

Approved June 26, 2007



Coordination Committee Meeting Summary
April 2, 2007
Durango, Colorado

Coordination Committee Members:

Brian Millsap, Chairman
Dan Israel
Susan Jordan
Catherine Condon
Justin S. Lynch
Al Pfister
Tom Pitts
Brenna Clani for Stanley Pollack
Tom Blickensderfer for Randy Seaholm
Brent Uilenberg
John Whipple

Representing:

U.S. Fish and Wildlife Service, Region 2
Ute Mountain Ute Tribe
Jicarilla Apache Nation
Southern Ute Indian Tribe
U.S. Bureau of Indian Affairs
U.S. Fish and Wildlife Service, Region 6
Water Development Interests
Navajo Nation
Colorado Water Conservation Board
U.S. Bureau of Reclamation
State of New Mexico

Hydrology & Biology Committee Members:

Pat Page, Hydrology Committee

U.S. Bureau of Reclamation

Program Management:

David Campbell

Program Coordinator, U.S. Fish and
Wildlife Service, NM Ecological Services

Interested Parties:

Janice C. Sheftel
Sue Umshler

Scott McElroy
Amy Kraft
Ann McCoy Harold
Vince Lamarra
James Durrant
Dan Israel
Maria O'Brien
Michael Campbell

Representing:

SWWCD
Solicitor, Department of the Interior,
Albuquerque
Southern Ute Indian Tribe
Southwestern Water Conservation District
Representative, Senator Wayne Allard Office
Navajo Nation
U.S. Bureau of Reclamation
Ute Mountain Ute Tribe
BHP Billiton
BHP Billiton

Carl Woolfolk
Andrea LeFevre
John Whitney

Bill Miller
Pat Page
Jim Brooks

APS-Four Corners Power Plant
Jicarilla Apache Nation
Representative for Congressman John
Salazar
Miller Ecological
U.S. Bureau of Reclamation
U.S. Fish and Wildlife Service, NM
Ecological Services, Region 2

Attendance:

Elaine England, author of the solicitors' memos did not attend.

Discussion of Concerns and Issues Related to Long Range Plan, Work Plan Development and Contracting Procedures

- ❖ Brian Millsap opened the discussion by asking Coordination Committee members their views of the contracting issue. Following that initial round, a series of questions was asked regarding the solicitor's memos. The results of this question and answer session were:
- ❖ The January 16 solicitor's memo and the follow-up memo of March 27 regarding financial assistance references "mandatory financial assistance" to Program participants "which does not require that Reclamation compete the financial assistance award." This provides Reclamation with the option of engaging the services of Program participants without going through a competitive process. Without this authority, Reclamation would be required to subject all Program activities to competitive bidding.
- ❖ The January 30, 2007 solicitor's memo states that "It is our opinion that the statute allows Reclamation to use procurement methods, as well as financial assistance." Reclamation may also use procurement through competitive procedures to obtain services for the Program.
- ❖ The Coordination Committee has the discretion to identify which Program elements or projects are subject to competition procedures vs. those which are not. Reclamation may follow the direction of the Coordination Committee with respect to what contracts are provided directly to participants (inherently governmental), and what contracts are subject to competitive bidding.
- ❖ The Coordination Committee may use the term "inherently governmental" rather than the term "mandatory financial assistance." Generally, "inherently governmental" may be equated with "mandatory financial assistance" i.e., those projects which are not to be competed. The Coordination Committee needs to define the term "inherently governmental" for its purposes so that this is not confused with the term as used in USBR contracting regulations.
- ❖ The January 30 solicitor's memo states that the Navajo Nation has requested that it no longer be awarded financial assistance agreements, but that Reclamation will contract directly with the Nation's commercial contractor. The solicitor's office clarified that if a participant in the Program declines financial assistance, then the work which was to be carried out under financial assistance must be solicited under procurement (competitive) regulations, i.e., it must be competed. Reclamation cannot honor requests by the original financial assistance grantee that the work is given to a specific contractor. The Coordination Committee may develop a procedure, or agree that the "financial assistance" can be made to another Program participant, but the Coordination Committee cannot direct the funding to a specific contractor.
- ❖ If financial assistance is awarded to a Program participant, then the selection of the contractor to carry out that work is up to that particular Program participant. That participant must follow its own contracting procedures in awarding the contract.
- ❖ Once contracts are identified for competitive bidding then the Reclamation contracting process must be followed.

