

**Aspinall Operations EIS  
Cooperating Agency Meeting  
November 1, 2004**

**MEETING SUMMARY (FINAL)**

The first Cooperating Agency Meeting for the Aspinall Operations Environmental Impact Statement was held on November 1, 2004 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), Southwestern Water Conservation District (SWCD), U.S. Fish and Wildlife Service (FWS), and Western Area Power Administration (WAPA). A total of 32 people attended 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 10:15 a.m. Leslie James, Colorado River Energy Distributors Association joined in on conference call.

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**Introduction and Welcome**

Carol DeAngelis (WCAO Area Manager) gave an introduction and welcome to cooperating agencies and meeting attendees. Carol stated that there were miscommunications that delayed the EIS start and that every Reclamation employee is committed to the process. This is an EIS Coop Agency Meeting and the public can attend and the public will be allowed comment at the end of the meeting.

Ed Warner (WCAO Resources Division Manager) facilitated the meeting. Cooperating Agency members and meeting participants introduced themselves (attachment). Ed informed the group that the cooperating agency meeting will go until 3:00 p.m. At 3:00 p.m. the public can ask questions and provide comments.

Ed asked that everyone try to be considerate of others and listen to others views, and expressed appreciation to everyone attending despite the weather.

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**Roles of Lead and Cooperating Agencies**

Steve McCall (WCAO Environmental Specialist) reviewed a draft cooperating agency contact list handout. Cooperators were asked to review the contact list and provide updated information. Steve briefed the cooperators about the Council on Environmental Quality (CEQ) regulations summary handout of cooperating agency roles and responsibilities. BOR is the agency that makes decisions, selects the final alternative, and

makes final decisions on disagreements. This is not a voting type group. Cooperators assist in development of alternatives and information for impact assessment. Cooperators will receive preliminary documents (advance draft Environmental Impact Statement, draft Biological Assessment, etc.). Reclamation asked the cooperators if they felt some type of memorandum of understanding (MOU) on how to operate was needed. We need to guard against having negotiation of the agreement turn into a project itself. Reclamation plans to produce a draft generic agreement for all cooperators before the next meeting.

### **Cooperators' discussion and questions regarding a Cooperating Agency MOU**

SWCD didn't see a need for an MOU. Some of the CRWCD board members requested one. CRWCD thinks it's important for Reclamation to indicate clearly what they expect. WAPA requested that the principles be clearly defined; the request was primarily for the Endangered Species Act (ESA). NPS would like to see roles defined so that there is consistency and everyone is on the same page. The State of Colorado would prefer that an MOU be more general than specific. PRPA felt that the CEQ regulations document that was handed out is a good start and not sure if a MOU is needed or not.

The State of Colorado asked what the document would commit Reclamation to. CRWCD stated that this was a three to five year process and that it's important to document what is expected. FWS felt that we would be negotiating as we go along and that it would prefer an MOU that was general in nature.

Reclamation stated that a MOU with Jicarilla Apache Nation for the Navajo EIS was generic, and included items such as timeframes, comment periods, etc.

WAPA stated that for the hydrology modeling, the State of Colorado can contribute to the process. WAPA asked if that type of assistance would be specified in an MOU or is it an understanding. Reclamation felt that these types of actions would be assigned at the cooperating agency meeting and put into the meeting minutes.

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*Action Item: The cooperators were asked to think about the MOU for further discussion at the next cooperating agency meeting. Reclamation will send a draft to cooperators for review at the next meeting and will be maintaining an administrative record.*

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### **Summary of Notice of Intent and Purpose and Need**

Steve McCall provided the cooperators with a copy of the Notice of Intent that was published in the Federal Register. Reclamation stated that the biggest question is what does avoid jeopardy mean. Reclamation proposes to look at alternatives that range from no action to recovery which includes avoiding jeopardy. The EIS will be limited to operations and will not include alternatives such as dam decommissioning.

## **Cooperator Discussion on Notice of Intent**

PRPA's position is that the EIS should not look at Recovery. USFWS stated that Reclamation has responsibilities under Section 7, a (1) of the Endangered Species Act to assist in recovery of listed species. PRPA contended that Section 7, a (1) has not held in court and that 7, a (1) is not a standard requirement for Section 7, a (2). PRPA asked what the role of the Upper Colorado River Endangered Fish Recovery Program is. PRPA asked how the EIS process and the Recovery Program mesh together.

WAPA stated that it is not an issue if Reclamation crafts an alternative that does not adversely affect authorized purposes of the Aspinall Unit. The cooperators asked the question of how to determine when an authorized purpose is adversely affected. Also discussed was how to incorporate Recovery Implementation Program Recovery Action Plan items into an alternative. State of Colorado stated that if we are talking about recovery, we should work through the established Recovery Program.

