



# Upper Colorado River Endangered Fish Recovery Program

CR/FY-10 UCRRIC  
Mail Stop 65115

## Memorandum

To: Implementation Committee  
Management Committee, Consultants, and Interested Parties  
Meeting Attendees

From: Director, Upper Colorado River Recovery Implementation Program

Subject: Final March 3, 2010, Recovery Implementation Committee Conference Call  
Summary

Attached are the final action and assignment summary and the general summary from the March 3, 2010, Implementation Committee conference call.

Attachment

- Summary -  
Actions and Assignments  
Recovery Implementation Committee Conference Call – March 3, 2010

**ACTIONS:**

1. Approved the September 24, 2009, meeting summary as written.
2. Delegated approval of RIPRAP revisions/assessment and 2011 work plan modifications to the Management Committee.
3. Scheduled their next meeting on Wednesday, September 22, 10:30 a.m. – 3:30 p.m. in Denver near DIA.

**ASSIGNMENTS:**

1. The Program Director's office will show the September 24, 2010, meeting summary as final.
2. The Program Director's office will arrange a meeting room for the next meeting on Wednesday, September 22, 10:30 a.m. – 3:30 p.m. in Denver near DIA.

**CONFERENCE CALL SUMMARY:**

**CONVENE: 9:00 a.m.**

1. Roll call, review/modify agenda – The agenda was modified as it appears below. Steve Guertin said the Director of the U.S. Fish and Wildlife Service, Sam Hamilton, died of a heart attack while skiing here in Colorado following a directorate meeting in February. Sam was a strong proponent of landscape-level conservation and the Service will continue to emphasize this approach in all its work. Rowan Gould will be the Service's Acting Director for the foreseeable future, with Dan Ashe serving in both Deputy positions.
2. Approve September 24, 2009, meeting summary – The Committee approved the summary as written. >It will be noted as final on the Program's website.
3. Updates
  - a. Southern Rockies Landscape Conservation Cooperative (LCC) – Steve said the conservation community has been steadily moving toward larger, regional, landscape approaches to conservation. As he described to the Committee in September, the Service outlined the boundaries for 22 landscape conservation cooperatives based on bird conservation regions. The Service is forming science-based partnerships in each LCC, convening all the conservation agencies within each landscape to develop mutual ecological objectives and address challenges like climate change, water resources, energy development, fire, and more. The Service received funding and is working to implement the first round of LCC's in FY 2010. In this region, work is beginning on the Great Northern, Prairie Potholes, and Great Plains LCC's this fiscal year. Our next increment of LCC's would include the Southern Rockies LCC (encompassing most of

the upper Colorado River basin). Steve said Secretary Salazar was so excited about LCC's that he asked all Interior agencies to see what they could do to begin implementing all the LCC's immediately. Reclamation's Commissioner offered to convene the Southern Rockies LCC and the Desert LCC. The Southern Rockies LCC includes the Colorado River, but is much larger, including other species and habitats. As the Service and other Interior agencies move forward to implement these LCC's the LCC's will support, not replace existing partnerships. Existing partnerships like the Recovery Program likely will have a lead role. The Southern Rockies LCC is expected to benefit the Recovery Program by raising the profile of Colorado River issues. Secretary Salazar is planning town-hall meeting with partners in each of the LCC's over the next 6-8 months. LCC's will be a long-term effort – the convening meetings occurring now are just the beginning. Mike Stempel said Anne Castle mentioned her strong support of this Recovery Program and for the LCC's at last week's WaterSMART Program meeting. Mike has begun working with Avra Morgan from Reclamation's Denver office on the Southern Rockies LCC. They will now begin to convene partners, hold webinars, develop a steering committee, develop a scientific library clearinghouse, etc. Leslie James asked how the Recovery Program and the Glen Canyon Program will be represented in these LCC's. Steve said that the core steering committee for each LCC includes state game and fish agencies, regional directors of federal conservation agencies, tribal representatives, NGO's, and existing conservation partnerships (e.g., Interagency Grizzly Bear Committee in the Northern Rockies). Thus, he would anticipate a representative from the Recovery Program and Glen Canyon to serve on the steering committee. John Reber asked if there will be single leads or co-leads for these LCC's. Steve said the Service is convening these first LCC's, but there are different models throughout the country. The steering committee (not an agency) will be the governing body; the Service is just serving as the convener. Pat Tyrrell asked what LCC's will provide that we're not doing now and how partner costs will be covered (hoping their participation won't come at the cost of current participation in existing programs like the Recovery Program, the Salinity Program, USGS gages, etc). Steve said the initial product will be to identify and begin funding emerging common research needs, e.g., localized climate projections like those done for the American pika. The Service was given significant new funding to implement these LCC's (e.g., \$2M to convene Great Northern LCC, most of which goes to steering committee to help fund research projects) and he expects to have some flexibility to help fund state participation in the LCC's.

