

Executive Committee Meeting
April 21, 2016

Meeting Materials:

Meeting Agenda

Meeting Minutes



**Middle Rio Grande Endangered Species
Collaborative Program
EXECUTIVE COMMITTEE
MEETING AGENDA
Thursday, April 21, 2016
9:00am – 12:00pm**

Location: Fish and Wildlife ES Office, Albuquerque, NM 87102

- | | |
|--|-------------------|
| 1. INTRODUCTIONS AND REVIEW OF PROPOSED AGENDA* | <i>10 minutes</i> |
| 2. DECISION – APPROVAL OF March 17, 2016 EC MEETING SUMMARY* | <i>10 minutes</i> |
| 3. DECISION – APPROVAL OF February 18, 2016 EC MEETING SUMMARY* | <i>10 minutes</i> |
| 4. AGENCY ROUNDTABLE (<i>Litigation updates, Hydrologic update, Species Update, etc.</i>) | <i>30 minutes</i> |
| 5. CC UPDATES (<i>R. Billings</i>) | <i>20 minutes</i> |
| BREAK | <i>10 minutes</i> |
| 6. UPDATES AND RECOMMENDATIONS – RIP DOCUMENT (<i>RIP Doc Subgroup</i>) | <i>60 minutes</i> |
| A. Colum discussion* | |
| B. RIP Program Document* | |
| C. Implementation Schedule* | |
| 7. DISCUSSION – ENDORSEMENT OF REVISED/UPDATED RIP PROGRAM DOCUMENTS (decision in May) | <i>30 minutes</i> |
| 8. MEETING SUMMARY | |
| 9. PUBLIC COMMENT | |
| 10. ANNOUNCEMENTS | |
| 11. DECISION – NEXT PROPOSED EC MEETING: May 19, 2016 from 9am to 12pm @ Reclamation | |

**denotes read ahead*

Members

ABCWUA
ISC
NMDA
Sandia Pueblo
UNM

APA
Isleta Pueblo
NMGF
Santa Ana Pueblo
USACE

CABQ
NMAGO
MRGCD
Santo Domingo Tribe
USFWS
Reclamation

Middle Rio Grande Endangered Species Collaborative Program
Executive Committee Meeting
April 21st, 2016 – 9:00am to 12:20pm
Fish and Wildlife Service
Osuna

Decisions

- The February 18th, 2016 EC meeting summary was approved for finalization with no additional changes.
- The March 17th, 2016 EC meeting summary was approved for finalization with no changes.

Actions

- If the Program and Science Support (PASS) contract is not out for bid by the next EC meeting, Jennifer Faler will provide a more detailed explanation and clarification of the contracting delays and concerns.
- EC members are encouraged to submit proposed/suggested language and possible alternatives for the identified RIP Program Document issues (“Elevation” Committee; FWS Affirmative Vote; etc.). Written comments and suggestions on specific language are due to Leann Towne by COB Friday, April 29th.
- EC members are encouraged to consider rescheduling their regular meetings (new day/time) to accommodate scheduling conflicts. Suggestions include: (1) selecting the 2nd or 4th Thursday – with the consideration that the CC is scheduled to meet 2 weeks prior to every EC meeting; or (2) consider meeting on a different day besides Thursdays.
- EC members are encouraged to read through the Revised Program Document in its entirety (including the Schedule that was not reviewed in April) in order to be prepared for discussions and approval decision in May.
- Ali Saenz will email “comment process” instructions to EC members.

Requests/Recommendations

- The EC is encouraged to consider data integration needs of the Program and the development of “data integration” processes (explicit protocols) that would include information/data from all sources.
- It was requested the RIP Subgroup update the Column Document to reflect issues that have been sufficiently addressed (move to left column) and identify the remaining/outstanding issues (move/keep in the right column).
- After reviewing the Column Document and remaining items, the EC requested the RIP Subgroup continue revising and refining the Program Document. The RIP Subgroup has until May 10th to address the issues discussed at the April EC meeting and any comments/suggestions received by April 29th.
 - Topics and areas identified include:
 - (1) Including specific funding language clarifying how the RIP (and activities) is to be funded, including federal and non-federal cost shares;
 - (2) Role of the Budget Subcommittee and “Elevation” Committee – some recommendations included separating budget from policy decisions and creating a very high-level “Elevation” impasse process (that does not include the existing signatory representatives already involved in the discussions but goes much higher, otherwise it negates the collaborative purpose of the EC and

participation); others expressed wanting the “oversight” group (however it gets structured) to have the final, decision making ability on the issues elevated to them;