PRPA stated the EIS/Recovery Program issue was a struggle and asked what role does the Gunnison River play. WAPA stated that there are recovery goals for the Upper Colorado River and the role of the Gunnison River has not been defined. WAPA asked if the EIS will define the role of the Gunnison River in recovery. FWS stated that the Gunnison River is designated critical habitat. The State of Colorado stated that no one is talking about not recovering the fish, but the Recovery Program should take the lead when going beyond no-jeopardy.

PRPA asked what portion of the Gunnison River was designated as critical habitat and when the designation was made. FWS responded that from the confluence of the Uncompahgre River downstream to the Colorado River was designated in 1994. WAPA stated that if Reclamation is interested in razorback sucker spawning, it needs to look at temperature, spawning and nursery habitat, etc., and will need to maintain flows for a certain time period. WAPA asked in which venue this will be addressed. FWS stated that Reclamation's role in the Recovery Program is defined in the Section 7 agreements and that should be kept in mind as the EIS starts.

CRWCD stated that included in the goals should be a Gunnison programmatic biological opinion. CRWCD asked how the puzzle fits together. Reclamation stated that these are all good questions with no answers at this time. Better that we are asking these questions now rather than three years down the road.

PRPA stated that the Colorado River Storage Project Act (April 11, 1956-Public Law 485, 84th Cong., 70 Stat. 105) defines authorized purposes and that the Colorado River Basin Project Act (September 30, 1968-Public Law 90-537, 82 Stat.885) authorized new projects but not Aspinall. PRPA's position is that fish and wildlife and recreation are not authorized purposes of the Aspinall Unit. Reclamation stated that they are working with legal council on this issue and it is something we will need to address. The State of Colorado stated that they share PRPA's view on authorized purposes of the Aspinall Unit.

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*Action Item: Reclamation will continue to discuss the Aspinall Unit Authorized Purposes with the U.S. Solicitor's Office.*

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### **Schedule**

Reclamation reviewed the draft schedule for the EIS. Specific dates are not identified at this time. Reclamation highlighted the major action items involved in the EIS including identifying study needs, hydrology modeling, development of alternatives, selection of a preferred alternative; draft EIS, draft Biological Assessment, final EIS, and Record of Decision. Reclamation anticipates receiving a Planning Aid Memorandum (PAM) and a Coordination Act Report (CAR) from the Service under the Fish and Wildlife Coordination Act that identifies impacts fish and wildlife resources other than endangered species and recommends mitigation measures.

### **Cooperators Discussion of Schedule**

CRWCD asked if there will be monthly Cooperating Agency Meetings. Reclamation stated that it anticipates monthly Cooperating Agency Meetings to start with. State of Colorado stated that they will have regular contact with Reclamation.

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### **Summary of Scoping Results**

Reclamation provided a summary of the scoping meetings. Scoping meetings were held in Gunnison, Delta and Montrose. A scoping summary report was distributed to Cooperators. Reclamation stated that it tried to be objective and received a diversity of views during scoping. Major comments included protecting the Aspinall Unit's authorized purposes, using the Aspinall Unit to avoid jeopardy or recover endangered fish, role of the Aspinall Unit in reducing river calls, Black Canyon Water Rights, PBO, etc. Comments added that the EIS process needs to be open and understandable to the public and that hydrology modeling is a key activity.

Reclamation asked the Cooperators about identifying data gaps.

### **Cooperators discussion on Scoping Results**

The State of Colorado asked if Reclamation has eliminated comments that are outside of the EIS scope. Reclamation stated that they have not eliminated issues and asked Cooperators to review the scoping summary and provide comments for the next Cooperating Agency Meeting and stated that comments outside the scope still need to be mentioned in the EIS.

SWCD stated that flow contributing to recovery is a theory and that there are data gaps. CRWCD stated that the Reclamation hydrology model is inadequate with respects to water rights. Reclamation stated it envisions taking Reclamation's model outputs and

inputting that data into the State's model. The State of Colorado stated that they plan to work closely with Reclamation regarding the modeling efforts.

PRPA inquired about commenting on the information received during the scoping process. Reclamation stated that the scoping summary report presented the public comments received during scoping. The report does not evaluate the comments or respond to them. That process will occur as part of the EIS. Reclamation asked the Cooperators to respond to scoping comments with emails submitted to the EIS Team and with additional discussion at the Cooperators Meetings if needed. CRWCD stated that the draft EIS should include the comments received during scoping and appropriate responses.

WAPA stated that they are interested in maintaining power at Aspinall, but are also bound by ESA. WAPA will have sharable information at future cooperative meetings. WAPA's main interest is in achieving flow recommendations while minimizing impacts to power.

