



San Juan River Recovery Implementation Program
Coordination Committee Meeting
September 28, 2011
Durango, Colorado

Meeting Summary

Coordination Committee Members:

Jim Brooks, Chair
Catherine Condon
Celine Hawkins, CC Alternate
Herb Becker
Michael Howe
Patty Gelatt
Tom Pitts
James Morel for Stanley Pollack
Ted Kowalski
Mark McKinstry for Brent Uilenberg
Mike Roberts
Kevin Flanigan
Gary Torres

Representing:

U.S. Fish and Wildlife Service, Reg. 2
Southern Ute Indian Tribe
Ute Mountain Ute Tribe
Jicarilla Apache Nation
Bureau of Indian Affairs
U.S. Fish and Wildlife Service, Reg. 6
Water Development Interests
Navajo Nation
State of Colorado
Bureau of Reclamation
The Nature Conservancy
State of New Mexico
Bureau of Land Management

Program Management:

David Campbell, Program Coordinator
Sharon Whitmore, Asst. Program Coordinator

U.S. Fish and Wildlife Service, Reg. 2
U.S. Fish and Wildlife Service, Reg. 2

Other Interested Parties:

Mike Oetker, CC Alternate
Bill Miller, BC Chair
Warren Vigil
Carrie Lile
Steve Harris
Sue Umshler
Marian Wimsat
Lena Atencio
Chuck Lawler
Ryan Christianson

U.S. Fish and Wildlife Service, Reg. 2
Southern Ute Indian Tribe
Jicarilla Apache Nation
Southwestern Water Conservation District
Southwestern Water Conservation District
USDOJ Solicitor's Office
BHP Billiton
Southern Ute Indian Tribe
Southern Ute Indian Tribe
Bureau of Reclamation

Brooks welcomed new CC members Gary Torres representing BLM, Mike Roberts representing TNC, and Patty Gelatt representing Fish and Wildlife Service (FWS), Region 6.

Approval of July 20, 2011 meeting summary – Whitmore said edits received from Pitts and Condon are included in the current version. Pitts moved to approve, Becker seconded, and the summary was approved.

Annual funding legislation update – Pitts reported the Water and Power Subcommittee is agreeable to continued use of hydropower revenues for funding the programs. Representative Bishop (R-UT), a senior member of the House Resources Committee, will be the primary sponsor of the legislation. Under current House rules, the authorizing period is limited to 8 years or 2019. The non-federal partners have been garnering bipartisan support for the recovery programs, appropriations, and legislation in Colorado, Wyoming, and Utah. Pitts expects there will be strong bipartisan co-sponsorship among House members

from the four upper basin states. Water interests have been meeting with House members to explain the benefits of the recovery programs. Bishop and Representative McClintock (R-CA), Water and Power Subcommittee Chairman, will meet in October to work out some issues. Pitts is hopeful that after the meeting, a bill will be introduced and there will be a hearing in November. Congress recesses December 8, which, optimistically, should allow time for a hearing and passage of the bill. The cutgo issue has yet to be dealt with re: finding \$24 million in offsets for the authorization.

Pitts said the Subcommittee has questioned and will continue to have questions about overhead costs. He asked about the status of FWS Region 2 decreasing their overhead by 50%. Oetker said they have submitted the paperwork for a reduced overhead rate but would prefer to let this be determined through the Subcommittee process instead of voluntarily decreasing it. Pitts said a 50% reduction is currently included in the bill but he expects it to be scrutinized and it could end up being 0% like some want. Oetker said they were told that if Region 2 voluntarily decreases the overhead to 11%, it will all stay in Washington and Region 2's costs will not be covered.

The Senate Water and Power Subcommittee, Energy and Natural Resources Committee has held a hearing on a "placeholder" bill that maintains annual base funding for the recovery programs with appropriations through fiscal year 2023. The Senate bill will be made consistent with the House bill at markup.

Pitts has almost completed the report that addresses Subcommittee questions on: 1) the role of stocking in recovery; 2) the status of the species; and 3) Federal and non-Federal cost sharing. That report will be submitted to the House Water and Power Subcommittee very soon. With power replacement costs included in cost-sharing calculations, the total cost for both programs is about \$310 million. Because this is a large amount, he expects there to be a lot of questions. Pitts said the credibility of the recovery programs would be greatly enhanced in Congress and with the program's partners if the Service could downlist the Colorado pikeminnow in 2013 in accordance with the current downlisting schedule. Kowalski asked how long it would take if Colorado pikeminnow were to be downlisted in 2013. Gelatt said it could take a year or two. The recovery requirements for the various populations have not changed as a result of the recovery goals revision.

