

MANAGEMENT COMMITTEE MEETING

Denver, Colorado

June 2, 2005

(Revised August 8, 2005)

CONVENE: 10:00 a.m.

Introductions, review/modify agenda and time allocations, and appoint a timekeeper - The agenda was modified as it appears below.

1. Approve March 1, 2005, meeting summary - A minor modification was made to item 3.d.; >Angela Kantola will post the revised summary to the listserver. (*Done.*)
2. Updates and Program Conduct
 - a. Status of humpback chub recovery goals lawsuit - No court decision on the merits/motion to dismiss, and no new information from the attorneys or court.
 - b. Humpback chub genetics management plan and Glen Canyon Adaptive Management Program - Tom Czapla said he sent a draft genetics management plan to geneticists and others, and subsequently incorporated/responded to comments to produce the current draft which has gone out for broader review by the Biology Committee and also to the Glen Canyon technical work group. Bob Muth said he hopes the report from Mike and Marliss Douglas on basinwide humpback chub genetics coming out later this year will help beef up the draft genetics management plan; thus, he considers it a provisional plan at this time. Tom Czapla said at this point he's only looking for individual comments from Biology Committee members (although it still needs to be on the Committee's July agenda). Regarding humpback chub population estimates in Grand Canyon, Tom Czapla and Gary Burton reported that GCMRC is presently conducting simulation modeling to evaluate the need and best methods for a concurrent (mainstem and Little Colorado River) population estimate in Grand Canyon. The modeling effort is scheduled for completion in summer 2005. >Tom Czapla will get the most recent estimate from the Little Colorado River and provide that to the Management and Biology committees and emphasize the upper basin's continued desire to get a real-time, concurrent mark/recapture closed population estimate.
 - c. Sufficient progress review and two-year 15-Mile Reach PBO assessment - Larry Gamble said the Service and Program Staff met in mid-May to review sufficient progress and the 15-Mile Reach PBO; >a draft memo should be provided to the Management Committee by early to mid-July. Bob Muth said that in addition to concerns outlined in the December memo, Aspinall, nonnative fish management, and Elkhead were discussed at some length. John Shields asked if there's opportunity for the memo to address the problem of the Department and the Service not including the Service's \$700K for the Recovery Program in the President's budget. Tom Pitts said he's reluctant to address this problem via the

sufficient progress assessment as it would put the Service in a difficult position and funding isn't the best measure of ESA compliance. John Shields noted that the previous letter contained items in the conclusions section that weren't addressed in the body of the memo, so it would be helpful to correct that in this year's memo.

3. Reclamation contracting and procurement procedures - Mike Ward said he and Melynda Roberts met with the San Juan Coordinating Committee last month. The biggest concern seems to be how to justify things believed to be outside of the realm of competition. Mike referenced the single-source criteria included the outline he provided on May 19: in the best interest of the government/project; unique qualities; special contributions; previous performance (good science, economical); and awards where it is impracticable to secure competition (e.g. when there are no other eligible recipients) and reasons why. Mike said it will be up to the Program to identify and agree on items they don't believe should be subject to competition and then work with Reclamation to write good, sound justifications for those. (Reclamation is planning to meet with the San Juan Coordinating Committee on this in June.) John Shields suggested that we need to nail down schedules for review/approval of sole-source justifications and how we will incorporate this process into the Program work planning schedule. The Committee discussed the following questions provided by Angela in advance of the meeting:
 - a. Which projects in the FY 06-07 Program Guidance would be subject to the competitive process (and which would not)? We need to meet with Reclamation to review justifications. >Angela Kantola, Bob Muth, Brent Uilenberg, Dave Speas, Melynda Roberts and Mike Ward will meet on June 9 to take a first cut at identifying FY 06-07 projects which would be subject to competition or not and provide that to the Committee within two weeks.
 - b. Have Reclamation and Program participants agreed on categories of projects that would not subject to competition? For example:
 - Projects conducted by USFWS, USGS, USBR - Mike Ward said that if Reclamation has a specific responsibility to perform something, they can do the work with their own staff or contract it out (either commercially or through an interagency (IA) contract). If an IA contract is used, they have to justify that is most economical. Anything outside of government responsibility falls under competition (so if USFWS, USGS, or USBR doing work outside their management requirements, that work falls under competition requirements). So, the answer is only projects that are inherently governmental are automatically excluded from competition.
 - Population monitoring conducted by USFWS and State agencies - The Committee agreed they believe that these should be considered single source and we want to write up justifications for those.
 - Nonnative fish management - The Committee agreed they believe that these should be considered single source and we want to write up justifications for those.
 - Projects conducted by universities that are part of the Cooperative Ecosystem Studies Units (CESU's) (e.g., CSU's Larval Fishes Lab) - Work conducted under

CESU's is considered already competed.