- b. Updates on Program legislation and post-2011 base funding – Angela Kantola reviewed what Tom Pitts outlined on last week's Management Committee conference call. Tom is seeking comments on the draft Ruedi legislation he posted to the fws-coloriver listserver on February 24. The Ruedi legislation would make the west slope water users' provision of Ruedi water under 10,825 non-reimbursable in terms of both capital costs and O & M costs. There are both Senate (S. 1453) and House (H.R. 2288) versions of annual funding legislation, either of which could become part of omnibus legislation this year. Likely we won't know the outcome until September or October (and thus won't know until then if the balance of our annual funding after 2011 will need to be appropriated or continue under power revenues). Brent said Reclamation will try to build appropriations into their FY 2013 budgeting process, should the legislation require that, but Reclamation's 2012 budget already has been submitted to

their Washington office. If funding for nonnative fish removal, etc., is not available, this will raise serious ESA compliance issues. Tom Chart said he saw that S. 1453 was placed on Senate legislative calendar yesterday. John Shields added that when H.R. 2288 was scored by the Congressional Budget Office (CBO) they said it had a significant PayGo issue, the House Committee on Natural Resources passed the bill with amendments that eliminate funding from the basin fund and authorize appropriations through 2023. CBO scoring of S. 1453 also raised PayGo, indicating an effect on the deficit of about \$30M, so the Senate would have to identify offsets to pass their version (no offsets are required if the House version passes). If the House passes its version and sends it to the Senate, the Program would need to seek appropriations from 2012 through 2023 (~40% or approaching \$3M for both programs per year).

- c. Washington, D.C., briefing trip – John Shields said the non-Federal Program participants are seeking Congressional support for Program and briefing Congressional, agency and other parties March 17-22. The briefing booklet is available and is truly excellent this year. The itinerary of meetings has been developed and most meetings scheduled. The non-Federal Program partners are collecting support letters from governors and developing congressional support letters. Steve complimented John for the partners' effective, well-organized briefings.
  
- d. Capital projects – Brent Uilenberg outlined the FY 2011 capital funding and FY 10 capital activities. The levee at the Butch Craig floodplain will be repaired this year. John Reber expressed concern with potential continuing costs at Butch Craig and suggested that the Management Committee should address this. Brent said that following geomorphologists' review, they concluded there were no alternatives to the repair. Brent said he believes the repair will be a permanent solution as the channel otherwise appears very stable in that area. The lesson, however, is that we should exercise extreme caution with habitat manipulation, especially with regard to adjacent landowners. Therefore, we need to be very careful how we approach any potential habitat modification to deter pike spawning on the Yampa River. Brent said Reclamation has been working with the Service regarding plans for a potential of 20 one-quarter-acre ponds at Horsethief to replace leased ponds which haven't been adequately effective. Estimated cost is \$5.4M (the Upper Colorado share is \$4.5M), with the SJRIP funding ~1/6. If the Biology and Management committees concur, Reclamation hopes to have the ponds under contract late this summer for production in spring 2011. Brent said nothing is yet cast in stone, but Horsethief appears to be the best option. Consideration of these ponds will be on the agenda for both recovery programs' upcoming biology committee meetings. Tom Chart added that the Service will provide a full explanation/justification for the proposed ponds to our Biology Committee for their meeting next week. Melissa Trammell asked if we should revise our propagation plan in light of Koreen Zelasko's findings on razorback stocking. Tom Chart said we're definitely looking at flexibility to produce larger razorbacks as Koreen's work suggested. Brent reviewed the OMID project (similar to the Grand Valley Water Management Project) which will help provide water to the 15-Mile Reach. Our final major capital construction project is a fish screen at Tusher Wash on the Green River. This is still in a holding pattern while the Utah and the Green River Canal determine whether they will rehabilitate (raise) the Tusher Wash Diversion Dam.

