



# United States Department of the Interior

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**JUN 23 1998**

Memorandum

To: Implementation/Management Committee and Interested Parties

From: ~~Acting~~ Regional Director, Region 6

Subject: Sufficient Progress/Section 7 Consultations--Upper Colorado River  
Recovery Program

In accordance with the Section 7, Sufficient Progress, and Historic Projects Agreement, the Fish and Wildlife Service recently reviewed accomplishments during 1997 for the Colorado River Recovery Implementation Program. Per that Agreement, the Service used the following criteria to evaluate whether the Program is making "sufficient progress:"

- a. Actions which result in a measurable population response, a measurable improvement in habitat for the fishes, legal protection of flows needed for recovery, or a reduction in the threat of immediate extinction
- b. Status of the fish population
- c. Adequacy of flows
- d. Magnitude of the impact of projects

A complete assessment of recent accomplishments under the Recovery Implementation Program/Recovery Action Plan is contained in Attachment 1.

## Status of the Species

No significant changes were documented in the status of the four species. In the Green River Basin there continues to be strong evidence that operation of Flaming Gorge Dam is contributing to the success of strong year classes of Colorado squawfish. Fair numbers of juvenile Colorado squawfish were captured in the Price River. Colorado squawfish have moved through the Redlands fish passage, thus increasing available habitat in the Gunnison River. Some

razorback suckers that were stocked in the Gunnison River have been recaptured in the Colorado River and have grown in length since stocking.

The population of humpback chub in the Black Rocks/Westwater area has been estimated at around 7,000. Augmentation of bonytail continues in the lower Colorado River near Moab, Utah. The monitoring program is being expanded in 1998 to better track changes in numbers of fish. Additional population estimates will be made in 1999.

### Accomplishments

In the past year, the Program has made some important strides, including: completing a lease for 2,000 af of water from Steamboat Reservoir; continuing to operate Flaming Gorge Reservoir and the Aspinall Units to provide research flows; coordinating reservoir operations for the Colorado River, completing an agreement for delivery of water from Wolford Mountain Reservoir; adjudicating two instream flow water rights (581 cfs and irrigation season return flows) in the 15-Mile Reach of the Colorado River; seeing success of the Redlands fish passage; completing construction of the Grand Valley Irrigation Commission fish passage; and placing additional fish passage construction back on schedule. These accomplishments indicate considerable efforts by the participants of the Program toward recovery of the endangered fish.

### Concerns

The Service's June 16, 1997, assessment of sufficient progress outlined nine specific recovery actions judged to be of critical importance in 1997. These were items that would have a significant effect on sufficient progress, and the Service was concerned that they were behind schedule. Critical recovery actions from that list that now are seriously behind schedule are: 1) acquisition of floodplain habitats or easements; 2) filing of Colorado instream flow appropriations and completion of a long-term agreement for water delivery from Ruedi Reservoir<sup>1</sup>; and 3) pond reclamation in the Grand Valley and Gunnison River (for nonnative fish control).

The Service also recognizes that it is behind in developing brood stock and meeting augmentation goals for razorback sucker. This activity is primarily

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<sup>1</sup> These are directly related to critical actions cited in the Service's April 5, 1996, assessment of sufficient progress, which required these actions to be accomplished in order to restore the depletion threshold from 1,500 to 3,000 acre-feet.

Service responsibility. Under our cooperative program, if one participant's efforts are off-track or behind schedule, the effects of not making sufficient progress impact all of the Program participants, since the annual assessment is on a Program-wide basis. The Service does not wish to have other Program participants impacted by its being behind, hence the Service hesitates to consider this in evaluating sufficient progress this year. However, the Service believes that efforts must be increased to ensure that brood stock development is completed and that augmentation goals in approved plans are met. The Service is working to maximize its chances for successfully meeting augmentation goals. Construction of the Ouray National Fish Hatchery will be completed this summer. The Service received Recovery Program approval to collect adult razorback suckers in the Green River during spawning. Prior to spawning season this year, the Service had 9 of the 25 needed "lots" of Green River razorbacks. The Service had hoped that up to 16 additional lots could be collected, which, if successfully reared, would have allowed it to meet its goals for establishing brood stock for this species. Unfortunately, intensive collection efforts resulted in only three additional lots this year. This effort could still result in obtaining additional fish for stocking during the next several years. At the March 15, 1998, Management Committee meeting, funds were approved for construction of a building to produce Colorado squawfish for stocking in the Colorado River. With these and other aggressive measures the Service hopes to soon be in a position to meet its brood stock and augmentation goals.

