

Coordination Committee Meeting

February 9, 2011

Meeting Materials:

Meeting Agenda

Meeting Minutes

Federal Emergency Management Agency Brief Summary of the National Flood Insurance Program
in Regard to Federally Listed Species in New Mexico

**Middle Rio Grande Endangered Species Collaborative Program
Coordination Committee Meeting
February 9, 2011 Meeting – 9:00 am to 3:00 pm
Bureau of Reclamation
555 Broadway Blvd. NE
Albuquerque, NM 87102**

PLEASE REMEMBER TO BRING YOUR LUNCH!

Conference Call-in Line for February 9, 2011
Toll Free Number: 9-1-888-469-1604
Participant Passcode: 62656#
(1st Committee member or contractor to arrive, please dial in)

Draft Meeting Agenda

- Introductions and Agenda* Approval
- FEMA floodplain presentation – George Dennis (USFWS Aquatics Branch Chief)
- Review CC Charter*
- **Decision** – Nominate non-federal CC Co-chair
- **Decision** - Approval of 01/12/11 CC meeting summary*
- Action Item Review (see below)
- Discuss HRW prioritization of reaches*
- Discuss MPT: 1) draft 2010 Effectiveness Monitoring Report; 2) monitoring plans for this year; and 3) draft RGSM Food and Habitat Study SOW
- Review draft funding process flowchart (previously posted)
- Review 2010 workgroup accomplishments* and 2011 work plans*
- Review revised Non-native control (flycatcher) LTP narrative*
- Review Future LTP Activities by LTP Category (previously posted)
- Significant Non-Decision Items to Brief EC

Next meeting – February 23, 2011 @ Reclamation from 1:00 - 4:00 pm

Upcoming meetings

Executive Committee meeting – February 17 @ Reclamation from 9:00 am – 1:00 pm

****denotes read ahead***

January 12, 2010 Action Items:

- Brooke Wyman will see if the conference room at MRGCD will be available for the January 26th SADD Fish Passage peer review presentation and the January 26th CC meeting. ✓
- Rick Billings will take the CC request for a brief synopsis on how the HR workgroup decided on their reach prioritization to the HR workgroup. ✓
- Julie Alcon will see if the Tetra Tech Habitat Restoration Plan is where the verbiage that additional habitat would have to be built within 5 miles of existing habitat comes from. ✓ *Julie checked the "Habitat Restoration Plan, Middle Rio Grande Endangered Species Act Collaborative Program" by Tetra Tech to see where the verbiage that additional habitat would have to be built within 5 miles of existing habitat comes from. The plan does not specify an acreage, but it does say, "Plan, design, and implement habitat restoration for flycatcher in riparian areas adjacent to existing flycatcher nesting areas within the Program Area (i.e., Espanola/San Juan Pueblo, San Marcial, and Sevilleta NWR)." (page 123 of plan)*

William DeRagon, USACE's flycatcher expert, speculates that the '5 miles' may come from the fact that the flycatcher critical habitat boundary is based on '5 miles' from existing nests.

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Action

- Yvette McKenna will have Gen Quest incorporate the requested edits to the Future LTP Activities by LTP Category.

Decision

- Brooke Wyman will proceed as CC Co-Chair until she chooses or is directed by supervisors otherwise.
- The January 12, 2011 CC meeting summary was approved with the following changes to page 7:
 - The 2nd sentence in the 2nd bullet will be changed to read “Currently the population monitoring data is used in the current methodology for Incidental Take (IT) calculation.”
 - The 2nd sentence in the 3rd bullet will be changed to “A comment was made that peer reviewers may find that the Population Estimation is not robust enough and that they will probably come up with an alternative.”

Meeting Summary**Introductions and Agenda Approval**

- The meeting was brought to order and introductions were made. Review of the draft funding process flowchart was tabled for a future meeting because Jericho Lewis was unable to attend today's meeting.