- e. [10,825 Alternatives](#) update – Water users have developed a 2-component alternative: 1) continued use of 5412.5 af from Ruedi Reservoir (West Slope); and 2) 5412.5 releases from Granby Reservoir (provided to Granby via conversion of an old irrigation right) (East Slope). The NEPA process began last fall and now is into technical reports, assessments, and hydrological analyses. The group believes they've found a way to address issues regarding flows in the Frying Pan River (Basalt economic interest for trout anglers). Interim agreements are in place with Denver and the River District to release water from Wolford and Williams Fork through July 1, 2010; those agreements will be extended, probably through 2013. Permanent agreements will be in place by the PBO deadline. NEPA compliance likely won't be completed until mid-September. Dan Luecke asked about progress on the Granby portion; Jana Mohrman said the issue of who will be signatory to the municipal-recreation agreement has been elevated to Washington. There may be a joint agreement between Reclamation and Granby Reservoir.
- f. Aspinall PBO & [EIS](#) – Tom Chart said the [PBO](#) was completed in December; Tom outlined the Program's responsibilities under the PBO (Attachment 2). The study plan is to be completed by the end of this calendar year (activities would then be inserted into the RIPRAP the following spring); with most implementation probably starting in 2012. Carol said Reclamation has completed the preliminary final EIS, but it is still being reviewed in Washington. Carol said she expects to hear back soon and then be able to release the preliminary final to the cooperating agencies. Reclamation expects to complete the EIS and ROD this year. Reclamation is proceeding with the Selenium Management Plan. They had good meetings with the Gunnison Basin Roundtable and positive news articles on the recent selenium summit. John Shields asked about selenium funding; Carol said that while Reclamation doesn't have authority to reduce selenium, they do have authority to work on salinity, which is the same "bang for the buck." The Colorado River Water Conservation District has been talking to Congress about funding, and they're also looking at special projects funding under Salinity funds.
- g. Green River flow protection – Jana Mohrman said Utah first worked on year-round subordination, hosting four public meetings. The State Engineer felt the public response was too negative and a sub-committee of Water Acquisition Committee was formed to review alternatives. This task force has begun meeting regularly and is currently focusing on modeling different scenarios, which Reclamation plans to complete by mid-summer. The Utah State Engineer sent a letter to Julie Lyke regarding their work on legal protection of Green River flows (Attachment 3). The recent water right change application for the proposed Blue Castle nuclear plant tests the major concerns of this working group, a large volume of nonperfected water moved upstream from the Lake Powell area to the Town of Green River. The Service and Reclamation filed letters of protest to the change application. Blue Castle would like to identify water from Flaming Gorge available to the Recovery Program, but that's tied to the larger Utah flow protection process and the Service (and others) believe we need to let that process unfold first.
- h. RIPRAP revisions/assessment; 2011 work plan modifications – Angela Kantola said the Program Director's recommendations were posted to the listserver on 2/11/10 and these are now in technical committee review. She suggested that the Implementation

Committee may wish to delegate approval to the Management Committee, to which the Implementation Committee agreed.

4. Schedule September 2010 Implementation Committee meeting – The next meeting will be Wednesday, September 22, 10:30 a.m. – 3:30 p.m. in Denver near DIA. The Program Director’s office will arrange a meeting room.

**ADJOURN 10:45 a.m.**

Attachment 1 - Participants

IMPLEMENTATION COMMITTEE MEMBERS:

Steve Guertin, U.S. Fish and Wildlife Service (Chairman)  
Carol DeAngelis, U.S. Bureau of Reclamation  
John Reber, National Park Service  
Dan Luecke, Environmental Groups  
Leslie James, Colorado River Energy Distributors Association  
Pat Tyrrell, Wyoming State Engineer’s Office  
Rebecca (Becky) Mitchell for Jim Martin, Colorado Department of Natural Resources  
Mike Styler, Utah Department of Natural Resources  
Clayton Palmer, Western Area Power Administration  
Program Director Tom Chart, U.S. Fish and Wildlife Service (nonvoting)  
(Tom Pitts, representing the Upper Basin Water Users was unable to participate in the call due to a death in his family.)

OTHERS:

John Shields, Wyoming State Engineer’s Office  
Brent Uilenberg, U.S. Bureau of Reclamation  
Robert King, Utah Division of Water Resources  
Darin Bird, Utah Department of Natural Resources  
Jana Mohrman, U. S. Fish and Wildlife Service  
Debbie Felker, U. S. Fish and Wildlife Service, Recovery Program  
Tom Czaplá, U. S. Fish and Wildlife Service, Recovery Program  
Angela Kantola, U. S. Fish and Wildlife Service, Recovery Program  
Krissy Wilson, Utah Division of Wildlife Resources  
Melissa Trammell, National Park Service

**New demands/needs for research, monitoring and other projects from [Aspinall PBO](#)**

**Recovery Program Obligations under the PBO:**

**Monitor fish populations in Gunnison River:** Program monitors pikeminnow populations and is developing a basin-wide razorback monitoring program to include monitoring of multiple life stages. Monitoring program design is expected to be completed in fiscal year 2010. Implementation to begin in 2010 and include multi-life stage monitoring on the lower Gunnison. Density estimates will be developed for Colorado pikeminnow and razorback sucker in the lower Gunnison River.