The first three concerns are explained more fully below.

1. Continued delays in floodplain acquisition. Reasons for the delays include:
  - a. A question of who will hold the easements/title of acquired properties. The Bureau of Reclamation has indicated that they are unwilling to make offers on floodplain properties until it is determined who will hold the easement/title. Reclamation also has indicated that they are reluctant to transfer the easement to a non-Federal agency. Either Reclamation and/or the Fish and Wildlife Service needs to be willing to hold easement. I have sent a letter to Reclamation indicating that the Service will hold the easements long-term if Reclamation could hold them for up to 3 years, while the Service meets its administrative requirements. The Service has since received a response from Reclamation indicating their willingness to hold the easements in the interim.

- b. National Environmental Policy Act needs to be completed. The Environmental Assessment for floodplain protection/land acquisition was sent out for 30 days of public comment on February 16, 1998. The final Environmental Assessment was completed in April, so this is no longer an issue.
  - c. The easement agreement needs to be completed. A draft agreement has been prepared and is being reviewed by Reclamation. Additional review will be required by the Service and Interior's Solicitor's Office.
  - d. The Green River (Utah) sovereign lands issue needs to be resolved. Utah claims up to the high-water mark as sovereign lands. This has complicated floodplain acquisition activities along the Green River. If these are sovereign lands, is Utah willing to enter into management agreements to protect and enhance these important floodplain habitats?
2. Protracted negotiations on the programmatic biological opinion have delayed:
- a. Colorado River instream flow filings. The Service is seeking a signed settlement agreement by a majority of the objectors. Work on the instream flow filing is continuing by Colorado Water Conservation Board and the objectors. The water user community has indicated that a settlement agreement is possible concurrent with the programmatic biological opinion. This issue will need to be revisited based on the Service's current position that these filings as presently defined do not meet the needs of the endangered fishes.
  - b. Ruedi Reservoir agreement and releases. The Service is looking for agreement from the water users, Reclamation, and the Service concerning the disposition of the 21,650 acre feet in Ruedi Reservoir. Additionally, an agreeable process and timeline are needed for completing all actions associated with the agreement.
  - c. Grand Valley Water Management. Delays in construction on Grand Valley Water Management have significant impacts on the Program's capital funds. The Service asks that construction begin once the major section 7 issues have been clarified by the 15-Mile Reach

Workgroup. Hopefully, most issues will be addressed during ongoing discussions.

3. Lack of progress in reclaiming riverside ponds to control nonnative fish. The Colorado Division of Wildlife is significantly behind schedule in reclaiming these ponds, as agreed in the nonnative fish stocking and control procedures and nonnative fish strategic plan. Emphasis should be placed on ponds that are less likely to be recolonized by nonnative fish, either because they have no connection to a nonnative source or because they can be modified to prevent reinvasion. For this item to be back on track, up to 25 ponds (which were not done in 1997) plus 10-20 ponds for 1998 should be reclaimed. Two ponds were reclaimed in February 1998. Three additional ponds are ready to be reclaimed this summer. Additionally, 1-4 ponds at Horsethief will be reshaped to prevent overwinter survival of nonnative fish and 2 additional ponds will be screened.