FEMA floodplain presentation

- Meeting attendees were given a presentation by George Dennis (U.S. Fish and Wildlife Aquatics Branch Chief) about the U.S. Fish and Wildlife Service (the Service) consultation with Federal Emergency Management Agency (FEMA) regarding the National Flood Insurance Program (NFIP) as it relates to endangered species.
 - A document that summarized the NFIP in regard to federally listed species in New Mexico was distributed. There are 12 communities in the middle Rio Grande that participate in the NFIP. It was noted that Isleta and Socorro County do not participate. Socorro County might not be a

- participating community because there may be resistance in adopting the zoning ordinances that enable the ability to get flood insurance.
- Communities that participate in the NFIP are authorized by FEMA to approve floodplain insurance and for this authorization FEMA requires appropriate floodplain management ordinances and no adverse effects to federally listed species. However, floodplain insurance is only needed if a federal loan is involved and FEMA only reviews approved policies after they have been issued which means that many times the structures have already been built.
 - Though there seems to be good floodplain management in communities with levees, the areas without levees are a concern because some of the communities are built right next to the river. Not only is this a safety risk but it is a concern for critical habitat for endangered species and it can impede management of the remaining floodplain. If a management action produces a detrimental effect on structures or property then legal action can be taken against the acting agency. The Endangered Species Act (ESA) does not provide additional protection or give additional authority to an action agency even if the action is an RPA in the BO.
 - Things that FEMA could do to promote good flood plain management include (1) requiring that an ESA review be completed before insurance is approved, and (2) put communities on probation and increase the costs for floodplain insurance for any violations.
 - In order to address floodplain issues the Service and FEMA will meet with participating communities and work with them to adopt ordinances to include buffers of undeveloped land around critical habitat and the floodplain.
- The Service has to complete their consultation with FEMA in the next year and then they will begin to meet with the local communities. George would like to take more information about the Program with him when he meets with county officials.
 - The CC was updated that the PIO will be helping SAR workgroup to develop pamphlets and SAR work group is working on a white paper for the floodplain encroachment issue. The Floodplain Encroachment activity is meant to be an analysis of what the potential problems are and possible avenues to fix them. It will be helpful for SAR to have this analysis showing what the future problems might be for people building in floodplain when they meet with county and land use commissioners.
 - The Floodplain Encroachment activity should mesh with what George is doing since he is active on the issue. George was asked to work with the SAR workgroup on the Floodplain Encroachment activity. It might be appropriate to have a Program representative accompany George when he goes to talk to the communities.
 - It was suggested that it might be helpful to have workshops for the planning commissions in order to illustrate the problem(s) and

share/discuss different perspectives and issues. It was commented that working with the communities was thought to be a good idea.

- Gina Dello Russo will be contacting the Land Use Commission in Socorro County to see if they will meet with SAR work group. *Note: Since this meeting Gina has learned that the Socorro County Land Use Commission has been disbanded. She will instead contact the Socorro County Manager, Delilah Walsh.* Save Our Bosque Task Force has also been working on outreach to the local community in Socorro County.

Review CC Charter

- Meeting attendees discussed a proposed change to the CC Charter to eliminate term limits for the non-federal Co-Chair. The proposed change came about because there are times when a Co-Chair's term is reached but no one else is able to take on the duties of Co-Chair. It was also discussed that the CC Charter states there will be a "Chair" and "Vice Chair" and the Program By-laws make reference to a hierarchy or distinction between the two. It was also proposed to remove the distinction and call both positions "Co-Chair." The CC was in agreement that the term limit for both non-federal and federal Co-Chairs should be removed and that Chair and Vice Chair would now be "Co-Chair." The CC can make the changes to their Charter and recommend to the EC that a corresponding change be made to the By-laws.
- It was briefly discussed that the By-laws indicate that requests/concerns from the work groups to the EC must first be reviewed by the CC. Attendees were updated that the PVA work group was advised by the Program Manager that the most direct avenue to have their concerns with adaptive management addressed is to participate in the adaptive management technical sessions.

Decision – Nominate non-federal CC Co-chair – Brooke Wyman had previously been nominated for Co-Chair and no further nominations were made. Meeting attendees decided that Brooke will proceed as CC Co-Chair until she chooses or is directed by supervisors otherwise.