Condon said to let the Coordination Committee know when the the non-federal members should provide letters of support. She asked if there was any value in attending the hearing when it occurs. Pitts said he did not feel it would be worthwhile because witnesses testifying will only get about five minutes. Gelatt asked why they are questioning the use of hatcheries/stocking in recovery. Pitts thinks it comes from the problems encountered in the northwest with salmon genetics which has tainted the use of hatchery-reared fish in recovering fish populations. Also, some members of the House subcommittee strongly favor stocking as part of the solution and want to know if it is being used by the recovery programs.

Campbell reported a larval razorback sucker was captured in Lake Powell during the 2011 survey which shows reproduction is occurring. Survey results indicate there are a lot of razorback sucker in Lake Powell. Of the fish caught, about 40% were untagged. Aging will be conducted to determine where they came from. The San Juan arm of Lake Powell is critical habitat for the species so fish captured in the reservoir will count toward recovery. McKinstry said the waterfall got inundated earlier this year and a razorback sonic-tagged in Lake Powell was found in the river. He said the waterfall is not inundated now.

SJRRIP FY2012 funding update – McKinstry reported on both sources of Program funding, annual and capital. The President's budget included \$6,246,000 in capital funds minus the \$400,000 for Reclamation activities to avoid jeopardy giving the programs a total of \$5,848,000 for capital projects. Hogback Fish Weir is the top priority for 2012. Uilenberg hopes to have a contract in place late FY2012 with work to start in winter 2012/2013. All environmental compliance and permitting is in place. The total cost for Horsethief Canyon Ponds is \$5.6 million. Because the SJR Program will have 1/6 of the capacity, the

Program needs to be prepared to contribute 1/6 of the annual operation and maintenance for the facility. The balance of the \$5,848,000, after Hogback, will come back to the UCR Program for Orchard Mesa Canal Automation.

McKinstry said SJRRIP FY2012 annual funds should be around \$2.5 million. The CPI is at about 3.5% right now with less than a month to go in the fiscal year but September has been historically unpredictable so it may change. In 2012, the annual funds can only be used on monitoring and operation and maintenance of facilities. The UCR and SJR programs estimated about \$3 million worth of projects that would not be covered. Reclamation was able to pre-obligate FY2011 appropriated funds to cover ineligible projects and make both recovery programs whole for FY12. He emphasized that making up for the shortfall this way was a stopgap measure for FY 12 only.

McKinstry said a large contract with Biomark for PIT tags for both programs is in place. It is a five-year contract and covers a wide variety of tags and equipment. The temperature/habitat monitoring contract for the SJR was just completed and it went to ERI (Lamarra) and MEC (Miller). It is also a 5-year contract but only the first year is funded. Years 2-5 are option years and can be funded if the Program chooses to continue the work.

Kowalski said Colorado's contract with NFWF expired. There is a stipulation that says any money left in the account would go back to the state. Colorado does not want this to happen so he has been trying to contact NFWF to extend their contract but the SJRRIP contact person, AJ Shelton, has not responded. Campbell said he just received notice that AJ Shelton will no longer be with NFWF and that Liz Epstein will be the interim manager.

Capital funding requests (NAPI; Dexter) – Campbell described a request from the Navajo Nation for \$69,992 to build a storage building at the Nenahnezad Chapter House to store NAPI equipment. This should prevent the frequent theft of equipment that has occurred when it is stored at the NAPI ponds. He said the NFWF account is typically used for smaller capital funds requests such as this. There is currently about \$800,000 from Colorado and \$900,000 from New Mexico in the account. Campbell said he recommends the CC approve the request. Pitts moved to approve, Becker seconded, and the Navajo Nation request was approved.

Campbell described two capital funds requests received from Dexter. One is for \$50,000 for a decontamination station. The total project will cost about \$135,000 with cost share funding from the SJR Program, Virgin River Program, Lower Colorado River Multi-Species Conservation Program, and Middle Rio Grande Collaborative Program. Cost share amounts are based on number of trips to haul fish for each program. Campbell said he believes the Program should invest in decontamination equipment at all hatchery facilities the Program uses and he recommends approving the request. He said Dexter will need to provide a better quote though since NFWF only pays a vendor. Kowalski moved to approve a \$50,000 contribution toward the decontamination equipment, Becker seconded, and the \$50,000 request was approved. The group discussed the possibility of pre-approving funds for Uvalde for the same equipment. Oetker said it would be better to wait because Dexter will serve as the template for what is done at the other facilities.