- Related to this concern is:
 - (a) strict adherence to the Bylaws – which is intended to prevent such an impasse and need for elevation of issues;
 - (b) policy issues are different than budget issues and should remain separate;
 - (c) the process for elevating “impasse” issues, including definition of “impasse”, needs to be clearly articulated and documented (i.e., when would an issue be elevated versus following bylaws to reach decisions);
 - (d) add clarification language to the document that the RIP will be focused on scientifically supported activities (references to Science Committee and best-science processes) and that no agency can be forced to violate its funding or regulatory responsibilities;
 - (i) this language will need to be updated in several sections, including the Workplan Approval process and voting, Budget Subcommittee sections, governance and bylaws sections, etc.
 - (e) clarify process for bringing timely decisions before the EC (inactivity related to lack of agenda items);
- (3) the Service’s Affirmative Vote
 - Revised language addresses the Service’s concern that the original document did not robustly enough describe the Service’s role for certain key decisions (and relates to legal challenges and defensibility). Affirmative approval from the Service is needed regarding ESA decisions (including annual workplans, metrics, etc.)
 - Related to this issue are:
 - (a) concerns that this negates the need for any “elevation” committee because decisions “rest with the Service”;
 - (b) as written, it might be misconstrued that if the Service withholds an affirmative vote *on any issue (i.e., any vote)* then a “time” issue is introduced and consensus cannot be reached, even following the bylaw supermajority process – which could force any issue to the “elevation” committee;
 - (i) more specific language that the “Service’s affirmative vote” is related to ESA, recovery, and regulatory responsibilities *only* might alleviate much of the concerns as it is specified that the Service cannot be “overridden” by EC decisions but the Service doesn’t have “veto” power on every and all issues;
 - (c) many involved agencies have responsibilities and authorities that cannot be “overridden” or “forced” by the EC so the suggestion is to consider including “boiler plate” disclaimers in appropriate sections that “government and state entities have responsibilities that can’t be delegated.” This could address the “heart of the issue” without “poisoning” the collaborative process.

Announcements

- The U.S. Army Corps of Engineers Change of Command ceremony is scheduled for May 12th at 10:00am at District Headquarters (4101 Jefferson Plaza, NE). Invitations should be received soon.
- The Corps' Adaptive Management contract team is scheduled to meet on Wednesday, April 27th from 1:00pm to 4:00pm at the City of Albuquerque's Open Space on Coors. In attendance will be the contracting team and agency subject matter experts for the silvery minnow.
- Tamarisk Coalition is sponsoring a "Raft the Rio" on April 30th from 9:00am to 3:00pm. This 9.5 mile, one-day float trip will provide a "behind the scenes" look at the work being done to rejuvenate the bosque (riverside ecosystem) in and near Albuquerque.
<http://www.tamariskcoalition.org/about-us/events/raft-the-rio>
- On June 2nd, at the Rotunda on UNM South Campus, the Tamarisk Coalition is holding a workshop with presentations, restoration tools, and networking covering many topics related to the tamarisk beetle. <http://www.tamariskcoalition.org/announcements/abq-riparian-restoration-beetle-workshop>
- The Minnow Action Team (MAT) will be meeting Tuesday, April 26th from 9:00am to 11:00am at Reclamation.
- The Genetics Peer Review Presentation is scheduled for May 12th from 9:00am to 12:00pm at Reclamation. All 5 panelists will be available (via teleconference) for questions and comments.

Next Meeting: **May 19th, 2016 from 9:00am to 4:00pm, location TBD**

- As discussed during the April meeting, delay of endorsement of the Revised Program Document could impact/delay other tasks and activities identified in the Schedule. Even though the BO provides a year for the RIP to be formally established (including the adoption of documents), attendees agreed that this decision cannot be so iterative as to never be completed and discussed working through the remaining issues as early as possible. To that end, there are ongoing planning discussions about the May EC meeting and how to best accomplish the discussions that will lead to decision on the endorsement of the Revised Program Document during the May meeting. The details of the May meeting may change and will be updated when finalized.
- Tentative May agenda items: (1) Population Monitoring Workshop report presentation (May); (2) Discussion: review of most recent Revised Program Documents edits; (3) Decision: Approval of Revised RIP Program Document; (4) Minnow Action Team Updates – Spring Flow and Spawning Updates; (5) Decision: move standing meeting day to 2nd or 4th Thursday of each month; (6) Update on PASS Contract (including potentially identifying and approving 2 EC representatives for participation, if appropriate); (7)
- Tentative future agenda items: (1) Discussion/Updates on Recent and Upcoming Reports (Adaptive Management Documents; Genetics Peer Review Draft Report); (2) Review/Discuss EC Bylaws – starting with Section 5, if still appropriate;

