Pitts indicated that the water user interests wanted to see the Service define arrangements for an outside contractor. Would or could the position be advertised through the Service or one of the tribes? Would it be possible to hire someone before October 1999? The Service would need to seek qualified candidates and make decisions based on available funding. Mr. Lohofener stated that the Service would research ways a contractor could be brought on board and would have examples to look at by mid-May. A report on options would be sent to Coordination Committee members. Joe Webster stated that Region 6 of the Service would also look into hiring a private consultant. However, due to Federal procurement rules and regulations, one of the States might have to

handle the contract. Once the Coordination Committee knows all the options, then a decision can be made.

In the interim, the Service will still coordinate the program. If a private consultant is hired as the Program Coordinator, the Program document may be amended. If the Service does hire a consultant, it would be handled through a contract. The Service will continue, however, to handle the Program Coordinator duties for the next 6 months until October 1, 1999.

The Service will develop a public outreach program and, hopefully, have someone on board as a Program Coordinator soon. A budget estimate for the position will be developed for the year 2000. The estimate will be presented to the Coordination Committee. The Service will also lay out specific duties for this position to define the scope of the job.

Mr. Bliesner gave a brief explanation to the Coordination Committee on the budget process. The \$38,000 that the Service allots for the Program Coordinator position is out of \$126,500 that the Service provides to the overall program. The money goes into the overall program budget. Budgets do not reflect all participant costs on various committees. Additional costs are considered in-kind match.

The latest Service Work Plan modeled the job as a full-time position-at least in the first 6 months in order to set up a web site and develop a public outreach program. Admittedly, the estimate on costs were high. Mr. Lohofener indicated that the position might be considered as involving 50 percent of a possible Program Coordinator's time and that an estimate of \$61,500 in terms of costs would probably be more reasonable.

Representatives from Region 2 and Region 6 will be meeting in the future (end of April) to pool resources to see how Program Coordinator duties can be handled until a new Program Coordinator is appointed.

A public outreach plan needs to be developed and a plan presented to the Coordination Committee for approval.

**Scope of Work for BLM Monitoring:** An annual progress report will be added as a deliverable to the Bureau of Land Management (BLM) Work Plan. This report should be submitted by March 31 of the following year along with data collected for incorporation into the database. There are section 7 requirements from BLM. There will be a report in the year 2000 that the Coordination Committee can look at; modifications will be made if needed. With the addition of deliverables, the BLM Work Plan was accepted.

**Proposed \$1.5 Million for Capital Construction in BOR's FY 2000 Budget/Allocation of Capital Funds for Construction of Fish Passage at PNM Weir in FY 2000:** The Coordination Committee approved a motion to request that Reclamation should use what funds are available to it for capital expenditures on the San Juan River Recovery Implementation Program for planning and design work, NEPA and ESA compliance, and construction at the PNM weir for a "selective" fish passage as recommended by the Biology Committee. The motion was approved with 8 yeas; the Jicarilla Apache Indian Tribe abstained and the Ute Mountain Ute Indian Tribe representative was

not present at the time of the vote. The Public Service Company of New Mexico is responsible for the engineering planning. Reclamation is expecting cost sharing to take place, and any money that Reclamation spends will go against the Federal funding ceiling that would be set up in Federal funding authorization legislation for the recovery programs for both the Upper Colorado River and San Juan River Basins.

Tom Pitts wanted to set a precedent that the Coordination Committee must approve SJRIP-related capital construction projects. The Committee needs to decide how to spend capital construction funds in the year 2000. Capital projects will be on the agenda for the next meeting. Currently, there is \$5.7 million in the President's budget for capital projects related to the recovery programs for both the Upper Colorado River and the San Juan River Basins. Any funds spent will be credited to an overall cap of \$46 million for Federal expenditures under the Federal funding authorization legislation, if passed. Capital works for the San Juan River Recovery Implementation Program project are anticipated to cost \$18 million.

Mr. Pitts felt it was important to get capital improvements moving, spend funds available in the year 2000, and proceed with the fish passage at the PNM weir. The Public Service Company of New Mexico contract for the Navajo Reservoir water supply to be used at the San Juan Generating Station is up for renewal with the Bureau of Reclamation soon. The San Juan weir is an impediment-this needs to be resolved. The Public Service Company of New Mexico has offered \$100,000 in funds to help resolve the weir issue before their contract is renewed. It was understood by some members that PNM and the Bureau of Reclamation would work together on a solution so there would be no "adverse impact."

