

Approved October 29, 2007



SAN JUAN RIVER RECOVERY IMPLEMENTATION PROGRAM
Coordination Committee Meeting
September 7, 2007

San Juan Public Lands Center (US Forest Service)
15 Burnette Ct (Durango Tech Center –Hwy 160 West)
Durango, Colorado

Coordination Committee Members:

Brian Millsap, Committee Chair
Steve Lynch
Randy Seaholm
Noelle Graney for Susan Jordan
Catherine Condon
Brent Uilenberg
Al Pfister
Tom Pitts
John Whipple
Brenna Clani for Stanley Pollack
Peter Ortego for Dan Israel
Absent
Absent
Absent

Representing:

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

Hydrology & Biology Committee Members:

Pat Page, HC Chair
Paul Holden, BC Chair
Mark McKinstry
Jim Brooks
Chuck McCada
Steve Harris
Charles Lawler

U.S. Bureau of Reclamation
Jicarilla Apache Nation
U.S. Bureau of Reclamation
U.S. Fish and Wildlife Service, Region 2
U.S. Fish and Wildlife Service, Region 6
Southwestern Water Conservation District
Southern Ute Indian Tribe

Program Management:

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

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

Interested Parties:

Michael Howe
Randy Kirkpatrick

Representing:

Bureau of Indian Affairs-NIIP
San Juan Water Commission

Welcome and Introductions

- ❖ Brian Millsap introduced Sharon Whitmore, the new Assistant Program Coordinator located in the Program Office in the Fish and Wildlife Service's (Service) Office in Albuquerque.
- ❖ The agenda was reviewed and several changes made. John Whipple asked to combine the two items under *New Business* related to the hydrology model and section 7 consultations. Tom Pitts suggested moving the item, *BOR Hydrology Model Letter*, to this discussion as well. Tom also added a briefing on authorizing legislation and Brent Uilenberg added a status update on NFWF and capital funds.
- ❖ The draft *Final Meeting Summary* from the June 26, 2007, Coordinating Committee (CC) meeting was reviewed and approved with no changes.

Biology Committee (BC) Report

Paul Holden reported that the BC has been working with SWCA on the Long Range Plan update. Committee members provided comments on a revised version of the plan but had not yet received back a new revision. At the last meeting, the BC discussed a process for amending the flow recommendations and proposed interim flow guidelines. Specific recommendations were made to amend the operating criteria for the 2,500 and 5,000 cfs flows. However, the BC did not approve making any changes to the flow recommendations or operating criteria at this time. A proposal for "data mining" to evaluate current monitoring protocols and develop population estimates was discussed. A decision was made to conduct smaller-scale (focused) data mining for 2008 related primarily to analyzing fish sampling data. This information can be used in the larger-scale integration report scheduled to occur in 2009. The BC reviewed and accepted the 2008 draft Annual Work Plan (AWP) with a few minor changes.

Hydrology Committee (HC) Report

Pat Page reported the committee met in June and would be meeting the following week via conference call. He indicated his office has been doing some flow model work incorporating data related to San Juan Chama and Colorado baseline depletions. He reported that Navajo Dam releases are at a 900 cfs and flow through critical habitat is ~800 cfs. Because water levels in the reservoir need to be decreased in preparation for winter/spring storage, they plan to make a fall release of around 5,000 cfs. He indicated a need to coordinate the release with fall stocking activities. Jim Brooks said the dates for stocking are set for November 7 and 14. Page said that even with a fall release, they fully expect making maximum spring releases as well.

Capital Update

Randy Seaholm reported third quarter balances (as of July 1) were \$753,000 for New Mexico and \$22,000 for Colorado. Due to additional invoices, Colorado's balance is now at zero and they are in the process of putting together a new contract.

OLD BUSINESS

1) Long Range Plan (LRP) Revisions

Dave Campbell reported there were substantive comments received on the LRP revision. The contractor (SWCA) is currently incorporating comments and a new version is expected soon (their contract is about 1/3 spent). Because the contractor will not be able to address all of the issues identified, the Program Office plans to continue working on the document after the final revision is received from SWCA. Recognizing the LRP is a living document that requires review and revision on a yearly basis, the Program Office will continue to work on the LRP, in coordination with Program committees, to insure it can serve its intended purpose.