Upcoming Dates and Deadlines

- April 26th – Minnow Action Team meeting, 9:00am to 11:00am at Reclamation
- April 27th – Corps' Adaptive Management meeting, 1:00pm to 4:00pm at COA Open Space on Coors
- April 29th – EC written comments on Revised Program Document due to Leann Towne
- May 4th – CC meeting, 9:00am to 11:00am, location to be confirmed (FWS Osuna?)
- May 10th – RIP Subgroup to address comments and provide updated Revised Program Document
- May 13th – May EC read aheads due;
- May 17th – ScW (and HRW) meeting, 10:00am to 12:00pm at ISC

- May 19th – EC meeting; details to be confirmed but expect an all-day working meeting to discuss and reach decision on Revised Program Document;

Meeting Summary

Introductions and agenda approval: Mr. Brent Esplin was introduced as the new federal co-chair. He brought the meeting to order and introductions were made. The agenda was approved with the addition of a Minnow Action Team (MAT) update to occur under the Agency Roundtable section.

Approval of the February 18th, 2016 and March 17th EC Meeting Summaries:

- *Note: At the March 17th meeting, the February 18th meeting notes were approved for finalization with the exception of the Adaptive Management Presentation portion for which there were presenter-requested edits and revisions.*
- The February 18th meeting summary was approved for finalization with no additional changes (the presenter requested edits were accepted).
- The March 17th meeting summary was approved for finalization with no changes.

Agency Roundtable:

- *U.S. Bureau of Reclamation (Reclamation):*
 - Reclamation’s budget is out and the Coordination Committee (CC) has begun working on the Program’s FY2017 workplan.
 - The Albuquerque Area Office has been undergoing a reorganization (in terms of project management: realignment of divisions, functions, titles/responsibilities) over the last few years. Please note that as this reorganization gets completed, there may be changes in employee titles and responsibilities taking effect in the next few weeks.
 - It was pointed out that Program staffing support has been limited over the last few years. In fact, come June, there will be no Program support staff.
 - The pre-solicitation for the Program and Science Support (PASS; formerly 3rd Party Management) contract was released in February. Updates and contracting office concerns have delayed the actual solicitation release. Specifically, Reclamation is not allowed to hire “personal service” (defined as someone who takes day-to-day direction – this is an employee). The PASS contract needs to have clear tasks and deliverables to be considered a contractor.
 - Hopefully, the PASS solicitations will be posted in May with a 30-day proposal submittal period. The proposal evaluations would then occur in June.
 - Some attendees expressed concern that the continued delays impact many of the tasks/milestone related to completing the transition to a Recovery Implementation Program (RIP), specifically the hiring of the Executive Director.
 - It was responded that Reclamation remains optimistic that the PASS contract will be issued. It was also pointed out that once issued, there still needs to be qualified companies submitting appropriate proposals.
- *Hydrology Update:*
 - Snow has already begun to melt in Colorado. Water is currently being diverted through the Azotea Tunnel at a rate of about 150 to 250 cfs.
 - The Compact Commission signed a Resolution for 2016 that provides some flexibility in storage to match or enhance the peak in the main stem in attempt to maximize high peak at Central (Albuquerque). However, there needs to be documentation and feedback of the

positive impacts that could support the Commission's consideration of future flexibilities and resolutions.