- Facilities operation and maintenance (gages, screens, fish passages, hatcheries) - Mike said he believes most O&M could probably come under single-source contracts (e.g., an entity owns or already operates a unit or component thereof).

The Committee agreed.

- Water leases, growout pond leases - The Committee agreed they believe that these should be considered single source (on a project-by-project basis) and we want to write up justifications for those. No other viable source.

- Multi-year projects already begun (to maintain continuity). Not subject to competition.

- Program management - The Committee agreed they believe that this should be considered single source and we want to write up justifications.

- c. Has Reclamation considered states' letters regarding their prerogative to conduct nonnative fish management and endangered fish population monitoring? Tom Nesler said he is concerned about potential conflict between OMB circulars and State law which mandates State responsibility for wildlife management.
- d. With regard to competition, how do we address the fact Reclamation funds only ~75% of Program projects each year, with a final determination of funding source not made until ~December? Projects typically funded by the States and the Service obviously aren't subject to Reclamation's competition process.
- e. How can we best integrate increased competition into the Program's existing work planning schedule? Mike Ward said that for all funds the government has available, they have to advertise via the single point of entry at grants.gov (if financial assistance) or fedbusops (if contract). When Reclamation and the Program staff meet they will discuss how to merge these processes.
- f. On the "other end" (once projects are funded), has Reclamation changed its policy regarding agencies carrying-over funds beyond the end of the fiscal year? If so, the Service would like to quickly discuss this to avoid adverse impacts on Program projects being conducted by the Service. Melynda said that funds will be carried over. Each project now has it's own agreement number and timelines, but funds carry over per the overall agreement.

John Shields expressed concern that the Program and Program staff are being asked to identify projects and write justifications, rather than Reclamation (a Program partner) providing clear guidelines. Darin Bird agreed there's a bit of the tail wagging dog here, but said he's comfortable with the current plan of action. John Shields asked about the possibility of transferring funds to the Service to allocate (as mentioned in the May 19 e-mail); Mike Ward said it was agreed that would be very complex and difficult to justify. John Shields asked how the competition process will work in the future. Mike said much of these guidelines are still in flux and not yet solidified, so it's difficult to predict at this point. John Shields asked about the role of a TPEC committee and how it would fit in the review process; Bob Muth said there had been some suggestion that the Biology Committee might serve as the TPEC. >When Reclamation and the PD's office meet,

also will outline how the competition process will be accomplished, how it will be meshed with Program work plan review process, and how TPEC's will operate. Dave Speas added that our single-source justifications should identify any problems that would occur if the work were competed and how those problems could derail this successful program if single-source not accepted.

