

**Aspinall Operations EIS
Cooperating Agency Meeting
February 15, 2005**

Final Meeting Summary

The fourth Cooperating Agency Meeting for the Aspinall Operations Environmental Impact Statement was held on February 15, 2005 at the U.S. Bureau of Reclamation Western Colorado Area Office at 2764 Compass Drive, Suite 106, in Grand Junction, Colorado. All Cooperating Agencies were present for the meeting. Cooperating Agencies include the State of Colorado (Colorado), Colorado River Water Conservation District (CRWCD), National Park Service (NPS), Platte River Power Authority (PRPA), U.S. Fish and Wildlife Service (Service), and Western Area Power Administration (WAPA). A total of 28 people participated in the meeting including Reclamation staff from Grand Junction, Montrose, and Salt Lake City. A copy of the meeting attendees is attached.

The meeting began at 9:37 a.m. Twenty-six participants were present at the meeting and two participants joined the meeting via conference call.

Introduction and Welcome

Ed Warner (Reclamation-WCAO Resource Division Manager) facilitated the meeting and reviewed the ground rules for the meeting. Cooperating Agencies and others in attendance introduced themselves and Reclamation reviewed the meeting agenda and no changes were proposed.

Discussion on January 19th Meeting Summary

Cooperating Agencies reviewed the Draft Meeting Summary for the January 19, 2005 meeting. Minor changes and corrections were made to the meeting summary, which will be incorporated into the Final Meeting Summary and distributed to Cooperating Agencies and posted on Reclamation's Aspinall EIS website.

Status of Description of No Action, Baseline, and Existing Conditions

Steve McCall (Reclamation-WACO) reviewed a draft description of No Action, Baseline and Existing Conditions; and Reclamation requested comments on the draft document by March 1, 2005. Reclamation will share comments on the draft document with everyone, unless a Cooperating Agency requests otherwise.

Reclamation stated that there are some items with the document that Reclamation will have to make a decision on. The draft document attempts to incorporate Cooperating

Agencies comments. Some issues regarding No Action, Baseline and Existing Conditions are not black and white (i.e.: Aspinall decrees, ramping rates, Redlands fish flows).

Reclamation stated that the No Action Alternative is Reclamation's best estimate on how Reclamation would operate the Aspinall Unit in the absence of flow recommendations. WAPA stated that the EIS can analyze an alternative that is not legal, but would require legislation to implement.

NPS asked if the spring flows are described in detail. Reclamation responded that it will add language to the document to describe spring flows in greater detail. Steve McCall reviewed the draft description of the No Action Alternative which includes: 1) Flood control, 2) Existing facility capacity, 3) Operational releases, 4) Tour boat operations, 5) Shaping of water for spring peak (bundling), 6) Current spring operations for shaping peaking, 7) Ramping rates, 8) Delivery of 100 cfs to fish ladder (does not include fish flows below the Redlands Diversion Dam and fish screen with the No Action description), 9) Landslide criteria for Morrow Point and Crystal reservoirs, and 10) Future water uses (SWSI).

Reclamation asked for suggestions regarding the Dallas Creek and Dolores biological opinions. The FWS stated that it will provide comments regarding these opinions.

Reclamation stated that with regards to some items, Reclamation has no discretion (i.e.: flood control related to agreements with the Corps of Engineers, reservoir drawdown criteria, Blue Mesa and Morrow Point peaking, Crystal regulating the river).

PRPA asked about Blue Mesa and Morrow Point peaking. PRPA stated that CRSP Act authorized peaking. WAPA stated peaking was included in the 1959 economic justification for the Aspinall Unit.

CRWCD stated that it likes how State water law is defined in the draft document with no discretion, but Reclamation needs to define uncertainty. CRWCD requested an electronic copy of the draft document for additional review and comment. CRWCD stated that there are a lot of inconsistencies regarding the Redland fish ladder and fish screen, and that 40 cfs for fish screen should be included in no action

NPS inquired about the process for responding to comments on the draft document. Reclamation stated that it will send all comments received to the whole group.

WAPA had general comments on the draft document and suggested if an operation is not documented it will be difficult to include in the No Action description. WAPA clarified that not every little detail is written down, but believes that if there is no letter describing the operation, it is hard to justify as a current operation and subject to change. WAPA stated that it was glad that landslide criteria are added to the No Action description. WAPA stated that minimizing spills is included in the authorization, but bundling is not documented.

Reclamation stated that there are 10 years of Aspinall Operations Meeting Minutes that document these types of operations. WAPA stated that if Reclamation can find these descriptions in the meeting minutes, WAPA is okay with including them in the No Action description.