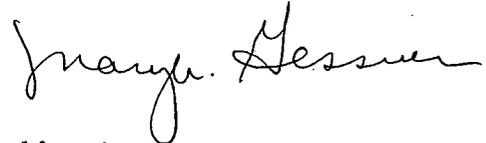
Historic depletions are being addressed on the Duchesne and Colorado rivers. However, for new depletions, if the three major issues outlined above are completed or on track by September 1, 1998, then the Service can increase the threshold for depletions. If the items listed above are not completed, the Service may revisit the threshold. The Service recommends that the Management Committee ensure that these issues are resolved and report to the Implementation Committee on the success thereof by their September 1998 meeting. Also, the Management Committee should track the progress of these items at each of their meetings and establish dates for interim accomplishments.

### Conclusion

Based on careful evaluation of the status of the fish, adequacy of flows needed for recovery, magnitude of depletion impacts, and Recovery Program accomplishments and shortcomings, the Service concludes that until the three issues identified above are resolved, progress in the Program will only be sufficient for projects that have an annual depletion of up to 3,000 acre feet. If the above listed items are not resolved by the September Implementation Committee meeting, the Service may revisit the sufficient progress threshold.

I am encouraged with the progress the Program made in 1997 and efforts accomplished so far this year. The Program needs to actively pursue resolution of the issues identified above and make real progress in acquiring

and restoring floodplain habitat; providing and protecting flows in the 15-Mile Reach of the Colorado River; reclaiming Colorado and Gunnison river streamside ponds to control escapement of detrimental nonnative fishes; and developing brood stock and meeting augmentation goals for razorback sucker. However, with recent progress in these areas, I am confident that with continued Program participant cooperation, the three major issues can be resolved before September.



Mary L. Gessner

Attachment

**FY 98 RIPRAP ASSESSMENT:** **February 19, 1998**  
**Status of items to be conducted or completed in FY 97 or FY 98**

**Coord. Page.Item # Status Assessment**

**GENERAL**

|    |              |  |
|----|--------------|--|
| HM | 20, IB3      | <i>Late:</i> CWCB needs to send the Program a report or letter on their assessment of senior conditional water rights. (Now requested by 8/98.)  |
| PN | 21, IIC1     | <i>Done and late:</i> Phase I floodplain protection issue paper was approved by Management Committee in January '98. <i>Delayed:</i> Phase II, identifying restoration approaches and viable options delayed another year due to delays in completing issue paper. (Phase II completion now set for 12/98.)  |
| HM | 21, IIIA2c   | > <i>*In progress:</i> Implement & evaluate effectiveness of viable active nonnative fish control measures - Several nonnative fish control activities are underway.   |
| HM | 22, IIIB4a-c | > <i>*Late and done:</i> Incorporate final Nonnative Stocking Procedures into state aquaculture permitting processes (CO, UT, & WY) - Colorado is a little behind schedule (now expected by 1/99). No change was required in UT & WY aquaculture permitting because their state wildlife agencies have the authority to regulate this (and they are doing so). |
| HM | 22, IIIB5    | <i>No progress:</i> Nothing has been done with regards to exploring tribal acceptance of the nonnative fish stocking procedures.   |
| TC | 22, IVA2     | <i>In progress:</i> Draft Genetics Management Plan submitted for Biology Committee review in 9/97.   |
| TC | 22, IVA3     | <i>Late:</i> Draft report on <i>Gila</i> mtDNA to be submitted to Program for review by 1/98. Report on morphological and allozyme analyses are under Biology Committee review; final now expected by 3/98.  |
| TC | 23, IVA3c    | <i>Late:</i> Draft squawfish genetics report was reviewed by Biology Committee and rejected. Final now expected by 3/98.   |
| TC | 23, IVA4     | > <i>Ongoing:</i> Secure and manage genetic stocks - Ongoing for razorback sucker.   |
| TC | 23, IVA4c1   | > <i>Interrupted:</i> The Black Rocks humpback chub that were being held in refugia at Horsethief were lost; collection of replacement broodstock is dependent on outcome of review of the Genetics Management Plan.   |
| TC | 23, IVD      | <i>Deferred:</i> Postpone evaluation/review until all propagation facilities are complete, tested, and fully operational.  |
| HM | 25, VIIA2    | <i>Late:</i> Approval of IMO's is in progress, but about 6 months behind schedule.   |