- As a result of the discussion, Brenna Clani said that the February 16, 2007 letter from President Joe Shirley to U.S. Bureau of Reclamation is moot. Brenna also stated that Navajo contracting procedures will be followed in the work that the Nation contracts out. These contracting procedures mirror those of the federal government. She said that an RFP process will be required for work carried out by the Navajo Nation for the Program.
- The discussion appeared to clarify most of the contracting issues. An action item for the Program is to define “inherently governmental” for the purpose of the Program and as used in interpreting Program documents. It was recognized that what is “inherently governmental” may vary by agency (or participant) in the Program.
- Cathy Condon recommended a meeting of a subcommittee to flesh out issues with respect to contracting in light of the discussion. Brian Millsap asked Cathy to chair the meeting, since she had suggested it. The meeting will take place on May 16 in Farmington.

Annual Work Plan Development

- ❖ Brian Millsap reviewed the procedures that have been agreed upon for developing the annual work plan. Brian emphasized the role of the Program Coordinator in developing the annual work plan and the long range plan. The Program Coordinator has responsibility for developing both the annual work plan and the long range plan. He will work with the technical committees to develop a list of prioritized projects following the SJRIP annual meeting in February. The Coordinator will then recommend those projects to the Coordination Committee. However, the Program Coordinator has the principal responsibility for recommending projects based on the results of the February meeting.
- ❖ Dave Campbell emphasized that this procedure is consistent with the procedures adopted by the Coordination Committee in the revised Program document. He provided an excerpt from the Program document describing the procedure (Attachment 2).

Long Range Plan

- ❖ Brian acknowledged that the lack of a long range plan has caused problems with the annual work plan development. He and Dave are working to eliminate that shortcoming.
- ❖ Dave Campbell has solicited a contractor to help with development of the long range plan. The contractor is SWCA with Dr. Rich Valdez. Brian Millsap directly addressed the concerns of the Biology Committee regarding this sole source contract. He said that development of a long range plan is the responsibility of the Program Coordinator. The Program Coordinator has the authority to seek technical assistance within the approved budget and without any further approval by the Coordination Committee or input from the Biology Committee. The scope of work for contractor assistance to develop of the long range plan is attached (Attachment 3).
- ❖ David Campbell expects the draft long range plan to be available for review in May. It will be sent to the Coordination Committee and technical committees at the same time, with about two weeks allowed for comments.

Program Coordinator Support

- ❖ SOW for nonnative fish removal: Pursuant to the approved priorities by the Coordination Committee, the nonnative fish removal program will be expanded to include the middle segments of the San Juan River. This will result in a cost increase for nonnative fish removal of approximately \$300,000. After this cost increase is absorbed into the budget, only about \$30,000 of flexible funding will remain.

- ❖ Field assessment for constructed backwater project: A field assessment was conducted in late March during a one and one-half day effort at 11 or 12 sites. A draft report will be reviewed at the mid-May Biology Committee meeting. The recommendation is to use existing sites for acclimation of the fish. These sites include the PNM fish passage and the Hogback fish passage. Acclimation will be accomplished, but it is likely not to be accomplished by development of experimental backwater sites as previously discussed.