NPS identified data gap concerns on Aspinall Unit operation effects on icing, fishing, and recreation. NPS stated that Reclamation needs to figure what issues are within the scope of the EIS and then hone in on data gaps.

CRWCD also expressed concerns with the short period of record for river flows used in the model and asked about the role of climate variability as shown in NOAA's tree ring data. Reclamation stated that it will look at what data is available and use the best available data as required by NEPA.

Reclamation asked cooperators to start thinking about significant issues.

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*Action Item: Reclamation requested that cooperating agencies review the scoping report and provide comments to Reclamation's EIS Team.*

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### **Introduction to Hydrology Modeling**

Coll Stanton (WCAO Hydrologist) discussed Reclamation's hydrology model. The model uses Riverware software which allows Reclamation to write operating rules. Reclamation's model is not a water rights model. The model is pretty well developed for existing conditions. Reclamation will work with the State of Colorado to ensure compatibility with the State's model. The model was developed through a matrix developed over the years.

### **Cooperators Discussion on Hydrology Model**

WAPA stated that some of the issues with hydrology modeling spill over into baseline. WAPA is concerned that the operating rules have changed over time and that the rules for current operation practices include undocumented agreements. WAPA is interested in having the baseline represented by a range of possible operating rules.

Reclamation stated that there are two ways to address this issue during modeling, existing rules can be modified or new rules written. PRPA asked what Reclamation considers as a baseline. Reclamation responded that baseline will be discussed later in the meeting.

Coll told the cooperators that Reclamation's existing hydrology model uses historic daily river flows from 1975 to 2002. Coll said that he will update the data if he has time. Ed Warner asked Coll if Reclamation can go back and reproduce data further back. Coll stated that he had to do that for some other earlier data. Data requires Gunnison River inflows, tributary inflows, diversions and inflow forecasts.

SWCD asked why the State's model isn't the only model being used. The State and Reclamation agreed it is because the state's model doesn't focus on reservoir operations in as much detail and with the same type of rules as RiverWare. CRWCD asked how Reclamation's model deals with hydropower. WAPA stated that this in an area where they can assist.

CRWCD indicated that the short period of record can limit value of model output. The EIS needs to recognize this limitation.

Reclamation stated that they want everyone to understand the model and suggested establishing a Cooperating Agency Subgroup for hydrology modeling with meeting open to public attendance. All cooperators supported this concept of a subgroup. The subgroups will be represented by Coll Stanton (Reclamation), Michelle Garrison (State), Michael Dale (NPS), Dave Kanzer (CRWCD), George Smith (USFWS) and Clayton Palmer (WAPA). PRPA will rely on WAPA but reserves the right to add a member. Reclamation and the State of Colorado will discuss how the two models will work together and involve members of the subgroup.

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*Action Item: A Working Subgroup for hydrology modeling was established. The subgroup will work on hydrology modeling issues and develop recommendations for the discussions at the Cooperating Agency Meetings. Coll Stanton will set up an initial meeting.*

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The meeting broke for lunch at 12:23 p.m. The meeting resumed at 1:16 p.m.

There was additional discussion on hydrology after the lunch break. CRWCD asked about using the 1906 to present monthly model for Lake Powell. Coll stated that you could turn it into daily but need to understand what you have. Takes a monthly data and impose a monthly pattern on it.

Steve McCall stated that the flow recommendations are for the Colorado and Gunnison River. Reclamation is going to try to match the North Fork of the Gunnison peak. Whatever happens below Whitewater happens. If anyone has a problem with that, they should bring it up sooner than later.

CRWCD stated the RIPRAP Bluebook states that Aspinall will be operated to maintain 2,000 cfs minimum at the Stateline and asked if this was still a commitment. WAPA stated that they thought that was an interim commitment. Reclamation stated that they would research this for the next cooperating agency meeting.

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*Action Item: Reclamation will research the Aspinall Operations commitment in the RIPRAP Bluebook regarding Stateline flows and present this information to the cooperators at the next cooperating agency meeting.*

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### **Ideas on Public Involvement**

Dan Crabtree (WCAO Operations Branch Chief) presented information on public involvement. Scoping meetings were held in Gunnison, Delta and Grand Junction. The City of Delta expressed concern about lack of public notice for these meetings. Reclamation has developed a mailing list and EIS website. A newsletter will also be developed to keep the public informed. Reclamation anticipates more public meeting as milestones are met.

Reclamation asked for input from the cooperators on how this meeting's format worked.