2) Guidelines for Contracting and Sole Sourcing SJRRIP Projects

Dave Campbell went through the draft guidelines developed by a CC workgroup. The guidelines were developed at a May 16, 2007 CC work group meeting chaired by Cathy Condon. Several questions were asked mostly related to the use of the terms *modeling/model* and *monitoring/research*. Paul Holden recommended adding habitat modeling under the non-compete category. Noelle Graney stated the Jicarilla Apache Nation does not support formally adopting guidelines that are more restrictive than the Solicitor's Opinions. They do not believe it would be in the best interest of the Program. It was moved and seconded to adopt the guidelines. After discussion, the motion was modified to adopt them as "non-binding" guidelines for use by the Program Manager to help move forward in addressing Program contacting issues. The guidelines were approved with the stated modifications. One dissenting vote was tendered by Noelle. (The Guidelines were modified by adding the following to the first sentence, "...types of projects that would normally not be contracted out...").

3) (Addition to Agenda) Authorizing Legislation

Tom Pitts explained that there have been numerous rock slides at Farmers Mutual Ditch diversion which is within Colorado pikeminnow critical habitat. These rock slides have required repairs which involve equipment being in the river during sensitive spawning times. Until there is a permanent fix, additional slides could occur that could continue to threaten critical habitat. Senator Domenici is proposing to modify the Recovery Program's authorizing legislation (P.L. 106-392) to provide funding through the Program to remedy this situation. The amendment would include an additional \$12 million in federal funding for San Juan Program capital projects to protect critical habitat from more rock slides at Farmers Ditch (\$7 million) and to repair and replace constructed capital facilities (e.g., fish passages, fish screen, hatcheries), as necessary, through 2023 (\$5 million). Tom explained that there are two drafts of the proposal on the table, one for Mutual Ditch alone and one that also includes rehabilitation of projects (\$5 million for San Juan River and \$15 million for upper Colorado River). The authorization for capital expenditures expires after 2010. He pointed out that there are no provisions in the authorizing legislation for rehabilitation or major repair of Program structures which likely will be needed in the future. Tom indicated he would like nonfederal CC participant support for the legislative modifications but recognized it was new information. He explained that his intent at this point was to gather non-federal CC member input and hear concerns. Paul Holden asked why not ask for enough funds to cover other non-Program structures that may also require fixing. Tom explained that the proposed legislation is very specific and that the Senator is not attempting to fix all potential problems that may arise. In general, no serious objections were voiced; however, most members indicated they would need to discuss the issue further after the meeting.

4) Process for Modifying Annual Work Plan (AWP)

Dave Campbell provided background. John Whipple moved to approve and Randy Seaholm seconded. Cathy Condon expressed concern with some of the wording primarily related to determining how new projects would be funded if a committee approved additional or expanded scopes of work. Assuming Program funds are fully allocated when the AWP is approved, a funded activity would need to be given up or a contingency fund created to cover additional expenses. Modifications to the verbiage were discussed. The process was approved with the following additions:

7) Modifications to a final annual work plan and budget: Any substantive modifications proposed by a technical committee to an approved scope of work included in the final work plan and budget or a proposal for a new scope of work will require two-thirds of the technical committee's members vote in favor of the modification or the new scope of work. The proposed modification will be forwarded to the Coordination Committee for consideration by the

Program Coordinator along with an analysis and recommendation on approval from the Program Coordinator's office. The analysis from the Program Coordinator's office will include: 1) whether the modification is consistent with the Long Range Plan; and 2) the effect of the modification on the annual work plan and budget. The proposed modification will be added to the final annual work plan if two-thirds of the Coordination Committee members vote to approve the modification.

NEW BUSINESS

1) FY 08 Draft Work Plan and Budget

The Committee went through the 2008 AWP section by section. After discussion, each section was approved with noted modifications, corrections and/or clarifications. The Program office will pursue making the noted modifications and provide to the CC prior to an October 29 conference call.