Committee Reports

- ❖ Biology Committee: The Biology Committee will be meeting on April 10 and 11 in Albuquerque to review the population model and make recommendations regarding the future of that model. The Biology Committee will be meeting May 18 and 19 to review the draft long range plan.
- ❖ Hydrology Committee: The next meeting is April 17. The primary purpose of the meeting will be to have a presentation by Ray Alvarado on Colorado's "State MOD" model, which is an integral part of the San Juan River model. Reclamation will also be giving a presentation on the results of its analysis of several issues that have been raised by committee members in regards to the Gen 3 model. At the meeting, Reclamation intends to make recommendations regarding completion of the Generation 3 model and future operation and maintenance of the model.
- ❖ Navajo Dam Operations: Pat Page reported that the April forecast for Navajo Reservoir inflow was due sometime during the current week. With the dry March the area had experienced, he expected a steep fall in reservoir inflow forecast, which will impact reservoir operations this spring. With all previous forecasts, the operations decision tree had been indicating a spring peak release of 21 days at a 5,000 cfs release, but with the expected drop in the forecast, it will likely be seven days or 14 days at 5,000 cfs. The reservoir is currently very full. Because of this, the spring peak release may need to begin early to prevent uncontrolled spills.
- ❖ Flow Recommendations: Pat Page was asked if the Hydrology Committee was revising the flow recommendations. Page stated that the Hydrology Committee had been requested by the Biology Committee to evaluate the possibility of extending the duration and frequency of the higher flows at the expense of the mid-range flows. This work was completed and the results have been forwarded to the Biology Committee for their review.

New Business

- ❖ Habitat geomorphology scope of work: Brent Uilenberg placed this item on the agenda. He questioned the amount of detailed data collected in the study. He referred to the peer review comments on the scope of work, stating that it might not be appropriately scoped. Dave Campbell recommended funding the habitat geomorphology scope of work for 2007 in order to maintain continued data collection for future reference. Dave recommended not including the fish component from the habitat geomorphology scope of work in order to resolve issues regarding methodology.
- ❖ Brent Uilenberg concurred, but also referred to the peer review scope of work, citing problems with the fish sampling. Brent asserted that sampling fish without also corresponding time of day, where the flow, predators, and other information was relatively useless.
- ❖ Brian Millsap acknowledged that there is a real problem with scaling of the data. While the objective is important, there are problems that need to be reconciled before proceeding with the fish sampling project.
- ❖ Dave Campbell said that incorporating the fish sampling in the scope of work at this time could delay the scope of work for the entire habitat contract, possibly beyond the 2007 sampling period. He recommended not incorporating the fish scope of

work. Brent Uilenberg pointed out that \$2.0 million had been spent, and the ability to correlate fish and habitat is not there. He suggested that if the RFP includes the fish sampling, that the peer review comments be considered in the revised scope of work. Dave Campbell reiterated his support for incorporating the fish component next year, and the need to develop a better methodology.

- ❖ The vote was five to five for rejecting the scope of work. Given that the current procedures require two-thirds majority to reject a scope of work voted on by the Biology Committee, the fish sampling scope of work as an add on to the habitat monitoring was approved.

Coordination Committee/Biology Committee Raft Trip

- ❖ Jim Brooks suggested that the Coordination Committee consider spending a couple of days on the lower San Juan River participating in a sampling trip. He recommended the trip for the end of September or early October. The Shiprock to Mexican Hat reach could be a one, two, or three day trip. Pitts and others recommended that other parties be invited, i.e., Water Development Steering Committee members, congressional staff, etc. No decision was made re: this trip.
- ❖ Brooks will send out a proposal to the Coordination Committee indicating the cost per day (about \$20 per person), and the gear needed by participants.

Program Evaluation Report

- ❖ Dave Campbell reviewed the results of the January 31 Farmington meeting and the meeting with the National Academy of Sciences in Washington on March 23 regarding the report. He handed out summaries of both meetings. Dave recommended, and the Coordination Committee concurred, with the process recommended by Brian Millsap at the January 31 meeting. The Coordination Committee does not support engaging the National Academy of Sciences.

The next step is for Dave Campbell to develop an RFP for a third party facilitator to oversee the review of the Program. Money has been set aside in the '07 budget, and additional funds will be included in the '08 budget.

Next Meetings

- ❖ **May 16, 2007**--Define "Inherently Governmental" – San Juan Water Commission, 7450 E. Main, Farmington, NM, 8:30 am – 3:00 pm
- ❖ **June 26, 2007** --Farmington Civic Center – Farmington, NM, 8:00 am – 4:00 pm