WAPA recommended describing discretion in the no action alternative as a Range of operations. The EIS should describe discretion and the impacts of discretion. WAPA stated that Dolores and Dallas Creek biological opinions are insufficiently described. WAPA suggested that these opinions should be handled like Reclamation handled consultation for Flaming Gorge. For example, the Central Utah Project, Strawberry Unit, biological opinion included estimated depletion amounts and required that Reclamation deliver extra flows from Flaming Gorge to mitigate Strawberry Unit impacts. Once Flaming Gorge went under consultation there were no further requirements on Strawberry Unit operations. WAPA stated that it would be helpful if this is clarified in current description.

WAPA stated that the existing condition is the resource condition today. The No action may or may not change in the future. WAPA recommended using the description of the resource in 2005 for existing condition.

Regarding spring peak releases, PRPA urged everyone to think carefully. PRPA stated that if the purpose and need of the EIS is to examine operations to implement flow recommendations, PRPA doesn't understand how Reclamation can have a No Action Alternative that has spring releases. PRPA stated that the draft document makes no reference to hydropower contracts and urged hydropower contracts be included in the No Action description. Reclamation stated that this was an oversight and that the No Action description will include existing contracts.

Colorado stated the intent of the April 2003 Black Canyon Settlement Agreement. NPS asked that the No Action alternative describe discretion in regards to bundling as is described in power plant capacities and hydrologic conditions. NPS is not sure if that is the complete range of discretion. NPS asked about including bundling even within the hydrologic conditions that call for a spring peak. Reclamation stated that it will attempt to describe. NPS stated that the Endangered Species Act did not add discretion to the Aspinall Unit. Reclamation responded that it has discretion to operate the Aspinall Unit to meet authorized purposes. NPS stated that independent of water contracts; Reclamation is taking a chunk of water and has discretion to manage it.

PRPA expressed concern with what Reclamation is operating the Aspinall Unit for and use the Klamath and Rio Grande issues as examples. PRPA requested that where there is discussion on purposes, that it be marked as a draft document.

Colorado discussed the link between future depletions and the 2003 Black Canyon Agreement. Colorado is considering with the spring bundling concept and stated that the concept started for endangered fish. Colorado doesn't remember talking about other resources in regards to bundling water for a spring peak.

Reclamation stated that the first bundling discussion was for the Black Canyon, but in general, most bundling discussions were for test flows for developing the flow recommendations. WAPA stated that it has documentation from the Upper Colorado River Endangered Fish Recovery Program in 1991 that may be helpful. Colorado asked about discussion and prior to the Recovery Program. WAPA stated that information is included in the Dan Beard letter and draft Black Canyon Contract.

Reclamation stated that it would change the comment deadline to March 11 and will send an electronic copy of the document to all Cooperating Agencies. Colorado stated that it would like the opportunity to present the draft document to the Colorado Water Conservation Board at the next board meeting at end of March. Reclamation stated that it would like to have the comments from the Colorado Water Conservation Board and that it would accept comments from the State after the March board meeting.

Mike Gross representing Uncompahgre Water Users Association, Tri-County, and Redlands Water and Power Company asked if the comment period includes the public.

Reclamation stated that the Baseline is similar to No Action. PRPA stated that Endangered Species Consultation Handbook references that the Recovery Implementation Program provides ESA compliance for historic projects, including Aspinall. Reclamation stated that the baseline would include all existing water projects. The Service stated that the Baseline is a description of existing conditions for ESA. PRPA stated that it would provide some comments.

Colorado stated, in this case, there is a Recovery Implementation Program that provides some protection.

WAPA stated that with respect to environmental baseline, attorneys have told Reclamation that it has authorization to modify operations. But in regards to bundling, Reclamation didn't consult under ESA and bundling should be excluded from the baseline. PRPA stated that regardless of agency discretion, it doesn't think bundling is right and that if something is inconsistent with the authorized purposes, it shouldn't be included. PRPA stated it's not comfortable talking about discretion. Reclamation stated that the Baseline includes all past, present and reasonable foreseeable future actions and baseline is not dependent on discretion.

Action Item: *Reclamation will send an electronic copy of the draft document on No Action, Baseline and Existing Conditions to Cooperating Agencies for review and comment. Reclamation requested comments by March 11 to discuss at the next Cooperating Agency Meeting. Colorado will provide its comments to Reclamation after the next Colorado Water Conservation Board Meeting in March.*

Initial Discussion of Alternatives

Steve McCall provided Cooperating Agencies with a hand out on alternatives. He stated that Reclamation and the Cooperating Agencies need to start talking about alternatives. NEPA requires a look at a range of alternative that are technically and economically feasible and that meet the purpose and need. NEPA require the same level of analysis on all alternatives.