4. Progress on achieving FY 06 and 07 funding and legislation to extend authorization to complete capital projects - John Shields distributed copies of the House version of the legislation to extend authorization to complete the capital projects. The Senate version is still in review. John said the hope is the legislation will be introduced within a couple of weeks. Terry Hickman said CUWCD received a supportive letter back from Senator Hatch (>and will provide a copy to John Shields). John said the House Appropriations Committee has included language restoring the Service's \$700K for FY 06 and the Senate is expected to do likewise. With regard to the Service's \$700K for FY 07, the non-Federal participants had a good meeting with Lynn Scarlett (who is now Deputy Secretary-nominee of the Department of the Interior), got a budget-development schedule from Marshall Jones of the Service, and got a letter from the delegation on the Senate side asking Interior to restore the funding (a letter from the House delegation is expected in October/November). Tom Pitts said he's hopeful the funds will be put back in the base and we won't have to go through this in future years. A letter from the governors to the Secretary is another option that may be considered. Tom Pitts added that the folks they met with in D.C. stressed that accountability and performance are expected from our Program and similar programs.
5. Updates, continued
 - d. Basin Fund - Tom Iseman referenced CREDA's April 25 letter to the Secretary of the Interior urging the Department to seek appropriations to fund non-power Programs (like the Recovery Program) currently financed with Basin Fund revenues because of the potential for the Basin Fund to become insolvent due to drought-related generation and other factors. Tom asked for discussion of this request and expressed concern that it wasn't shared with the other Program participants. Dave Mazour outlined the events that led to the letters to Gale Norton and Representative Hobson and described the work CREDA has been doing on the Hill to gain support to keep this Program and the other environmental programs solvent (including the national and regional discussions that have occurred). John Shields recommended using the listserv or Management Committee e-mail list to keep one another better informed in the future. Dan Luecke agreed, but noted that there's another issue of Program participants criticizing the Program without first sharing their concerns in draft with the other Program participants. (John Shields acknowledged this concern, adding that we all need to be mindful of this sort of thing. John noted the unfortunate example of Reclamation cited in the press pointing to the Service [as opposed to the Program as a whole] calling for high flows from Flaming Gorge.) John said Wyoming shares the concern that a request for appropriations needs to be made (as is called for in the long-term funding legislation). Gary Burton said Clayton Palmer would be willing to come to the Program and present their Basin

Fund Management Plan that identifies alternatives for addressing the shortfall in the Basin Fund. The Committee agreed this would be helpful and asked that Clayton provide something in writing in advance of the meeting. John Shields said he's heard there is some question as to whether Reclamation has any way to hold or distribute any funds appropriated to replace power revenues from the Basin Fund. (Robert King said he understood the intent was to start asking for funds early enough in the appropriations process that funds could indeed be appropriated in the year needed, but not to appropriate funds the Secretary would be required to hold until the year they are needed.) With regard to the current status and plans, Gary confirmed that there is currently projected to be enough money in the Basin Fund. This item will be on the agenda for the next Management and Implementation committee meetings.

- e. Elkhead screen failure - Bob Muth distributed updates. Installation of a temporary fish screen on the spillway of Elkhead Reservoir was completed on April 4. On April 16, a screen panel failed and on April 22, it was reported that the remainder of the screen had clogged and was ineffective. A contingency plan developed before the screen was installed was implemented. Pat Nelson said researchers captured bluegill, crappie and rainbow trout in the Yampa River and in Elkhead Creek indicative of Elkhead escapement; however, very few smallmouth bass have been captured. Sam Finney's crew focused on pike removal just below Elkhead Creek and was able to get them down to 2004 levels and return to their normal removal passes. A new screen design is being considered for the 2006 high flow season (would need to be installed before winter). Pat said the screen appeared to fail in the places where the 4"x4" screen was spliced together. Ray Tenney said he expects the screen for 2006 would cost >\$100K (mostly due to cleaning expenses). Bob Muth said he thinks we need to better analyze the data before we can evaluate whether the screen would be the most cost-effective way to address nonnative fish escapement from the reservoir in 2006. Bob also noted that smallmouth bass generally don't show up in samples until later in the season when the water warms up. Tom Nesler suggested that we make our evaluation based on numbers of fish caught by the end of June (with the numbers made available to us by the end of July). Bob Muth said we'll need to compare numbers of nonnative fish captured between years and reaches. Ray said he'll need a decision no later than the end of September, so this will need to be on the Management Committee's August agenda (the screen costs will also be available at that time). Brent said that if we determine that a screen is not cost-effective for 2006, then perhaps capital funds could be used to capture escaped fish as mitigation for capital construction.
- f. Flaming Gorge EIS - Brent said Reclamation completed their response to comments and expects a ROD in September 2005. (However, the EIS is currently in review by Reclamation's solicitors in Washington.) The biological assessment was submitted to the Service and a final Biological Opinion is expected in July 2005. The Biological Opinion will be appended to the EIS. Dan Luecke asked if the language in the purpose and need section still says "To operate Flaming Gorge to protect and assist in the recovery ... while maintaining

all authorized purposes...” and if so, why this isn’t in the draft Aspinall EIS documents.