Decision - Approval of 01/12/11 CC meeting summary - The January 12, 2011 CC meeting summary was approved with the following changes to page 7:

- The 2nd sentence in the 2nd bullet will be changed to read "Currently the population monitoring data is used in the current methodology for Incidental Take (IT) calculation."
- The 2nd sentence in the 3rd bullet will be changed to "A comment was made that peer reviewers may find that the Population Estimation is not robust enough and that they will probably come up with an alternative."

Discuss HRW prioritization of reaches

- Habitat Restoration Work group (HRW) representatives explained that the intention of their workshop was not to imply that the reaches should be prioritized and the confusion may have come about because the projects that came out of

the workshop were for specific reaches. HRW developed projects by using a map of completed projects to identify gaps and then voted to see which projects should be proposed to the CC.

- The HRW does not have a problem with the SOW being open to all reaches but they would like to use their proposed projects as guidelines when selecting proposals as these are areas where work was determined to be needed. It was one opinion that if these are areas that the technical workgroup has identified as needing work then these proposed projects should not be lost when selecting proposals.
 - A proposed way to include the projects as guidelines while keeping the RFP process informative to bidders would be to indicate in the RFP that there will be emphasis on those projects; however, it had been agreed at a previous CC meeting that the projects should not be listed in the SOW because there would be limited proposals since a lot of the San Acacia Reach is federal land and Interagency Agreements (IAs) could be used to fund work there. It had also been discussed that there should be a flycatcher workshop before flycatcher projects are developed.
 - It was proposed that Jericho Lewis work with the HRW to develop the RFP as there may be more effective ways to use RFPs and IAs. It was commented that it would be good to receive the RFP and the IA proposals at the same time so that the same evaluation criteria could be applied to everything.
- Attendees briefly discussed that land ownership can be a constraint on projects because the Program is unable to go to a specific person or entity to work on their land; it must be a competitive process. It was commented that if there is a priority location for work then the Program should find a way to work around constraints in order to be most effective.
- It was shared that the working draft Adaptive Management Plan was sent out for agency coordinated comments. The work groups were also requested to contribute to the running list of questions that the PVA work group has developed. It was further clarified that the PVA list is just a brainstorm list and the questions may not necessarily have hypotheses.

Discuss MPT: 1) draft 2010 Effectiveness Monitoring Report; 2) monitoring plans for this year; and 3) draft RGSM Food and Habitat Study SOW

- *Highlights of this presentation are found below; for details, please refer to the actual presentation materials.*
- Representatives from the Monitoring Plan Team (MPT) gave a presentation to update the CC on the low intensity monitoring for 2010. The low intensity monitoring is a 2 year pilot in 2 reaches to determine the types of data that should be collected and how applicable the information will be.
 - Twenty habitat restoration sites were chosen for monitoring; 3 of the sites had access issues and monitoring did not occur. The monitoring included

checking sites for inundation and RGSM presence; taking measurements for temperature, depth, and velocity; and a visual vegetation assessment.

- RGSM were found on the sites and lengths were collected on about 900 fish. It was difficult to find any appreciable amount of larval fish or eggs.
- Hydrological characterization included measurements on temperature, depth, and velocity. Monitoring is only done at certain times and the hydrologic data is probably highly dependent on the time of day. For example, generally the floodplain has higher temperatures than the channel but in the early morning the floodplain can be colder than the channel. There is also the question of how direct sunlight vs. shade affects the productiveness of sites in regards to the species itself and available food.
- Vegetation monitoring included a visual assessment of species present, height, and density class. A lot of the sites have past vegetation data for comparison to determine what the change has been over time.
- One of the things that the MPT grapples with is whether or not presence or absence is all that needs to be collected; if more specifics are needed it will mean increased expense and time for the increased collection efforts.
 - As one of the purposes of the monitoring is to meet compliance requirements there will need to be guidance from the Service for making the monitoring more standardized and to determine how much is needed.
- The sites have become more dynamic and there have been differential depositions and erosion; at the Willie Chavez back water site there is a lot of sand that has accumulated that wasn't there before. It's not known if these changes will have positive or negative effects but there may need to be maintenance associated with some of the sites.
- The benefits of the MPT doing low intensity monitoring and the associated costs can be discussed. With the high intensity monitoring the ability to answer specific questions is greater but that's not to say that the low intensity doesn't have a role.
- The MPT is currently working on the report for the 2010 monitoring. Once completed the report will be reviewed within the Program; there was the suggestion that the CC call for a technical review with 2 people from each work group reviewing the report. It was suggested that the adaptive management contractors review the report as well.
- The MPT would like to go forward with the 2011 monitoring, making changes based on what they have learned. The MPT found it to be beneficial to be on the sites as it's difficult to read a report from a contractor and fully understand what's happening on the sites. There was general agreement from the CC that the second year of monitoring should occur with several CC members recommending that there be questions for the low intensity to address.