### **Cooperators Discussion of Public Involvement**

CRWCD stated it would be helpful to receive information in advance of the meetings. PRPA expressed concern about public groups that asked for open meetings are the ones litigating the Black Canyon. The State of Colorado agreed that these types of meeting need to be open, however there may be times an executive session is needed. Hopefully it can be avoided, but there may still be times when it's necessary. CRWCD urged that Reclamation use caution and stay away from those issues. SWCD asked if we have the ability to go into executive session or not discuss the topic. Reclamation responded that executive sessions were allowable.

WAPA stated that is okay if the Black Canyon Settlement is used as a hard constraint.

Additional discussions were held to schedule the next three Cooperating Agency Meetings. All three meetings will be held at Reclamation's Office in Grand Junction.

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*Action Item: Cooperating Agency Meetings scheduled for December 6, 2004 at 9:00 a.m., January 19, 2005 at 9:00 a.m.; and February 15, 2005 at 9:00 a.m. All meetings will be held at Reclamation's office in Grand Junction.*

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### **Discussion of Ideas on Baseline and No Action**

CRWCD asked what the NEPA purpose of baseline is and how we will use the baseline. Reclamation stated that baseline will be used in the biological assessment. NEPA's existing condition and ESA's baseline are a snapshot view of resources.

Discussion occurred on what should be included in the baseline. SWCD stated that the Dallas and Dolores biological opinions should be included in the baseline. WAPA stated that existing operating rules are a combination of law and agreements. WAPA contended that baseline should be described as the existing set of rules, with a range of operations. FWS stated that the baseline includes projects that have been consulted on. The group listed potential items to be included in the baseline. Items included:

Flood Control

Summer/Winter Reservoir Elevation Targets

Ramping Rates

Taylor Park Agreement

Existing Discretionary and Legal Rules

Existing Legal Rules/Limitations

    Bypass water not available to Reclamation's Water Right

    Design Operating Criteria

    Flood Control Diagram

Contractual Agreements

    Dallas and Dolores

    Water Service Contracts

    Taylor Exchange

    Sub Agreements

Discretionary Baseline

    300 cfs instream flow right?

    300 cfs below Redlands?

    Ramping for Trout

The group discussed the idea of a range for baseline. NPS suggested Reclamation identify historical operation range and narrow for analysis. Need to identify those areas where it is too volatile to reference as a point. WAPA suggested a tiered approach. The State of Colorado indicated that consistency is needed to decide what is in or out of the baseline. FWS stated baseline should include Federal Actions with completed Section 7 consultations and state and local actions.

WAPA asked how the group was going to handle the Black Canyon water right. CRWCD stated regarding the 2003 Agreement that the CWCB spring flow right would be junior and the 300 cfs Federal Reserve right would be senior to Aspinall. NPS asked if the CWCB water comes into play.

Reclamation stated that the EIS will have a no action alternative and a range of action alternatives. WAPA stated that the flow recommendations include some flexibility.

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*Action Item: Steve McCall will develop a write up on the baseline discussion and distribute to cooperating agencies before the next cooperating agency meeting.*

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At 3:00 p.m., the meeting was opened to the public for comments.

## **Public Questions and Comments**

Steve Glazer representing High Country Citizens Alliance stated that he had three general comments. Steve stated that disagreements should be justified before being considered by Reclamation. Reclamation and FWS have the best understanding of their ESA obligations; please don't be swayed by those not wanting to meet all obligations. Steve asked if current operations need to be consulted on. Following the meeting Steve Glazer suggested that the interim Redlands contract and its 2005 expiration be discussed at the next meeting.

Mike Gross representing Redlands Water and Power, Tri-County, and Uncompahgre Valley Water Users Association, stated that the first authorized purpose of the Aspinall Unit is River Regulation. It has the largest cost allocation. He asked how Reclamation viewed river regulation as part of defining baseline. Mike stated that Reclamation is obligated by conditions of the state court decrees it uses to operate the Aspinall Unit to release enough water at all times to satisfy senior water rights downstream. Mike quoted the language from the decree and said that obeying the state court decrees was not an option to be considered by Reclamation. These downstream commitments must be considered as non-discretionary constraints common to all alternatives.

Karen Shirley representing Upper Gunnison River Water Conservancy District expressed concerns regarding the discussion on fish and wildlife, and recreation not being authorized purposes of the Aspinall Unit. Karen also stated that the subordination agreement needed to be included in the baseline.

Leslie James representing the Colorado River Energy Distributors Association stated that flow recommendations are recommendations and not hard and fast. She asked Reclamation to maintain flexibility in how to achieve the recommended flows.

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The Cooperating Agency Meeting ended at 3:10 p.m. The next Cooperating Agency Meeting is schedule for December 6, 2004 at 9:00 a.m. at Reclamation's Western Colorado Area Office in Grand Junction, Colorado.

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## Cooperating Agency Meeting Attendees

<u>Name/Organization</u>	<u>Telephone</u>	<u>Email</u>
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