- The intent is to augment/extend a spring pulse with the small storage (in El Vado) opportunity approved in the 2016 Resolution.
- Regarding the streamflow forecast, volumes over 80% (currently estimated 84% for the Rio Grande at Del Norte, CO) trigger the high flow target requirements.
- *Litigation Update:*
 - WildEarth Guardians (WEG) has requested another extension to review the Administrative Record. There is an informal conference on May 20th to discuss the Administrative Record and possibly reach some agreements on the scope. WEG has until July 8th to file Motions with the Court for Formal Resolution.
- *U.S. Army Corps of Engineers (USACE or Corps):*
 - The Adaptive Management contractors will be hosting their next meeting on Wednesday, April 27th from 1:00pm to 4:00pm at the City of Albuquerque's (COA) Open Space on Coors. Subject matter experts for the Rio Grande Silvery Minnow (minnow) are desired participants.
- *Fish and Wildlife Service (Service):*
 - *Rio Grande Silvery Minnow (minnow) Species Update:*
 - In February, the Population Monitoring Program found minnows at 14 of 20 sites with a density around 1 minnow per 100 m² – most likely as a result of the decent flows last year and augmentation. However, there was a density of 0 minnow per 100 m² in the Angostura Reach. *Please note that a "0" density does not necessarily mean there are no minnow in the Angostura Reach but the population is so low that the minnow cannot be detected.*
 - In an attempt to utilize the best available science, the Service considers other available data in determining the species status and to inform permissions regarding the handling of mature minnow during critical spawning times. For example, 27 minnow were identified during a Reclamation flow trip and Service's Conservation Office monitoring of pueblo sites found a density of 1 minnow per 100 m² for Isleta.
 - In the "spirit of transparency", some attendees asked that the "other" available data be made available so that agencies can see all the population information that the Service is using in its determinations.
 - Concern was expressed that there is a reasonable opportunity this year to monitor since "decent" flows are expected but if Service doesn't permit sampling, then no information can be gathered on biologic response and habitat use.
 - In response to a question regarding "trends," it was shared that trends aren't tracked in the early months since the February results are not comparable to the October census as they are influenced by the survival of the October augmented fish. The October census is the marker for the adults and wild population.
- *NM Interstate Stream Commission (ISC):*
 - As mentioned early, at the March meeting of the Rio Grande Compact Commission, all parties signed a Resolution that allowed for a temporary storage of water while Article VII is in place - to specifically allow for minnow spawning purposes. Article VII is expected to be in place tomorrow.
 - The State is optimistic that we will be able to store some water for that purpose.

- There are some conditions that have to be met with this flexibility:
 - 1. It can't interfere with other storage operations going on (such as Emergency Drought Water).
 - It is assumed that all normally planned storage operations at El Vado will be completed by the end of this month. This would mean there is a ~3 week window of time (first of May through mid-May) to temporarily store some water and then release it in the manner that the MAT decides is most beneficial to assisting spawning conditions.
 - 2. All the water stored for this purpose has to be spent by June 15th.
 - 3. It was requested the Service demonstrate that this operational flexibility does produce benefit to the species.
- ISC completed the Rio Rancho restoration and is hoping to have inundation occur in that area.
- *Minnow Action Team (MAT) Update:*
 - The MAT met for the first time this year on April 8th. Another meeting has been scheduled for Tuesday, April 26th to update spring recommendations and discuss options with the Resolution water.
 - It is currently believed that there will be an adequate pool of native water in El Vado to meet contractor needs throughout the season (including Prior and Paramount [P&P]).
 - The predicted volume of water this spring is really not that much. Hopefully, 2,000 to 2,500 cfs can be released out of Cochiti for 1 to 2 weeks. This would translate to 2,000 cfs through Albuquerque in early to mid-May.
 - There is not enough water to really "boost" the spring peak; the most beneficial action could be to extend the 2,000 or 2,500 cfs and "stretch" the natural peak as long as possible.
 - Hopefully, there can be monitoring on sites that get inundated. The Service has been asked to speak to the benefits of this storage flexibility and collecting information/data during the activity might be prudent.
- *Middle Rio Grande Conservancy District (MRGCD or the District):*
 - The "new" Emergency Drought Water agreement, describing the management agreements between MRGCD, ISC, and Reclamation should be completed soon.

Coordination Committee (CC) Updates:

- In a closed session, attendees reviewed and discussed the draft FY2017 budget and proposed projects.

Recovery Implementation Program (RIP) Documents Updates and Recommendations

- At the direction of the EC, the RIP Subgroup has been updating and revising the Program Document over the last year with the recognition that certain RIP concepts, details, and processes had evolved since the endorsement in July 2013. Specifically, the group was charged with addressing issues on descriptions and language in the RIP document compared to that in the Biological Assessment (BA).
- The RIP Subgroup is going to be seeking an endorsement of the Revised Program Document in May. It is an opportune time as it fits well with the consultation timeline and would provide updated RIP processes for the Service to consider in determining how the RIP can serve as a conservation measure in the Biological Opinion (BO).
- Through many iterations, the subgroup has also attempted to address ongoing concerns. The Column Document attempts to summarize and encapsulate the decisions, directions, and progress on these ~20 issues.