- g. Aspinall EIS and consultation process - Brent said Reclamation is working on developing the no-action alternative. The next full cooperating agency meeting will be September 7 in Grand Junction (to allow time to develop a range of alternatives between the no-action alternative and full implementation of the flow recommendations). Gary said Western presented an alternative to the group for consideration two weeks ago. Dan Luecke asked about the language Reclamation is using in the Aspinall documents: “to develop operating guidelines to implement reservoir operations ... to avoid jeopardy to endangered species...” Why *avoid jeopardy* versus *protect and assist in the* of endangered species? Brent said that was the language recommended by their solicitor in Washington, D.C. Larry Gamble agreed this certainly seems inappropriate; as a partner in the Program, Reclamation would be expected to hold to the higher standard of recovery as they did in the Flaming Gorge EIS. Tom Pitts asked about Reclamation’s Section 7(a)(1) responsibilities. Dan Luecke emphasized that re-operation of Federal dams has been considered needed for recovery since the inception of the Program (as is clear in the Blue Book), so this language is a very great concern (and there is also case law that would appear contradictory to this position). John Shields agreed and recommended that this be brought to the Implementation Committee’s attention. Program participants may choose to raise this issue directly to Reclamation’s attention. >Dan Luecke will let the Committee know if he believes a specific action item on this is needed on the Implementation Committee agenda.
- h. Flaming Gorge bypass releases to support floodplain research - Pat Nelson reviewed the history of the Thunder Ranch floodplain easement. We built up a flood protection levee there which overtopped last week resulting in downstream flooding (outside the easment) and the ranch manager and owner have said they plan to seek monetary damages. Reclamation is investigating what happened and developing estimates for what will be needed to restore the levee to comply with the terms of the flood easement. Brent said it could cost several hundred thousand dollars to repair the levee. However, this cost is not to be confused with costs of purported damage from overtopping; the easement only agreed to provide existing levels of flood protection and overtopping of the levee is to be expected. Bob Muth distributed handouts on the request for spring peak flows and all the research we were able to accomplish. Dave Speas recommended getting this “good news” story out; >Debbie Felker will work on that. Bob Muth added that wild razorback larvae are being detected.
- i. PBOs for tributaries - Deferred. Tom Pitts said the Duchesne biological opinion amendment issued in May identified a number of things to be done, including implementation of flow recommendations. CUWCD has been heavily involved. One element of the opinion is to evaluate flow regimes and revised as needed, and a working group has been established. Terry Hickman said biological/habitat studies are called for in the evaluation, but haven’t been budgeted for. This follow-up work is important to determine if the flows being provided are

achieving what they are expected to achieve. Bob Muth said these evaluations are called for throughout the basin, but we have to work within Program priorities on them. Terry said they're also hopeful that George Smith can participate in some of their working group meetings. John Shields recommended that someone (perhaps the working group) submit a scope of work for the follow-up evaluation (perhaps presenting a range of work that might be needed), then the committees can consider that scope in relationship to other Program priorities.

- j. Capital projects - Brent Uilenberg distributed two versions of a revised DRAFT budget table (both of which reflect the \$15M ceiling increase), one that would defer the Tusher Wash fish screen by one year to accommodate Utah's request to spread their next two remaining fiscal years' capital contributions totalling \$1M (Federal fiscal years 2006 and 2007) over three years instead of two. (If additional funds were available at the end of the State year, Utah would go ahead and pay earlier, however.) Robert said that whatever payment is made for Federal FY 2006 will likely be made in August 2005 (Utah has already made their \$500K payment for Federal FY 2005). The Committee approved this. Changes will need to be made in the RIPRAP to reflect the new schedule for the Tusher Wash fish screen. Brent said that some of the \$2.5M capital "cushion" is reflected in the Redlands and Government Highline screen amounts. John Shields and Tom Pitts asked that the table not allocate the \$2.5M cushion among projects at this point. However, if there are real, known demands on the \$2.5M at this point, those need to be identified immediately. John Shields added that the \$15M also would be expected to be indexed. Brent said he's concerned about potential additional costs of flood easements (e.g., Thunder Ranch) and >will see if he can come up with some reasonable estimate of that potential exposure (with help from Pat Nelson). The legislative ad-hoc group of the Management Committee (and any other Committee members who want to participate) scheduled a conference call for June 17 from 10:00 - 12:00 to discuss this (*note: time and date may be changed*).
 - k. FY 05 work plan update - Angela Kantola distributed an updated budget table.
 - l. News media update - deferred; see attached update.
6. Upcoming Management Committee tasks and schedule next meeting - A conference call will be held June 17 from 10:00 - 12:00 to discuss capital funds (ad-hoc legislative group and any other Committee members who wish to participate). (*Note: conference call time and date may be changed.*) The next meeting is scheduled for August 10-11, with a tour of Grand Valley capital projects beginning at 8:00 a.m. on Wednesday, and the meeting adjourning by 2:00 p.m. on Thursday. Agenda items will include: review of the draft FY 06-07 work plan; draft sufficient progress assessment; a presentation from Clayton Palmer on Western's Basin Fund Management Plan (submitted in writing in advance of the meeting in time for Committee members to review it); a decision on the need for a temporary spillway screen at Elkhead for the 2006 runoff season to prevent nonnative fish escapement; and a half-hour briefing on the San Juan River Recovery Program from David Campbell (first day) and integrating certain public relations aspects of the two