- A RGSM Food and Habitat Study was developed for the high intensity monitoring and a SOW has been sent to all the work groups for review. The high intensity monitoring will be funded by the Corps and will not be subject to cost share.

Review 2010 work group Accomplishments and 2011 Work Plans

- Attendees reviewed the work group 2010 Accomplishments and 2011 Work Plans.
 - The PIO work group may need to add compiling a packet of letters of recommendation and support for the non federal agencies if the Program will be going to Washington this year; the trip to Washington may need to be discussed by the EC.
 - There was general agreement from meeting attendees that the 2010 Accomplishments could be provided to the EC. The 2011 Work Plans should be better coordinated with CC and EC activities, agency calendars, and other work groups before they are shown to the EC. Having a better sense of what the Program is planning as a whole will help the work groups plan their work around CC and EC requests. Integration of the Work Plans with work group co-chairs present will be an agenda item for the next CC meeting.
- Attendees were briefed that the EC will be revisiting whether the Program is a Recovery Implementation Program (RIP) or a Recovery Program or some combination. During the adaptive management process it was indicated that the Service does not have the authority to do an annual progress review to determine the Program's status towards recovery unless the Program is a RIP. The issue will be brought up for discussion because the Program has not been designated as a RIP by the Secretary of the Interior but it does give a yearly report to the Service so the differences are not clearly understood.
- It was announced that there is a new Department of the Interior scientific integrity policy; the policy falls in line with the Program Code of Conduct.
- The CC was updated that the 2008 and 2009 Annual Reports will be finalized in the next couple of months with the 2010 Annual Report being finalized soon after that.
- It was announced that Amy Louise has taken a job at the U.S. Army Corps of Engineers (the Corps); Terina Perez will be the new Program Management Team (PMT) liaison to Species Water Management work group and Stacey Kopitsch will be the PMT liaison to the MPT.
- The CC was informed that the Corps will be completing a portion (Tasks 1-5) of the Floodplain Encroachment Project ; SAR work group will be proposing that the Program fund the remainder of the project (Tasks 6,7, and 8).

Review revised Non-native control (flycatcher) LTP narrative

- There were no objections to the revised Non-native control (flycatcher) LTP narrative being included in the LTP. All the narratives will probably need to be reviewed again once the LTP is further developed.