**Collect tissue samples during monitoring:** During fish community monitoring in the lower Gunnison River, tissue samples will be collected from razorback suckers, as well as a chosen surrogate species, to determine selenium concentrations.

**Assist in development of Study Plan to evaluate effects of Aspinall reoperation and how it improves habitat & contributes to recovery.** Complete within one year of PBO. Include an evaluation of the effects of reoperation on critical habitat in the Gunnison River and Colorado River from the Gunnison River confluence to Lake Powell. Focus on previously identified uncertainties related to geomorphic processes, floodplain inundation, and temperatures:

While relationships among initial motion, significant motion and streamflow are well defined, duration of flows necessary to accomplish habitat work is not completely known. Because flow duration recommendations were developed based on a wet period, the recommended durations require a large volume of water that may not always be available.

Water availability may limit the ability of the Gunnison River to meet the Flow Recommendations under certain conditions.

Because of timing and other differences in runoff patterns of the Colorado and Gunnison rivers, it is difficult to predict the effect of Gunnison River flow changes on the Colorado River.

The trade-off facing Colorado pikeminnow between stream bed maintenance and temperature regime in the Gunnison River is an uncertainty that may need to be evaluated by the Recovery Program.

The Recovery Program may need to evaluate the trade-off between high spring flows and base flows needed during the mid- to late summer to operate Redlands (and, to a lesser extent perhaps, maintain movement of sediment through the system).

**Conservation Recommendations:** (Discretionary agency activities to minimize/ avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information.)

**Selenium:** Recovery Program initiate investigations to determine appropriate levels of selenium to insure recovery of Colorado pikeminnow and razorback sucker. Any new studies would follow established Recovery Program protocol for priority and funding.



GARY R. HERBERT  
Governor

GREG BELL  
Lieutenant Governor

## State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

Division of Water Rights

KENT L. JONES, P.E.  
State Engineer/Division Director

RECEIVED  
MO. DAY YEAR  
FEB 12 2010  
FISH & WILDLIFE  
ECOLOGICAL SERVICES

February 8, 2010

Julie Lyke  
Deputy Assistant Regional Director  
Ecological Services U.S. Fish & Wildlife Service  
P.O. Box 25486, DFC,  
Denver CO 80225-0486

Subject: Assessment of "Sufficient Progress" 2009—2010 on the Green River in the Upper Colorado River Endangered Fish Recovery Program.

Dear Ms. Lyke,

In the 2008-2009 "Sufficient Progress" letter (Green River sub-basin section) Action Item (4), the US Fish and Wildlife Service (Service) noted that the Utah's State Engineer's office was slightly behind schedule in legally protecting year-round flows for endangered fish recovery in the Green River. Utah has been working diligently to address this issue. In the fall of 2009 we hosted public meetings in Vernal, Price, Green River and Moab. The Fish and Wildlife Service, the State Engineer and several Utah water rights experts gave presentations. Feedback received indicated that year-round subordination of water rights was not acceptable to the public.

Although the State Engineer was able to accomplish this important objective by policy adoption in a rather uncontroversial Green River reach in 1994, without public support the state engineer would struggle to enforce the policy restriction requested for the remainder of the Green River under his existing administrative authority. Rather than have a legislative confrontation, the state engineer is seeking further clarification of exactly what conditions need to be protected as well as increased participation by the Recovery Program to do more than identify the water that it wishes to be protected but to participate in actions which would facilitate acquisition of a right to water under existing Utah law, so the state engineer can extend the legal protection anticipated.

Several factors influence Utah's ability to legally protect flows for the endangered fish in the Green River as requested. Concern over impact to existing undeveloped rights to the use of water under Utah's allocation in the Colorado River and the Recovery Program demands for protection of such a wide range of instream flows are fundamental issues. Uncertainty around water contract sales from Flaming Gorge Reservoir, considering the fact depletive uses were separated from the Flaming Gorge water right several years ago and have been re-allocated to other parties, also needs to be resolved. It is anticipated most existing, undeveloped rights will require change applications as they move toward development and new conditions for fish flow, imposed as a condition of approval, may severely limit flexibility as these rights move toward development. The fundamental premise, under which support from Utah for the recovery program was based, is cooperation to jointly work toward recovery of the fish and, at the same time, allow the states to pursue development of their compact



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Subject: Assessment of "Sufficient Progress" 2009—2010 on the Green River, Utah

allocation of the Colorado River. The current public perception that the Recovery Program now seeks to diminish that objective, notwithstanding the significant amount of water that must pass through the state without development (more than 8 million ac-ft, as compared to Utah's limited 1.4 million ac-ft Colorado River allocation) is complicating meaningful progress on the issues.