Dexter's second request is for \$375,000 to line three ponds used for rearing Colorado pikeminnow. Campbell said the Program needs to consider how this fits into the big picture and what the future plans are for pikeminnow before making a decision. The Program just spent a lot of money lining ponds at Horsethief Canyon and has not determined how that facility will be used yet. Pikeminnow broodstock needs to be developed at another yet-to-be-determined facility and the Southern Ute Tribe has indicated an interest in building a broodstock facility. This is a fairly large sum to come out of the NFWF account. Typically, more costly projects go into Reclamation's capital funding cycle and requires longer-term

planning. Pitts asked if this type of project could be funded using the surplus FY2012 base funds since it is operation and maintenance of facilities. McKinstry said he was not sure but can look into it. Brooks asked about how it is determined which source of capital funds is used. McKinstry said he could do an RFP and use appropriated funds. Campbell said that the two recovery programs need to evaluate overall future stocking needs for the four species before making a decision. Pitts moved to table the pond lining request from Dexter at this time. The CC agreed to table the request pending recommendations from Program staff on needs, costs, and funding.

BC response to small-bodied monitoring questions – Campbell went through the list of CC questions and BC responses. The BC and the peer reviewers did discuss the monitoring protocol thoroughly at the monitoring workshops in 2009 and chose not to make any changes at that time recognizing there was some disagreement on methods. The protocol is designed appropriately for fish community-based sampling and provides important data on the entire fish community. No sampling targeted toward catching the listed species is recommended at this time. The BC recognizes; however, that the current method of using a 15 ft. seine does not sample all habitats where the endangered species could occupy. The New Mexico Department of Game and Fish (NMDGF) agreed to do some test sampling using a block seine method with a 30 ft. seine on their September sampling trip.

Condon asked about the purpose of the other technique. Miller said nothing will be lost by adding it but by sampling another habitat type, we will see if more endangered fish are caught. The BC will determine after review and analysis of the data if this method should be added on a permanent basis.

FY2012 Annual Work Plan and budget review and approval – Campbell said the Program is fully funded with a mix of funding sources, hence, the addition of the Other Funding column on the budget spreadsheet. The way the CPI is dispersed was changed a couple years ago. Instead of automatically programming a 5% increase into project budgets each year, any increase is based on the actual CPI. McKinstry said his priority for FY2012 will be to get funding to the Navajo Nation since they did not receive funding in FY2011. He said NMDGF can no longer subcontract to American Southwest Ichthyological Researchers (ASIR) for the larval sampling so he will be putting out an RFP for the work. Whitmore said the AWP projects have not changed from the last version except the Habitat/ Temperature Monitoring was added at the amount estimated in the recently awarded ERI/MEC contract for option year two (\$88,313). Condon asked about the Data Integration item in the Notes section. Campbell explained the CC approved the project two years ago but it would entail hiring a senior recovery science biologist and Campbell does not want to pursue filling a position at this time because of the uncertain budget situation of the past couple years. The Program Office is covering some of that work.

The group discussed the AWP budget spreadsheet. Because of the mixed funding sources in FY12, the way some of the information is displayed is not clear. Campbell said he will rework the format to make it clearer and recommended the CC approve the AWP. Becker moved to approve the FY2012 AWP, Gelatt seconded, and the AWP was approved.

MOU between the Program and the Southern Ute Indian Tribe – Condon said she incorporated comments received and the Southern Ute Tribal Council approved the MOU. She handed out a signed copy and said if the MOU is acceptable to the CC, Brooks can sign the original and it will be done. Pitts moved to approve the MOU, Becker seconded, and the MOU was approved. Condon was given accolades for completing the MOU process and facilitating the update of the SJR population model which will be a valuable tool for the Program.

Habitat/Environmental Flow Workshop planning – Campbell explained there will be a series of workshops to arrive at a process for evaluating the effectiveness of the flow recommendations. The first workshop will be to look at where we've been, what we've done, and evaluate if we are looking at the right

things. Program peer reviewers and outside peer reviewers/experts (possibly 4-5) will be brought in to participate in the workshops. BC members who might bid on future work will recuse themselves from participating in any part of the process that involves developing protocols for monitoring or analyses.. Campbell said he would like to look into using TNC's flow monitoring group to assist in the process. The overarching goal is to revise or validate the flow recommendations. McKinstry mentioned the Program may need to find a couple new Program peer reviewers soon.

Pitts said he agrees with Miller's comment in the BC meeting summary that the first workshop appears to be geared too much toward the flow recommendations revision and that it should focus more on what we have done, why we did it, and was it correct. Pitts said the focus should be on establishing a relationship between flows and habitat and that jumping into the effects of flows and fish concerns him. The Steering Committee is concerned about lack of one or more methodologies to apply to development of the flow recommendations. He supports TNC involvement in establishing methodologies to measure effects. He mentioned Tom Wesche's Indicators of Hydrologic Alteration (IHA) analysis that was provided to the BC several years ago. The IHA method could be used, along with others. He is also concerned that the outside peer reviewers' voices might get lost and recommends they provide a formal assessment of the outcome.

Whitmore said the Habitat/Environmental Flows Workshop Draft Outline distributed to the CC is currently being reviewed by the BC with comments due to the Program Office by September 30. The CC can also provide comments on the draft outline.