- programs.
7. NFWF funds status -
 - a. Accounting for direct capital fund expenditures/allocations of state capital funds - Angela Kantola distributed an updated table. Utah is expected to provide the \$308K to NFWF to complete construction activities at Wahweap Fish Hatchery.
 - b. Price Stubb Fish Passage - Funds for the proposed water park feature on the fish passage will come from outside donations and would be considered "private" for accounting purposes. NFWF has suggested that these funds could be deposited into the Service's "depletion funds" account. This would entail: 1) amending the BOR-NFWF agreement which authorizes NFWF to make payment to the BOR using State funds to also allow NFWF to make payment to BOR using depletion funds; 2) FWS authorization of deposit of special funds into the depletion funds account to be obligated for the water park feature of Price-Stubb fish passage. To do this, NFWF would need: 1) a letter from the Service approving deposit to and payment from the small depletion fund for this project; and 2) from BOR, an executed amendment to the BOR-NFWF agreement (BOR # 01-CF-40-5640) to include depletion fund monies. Brent Uilenberg and Angela Kantola said they had not worked on these items yet. Brent said that the 3% charge by NFWF will need to be added to the private donations' water park cost. >Angela Kantola and Brent Uilenberg will work on the two items NFWF needs to make this happen.
 - c. Western Resource Advocate's funding request - >Dan Luecke will check on the status of their request for funds from NFWF for environmental group participation and report back to the Committee via e-mail.
 8. Reports status - Angela Kantola distributed an updated reports list.
 9. Overhead waiver agreement - Tom Pitts said that the Upper Basin overhead waiver (50%) extends through 2010, but there's no agreement on the San Juan (and the Region 2 Regional Director currently is not willing to give a waiver).

ADJOURN 4:50 p.m.

ASSIGNMENTS

1. Angela Kantola will post the revised March 1, 2005, meeting summary to the listserver. *Done.*
2. Tom Czapla will get the most recent humpback chub estimate from the Little Colorado River and provide that to the Management and Biology committees and emphasize the upper basin's continued desire to get real-time mark/recapture closed population estimate.
3. The Service will provide a draft sufficient progress review and two-year 15-Mile Reach PBO assessment summary to the Management Committee by early to mid-July.
4. Angela Kantola, Bob Muth, Brent Uilenberg, Dave Speas, Melynda Roberts and Mike Ward will meet on June 9 to take a first cut at identifying FY 06-07 projects which would be subject to competition or not and provide that to the Committee within two weeks. They also will outline how the competition process will be accomplished, how it will be meshed with Program work plan review process, and how TPEC's will operate.
5. Terry Hickman will send John Shields a copy of the response that CUWCD received from Senator Hatch on the proposed legislation to extend authorization to complete capital projects. *Done.*
6. Clayton Palmer will present Western's Basin Fund Management Plan to the Committee in August and provide it in writing in advance of the meeting.
7. Dan Luecke will let the Committee know if he believes a specific action item is needed on the Implementation Committee agenda regarding the language in the Aspinall EIS documents.
8. Debbie Felker will work on getting out the stories of the research accomplished under the spring peak flows on the Green River.
9. Brent Uilenberg will try to develop a reasonable estimate of potential additional costs of flood easements exposure (with help from Pat Nelson).
10. Angela Kantola and Brent Uilenberg will work on the two items NFWF would need to deposit private donations for the park on the Price-Stubbs fish passage into the Service's "depletion funds" account.
11. Dan Luecke will check on the status of Western Resource Advocate's request for funds from NFWF for environmental group participation and report back to the Committee via e-mail.