- *Column Discussion:*
 - The left-hand column lists the previously identified issues and their status. These include policy decisions that were grappled with at the EC level during the joint meeting last summer. There are only 4 items remaining in the left column and they are related to the Service's concerns. The right-hand column lists more recently identified issues.
 - *Left Column of Issues*
 1. RIP Establishment Document
 - The original language and intended Cooperative Agreement to establish the RIP presented concerns for several agencies. After several iterations and review by the smaller attorney's group, this issue has been resolved through the suggestion to have the RIP established by a Resolution signed by all interested EC signatories.
 - Agency solicitors and the small attorney group were asked to determine if the Cooperative Agreement was legally significant and necessary; it was determined it was not. The EC Resolution mechanism for establishing the RIP was supported by all entities participating in the subgroup (i.e., the EC Resolution approach was not objectionable by any agency).
 - Non-substantive edits replacing references to the Cooperative Agreement were made throughout the document.
 - In response to a question as to what the Resolution will "look like," it was responded that there is no draft example at this time. It is expected that the Resolution will not be just a simple "motion to establish" but will probably have several (many) recitals explaining the background need for the RIP and various commitments on the parts of the EC and entities to undertake. It is assumed it will be a document of comparable length to the originally proposed Cooperative Agreement and may contain many of the same types of provisions.
 - This mechanism forms the RIP through action of the EC. It is an action taken by the EC and not individual signatories. And complications that the attorney's identified with the Cooperative Agreement approach are avoided by going this route (ex. Reclamation and other's authorization references the 2006 Bylaws and EC – not 2 separate entities of the RIP and EC; legal definitions and implications of a Cooperative Agreement).
 2. Interim Program Management
 - The intention is to eventually have 3rd Party Management of the RIP; however, there are issues with Reclamation's contracting and the agencies reading of its authorization and Federal Acquisition Regulations (FARs).
 - In update, it was shared that Reclamation has elevated the issue/concerns to the regional level.
 - The chosen PASS contract was the easiest possible approach, but it has not received approval through Reclamation's contracting office. Reclamation is in favor of trying again and looking for "work arounds."
 - However, MRGCD has requested an official/formal solicitor opinion. Please be cautioned that a formal solicitor opinion will provide a final decision, one way or the other. The Albuquerque office is trying to accomplish the requested management through

- existing authorizations but a formal interpretation could prevent them from pursuing other options.
- Both Reclamation and the Service have expressed concerns that hiring a 3rd Party Management will require congressional changes.
 - The implication for this version of the document has been insertion of explanatory language that on an interim basis, the Executive Director shall be selected by Reclamation through a service contract...until such time as RIP management is possible through a 3rd Party Management structure.
3. Oversight Committee
- The concern for an oversight, decision-making committee was discussed at the joint meeting last summary. The concern is related to the potential situation of the EC unable to make timely decisions. The RIP Budget Subcommittee, as an existing RIP group, was given the responsibility of being able to tackle decision and consensus issues.
 - This issue was discussed at the EC joint meeting and has been discussed at length by the subgroup.
4. Self-sustaining Aspect to the RIP Goals
- Recommended revisions were formulated during the October 2015 joint session and subsequently presented to the EC in January 2016. These edits were incorporated into the Program Document, specifically, to Section 1.
 - Essentially, the language was revised with specification that an objective of the Program is to “develop self-sustaining populations in the Middle Rio Grande through implementation of the RIP and the Action Plan.” RIP participants and the Service will agree on actions needed to accomplish this over the long-term. It also acknowledges that the evaluation criteria have yet to be developed.
 - The current revisions reflect the concerns that the Program address self-sustaining populations and species recovery while also acknowledging the disagreement or lack of clarity and tentative nature of what a “self-sustaining population” might be.
5. Newly Listed Species: NM Jumping Mouse (mouse) and Yellow-billed Cuckoo (cuckoo)
- No new edits have been made. The Program Document, endorsed July 2013, only dealt with the minnow and Southwester Willow Flycatcher (flycatcher). When the additional species were subsequently listed, it was questioned whether the RIP should address recovery actions for the mouse and cuckoo from the outset.
 - The original Program Document has provisions for the EC to decide to address additional species anytime in the future, at their discretion.
6. Update BA References
- References to the BA were updated and corrected throughout the document.
7. Delete the Program Area Footnote
- The Program Area footnote has been removed, as requested. The Program Area is described elsewhere in the document and the footnote was redundant.