Review Future LTP Activities by LTP Category

- Meeting attendees reviewed the Future LTP Activities by LTP Category.
 - It was proposed that a column be added that reflects the Program priority for projects. The Program priority should be mindful of the Recovery Plans and work group priority.
 - Some of the components from the Recovery Plans were found to be missing; for example the “Provide Water for Minnow” section is missing actions from the Recovery Plan. Yvette will have GenQuest review the elements from the Recovery Plan so that all actions and activities are included.
 - Attendees discussed that there may not be a need for the “2003 BiOp Requirement” column as very few activities utilize it. The column was added to indicate activities that are covered under the current BiOp.
 - The USACE activities do not currently have lead workgroups; some also do not have an LTP section number.
 - Meeting attendees were led through an example for locating the project summary sheet for “Develop a Program Flycatcher Management Plan” based on its location in the table. Section number 7.1.B.3 needs to be included in the project summary sheet.
- Yvette McKenna will have Gen Quest incorporate the requested edits to the Future LTP Activities by LTP Category.
- The LPT should include all activities to recover the species that are appropriate to Recovery Plan activities and that the Program or one of its participating agencies has the authority to complete. There should be some indication in the LTP if no further work is anticipated for a Recovery Plan action. At the next CC meeting work group co-chairs will have the opportunity to see all the projects being put forth and can provide feedback.
- Attendees discussed that since funding amounts change frequently, the funding details will not be included in the LTP but will be included in the more detailed annual plans. Water year, budget year, and direction from adaptive management will be taken into consideration in selecting activities for the annual plans.
- Fish and Wildlife Service discussed that there might not be a time frame of expiration on the new BiOp if the Service can be convinced that the Program can implement adaptive management properly but there will be triggers that could reinitiate the BiOp process.
- Attendees were reminded that in September, the EC directed the CC to have a draft LTP available for Program review by March 2011. It was commented that the past activities may need to be reviewed before the future activities can be selected so it is known what has been accomplished.

January 12, 2010 Action Items – All January action items were completed.

- **Julie Alcon will see if the Tetra Tech Habitat Restoration Plan is where the verbiage that additional habitat would have to be built within 5 miles of existing habitat comes from.** ✓ Julie checked the “Habitat Restoration Plan, Middle Rio Grande Endangered Species Act Collaborative Program” by Tetra Tech to see where the verbiage that additional habitat would have to be built within 5 miles of existing habitat comes from. The plan does not specify an acreage, but it does say, "Plan, design, and implement habitat restoration for flycatcher in riparian areas adjacent to existing flycatcher nesting areas within the Program Area (i.e., Espanola/San Juan Pueblo, San Marcial, and Sevilleta NWR)." (page 123 of plan)
 - William DeRagon, USACE's flycatcher expert, speculates that the '5 miles' may come from the fact that the flycatcher critical habitat boundary is based on '5 miles' from existing nests.
 - It was shared that follow up with Deb Hill indicated that the Southwestern Willow Flycatcher Recovery Plan says that new flycatcher habitat should be “near” existing habitat. Deb said that she would consider anything within 5 miles to be “near”. The reason that flycatcher habitat should be near existing habitat is because of site fidelity and increasing the probability of colonizing adjacent areas. It was proposed that the HR Construction project specify that the priority is that habitat be built near (within 5 miles of) existing habitat. It was suggested that there also be a caveat on size with new habitat being no less than 5 acres.

Next meeting – February 23, 2011 @Reclamation from 1:00-4:00 PM

Possible agenda items:

- 2010 Workgroup Work Plans/ template of known upcoming Program/agency dates – technical workgroup Co-Chairs present
- Future LTP Activities by LTP Category – technical workgroup Co-chairs present

NAME	AFFILIATION	PHONE NUMBER	PRIMARY (P) ALTERNATE (A) OTHERS (O)	EMAIL ADDRESS
Yvette McKenna	Reclamation	462-3640	O – PM	ymckenna@usbr.gov
Ann Moore	NMAGO	222-9024	P	amoore@nmag.gov
George Dennis	USFWS	761-4754	O	george_dennis@fws.gov
Grace Haggerty	ISC	965-2053	P	grace.haggerty@state.nm.us
Gina Dello Russo via phone	USFWS	575-835-1828	O	Gina_dellorusso@fws.gov
Rick Billings	ABCWUA	796-2527	P	rbillings@abcwua.org
Julie Alcon	USACE	342-3281	A	julie.a.alcon@usace.army.mil
Jim Wilber	Reclamation	462-3548	P	jwilber@usbr.gov
Page Pegram	ISC	383-4051	O	page.peggram@state.nm.us
Lori Robertson	USFWS	761-4710	P	lori_robertson@fws.gov
Ondrea Hummel	USACE	342-3375	O	Ondrea.c.hummel@usace.army.mil
Terina Perez	Reclamation	462-3614	O	tlperez@usbr.gov
Anders Lundahl	ISC	383-4047	O	anders.lundahl@state.nm.us
Matt Schmader	CABQ	452-5200		mschmader@cabq.gov
Kristie Michel	Reclamation	462-3549	O	kmichel@usgr.gov
David Gensler	MRGCD	247-0234	O	dgensler@mrgcd.us
Susan Kelly via phone	UNM	277-0514	P	skelly@law.unm.edu
Ann Watson	Santo Domingo Tribe	465-0055	P	awatson@sutilities.com
Nathan Schroeder	PSA	771-6719	P	nathanschroeder@santana-nsn.gov
Christine Sanchez	Tetra Tech	881-3188 ext. 139	O	Christine.sanchez@ttemi.com