Attendees
Colorado River Management Committee, Denver, Colorado
June 2, 2005

Management Committee Voting Members:

Brent Uilenberg	Bureau of Reclamation
Tom Blickensderfer	State of Colorado.
Robert King & Darin Bird	State of Utah
Tom Pitts	Upper Basin Water Users
John Shields	State of Wyoming
Larry Gamble for Mary Henry	U.S. Fish and Wildlife Service
Dave Mazour	Colorado River Energy Distributors Association
John Reber	National Park Service
Tom Iseman	The Nature Conservancy
Gary Burton	Western Area Power Administration

Nonvoting Member:

Bob Muth	Recovery Program Director, U.S. Fish and Wildlife Service
----------	---

Recovery Program Staff:

Angela Kantola	U.S. Fish and Wildlife Service
Pat Nelson	U.S. Fish and Wildlife Service
Tom Czapl	U.S. Fish and Wildlife Service
Debbie Felker	U.S. Fish and Wildlife Service

Others:

George Smith	U.S. Fish and Wildlife Service
Ray Tenney	Colorado River Water Conservation District
Tom Nesler	Colorado Division of Wildlife
Melynda Roberts	Bureau of Reclamation
Mike Ward	Bureau of Reclamation
Dave Speas	Bureau of Reclamation
Terry Hickman	Central Utah Water Conservancy District
Heather Patno	Western Area Power Administration
Dan Luecke	Western Resource Advocates
Bill Goosman	Colorado Division of Wildlife

News Media Update
(Provided by Debbie Felker subsequent to the meeting)

The Montrose Pavilion is a conference center that hosts concerts and community meetings in Montrose, Colorado. Two years ago, the pavilion asked the Recovery Program if it could display endangered fish in an aquarium in the lobby. The Recovery Program worked with the Colorado Division of Wildlife to establish an interpretive exhibit at the pavilion that includes razorback sucker, bonytail, and Colorado pikeminnow made available from the J.W. Mumma Native Aquatic Restoration Facility in Alamosa and the Grand Valley Endangered Fish Facility in Grand Junction.

Five maintenance workers at the pavilion assumed the primary responsibility for feeding the fish and cleaning the aquarium. They named the fish, including the largest (17-inch) razorback sucker which they called "Fat Albert." The men did such a good job taking care of the fish, they quadrupled in size and outgrew their home. Arrangements were made for Colorado Division of Wildlife Education Specialist Stan Johnson to remove the aquarium fish and replace them with more hatchery fish.

The Recovery Program worked with CDOW to coordinate this activity and contacted the news media to invite them to tell the story of "Fat Albert". On May 23, Stan removed the aquarium fish and took them to a backwater area along the Colorado River near Grand Junction where they were tagged and released. The Montrose television station and *The Daily Sentinel* in Grand Junction covered the story. The result was positive publicity about efforts to recover the endangered fish.

Two unexpected things also happened. After the fish were removed from the pavilion they were used to help educate fifth-graders who had raised razorback suckers in a classroom aquarium and were ready to tag and release them into the Gunnison River near Delta. Stan used "Fat Albert" to show the students what an adult razorback sucker looks like and explained that their 6 to 7-inch fish would look like him in about two years. The students clapped and cheered.

Secondly, the Montrose Chapter of Safari Club International saw the news media coverage and contacted CDOW to ask how they could help replace "Fat Albert." The end result is that the Safari Club will cosponsor the classroom aquarium project by providing one-third of the cost of supplies each year (about \$1,000). The Recovery Program and CDOW have split these costs in the past.

Also on May 23, two Grand Junction television stations ran stories about the flooded razorback sucker nursery habitat at the Grand Valley Audubon Society's Lucy Ferril Ela Wildlife Sanctuary along the Colorado River. This story was arranged by the Audubon Society's Nature Chairman Bob Wilson.

The Recovery Program continues to actively pursue positive stories whenever possible. On the flip side, the Recovery Program received somewhat negative publicity following increased flows from Flaming Gorge Dam which flooded private property along the river. The Recovery Program is working to prepare a news release explaining the nature and purpose of studies being conducted as a result of these flows.