8. Delete Proposed Action Section
 - The original intent was to include description of the proposed BA actions in the Program Document. However, it was subsequently determined this was not prudent since changes to the BA meant constantly changing the Program Document. Since the information was available elsewhere, the Program Document was revised with references and citations to the actual BA as the direct source and avoids possible errors.
9. Updating ESA compliance section
 - One remaining issue is the development of the sufficient progress metrics. Some sections (ex. 6b) will need to be updated following the issuance of the BO. In these places, a note has been inserted that the “development of sufficient progress...will be informed by the upcoming BO.”
 - The Implementation Schedule also recognizes that additional development will need to happen after the BO has been issued.
 - At a future date, the Service will be presenting information about the species and their expectations in terms of how the RIP is to function.
 - Since October, further recommended revisions have been addressed (as noted in the right-hand column).
10. Reference to the Hydrologic Objective
 - In the Adaptive Management sections, description of the Service’s development of the Hydrologic Objectives has been added. The understanding of how the Hydrologic Objectives could be utilized in the adaptive management context has also been added: “...Reclamation’s BA proposes implementation of a defined adaptive management process to specifically test and modify the draft HO over time.”
11. Updating the Adaptive Management Section
 - The Program Document was updated with language contributed by the Corps explaining their adaptive management project work and process updates. The updates include descriptions of the current contract to further adaptive management and the planning assistance offered to the Program.
12. Update/delete Historic Funding Section
 - Originally, the historic funding was inserted in the Program Document by request as a way to establish guidance principles for budgeting. However, it has since been deemed unnecessary in this document and has been deleted.
 - In response to a question regarding explanation of how the RIP is expected to be funded (including federal and non-federal cost share), it was shared that while the historical budget information has been deleted there is language characterizing the legal authorizations and funding.
13. Incorporate/bolster RIP Outreach
 - The original Program Document did not adequately describe the Executive Director’s public education role. Clarification of that intended role has been added.

- *Right Column of Issues – Remaining Issues*
 - 1. Procedures to Address Impasses/Oversight Committee
 - The original intent of the Budget Subcommittee was to avoid delay in and have a streamlined budget process by having a smaller committee (comprised of the action and water agencies). *It was noted that as other agencies bring contributions, their membership in the budget committee could be addressed at that time.*
 - The envisioned process includes being able to remove contentious issues while moving the remainder of the budget forward – this allows sufficient time for the Program to determine how to resolve those particular parts and/or subparts.
 - When the Service expressed concern regarding potential EC impasse issues, the role of Budget Subcommittee (revised to Budget and Policy Committee) was expanded to include potential impasse issues. This led to concern regarding the elevation process and whether or not the Executive Director can refer issues to the committee independently of the EC or if the EC has the exclusive authority to elevate issues.
 - The general opinion was that the Executive Director should not have that independent control. Only the EC can identify and delegate issues.
 - All issues need to go through the EC as they seek consensus recommendations from that committee.
 - The Service has requested the Budget and Policy Subcommittee be given final decision-making ability. If, after due diligence, the EC cannot come to consensus, issues will be referred to the Budget and Policy Subcommittee to make a final decision.
 - Some attendees expressed concern with removing decision-making from the EC. Under the Bylaws, there is a clear process outlining voting and deferring decisions by one meeting before a supermajority vote rules. If the Bylaws are strictly adhered to, what impasse is expected? Having a group permitted to act above the EC negates the purpose of having an executive committee, eliminates the benefits of participating on the EC, and violates the collaborative intent of the Program.
 - Others expressed the opinion that if there has to be an elevation committee for decision-making, it should be at such a “high” level as to be embarrassing to utilize it (ex. governors, regional directors, etc.). It should not be compromised of the individuals already at the table and unable to reach decision.
 - There would also have to be a clearly defined process for elevation to such a group and processes that said group is expected to follow. The Bylaws currently have processes to force decision making but could be expanded to clarify that if a supermajority vote cannot be reached at the second vote, the issue will be elevated.
 - Additional concerns expressed include that “policy” and “budget” issues are very different and should maybe be kept separate. It is understood that the EC cannot vote to tell an agency how to spend funds. Also, an agency can fund activities without consensus.

