

COOPERATIVE AGREEMENT
for the
SAN JUAN RIVER BASIN RECOVERY IMPLEMENTATION PROGRAM

COOPERATIVE AGREEMENT

This Cooperative Agreement is entered into by the United States of America, represented by the Department of the Interior (Department); the State of Colorado; the State of Utah; the State of New Mexico; the Navajo Nation; the Southern Ute Indian Tribe; the Ute Mountain Ute Indian Tribe; and the Jicarilla Apache Indian Tribe.

I. PURPOSE

On October 24, 1991, a Memorandum of Understanding was executed by the Department, the States of Colorado, Utah, and New Mexico, the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, and the Jicarilla Apache Indian Tribe, to set forth certain agreements and to establish the foundation for a long-term program to recover the endangered fish species of the San Juan River Basin. This Cooperative Agreement adopts the attached San Juan River Basin Recovery Implementation Program (Implementation Program). The signatories to this Cooperative Agreement agree to participate in and support the Implementation Program including the committees established by the Implementation Program.

II. AUTHORITIES AND RESPONSIBILITIES

- A. Federal Cooperation with States. Section 2(c)(2) of the Endangered Species Act, states that "the policy of Congress is that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species." Under section 6 of the Act, the Secretary of the Interior is directed to cooperate to the maximum extent practicable with the States in carrying out the program authorized by the Act and to consult with affected States before acquiring any land and water, or interest therein, for the purpose of conserving endangered species. Under section 6 of the Act, an executive agency should enter a cooperative agreement when anything of value will be transferred to a State or local government to carry out a public purpose authorized by Federal statute.
- B. Recovery Plans and Teams. Under section 4(f) of the Endangered Species Act, the Secretary is directed to develop and implement plans for the conservation of endangered species and may procure the services of public and private agencies and institutions in developing and implementing such recovery plans.
- C. Consultation and Coordination Among Federal Agencies. Under section 7 of the Endangered Species Act, Federal agencies shall utilize their programs and authorities in furtherance of the purposes of the Act and ensure that their actions are not likely to jeopardize listed species. The Department has the authority to enter into this Cooperative Agreement under section 1 of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.). Under

section 2 of the Fish and Wildlife Coordination Act, Federal agencies must consult with the Fish and Wildlife Service and with State wildlife agencies on the fish and wildlife impacts of Federal or federally licensed or permitted water projects.

- D. Applicable State Law. Pursuant to the applicable State laws and interstate compacts, Colorado, Utah, and New Mexico administer water rights, including water for instream uses, and oversee development of water resources, allocated and apportioned to them in perpetuity by interstate compacts. Each of these States also has certain statutory authority and responsibility to protect and manage its fish and wildlife resources.
- E. Applicable Tribal Law. Pursuant to the applicable Tribal laws, and inherent Tribal sovereignty, the Navajo Nation, the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, and the Jicarilla Apache Indian Tribe have the authority to administer water rights, to oversee the development of water resources, and to protect and manage fish and wildlife resources within the boundaries of their reservations.
- F. Statement of Authorities. The signatories hereby state that they have legal authority to enter into this Cooperative Agreement, and have legal authority to carry out all the provisions of the Implementation Program.

III. TERMS AND CONDITIONS

- A. Effective Date and Duration. This Cooperative Agreement shall be effective as of November 1, 1992, and shall remain in effect for a period of 15 years, however, the protection of the reservoir releases as per the Biological Opinion for the Animas-LaPlata Project (Project) shall survive the termination of this agreement and last for the life of the Project.
- B. Amendment. This Cooperative Agreement may be extended, amended, or terminated by agreement of the signatories, or any signatory may withdraw from this Cooperative Agreement upon written notice to the other signatories.
- C. No Delegation or Abrogation. All signatories to this Cooperative Agreement recognize that they each have statutory responsibilities that cannot be delegated, and that this Cooperative Agreement does not and is not intended to abrogate any of their statutory responsibilities.
- D. Consistency with Applicable Law. This Cooperative Agreement is subject to and is intended to be consistent with all applicable Federal, State, and Tribal laws and interstate compacts.

- E. Legislative Approval. All funding commitments made under the Implementation Program and this Cooperative Agreement are subject to approval by the appropriate State, Tribal, and Federal legislative bodies.

- F. Implementation Program Modifications. Modifications to the Implementation Program may be made pursuant to section 5.4 of the attached Implementation Program without requiring modification to this Cooperative Agreement or the additional written consent of the signatories to this agreement.

IN WITNESS WHEREOF each party has caused this Cooperative Agreement to be executed by an authorized official on the day and year set forth below by his or her signature.