## GREEN RIVER BASIN

### GREEN RIVER

- HM 26, IA1b&c *Late:* Green River flow recommendations (Flaming Gorge biological opinion) is about 8 months behind schedule (now expected 5/98).
- HM 26, IA3a >*\*Ongoing:* Operate Flaming Gorge pursuant to BO to provide summer & fall flows.
- HM 26, IA3b >*\*Complete:* Operate Flaming Gorge pursuant to provide spring research flows; reoperation should continue until final biological opinion has been accepted.
- HM 26, IA3c >*\*Expected to be ongoing:* Operate Flaming Gorge to provide winter and spring flows and revised summer/fall flows, if necessary- Anticipate this will begin in late '98, although the biological opinion will still be in preparation.
- HM 26, IA4a3 >*\*Ongoing:* Legally protect summer/fall flows -- prepare and execute contracts to with water users to subordinate diversions.
- HM 27, IA4b3, IB3c >*\*Delayed:* Legal protection of winter/spring flows (prepare and execute contracts to with water users to subordinate diversions) will be delayed until FY 99 due to delay of Flaming Gorge biological opinion.
- TC 27, IC1 *In progress:* Price River report expected in March '98.
- PN 28, IIA2d >*\*Delayed:* Acquire high-priority floodplain habitat between Ouray & Jensen, negotiate acquisition & acquire - Work is ongoing, but no properties or easements were acquired in FY 97, because of delays in completing NEPA compliance and remaining questions as to who will hold title or easements.
- PN 28, IIA3b >*\*Ongoing:* Acquire high-priority floodplain habitat between Ouray & Jensen, breach levees - 3 levees were breached FY 97.
- PN 28, IIB2b *Extended:* Assess and make recommendations for fish passage at Tusher Wash - Evaluation of need for passage at Tusher Wash will occur in early FY 99, so the schedule for this item has been delayed.
- PN 29, IIC1 *Late:* Report on potential for warmer Flaming Gorge releases not yet received from BR; draft report from Bestgen on Lodore temperature work will be out in 2/98. This report should be incorporated in Flaming Gorge integration report and biological opinion (now expected 5/98).
- HM 29, IIIA1 *Late:* Report on relationship between Flaming Gorge releases and relative abundance of squawfish and nonnatives in nursery habitat not yet received (now expected 5/98).

- HM 29, IIIA3 >*\*Ongoing*: Identify and control sources of centrarchids in the middle Green River.
- HM 29, IIIA4 >*\*Ongoing*: Remove small nonnative cyprinids from backwaters and other low velocity habitat.
- TC 29, IVA1 *Deferred*: Augmentation plan hasn't been revised, will be replaced with broader augmentation plan for all endangered fishes in the Green River.
- TC 29, IVA1c >*\*Delayed*: Implement razorback augmentation plan - No fish stocked in FY 97, but will be stocked in spring of '98.
- TC 29, VA1&2 *Late*: Lower Green River spawning area reports will be part of FG integration reports (now expected 5/98).

### YAMPA RIVER

- HM 30, IA4a1 >*\*Complete and ongoing*: Lease 2,000 af (up to 3,000 af) from Steamboat Reservoir - Change of decree complete; 5-year lease in place; water leased in FY 97.
- HM 30, IA4a3 *Ongoing*: Yampa River Management Plan: Public involvement plan being implemented; water needs estimate should be complete by the end of April '98; low flow studies ongoing, hydrology support and gage operation ongoing, draft aquatic management plan complete.
- HM 31, IB1b  
32, IC2b *Delayed*: Flow recommendations still being updated; Little Snake recommendations still out for peer review; and Yampa low flow study results are still pending.
- HM 32, IC1&2a *Complete*: Little Snake River report and work plan completed.
- HM 33, IIA2 *Delayed*: Yampa passage evaluation incorporated into Yampa low flow study; draft report due 3/98, final in 7/98.
- HM 33, IIIB2 *Delayed*: Yampa nonnative fish control will be implemented in '99; Yampa catfish removal began in FY 98.