- In a brief background, it was shared that the expansion of the Budget Subcommittee (to cover policy issues) came from the attempt to avoid creating yet another group. So the task was delegated to an existing group.
 - It was pointed out that “perceived” inaction or timing issues may actually be related to the fact that the EC doesn’t vote or make decisions unless it is brought before us.
 - Regarding the “litigation” concerns, an opinion was expressed that litigation is not avoided by having the same 5 agencies “drive” the Program at every level - quite the contrary, as there is no incentive for others to participate and contribute.
 - Some attendees also expressed frustration regarding the raising of and resolution of this issue. This was not an issue when the Program Document was endorsed in 2013. There have been lengthy meetings with the Service well represented and this particular issue discussed. There is a perspective that there has been a breakdown in process as there had already been resolution (reflected in the meeting notes – particularly the January notes, and red-line edits that have been presented already). But the issue has returned.
 - It is perceived there is a lack of respect for the resolutions that have already been reached. This feeds the mistrust within the Program.
 - Others disagreed that the resolution was explicitly captured in notes – some of the “wording” was not put on paper and when it was, it was not an accurate description of the intended direction. They were only explicit on the language that needed to be changed. There has not been agreement on the edits/language provided by the subgroup.
 - It was pointed out that this document (and these decisions) affects everyone for the entire process. A lengthy, detailed development process could be expected.
 - It was also pointed out that the Program has one (1) year from the issuance of the BO to establish the RIP – including development and approval of RIP documents.
 - It was clarified that the intent is to have an arbitration process in place, should it ever be necessary. This is especially important to data and management actions related to recovery.
2. Clarify Sufficient Progress Metrics Development/Service’s Approval Role/Affirmative Vote
- Concern has been expressed about adequate provision in the Program Document regarding the Service’s oversight role. The motivation for this concern is partially litigation driven – if the document does not robustly describe the Service’s role for certain key decisions, it make the RIP vulnerable to challenge.
 - The Service inserted language into governance and decision making sections specifying the need for an “affirmative vote.” This gives the Service the ability to prevent final decision regarding Annual Workplans and other metrics without their explicit agreement.

- In response to a question that this appears to negate any need for an elevation committee, it was clarified that this is not related to the impasse issue. When there is a vote on decisions, the Service has to vote “yes” for it to pass. If the Service does not concur, it is impossible for the EC to approve it and move forward. On decisions with implications on ESA compliance, the Service cannot be overridden by the EC, even if there is a supermajority agreement otherwise.
 - Sufficient progress is an ESA requirement and in the regulatory authority for the Service to establish. The Service has to be able to defend the decisions.
- Concern was expressed that the current recommended language seems to describe *every* vote – if an affirmative vote is withheld *on any decision*, then the Service can introduce a time issue and force decisions to the elevation committee.
- Additionally, other attendees expressed that many agencies have “authorities” in various realms and could make a similar claim that they also need to have affirmative vote (or veto power).
 - It is acknowledged that if each and every signatory makes this claim, it would essentially be the end of the collaborative process.
 - In response it was shared that the Service has very specific regulatory authorities and responsibilities. It is the Service’s responsibility to ensure that whatever decisions are made by the group are in the best interest of the species. This authority cannot be delegated to the EC.
- Recognition that the Service has responsibilities that cannot be delegated is not new within the document; what is new is the “affirmative vote” language.
 - It was suggested that the language be rephrased in a more positive way: “The Service cannot delegate its authority for ESA compliance...” Or adding disclaimer/boilerplate statements that recognize agencies responsibilities and authorities that cannot be delegated. This is one way to get to the “heart of the issue” without the perceived “poisoning” of the collaborative intent.
 - EC members are encouraged to submit suggested language alternatives.
- *Next Steps*
 - If the EC would like an opportunity to comment, in writing, on the current Revised Program Document and recommended edits, please submit those (including suggested “affirmative vote” language alternatives) to Leann Towne by COB Friday, April 29th.
 - The RIP Subgroup will continue revising and refining the Program Document. They have until May 10th to address the issues discussed at today’s EC meeting and any comments/suggestions received by April 29th.
 - The subgroup will also update the Column Document to indicate completed and resolved items and highlight remaining issues.
 - May EC read aheads will be available no later than May 13th.

Endorsement Discussion of Revised/Updated RIP Program Documents

- There cannot be a “perpetual” process that lasts forever. Several EC members expressed the desire to uphold the schedule and decide on the Revised Program Document in May.
 - Justifications for holding the decision in May includes: (1) concerns regarding the EC’s inability to make timely decisions, therefore no more delays should be acceptable; and

- (2) more delays impact the schedule - other tasks/milestones subsequently get delayed as a result.
- The subgroup will meet and address tasks identified during today's meeting and other comments received.
- It was acknowledged that additional time (up to all day) may be needed at the May meeting to be able to have a decision vote.
 - It was cautioned that the May agenda be solely focused on the 1 or 2 remaining significant items of concern and not spend time reviewing what has been already been done/addressed.

New EC Meeting Dates

- Some signatories have schedule conflicts with the current regular EC meeting dates. It has been requested the EC consider rescheduling their standing meetings to another date.
 - The 2nd or 4th Thursday of each month has been suggested. Although, please be aware that the CC is scheduled to meet 2 weeks prior to each EC meeting so an early meeting date would impact this group as well.
 - It was also suggested the EC consider selecting a day other than Thursdays.
 - This decision was postponed until June.