UNITED STATES OF AMERICA

by Manuel Lujan Jr.
Manuel Lujan, Secretary of the Interior

Date October 28, 1992

STATE OF COLORADO

by _____
Roy Romer, Governor

Date _____

STATE OF NEW MEXICO

by _____
Bruce King, Governor

Date _____

STATE OF UTAH

by _____
Norman H. Bangertter, Governor

Date _____

NAVAJO NATION

by _____
Peterson Zah, President

Date _____

SOUTHERN UTE INDIAN TRIBE

by _____
Leonard Burch, Chairman

Date _____

UTE MOUNTAIN UTE INDIAN TRIBE

by _____
Judy Knight-Frank, Chairman

Date _____

JICARILLA APACHE INDIAN TRIBE

by _____
Leonard Atole, President

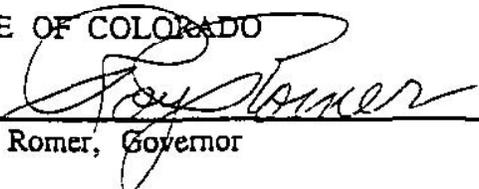
Date _____

IN WITNESS WHEREOF each party has caused this Cooperative Agreement to be executed by an authorized official on the day and year set forth below by his or her signature.

UNITED STATES OF AMERICA

by _____ Date _____
Manuel Lujan, Secretary of the Interior

STATE OF COLORADO

by  Date 10-30-92
Roy Romer, Governor

STATE OF NEW MEXICO

by _____ Date _____
Bruce King, Governor

STATE OF UTAH

by _____ Date _____
Norman H. Bangerter, Governor

NAVAJO NATION

by _____ Date _____
Peterson Zah, President

SOUTHERN UTE INDIAN TRIBE

by _____ Date _____
Leonard Burch, Chairman

UTE MOUNTAIN UTE INDIAN TRIBE

by _____ Date _____
Judy Knight-Frank, Chairman

JICARILLA APACHE INDIAN TRIBE

by _____ Date _____
Leonard Atole, President

IN WITNESS WHEREOF each party has caused this Cooperative Agreement to be executed by an authorized official on the day and year set forth below by his or her signature.

UNITED STATES OF AMERICA

by _____ Date _____
Manuel Lujan, Secretary of the Interior

STATE OF COLORADO

by _____ Date _____
Roy Romer, Governor

STATE OF NEW MEXICO

by Bruce King _____ Date 11/6/92
Bruce King, Governor

STATE OF UTAH

by _____ Date _____
Norman H. Bangerter, Governor

NAVAJO NATION

by _____ Date _____
Peterson Zah, President

SOUTHERN UTE INDIAN TRIBE

by _____ Date _____
Leonard Burch, Chairman

UTE MOUNTAIN UTE INDIAN TRIBE

by _____ Date _____
Judy Knight-Frank, Chairman

JICARILLA APACHE INDIAN TRIBE

by _____ Date _____
Leonard Atole, President

IN WITNESS WHEREOF each party has caused this Cooperative Agreement to be executed by an authorized official on the day and year set forth below by his or her signature.

UNITED STATES OF AMERICA

by _____ Date _____
Manuel Lujan, Secretary of the Interior

STATE OF COLORADO

by _____ Date _____
Roy Romer, Governor

STATE OF NEW MEXICO

by _____ Date _____
Bruce King, Governor

STATE OF UTAH

by _____ Date _____
Norman H. Bangerter, Governor

NAVAJO NATION

by _____ Date _____
Peterson Zah, President

SOUTHERN UTE INDIAN TRIBE

by Leonard Burch Date Nov. 3, 1992
Leonard Burch, Chairman

UTE MOUNTAIN UTE INDIAN TRIBE

by _____ Date _____
Judy Knight-Frank, Chairman

JICARILLA APACHE INDIAN TRIBE

by _____ Date _____
Leonard Atole, President

IN WITNESS WHEREOF each party has caused this Cooperative Agreement to be executed by an authorized official on the day and year set forth below by his or her signature.

UNITED STATES OF AMERICA

by *Manuel Lujan Jr.*
Manuel Lujan, Secretary of the Interior

Date October 28, 1992

STATE OF COLORADO

by _____
Ray Romer, Governor

Date _____

STATE OF NEW MEXICO

by _____
Bruce King, Governor

Date _____

STATE OF UTAH

by _____
Norman H. Bengtson, Governor

Date _____

NAVAJO NATION

by _____
Peterson Zah, President

Date _____

SOUTHERN UTE INDIAN TRIBE

by _____
Leonard Burch, Chairman

Date _____

UTE MOUNTAIN UTE INDIAN TRIBE

by *Judy Knight-Frank*
Judy Knight-Frank, Chairman

Date _____

JICARILLA APACHE INDIAN TRIBE

by _____
Leonard Atois, President

Date _____

IN WITNESS WHEREOF each party has caused this Cooperative Agreement to be executed by an authorized official on the day and year set forth below by his or her signature.

UNITED STATES OF AMERICA

by _____ Date _____
Manuel Lujan, Secretary of the Interior

STATE OF COLORADO

by _____ Date _____
Roy Romer, Governor

STATE OF NEW MEXICO

by _____ Date _____
Bruce King, Governor

STATE OF UTAH

by _____ Date _____
Norman H. Bangert, Governor

NAVAJO NATION

by _____ Date _____
Peterson Zah, President

SOUTHERN UTE INDIAN TRIBE

by _____ Date _____
Leonard Burch, Chairman

UTE MOUNTAIN UTE INDIAN TRIBE

by _____ Date _____
Judy Knight-Frank, Chairman

HICARILLA APACHE INDIAN TRIBE

by Leonard Atole Date 11-13-92
Leonard Atole, President