In November 2009, Utah Assistant State Engineer, Matt Lindon, formed a task force of stakeholders and experts (listed below) to identify alternative approaches to protecting flows for endangered fish in the Green River while respecting existing State water law and allowing for further development of Utah's entitlement of the Colorado Compact waters on Utah rivers.

**Green River Utah Water Acquisition Team Members include:**

Matt Lindon, Utah Assistant State Engineer, SLC, Team Leader  
Boyd Clayton, Utah Deputy State Engineer  
Robert Leake, Utah Regional Water Rights Engineer, Vernal  
Gertrudys Adkins, PhD, Water Rights Engineer  
Jana Mohrman, USFWS, Denver  
Gene Shawcroft/ Jared Hansen, CUWCD, SLC  
Robert King, Utah Division of Water Resources, SLC  
Paul Abate/Larry Crist, Kevin McAbee, USFWS, SLC  
Rob Harris, Western Resource Advocate  
Mike Roberts/Robert Wiggington, The Nature Conservancy, SLC/Boulder CO  
Ed Vidmar, Malcolm Wilson, Heather Patno, USBOR, SLC, Curt Pledger USBOR, Provo

The purpose of this Team of experienced, professionals and stakeholders is to propose, consider, prioritize and present all feasible options available to protect flows for endangered fish. Solutions implemented in other states, programs, drainages and rivers will all be considered and physical water sources will be evaluated. Physical, legal, local and political barriers will also be discussed. Sources of potential contract water and storage will be identified as well as potential funding sources. All technical tools and solutions will be consulted and considered including hydrologic river models, water right models, economic and environmental evaluations as well as present and future atmospheric considerations.

**Alternatives to analyze:**

Determine volume of water needed to provide for the full range of flows.  
Determine flow and volume of water available on a statistical basis  
Determine approved and unapproved water right commitments  
Model supply and demand scenarios on the river with fish flows and water rights demands  
Quantify full measure of Colorado Compact Entitlements for future demands  
Demonstrate systems natural ability to deliver high flushing flows on the prescribed basis  
Consider potential limitation of upstream transfers of unperfected rights  
Consider potential limitation of new storage projects in basin  
Review abandonment rule for 50 years of unperfected claims  
Coordinate use of contract water from Flaming Gorge with various entities such as the Lake Powell - St George Pipeline water.

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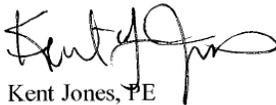
Subject: Assessment of "Sufficient Progress" 2009—2010 on the Green River, Utah

The Utah State Engineer currently has four tools to protect instream flows. The declarative method relies on "instream flow" being considered as the purpose of use in a perfected water right change application approved by the Utah State Engineer, providing a legal basis for the flow as a characteristic of the water right. Secondly, the restraint method assumes that water must pass through a section of stream to satisfy obligations downstream. The third mechanism is agreement among water users to allow an instream flow to occur, often supported by an appropriation policy declaration from the State Engineer. The fourth is a finding that granting a water right application would unreasonably affect the natural stream environment and/or be detrimental to public welfare. It is assumed a combination of solutions within this framework will be necessary to accomplish the stated objective. Kent Jones, the Utah State Engineer, will present selected solutions for public input as they are identified.

By the end of 2010, we hope to have proposals for protection of instream flows necessary for the recovery of endangered fish. We do not know at this time the scope of actions which will be required to secure the protection requested. While it would be convenient if something as simple as an administrative order would secure the rights for such protection we note that has not been the case in our sister states and likely will not be the totality of the solution in Utah. Depending on the acquisition constraints implementation could come by the end of 2011 but could continue into at least 2012. We will be working closely with the Recovery Program Director's office and the Green River Utah Water Acquisition Team to recommend changes reflecting this process in the Green River flow protection portion of the RIPRAP so that the Recovery Program can consider these recommended changes in its upcoming RIPRAP review/revision.

We hope this update will be helpful as you assess progress of the recovery program as measured by accomplishing RIPRAP goals. We note that although there have been disappointments with the protection effort the reality is flows for the fish have been and are in the river. We anticipate continued cooperation among the water users, state and local government to see that flows for the fish continue even as we work to legally protect them. This is a complicated endeavor and we appreciate your support and assistance. Please do not hesitate to call Matt Lindon or myself at 801-538-7481 for further information or discussion on this topic.

Sincerely,



Kent Jones, PE  
State Engineer

Cc: Jana Mohrman, USFWS