Biology Committee Projects

Monitoring (5 items) – Funding for Committee member attendance at BC meetings is not authorized and needs to be corrected in the *YOY/Small Bodied Fish Monitoring* Scope of Work (SOW).

Peer Review (2 items) – *Program Workshops* is a placeholder. Individual SOWs will be developed as workshops are identified and will require approval by the appropriate committee(s).

Research (2 items) – River Videography (\$13,000) was recognized as part of the *Habitat Mapping* project (\$320,000). Dave Campbell explained that that *Habitat Mapping* project was originally approved as a two-year pilot project and went out as a one-year RFP, hence, why there is no SOW. Mark McKinstry said an RFP will be required for the second year. Dave indicated that the water temperature component of the project should be a stand alone item as it is part of Program O&M. It can continue to be done as it currently is but needs to be in its own category in subsequent AWP's. He explained that the Fish Capture Data Analysis (\$28,000) is an estimate for analyzing fish capture data and that the BC would like Kevin Bestgen to do in 2008. The CC indicated that a SOW would be needed for the work. After approval of the section, Mark indicated he would put together an RFP for the second year of the *Habitat Mapping* project.

Recovery (8 items) – Brent Uilenberg expressed concerns about the high cost of razorback sucker (RBS) production at NAPI Ponds and that funds had not yet been allocated for pond improvements in 2008. Dave recognized the high costs of production at NAPI ponds but emphasized the importance of maintaining a second source of fish (production at NAPI ponds provides that redundancy). He indicated costs had been reduced considerably (\$60,000 reduction) and that he expects costs will continue to decline in subsequent years. It was recognized that \$75,000 had already been approved for pond improvements in 2008. It was agreed that future production at NAPI needs to be closely monitored. Tom Pitts indicated that the upper Colorado River Program can provide RBS redundancy, if necessary. The *Recovery* section was approved with recognition of the stated concerns regarding the *RBS Augmentation/NAPI pond Management* SOW.

Hydrology Committee Projects (2 items)

Costs associated with increased Service involvement in maintenance and operation of the model will need to be factored into subsequent SOWs. Locations of the USGS stations funded totally or in part by the Program need to be identified in the SOW.

Program Coordination and Management (4 items)

Tom Pitts expressed concerns about the Service not fully meeting their \$200,000 commitment. Brian Millsap explained the Service is given no additional funds for Program support but, at the field level, has been attempting to increase the Service's contribution to the Program. Tom asked that the Service's contribution be included in the AWP Budget Summary. Inclusion of funds for travel to BC meetings in the Bureau's *Base Fund Management* SOW was questioned and should be checked. More detailed information in the *Database Management* SOW is needed. More detail will be added to the SOW and a presentation on the database management plan will be provided at the next CC meeting. Brent Uilenberg indicated an SOW for Hogback fish screen had not yet been done as modifications to the design are still being made. He said \$400,000 was allocated for design work in FY08. He will provide a SOW when it is completed.

Program Facilities Operations and Maintenance (2 items) – No changes noted.

2) Secretary of Interior's Report on Continued Use of Base Funding Beyond 2011

Tom Pitts explained that P.L. 106-392 requires the Secretary of the Interior to submit a report to Congress on the use of power revenues for annual funding of the Upper Colorado and San Juan programs, with a recommendation for continued use of those funds after FY2011. After FY2011, use of those funds is restricted to operation and maintenance of capital facilities and monitoring, unless Congress authorizes use for other purposes. Activities such as research, non-native fish removal, and program management could not be funded, as is done presently. The objective is to get the report to Congress by March 1. This is an aggressive schedule, but the report needs to be delivered to Congress to precede the annual congressional trip to DC scheduled for March 5 to 11, and as an election year, any actions need to be completed as early in the year as possible. The Service and Bureau are in the process of drafting the report. A draft will be distributed to the CC fairly soon with a short turn around for input.