Federal Emergency Management Agency (FEMA)
Brief Summary of the National Flood Insurance Program (NFIP)
in regard to federally listed species in New Mexico

Flood insurance is needed if:

1. in a flood zone, and
2. a federal loan is involved.

Participating communities (towns, cities, tribes, counties) are authorized by FEMA to approve flood insurance. For this authorization FEMA requires appropriate floodplain management ordinances *and no adverse impacts to federally listed species*.

FEMA only reviews the issued insurance policies after the fact. As such, has no control over their issuance.

Middle Rio Grande Participating Communities

Sandoval Co.
Bernalillo Co.
City of Bernalillo
Albuquerque

Valencia Co.

Bosque Farms
Los Lunas
Belen

City of Socorro

Sierra Co.
Truth or Consequences
Williamsburg

Rio Grande silvery minnow (RGSM)

Direct effect

Build in Critical Habitat

Indirect effect

Contributes to groundwater depletion

Contributes to stormwater runoff

Limits ability to inundate floodplain
to restore habitat

Southwest willow flycatcher (SWFL)

Direct effect

Build in suitable habitat or critical habitat

Clear suitable habitat

Build too close to nesting site

2,062 policies in Special Flood Hazard Area 97% outside of levees

Possible Conservation Measures (for communities)

Complete ESA review before approving flood insurance or LOMCs in RGSM critical habitat.

Complete ESA review before approving flood insurance or LOMCs in SWFL suitable or critical habitat.
Complete ESA review before approving flood insurance or LOMCs within a buffer of SWFL nesting areas to reduce disturbance.

These areas are likely to be high risk flood areas. Thus, would also be appropriate floodplain management measures. It is all about good floodplain management.

Letter of Map Change (LOMC) **Nondiscretionary action**

Letter of Map Revision (LOMR)

A LOMR is a modification to an Flood Insurance Rate Map (FIRM). LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

In the SFHA flood insurance is federally required.

Letter of Map Amendment (LOMA)

Remove a structure or lot from the SFHA; the lowest adjacent grade must be at or above the BFE.

Letter of Map Revision Based on Fill (LOMR-F)

Remove a structure elevated by the placement of fill

The participating community must also determine that the land and any existing or proposed structures to be removed from the SFHA are "reasonably safe from flooding."

ESA Requirements

For LOMCs involving floodplain activities that have already occurred, private individuals and local and state jurisdictions are required to comply with the ESA requirements independent of FEMA's review.

Conditional Letter of Map Revision (CLOMR) **Discretionary action**

A CLOMR is a comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

ESA Requirements

FEMA will not approve a CLOMR without written approval of the Service that there are no ESA issues.

Flood Insurance Rate Map (FIRM)

FEMA publishes flood hazard maps, called Flood Insurance Rate Maps, or FIRMs. The purpose of a FIRM is to show the areas in a community that are subject to flooding and the risk associated with these flood hazards. One of the areas shown on the FIRM is a Special Flood Hazard Area (SFHA). The SFHA is the area that has a 1-percent or greater chance of flooding in any given year; this area is also referred to by some as the 1-percent-annual-chance floodplain, base floodplain, or the 100-year floodplain.

When FEMA revises a community's FIRM, the community is required to amend its floodplain management regulations within 6 months of being notified to incorporate the new data.