DOI Scientific Integrity Policy – Campbell summarized the policy. It establishes a Departmental policy on the scientific integrity and activities that DOI agencies including the FWS and Reclamation, are involved in. The Program already does this, e.g., Miller recusing himself from developing methods his company may bid on. Pitts said because this policy will affect the Program, the CC may want to include something in the Program Document to cover it. Condon indicated it is a chore to modify the Program Document. Pitts said including this in Program documents will help in dealing with Congress, which is always concerned about the application of sound science regarding endangered species issues. It would entail adding one paragraph to the Program document, so should not take too long. The Program Office will draft a paragraph for possible inclusion in the Program Document. Condon indicated it was fine if the Program Office wanted to draft a paragraph, but that she is reluctant to revise the Program Document.

Hydrology model discussion with DOI solicitor re baseline depletions – Campbell said the Hydrology Model Subgroup has asked what the FWS includes for Indian water rights in the hydrology baseline for Gen 3. He asked DOI Solicitor Sue Umshler to attend the CC meeting to answer questions. He said the FWS considers depletions included in Indian water settlements to be reasonably certain to occur so they need to be included in the environmental baseline. Umshler said to keep in mind the main purpose of accounting for depletions is to recover the fish. The data used and the data in models do not affect what is in the Indian water settlements and adjudications. Campbell said the SJRB Hydrology Model played a big part in the early years when there were few fish in the river. The FWS may have relied too heavily on the model then but now that there are fish in the river, the FWS can use numerous tools to measure recovery including the SJR model. The overarching factor is the progress the Program is making toward recovery. The model is less significant now because progress toward recovery is not just about meeting flow recommendations.

Condon pointed out the difference between non-Indian and Indian water rights is that non-Indian rights can go away but Indian rights do not. Gelatt asked if all diversion and depletions are included in the environmental baseline. Umshler said the settlements include all of it, diversions and depletions. Umshler pointed out it is important to have all the information. She gave an example of a settlement she is working on that is 50 percent of the adjudicated amount. All Tribes are different (e.g., SUIT rights are all quantified, much of NN rights are not being used but are in the model, Jicarilla water is all being used but the contract

may change). Umschler said other problems will continue to be identified such as should decreed water rights be included in model. She provided a quote about models, “the best model of the real world is the real world.”

Condon said the FWS relied too heavily on the model in the past and she is glad the Service will be looking at everything now. Hawkins said the Tribes will not necessarily develop water if it involves a hefty consultation. She mentioned a very lengthy consultation she was recently involved in on a very small amount of water. Gelatt said there is a streamlined process in place for doing small depletions and asked for more information about the consultation. Harris pointed out the model was used in the past as a regulatory threshold so paranoia was high. There is not as much paranoia now but it is still there.

Brooks questioned the purpose of the discussion. Campbell said it is important to convey the change in FWS thinking on this issue. In the past, no depletions were in the baseline unless there was an associated project. As a result, many Tribal water rights were not included. Now, all Indian rights will be accounted for in the model. It is a change in how the FWS will use the model.

Annual hydrology model meeting planning in Denver – Whitmore and Katrina Grantz are planning the October annual hydrology model meeting and a hydrology baseline workgroup meeting to be held in Denver. They would like to have the annual hydrology meeting on October 26 from 10 a.m. to 3 p.m. and the hydrology baseline workgroup meeting the next day on October 27 from 8 a.m. to noon. The CC agreed to this schedule. Whitmore will find a motel near the airport with a meeting room for about 20-25 on first day and about 10-12 the second day and reserve a block of rooms.

BC Report – Miller reported on the last meeting. The discussion on small-bodied monitoring took about half the time. The BC’s annual fall meeting will be November 15-16 in Durango. Some of the agenda items include monitoring protocols, non-native fish workshop outcome, LRP/priorities, and habitat-flow workshop.

Pitts asked about the NNF Policy problems mentioned in the BC meeting summary. NMDGF’s fisheries staff do not like the policy because it gives the FWS too much authority in approving state stocking plans. Their solicitor also said it may be contrary to New Mexico’s importation of fish policy which would make it illegal for them to sign. NMDGF is also concerned about FWS approving lake management plans. Gelatt pointed out FWS involvement in approving lake management plans is integral to the Upper Colorado River Program’s policy. All of the participating states in the Upper Colorado Program are also involved in the approval process, not just the Service. Campbell said no CC involvement is needed yet. Eliza Gilbert is going to try revising the policy to make it acceptable to New Mexico. If she is unsuccessful, the CC may need to get involved.

Schedule next meeting – Conf. call Dec. 6; 3 to 5 p.m.

- DOI Science Integrity Policy paragraph
- Habitat Workshop update
- Hydrology model update baseline
- November BC meeting update