Reclamation stated that alternatives will not include actions like temperature control, constructing dikes along Delta, or dam decommissioning. PRPA asked about the status of the CRSP authority question regarding fish, wildlife and recreation as authorized purposes. Reclamation responded that discussion with the Solicitor's Office is scheduled in the near future.

Reclamation reviewed alternatives identified in the public scoping comments. WAPA stated that an agency can examine alternatives not within the jurisdiction of the lead agency, but asked if Reclamation wouldn't want to limit those alternatives. Reclamation stated that the alternatives will be restricted to operational changes. Steve Glazer representing High Country Citizens Alliance asked about dike construction and removal at Delta as an alternative. WAPA stated that it supports what Reclamation has crafted.

WAPA asked that if the Upper Colorado River Endangered Fish Recovery Program takes other no flow actions (non-native fish removal, etc.), if that would affect alternatives. Reclamation stated that would be addressed through the use of adaptive management. Colorado asked about a Programmatic Biological Opinion (PBO).

Reclamation stated that the EIS's scope is narrow, under Section 7a (2) of the Endangered Species Act to remove jeopardy. The Upper Colorado River Endangered Fish Recovery Program is under Section 7a (1) of the Endangered Species Act. PRPA agreed that it is the key distinction.

PRPA discussed the recent litigation over the wolf, the challenge to the downlisting and questioned if 7a(1) or 7a(2) drives the boat. PRPA stated that Section 7a (2) is the standard for this EIS.

WAPA stated that if Reclamation selects an alternative that meets the flow recommendations and meets authorized purposes there is no additional action needed for recovery. Actions for recovery would be Recovery Program actions.

PRPA asked what is the importance of the Gunnison River and what does it mean to contribute to the status of the species.

Reclamation asked WAPA about an alternative WAPA has been working on. WAPA stated that it has been working on an alternative with Argonne National Laboratories. WAPA stated that it is not ready to discuss the alternative at this meeting, but could present at the next Cooperating Agency Meeting (April 1st).

Meeting break for lunch at 12:02 p.m. and resumed at 1:33 p.m.

Reclamation continued discussions of alternatives, focusing on a range of alternatives. Reclamation stated it envisions alternatives that include: 1) No Action, 2) Bundling, 3) Aggressive Bundling, 4) Use of Storage for Spring Peaks, and 5) an “All Out” Alternative to meet the flow recommendations.

NPS asked if Reclamation is suggesting a range of alternatives developed individually in the EIS. Reclamation responded yes.

Colorado asked if Reclamation can't meet the flow recommendations, how the group would find out what are priorities in the Flow Recommendations. Colorado asked if Reclamation would ask the Recovery Program. Reclamation stated in that case, it would talk to the Service to find out what the priorities are (i.e.: spring peak, base flows, below Redlands). Colorado suggested developing sub-committees to address this issue.

CRWCD stated that the State has rules that allow water banking. In the Arkansas Basin, it allows the use existing facilities to exchange water uses and allows additional flexibility to meet other purposes. Colorado stated that the statute is there, but thinks the State pulled the plug on a pilot project. CRWCD stated that water bundling is a tool that can provide some flexibility and maximize the resource. CRWCD provide the example of bypassing water at the Redlands Diversion for a credit to use that water at a later time.

Reclamation asked Cooperating Agencies to “brainstorm” Action Alternatives. The Service stated it would like to see Reclamation examine winter icing targets and that one alternative needs to look at flow recommendations as written. WAPA stated that there is a flow recommendation to meet a weighted average and that the table within the Flow Recommendation is one way to meet that. WAPA asked if the Flow Recommendations were the weighted averages or table. The Service responded that Reclamation needs to look at both. Reclamation asked the Service contact Bob Muth (Upper Colorado River Endangered Fish Recovery Program) to see who could make a presentation on the Flow Recommendation to the Cooperating Agencies.

NPS asked if the idea is similar to what is proposed at Flaming Gorge, a broad band of decisions to be made each year. Reclamation stated that it thinks that that it falls within Reclamation's existing Aspinall Operation Meetings. Reclamation wants to maintain flexibility.

Reclamation provided a summary list of comments received during public scoping and alternatives suggested. The Cooperating Agencies discussed the comments and stated that a majority of the bullets listed in the document are covered under how Reclamation has structured the EIS.

PRPA stated that it appreciate the comments regarding drought, but think its way beyond the scope. NPS stated that it seems like there should be some guidelines in times of drought. Reclamation stated that it needs to recognize these conditions. NPS recommended share the pain versus priority in times of drought.