3) Hydrology Model/Section 7 Principles

Tom Pitts explained how the Water Development Steering Committee's discussion paper came about and emphasized that it is for discussion purposes only. The Water Development Steering Committee has concerns with how the hydrology model is being used in section 7 consultations. Millsap said he is not aware of section 7 reviews where the model is used rigidly; however, the Service is required to use the best information available and believes the model is a good tool for evaluating the impact of water development projects on Reclamation's ability to meet the flow recommendations. Al Pfister reiterated that the model is not used by the Service as the sole basis for section 7 determinations and that this has been stated clearly to the Hydrology Committee and water development interests repeatedly in the past. However, the perception by water users is that the hydrology model is a regulatory tool used by the Service to ensure that flow recommendations are being met. The water users want the Service to clearly state how they use the model and what its role is in section 7 consultations. Randy Seaholm pointed out that even if the model was only used as intended, New Mexico and Colorado continue to have disagreements about model data input.

A lengthy discussion ensued regarding numerous aspects of the hydrology model. The predominant issues expressed were with use of StateMod in Gen3, the Service's use of the model in section 7 consultations, and if and when Gen3 can be implemented.

The group discussed how best to attempt to resolve the model issues. It was suggested that CC members in consultation with their respective HC representatives develop a list of

issues/questions for the CC to review and determine how best to resolve. The decision was made to have CC members get together to identify their specific issues/questions and send them to the Program Office by Oct. 1. If possible, the issues/questions should be separated into technical or policy categories. The Program Office will compile the list of issues for the CC to review prior to the October 29 conference call.

4) Bureau Hydrology Model Letter

Brent Uilenberg described the draft memo from the Bureau to the Service describing each agencies current and future role in developing, maintaining, and operating the SJRRIP flow model. He indicated he was not looking for approval from the CC but was open to any comments/input. Two edits were suggested. These included making the verbiage describing Program decision-making processes in Items #7 and #8 track with the actual verbiage on these processes in Program documents.

5) Request for ESA Consultation on 60,000 af of SJR Depletions

John Whipple stated that 60,000 af of additional depletions was needed (24,000 af for uses in NM, including 21,000 af to remove the Navajo-Gallup depletions guarantee, plus about 26,000 af for uses in CO and 10,000 af for uses in Utah or perhaps elsewhere). John and Randy Seaholm indicated the Service should do a programmatic consultation on these depletions and that other programmatic biological opinions (PBO) have been done that did not have a specific federal action. Al Pfister disagreed with Randy's assertion. He explained that the biological opinion on minor depletions referred to by Randy was an intra-Service consultation, basically where the Service consults with itself to develop a streamlined process for doing multiple consultations on upcoming projects that have similar impacts (in this case, minor depletions). The 60,000 af would not qualify under this type of consultation. Tom Pitts said the Service did not follow the *Principles for Conducting Endangered Species Act Section 7 Consultations on Water Development and Water Management Activities Affecting Endangered Fish Species in the San Juan River Basin (Principles)* adopted by the CC in 2001 when they decided to allow a depletion guarantee for the Navajo-Gallup project. He contended that the Service did not do the appropriate coordination with the CC as required by the *Principles*. Dave Campbell said he did the biological opinion on the Navajo-Gallup project but that the details had already been worked out by others by the time he got it.

Brian Millsap indicated the Service is not opposed to doing these types of consultations but, in this case, there are numerous issues that would need to be worked before any decisions could be made. For example, there is no federal action, much more detail is needed, and someone, possibly the Program, would have to pay for Service staff time and salaries to do such a consultation. He asked the group that if the Service insured the *Principles* will be followed, will this solve the problem. There was general agreement. A review of the *Principles* will be included on the agenda for the next CC meeting.

Randy Seaholm asked to meet with the Service further to discuss the possibility of developing a water management plan for programmatic consultation. The Program Office will coordinate with Randy to set up a meeting.

Dave Campbell gave an update on the Desert Rock consultation. He said the Service received a draft BA but needed more information. The Service has not yet received a reply to the request for more information.

Schedule Next Meeting Date

A CC conference call will be held on October 29 from 9:30 a.m. to 11:00 a.m. Primary agenda items identified include:

- Changes to 2008 Annual Work Plan SOWs
- Review hydrology model questions/issues and decide how to proceed
- Review of the *Principles*