### DUCHESNE RIVER

- HM 34, IA2 *Ongoing*: Duchesne studies are in progress.
- HM 34, IB1&2 *Ongoing*: Assessment of legal availability of water in the Duchesne is ongoing, and will depend on agreements worked out in subsequent tasks.
- HM 34, IIIA3 >*\*Ongoing*: Implement and evaluate the effects of viable measures to control negative interactions from nonnative fishes - Being implemented with Green River nonnative fish control.

## WHITE RIVER

- HM 36, IA2 *Delayed:* White River flow study completion delayed; report now expected 4/98.
- HM 36, IC1b&c *Delayed:* CWCB investigation of other flow protection options on the White River is on hold while they work on the instream flow water right filings for the Colorado and Yampa Rivers. Efforts on this should be resumed in FY 99.
- PN 36, IIA1 *Complete:* Taylor Draw fish passage recommendations.
- HM 37, IIIB1 *Complete:* CDOW completed sportfish regulation/angling regulation changes.

## COLORADO RIVER BASIN

### COLORADO RIVER

- HM 38, IA1a&b *Late:* Upper Colorado River flow recommendations report (and subsequent protection) will be a year late due to not obtaining videography. (Report now expected 6/98.)
- HM 39, IA3c1bi *>\*Deferred:* Short-term lease of remaining water in Ruedi Reservoir. No lease in FY 97, but no water was needed.
- HM 40, IA3c1biv *>\*Delayed:* Ruedi agreements slipped one year due to ongoing negotiations related to the programmatic biological opinion. Expected in FY 99.
- HM 40, IA3c1c *>\*In progress:* Agreement for delivery of water from Wolford Reservoir should be completed by 9/98.
- HM 41, IA3c2aic *>\*Complete:* CWCB completed 581 filing & adjudication; final decrees have been issued.
- HM 41, IA3c2biii *>\*Complete:* CWCB completed irrigation season return flows filing & adjudication; final decrees have been issued.
- HM 41, IA3c3a *>\*Ongoing:* Delivery of 5,000af (+5,000 af 4 of 5 years) from Ruedi Reservoir.
- HM 41, IA3c3b *>\*Pending:* Delivery of water from Wolford Mountain Reservoir, pursuant to final biological opinion and execution of MOU.
- HM 41, IA3c3ci *Late:* Coordinated reservoir operations report should be finalized by February '98.

- HM 41, IA3c3cii >*Ongoing*: Coordinated reservoir operations were implemented in FY 97, and hopefully this is on track for FY 98.
- HM 41, IA3c3fii *Complete*: Draft Grand Valley water management Environmental Assessment has been completed.
- HM 42, IA3c3fiii >*Delayed*: Construct and implement Grand Valley water management project - Construction is behind schedule, probably by two years, as GVWUA unwilling to enter construction agreement until programmatic biological opinion completed. Construction completion now expected 4/01.
- HM 42-3, IB1...  
IC... *Delayed*: Gunnison to State line flow recommendations delayed due to delays in preparation of individual reports. Reports now expected 12/98.  
>*Will cause delays in subsequent flow protection.*
- HM 43, IB3c1 >*Ongoing*: Operate Aspinall to provide test flows.
- PN 44, IIA1d&e *Ongoing*: Operation and evaluation of Gravel Pit at 29-5/8 Road.
- PN 44, IIA2d *On hold*: Evaluation and monitoring of Adobe Creek experimental control site is complete for now. Use of the site for endangered fish floodplain habitat is on hold since the site has intermediate levels of selenium and many selenium questions remain unanswered. However, the site is available for further experimentation as needed.
- PN 44, IIA3c >*Complete*: Walter Walker construction is complete.
- PN 44, IIA3e *Ongoing*: Walter Walker monitoring and evaluation are ongoing and will be completed in 7/99.
- PN 45, IIA4b >*On hold*: Restore & manage floodplain habitat, breach levees - ongoing, but behind schedule. No levees were breached FY 97. The levee at the 8-acre Jarvis property should be breached in July of '98. No other levee breaching is planned for the Colorado River in FY 98.
- PN 45, IIA5d >*Delayed*: Restore & manage floodplain habitat, negotiate acquisition & acquire - Behind schedule because of delays in completing NEPA compliance and remaining questions as to who will hold title or easements.
- PN 45, IIB1a1&2 *Complete*: GVIC pre-construction activities complete.
- PN 45, IIB1a3 >*Complete*: Construct fish passage at GVIC - Construction completed in January '98.
- PN 45, IIB1a4 >*On schedule*: GVIC operation scheduled to begin this spring.
- PN 45, IIB1a5&b1 *On schedule*: GVIC evaluation scheduled to begin this spring.