CRWCD suggested the development of rule curves on high sides and low sides and on what Reclamation is doing now.

WAPA stated that if Reclamation can meet a biological need in two ways, the one with the least impact on authorized purposes should trump the other. WAPA is proposing an alternative. WAPA stated that Reclamation needs to look at the state of the resource in consultation with the Cooperating Agencies (FWS, NPS, and Colorado).

Reclamation and the Cooperating Agencies discussed the Black Canyon and its side boards to alternatives. Reclamation stated that it is not going to promote or change anything within the 2003 Black Canyon Agreement. PRPA asked if the Black Canyon is one of those issues that need to be considered in an executive session. CRWCD asked if there is a process in NEPA for executive session. PRPA stated that typically cooperating agency meetings are not open to the public.

WAPA proposed discussing with Reclamation what can be discussed in public in regards to the Black Canyon. Reclamation and WAPA will discuss with DOJ and determine if there is an issue.

NPS asked concerning the Black Canyon law suit, what would happen if remanded back to Interior.

WAPA stated it will set up an hour long presentation of its alternative for the next cooperating agency meeting based on results of discussion with DOJ and Reclamation.

CRWCD suggested talking with the Department of Justice on discussion of action, and clarification on the proposed action. Reclamation stated that it spoke with the Solicitors Office and received no advice to change our purpose and need. CRWCD asked about clarification on CRSP authorized purposes. Reclamation stated that it is the highest priority in the Solicitors Office and that it will take some time to resolve.

Action Items: *The Service will prepare a presentation at the next cooperating agency regarding the flow recommendations. WAPA will prepare a presentation regarding an alternative it is developing with the assistance of Argonne National Laboratories. WAPA will review its presentation with Reclamation and the Department of Justice regarding information on the Black Canyon Settlement prior to making the presentation at the next Cooperating Agency Meeting. Reclamation will continue to work with the Solicitors Office to address issues regarding authorized purposes of the Aspinall Unit. (Note: WAPA's presentation will be delayed to a later meeting.)*

Update on hydrology/hydropower modeling

Dan Crabtree (Reclamation-WCAO) gave an update on the hydrology and hydropower modeling subgroups. Reclamation has not set up a hydrology meeting yet and is still waiting to clarify the No Action Alternative so Coll Stanton has something to work with for a model. Reclamation will be contacting Cooperating Agencies to schedule a meeting.

Reclamation stated that a Hydropower subgroup meeting is scheduled for March 22, 2005 in Denver. It will be a half day meeting.

CRWCD suggested that Reclamation not wait for the description of the No Action. CRWCD stated that they have formally requested a copy of the Riverware model. CRWCD stated that some of the mechanical stuff can be worked on and that a Riverware workshop is going to be held in Boulder in two weeks. CRWCD suggested that depletions, inflows, and operating rules can be looked at. Reclamation stated that it will talk with the Department of Justice and determine what can be discussed regarding the Black Canyon lawsuit.

PRPA asked WAPA if there is greater flexibility in contracts in the future. WAPA answered yes.

Action Items: Hydropower Subgroup Meeting scheduled for March 22, 2005 in Denver. Reclamation will attempt to schedule a Hydrology Modeling Subgroup meeting in conjunction with the Riverware Workshop in Boulder. Reclamation will check with the Department of Justice to see what model information can be shared because of the Black Canyon lawsuit.

Public Involvement Update

Steve McCall updated the Cooperating Agencies on the EIS's public involvement. Reclamation continues to update its web page and is open to suggestions on how to improve public involvement. The next Aspinall Operations Meeting is scheduled for April 22 at 1 p.m. at Reclamation's Offices in Grand Junction. Reclamation is willing to come and talk to anyone's board or group about the Aspinall EIS process.

Next Meeting Date

The next Cooperating Agency meeting was scheduled for **April 1st at 9:30 a.m.** at Reclamation's Office in Grand Junction. Additional Cooperating Agency meetings are scheduled for **May 3rd** and **June 10th** at 9:30 a.m. at Reclamation's Grand Junction Office.

Public Questions and Comments & General Discussion

Steve Glazer, representing High Country Citizens Alliance, stated that he supports CRWCD's position on the Redlands fish ladder and fish screen. He stated that Reclamation is obligated to protect those resources and that it is an investment of Recovery Program. Steve stated that he supported the range of flows as WAPA suggested. He stated that power contracts are variable which makes them discretionary and they should not be considered as non-discretionary. Steve stated that ESA supports the multi purposes of the unit, and includes the fisheries component of the Aspinall Unit. He also stated that in order to meet the goals of the flow recommendations, mitigation can be offered to modify constraints such as river modification and flood control structures.