Public Comment

- There was no public comment.

Meeting Summary:

- A quorum was present for today's meeting. The agenda was approved with the addition of a MAT update. The February and March meeting notes were approved for finalization with no changes.
- Agencies presented updates and announcements during the Agency Roundtable.
 - In the hydrology update, it was shared that the Compact Commission signed a Resolution for 2016 that provides some flexibility in storage to match or enhance the peak in the main stem in attempt to maximize high peak at Central (Albuquerque). There is predicted weather (snow and/or rain) that will hopefully contribute but there is no certainty on the spring conditions.
 - The MAT met in early April and will meet again at the end of the month.
 - Hopefully, a spring pulse of 2,000 to 2,500 cfs can be "maintained" for 1 to 2 weeks in mid-May utilizing the Resolution Water.
- The RIP Subgroup Column Document was reviewed and attendees went through each listed item. Several concerns remain. The subgroup will use today's discussion and any written comments to produce another revised version. The EC will meet in May with intention of making a decision on endorsing the document.
 - EC written comments are to be provided to Leann Towne by COB Friday, April 29th.
 - In order to try for approval on the Revised Program Document, please come prepared to stay as long as necessary to accommodate decision discussions.

Next Meeting: May 19th, 2016 from 9:00am to 4:00pm, location TBD

- As discussed during the meeting today, delay of endorsement of the Revised Program Document could impact/delay other tasks and activities identified in the Schedule. Even though the BO provides a year for the RIP to be formally established (including the adoption of documents), attendees agreed that this decision cannot be so iterative as to never be completed and discussed working through the remaining issues as early as possible. To that end, there are ongoing planning discussions about the May EC meeting and how to best accomplish the discussions that

will lead to decision on the endorsement of the Revised Program Document during the May meeting. The details of the May meeting may change and will be updated when finalized.

- Tentative May agenda items: (1) Population Monitoring Workshop report presentation (May); (2) Discussion: review of most recent Revised Program Documents edits; (3) Decision: Approval of Revised RIP Program Document; (4) Minnow Action Team Updates – Spring Flow and Spawning Updates; (5) Decision: move standing meeting day to 2nd or 4th Thursday of each month; (6) Update on PASS Contract (including potentially identifying and approving 2 EC representatives for participation, if appropriate); (7)
- Tentative future agenda items: (1) Discussion/Updates on Recent and Upcoming Reports (Adaptive Management Documents; Genetics Peer Review Draft Report); (2) Review/Discuss EC Bylaws – starting with Section 5, if still appropriate;

Executive Committee Meeting Attendees April 21st, 2016

Attendees:

<i>Representative</i>	<i>Organization</i>	<i>Seat</i>
Brent Esplin	Bureau of Reclamation	Federal co-chair
Rick Billings (A)	Albuquerque/Bernalillo County Water Utility Authority	Non-federal co-chair
Jennifer Faler (P)	Bureau of Reclamation	Reclamation
David Gensler (P)	Middle Rio Grande Conservancy District	MRGCD
Grace Haggerty (A)	NM Interstate Stream Commission	NMISC
Kris Schafer (A)	U.S. Army Corps of Engineers	Corps
Michelle Shaughnessy (P)	U.S. Fish and Wildlife Service	FWS
Frank Chaves (P)	Pueblo of Sandia	Sandia
Matt Wunder (P)	NM Department of Game and Fish	NMDGF
Tom Turner (P)	University of New Mexico	UNM
Janet Jarratt (P)	Assessment Payers Association of the MRGCD	APA
Nathan Schroeder (A)	Pueblo of Santa Ana	Santa Ana
Bill Grantham (A)	NM Attorney General's Office	NMAGO
Ryan Ward (P) (via phone)	NM Department of Agriculture	NMDA

Others

Ali Saenz	Bureau of Reclamation
Leann Towne	Bureau of Reclamation
Susan Bittick (A)	U.S. Army Corps of Engineers
Dave Campbell	U.S. Fish and Wildlife Service
Vicki Ryan	U.S. Fish and Wildlife Service
Ryan Gronewold	U.S. Fish and Wildlife Service
Brooke Wyman	MRGCD
Patrick Redmond (A)	MRGCD
Deb Freeman	for ISC
Kyle Harwood	BBD/City of Santa Fe
Rick Carpenter	BBD/City of Santa Fe
Josh Mann	Solicitor's Office
Maria O'Brien	ABCWUA
Marta Wood	Alliant Environmental (note taker)