- PN 46, IIB2a3 >*\*Delayed:* Construct fish passage at Price Stubb - Was postponed in FY 97, but now on schedule for FY 98 and completion in 3/99 (if dam removed) or 9/99 (if passage facility constructed).
- PN 46, IIB3a1 *On schedule:* Roller Dam preconstruction activities ongoing in FY 98.
- HM 46, IIIA1 *Delayed:* Due to delay in Aspinall reports, the report on the relationship between Aspinall test flows and abundance of squawfish and nonnatives in nursery habitat hasn't been completed (expected 12/98).
- HM 47, IIIA3 >*\*Behind schedule:* Reclaim ponds in the 10-year floodplain - One pond was temporarily reclaimed in FY 97, but pond reclamation remains behind schedule.
- HM 47, IIIA4 >*\*On schedule:* Removal of small nonnative cyprinids will begin in FY 98.
- TC 47, IVA1b2 >*\*Delayed:* Razorback stocking has focused on the Gunnison River; Program may not have enough razorbacks (and large enough razorbacks) to stock in the Colorado in FY 98.
- TC 47, IVA2a *Complete:* Study and draft augmentation plan for endangered fish in the Upper Colorado River has been completed by CDOW.
- TC 47, IVA2c&3b *Delayed:* Program is still reviewing draft augmentation plan for acceptance. It will be a 5-year stocking plan.

#### GUNNISON RIVER

- HM 48, IA-C *Delayed:* Flow recommendations delayed due to delays in preparation of individual reports. Reports now expected 12/98.  
>*\*Will cause delays in subsequent flow protection.*
- HM 48, 1C3a >*\*Ongoing:* Aspinall Unit supplemental releases to maintain 2,000cfs flow at CO-UT state line 9 of 10 years.
- HM 49, IC3b1 >*\*Ongoing:* Operate Aspinall to provide test flows.
- HM 49, IC3c1 >*\*Ongoing:* Deliver flows from Paonia in accordance with Horsethief biological opinion.
- PN 49, IIA2b >*\*On hold:* Restore & manage floodplain habitat, breach levees - ongoing, but behind schedule. No levees were breached FY 97. No levee breaching is planned for the Gunnison River in FY 98.
- PN 49, IIA3d >*\*Delayed:* Restore & manage floodplain habitat, negotiate acquisition & acquire - Behind schedule because of delays in completing NEPA compliance and remaining questions as to who will hold title or easements.
- PN 50, IIB1c >*\*Ongoing:* Operate and maintain Redlands fish passage.

- PN 50, IIB1d *Ongoing*: Monitor and evaluate Redlands success.
- PN 50, IIB1e *Complete*: Identify minimum flows below Redlands.
- PN 50, IIB1f *>\*Ongoing*: Deliver flows below Redlands.
- HM 50, IIIA1 *On hold*: Evaluate angling mortality on endangered fishes below Redlands. CDOW currently conducting a creel survey in this area; that information will be used to determine if there's sufficient angling pressure to warrant concern.
- HM 50, IIIA3 *>\*On schedule*: Cyprinid removal scheduled to begin in spring 1998.
- HM 50-51, IIIA4 *>\*Behind schedule*: Reclaim ponds in the 10-year floodplain - One pond was reclaimed in 1996, but pond reclamation remains behind schedule.
- TC 51, IVAb1-3 *Ongoing*: 3700 razorbacks were stocked in the Gunnison River in FY 97 (third year of stocking).