Steve stated that he has issue with the State of Colorado regarding the 2003 Black Canyon Agreement, which in no way opens a consultation on the 240,000 acre-feet. He stated that the 240,000 acre-feet would need separate consultation. Steve thanks everyone for the openness of the process and stated that it would be inappropriate to the meeting to go into executive session. He stated that the meetings should be tailored to keep them open.

Karen Shirley, representing the Upper Gunnison River Water Conservancy District, stated that is is unclear on how the subordination agreement will be treated and thinks that the recognition of the ability to develop the full 60,000 acre-feet should be included in the No Action description. Karen stated that this is an existing Reclamation commitment. She stated that she agrees such an exclusion does not open this alternative to open all future contracts. Karen also stated that if there are changes to winter icing targets at Blue Mesa, the changes need to be validated. She stated that Reclamation needs to keep an open public process even if Reclamation chose to start this process in the middle of the Black Canyon litigation.

Mike Gross, representing the Uncompahgre Water Users Association, Tri-County Water Conservancy District, and Redlands Water & Power Company, stated that his clients, taken together, represent the majority of water users in the basin and the majority of consumptive uses of water in the basin. Mike stated again that Reclamation has non-discretionary obligations described in the State Water Court decrees under which Reclamation operates the Aspinall Unit today. He said the February 17 Draft No Action Alternative would benefit from an admission by Reclamation that the Aspinall Unit operations are subject to Colorado water law, and suggested the following language: **“Aspinall Unit operations are subject to administration under Colorado Water law. Storage and hydropower facilities will be operated pursuant to their respective state court decrees.”** This issue qualifies as one of the no discretion criteria for operations common to all alternatives.

Mike also stated that if the description of “existing conditions” is to be instructive to the people constructing simulation models, it has to be more specific concerning releases of water for the Redlands fish ladder and fish screen. The document must describe how the

release will be made. For example, the 100 cfs necessary to operate the fish ladder must be achieved by releasing sufficient water to fill downstream appropriations of water plus the amount necessary to operate the ladder. He recommended re-wording the description of “existing conditions” to read “**provide sufficient water to operate the Redlands fish ladder, fish screen, and migration flows below Redlands only after making sure the demands of downstream senior rights are met,**” and making it part of the No Action Alternative.

The last paragraph of Section I: No Action Alternative (page 5 of the February 17 draft) recognizes the need to address the Dallas/Dolores Projects’ Biological Opinions. Tri-County Water Conservancy District would support WAPA’s suggestion that Reclamation handle this issue the way it was done in the Flaming Gorge EIS. Reclamation should specifically recognize its obligations under the Dallas Creek EIS and BO, then clearly state that the federal action in this EIS will serve as the reasonable and prudent alternative to depletions by the Dallas Creek and Dolores Projects, and that no additional mitigation will be required under the Endangered Species Act for those projects.

Mike recommended adding a new item to the list of “current practices” for the No Action Alternative. He suggested describing existing conditions with a “no-discretion” curve and a 12-month series of end-of-month storage targets based on a representative set of historical data. These end-of-month targets should serve as a demonstration of how Reclamation operates the Aspinall Unit today. This would give the modelers something to calculate against, and give the public something they could understand.

The Cooperating Agency Meeting ended at 3:13 p.m.

Meeting Attendees

Steve McCall, USBR-Grand Junction
Terry Stroh, USBR-Grand Junction
Dan Crabtree, USBR-Grand Junction
Ed Warner, USBR-Grand Junction
Eric Knight, USBR-Grand Junction
Nancy Coulam, USBR-Salt Lake
Paul Davidson, USBR-Salt Lake
Jane Blair, USBR-Salt Lake
Don Phillips, USBR-Montrose
Patty Gelatt, USFWS-Grand Junction
Norm Henderson, NPS*
Bill Wellman-NPS*
Michael Dale, NPS*
Wayne Schieldt, CDWR*
Randy Seaholm, CWCB*
Michelle Garrison, CWCB*
Jay Skinner, CDOW*+
Kent Holsinger, PRPA*+
Leslie James, CREDA (representing PRPA)*
Dave Kanzer, CRWCD*
Taylor Haus, CRWCD*
Dan Burch, CRWCD*
Clayton Palmer, WAPA*
Heather Patno, WAPA*
Wayne Cook, WAPA*
Mike Gross, UVWUA, Tri-County & RWPC
Karen Shirley, UGRWCD
Steve Glazer, HCCA

*Cooperating Agency Representatives

+Participated via conference call