**Status of Long-Term Legislation:** Tom Pitts reported that he attended meetings in Washington, D.C. from March 22-24, 1999, with other representatives of the Upper Basin Program to initiate discussions on passage of long-term Federal funding legislation for the Upper Colorado River Basin and the San Juan River Basin recovery programs. The legislation authorizes federally appropriated funds (\$46 million) for capital construction projects in the San Juan Basin and Upper Colorado River Basin, and recognizes \$17 million in cost sharing by the four states (Colorado, New Mexico, Wyoming, and Utah), and \$17 million in cost sharing from CRSP power users. Federal and cost sharing funds will provide \$62 million in capital construction funds for the Upper Basin Program and \$18 million for the San Juan Program. The legislation authorizes base (annual) funding for the two programs through 2011 to be provided by non-reimbursable power revenues. However, Congressional staff wanted to know how funding would be spent and on what projects. Coordination Committee members need to look at funding needs and getting those needs approved. Specifics of cost sharing will need to be worked out between the states, Federal agencies, and other interested entities. In a few weeks, Representative Hansen (R-UT) will introduce legislation for funding for the Upper Colorado River Basin and San Juan River Basin recovery programs. At the same time, Senator Allard (R-CO) will also introduce legislation in the Senate. Both are moving ahead with a 4-state effort to get funding for capital projects for the recovery programs. On April 21, 1999, Mr. Pitts and Upper Basin Recovery Program representatives will return to Washington, D.C., in an effort to secure Fiscal Year 2000 funding for the Upper Colorado River Basin Recovery Program (\$7.5 million), and the San Juan River Implementation Program (\$1.6 million) that is included in the

Administration's proposed budget for Fiscal Year 2000.

Long-term Federal funding legislation, which includes authorization of funding for both capital works and annual base program costs for the recovery programs, will need support from everyone including water users, the states, and other constituents. It was hoped that the tribes would also support this legislation. The public should be encouraged to write their legislators in support of this legislation. This is merely authorization legislation-not an appropriation. The \$1.6 million for Fiscal Year 2000 is the only appropriation to date-and it needs to be spent.

Regarding any possible problems with this legislation, Mr. Lohofener mentioned that **NO** Endangered Species Act (ESA) restriction riders should be attached to the legislation. The bills should be "cleansed" of any constraints on the ESA.

**Status of Section 7 Ad Hoc Committee Work:** Current issues to discuss have been identified. However, the March 1999 meeting was canceled and no new meeting scheduled. Since many members on the Section 7 Ad Hoc Committee were at the Coordination Committee meeting, a meeting was tentatively set up for May 3, 1999, in Albuquerque, New Mexico, with May 7 as an alternative date. The need for a section 7 agreement is pressing. Tom Pitts wants to see a draft recommendation on section 7 procedures from the Ad Hoc Committee by August 1999. Members of the Ad Hoc Committee include: Tom Pitts, Jessica Aberly, Scott McElroy, Randy Seaholm, John Whipple, Jennifer Fowler-Propst, Bob Krakow, and Lee Carlson. There is a need to move ahead and see how the Service will use the program as a "reasonable and prudent alternative."

Further information on this issue will be provided in the near future by Mr. Pitts.

#### **Coordination Committee Issues:**

**-State of Colorado Proposal Regarding Voting By Federal Agencies:** This was deferred until further work can be completed by Randy Seaholm.

**-Proxy Voting:** Differences of opinion were expressed. Some felt proxy voting was not appropriate. Others felt that members already have the option of providing an alternate when needed-but not all members have the resources to send an alternate. Some members felt there was no difference between a proxy vote and having an alternate vote. It was also mentioned that each participant/member of the Coordination Committee should decide at that time if someone else could have a proxy vote on an issue. Others felt each member/entity should be able to decide if they want a proxy or alternate-and there was no real distinction between the two. Some members did not want proxy voting at meetings. After further discussion, no motion was made on this issue.

**-Development of Public Involvement Program:** This was covered extensively under the Program Coordinator duties. There was no further discussion.

**Other Business/Next Meeting:**

At the next meeting, section 7 procedures, funding legislation, and capital construction projects will be discussed. A report on public outreach will be sent out by Renne Lohofener in May to Coordination Committee members. It was proposed that public meetings on the San Juan River Recovery Implementation Program be held the evenings of July 21 and July 22.

State of Colorado Representative Randy Seaholm stated that he would like to meet with Jennifer Fowler-Propst and go through the depletions included in the minor depletions account and see which of these depletions should be covered by the baseline. He would like to know which depletions are new and which exist in the baseline given in the biological opinion for the Animas-La Plata project.

Members wanted to know where the original *Cooperative Agreement* is. The Service has the original signed copy.

Tentative dates for future meetings were set up for: July 23, 1999, in Farmington,

New Mexico, and September 15, 1999.

**Handouts:**

Program Coordination: Fiscal Year 1999 Work Plan Proposal

PAH Study: Fiscal Year 1999 Work Plan Proposal