

Executive Committee Meeting  
*September 16, 2019*

Meeting Materials:

Meeting Agenda

Meeting Minutes

Middle Rio Grande Endangered Species Collaborative Program Newsletter September 2019 [not included]

Middle Rio Grande Endangered Species Collaborative Program Fiscal Year 2018 Annual Report [not included]

Middle Rio Grande Endangered Species Collaborative Program Legislation



# Middle Rio Grande Endangered Species Collaborative Program

Est. 2000

## EXECUTIVE COMMITTEE MEETING September 16, 2019 1:00 PM – 3:30 PM

**Location:** U.S. Geological Survey New Mexico Water Science Center  
6700 Edith Blvd NE, Albuquerque, NM 87113

**Call-in Information:**  
888-455-9768 code: 14639

### MEETING AGENDA

- 12:45 – 1:00 **Arrival**
- 1:00 – 1:10 **Welcome and Introductions** *Co-Chairs*
- Ground rules
  - Agenda review
  - **Decision:** Approval of meeting agenda
- 1:10 – 1:15 **Administrative Announcements**
- New Non-federal co-chair
  - EC membership changes
- 1:15 – 1:25 **Past Meeting Minutes** *Co-Chairs*
- Action items from the June 2019 meeting
- Read-ahead:
- June 2019 Meeting Summary
  - **Decision:** Approval of June 2019 Meeting Summary
- 1:25 – 1:45 **Program Manager Update** *Program Support Team (PST)*
- Newsletter updates
  - Science Symposium update
  - FY18 Annual Report
  - Scopes of Work update
  - COR Update
- Read-aheads:
- September 2019 MRGESCP Newsletter
  - FY18 Annual Report
  - **Decision:** Approval of the MRGESCP FY18 Annual Report

1:45 – 2:00	<b>By-Laws Ad Hoc Group Update – Program Legislative Authority</b>  Read-ahead: <ul style="list-style-type: none"> <li>□ Program Legislation</li> </ul>	<i>PST &amp; Bill  Grantham, NM  Office of the  Attorney General</i>
2:00 – 2:15	<b>Break</b>	
2:15 – 2:45	<b>Adaptive Management Work Group Update</b> <ul style="list-style-type: none"> <li>• Goals update</li> <li>• Reach plan</li> <li>• MRGESCP species of interest</li> </ul> <p style="margin-left: 40px;">➤ <b>Decision:</b> Species to include in the MRGESCP</p>	<i>Kate Mendoza,  ABCWUA</i>
2:45 – 3:00	<b>Science/Habitat Restoration Work Group (ScW/HR) Update</b> <ul style="list-style-type: none"> <li>• Sediment, Water Quality, and Water Temperature Gages</li> <li>• Avian Monitoring</li> </ul> <p style="margin-left: 40px;">➤ <b>Decision:</b> Projects from the ScW/HR for EC approval</p>	<i>PST</i>
3:00 – 3:10	<b>Announcements</b> <ul style="list-style-type: none"> <li>• Population Monitoring Work Group Co-chairs</li> <li>• Others?</li> </ul>	
3:10 – 3:20	<b>Public Comment</b>	
3:20 – 3:30	<b>Action Items and Next Steps</b> <ul style="list-style-type: none"> <li>• Action Item Review</li> </ul> <p style="margin-left: 40px;">➤ Next EC meeting date: TBD</p>	<i>Co-Chairs</i>
3:30	<b>Adjourn</b>	



# Middle Rio Grande Endangered Species Collaborative Program

*Est. 2000*

## Executive Committee (EC) Meeting Minutes

**September 16, 2019; 1:00 PM – 4:00 PM**

**Location: U.S. Geological Survey (USGS) New Mexico Water Science Center**

### Decisions:

- Approval of September 16, 2019 meeting agenda
- Approval of June 05, 2019 meeting summary with amendments
- Approval of the fiscal year (FY) 2018 Annual Report
- Approval to expand the Middle Rio Grande Endangered Species Collaborative Program (MRGESCP or Program) species list to include the following listed species: Rio Grande silvery minnow (RGSM), Southwestern willow flycatcher (SWFL), yellow-billed cuckoo (YBCU), New Mexico meadow jumping mouse (NMMJM), and the Pecos sunflower
- Approval of the following Science and Habitat Restoration Work Group (ScW/HR) project recommendations: Sediment, Water Quality, and Water Temperature Gages; Avian Monitoring

### Action Items:

WHO	ACTION ITEM	BY WHEN
Program Support Team (PST)	Revise the June 2019 EC meeting summary <ul style="list-style-type: none"> <li>• Describe the EC-requested changes to the mission statement</li> <li>• Remove the bullets on page 2</li> </ul>	ASAP
PST	Use the discussion outlined on page 2 of the June 2019 EC meeting summary to create a one-page document	ASAP
Fiscal Planning Committee (FPC)	Convene to coordinate/seek funding options for two projects: <ul style="list-style-type: none"> <li>• Sediment, water quality, and temperature gages</li> <li>• Avian monitoring</li> </ul>	ASAP
New Mexico Interstate Stream Commission (NMISC), Middle Rio Grande Conservancy District (MRGCD), & others interested	Email Brian Hobbs (bhobbs@usbr.gov) to join Reclamation on a plan to contribute to bird surveys	10/10/19
All Signatories	Consider submitting abstracts for the Science Symposium	10/17/19
Non-Federal Signatories	Submit FY19 cost share to the PST	10/22/19
All Signatories	Register for the Science Symposium	11/19/19

U.S. Bureau of Reclamation (Reclamation)	Research what it would take to quantify 15% administrative expenses as outlined in the Omnibus Appropriations Act, 2009 Sec. 206(d)(2)	12/9/19
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**Next Meeting:** December 9, 2019, location TBD

## Meeting Summary

### Welcome and Introductions

*Ground rules*

*Agenda Review*

Brent Esplin, EC Co-Chair, Reclamation, called the meeting to order and initiated introductions. The group briefly reviewed the agenda.

- **Decision:** Approval of June 5, 2019 meeting agenda

### Administrative Announcements

*New Non-Federal Co-Chair*

*EC Membership Changes*

John Stomp, Albuquerque-Bernalillo County Water Utility Authority (ABCWUA), is the new non-federal EC Co-Chair. He intends to help the Program move forward and will be presenting a plan to collaborate between the non-federal and the federal signatories moving forward.

The PST received a letter regarding Reclamation's EC membership change: Jennifer Faler will be the primary EC representative, with Jim Wilber serving as the alternate.

John S. discussed the PST's role with the Program. He reiterated that the PST takes its direction from the EC and not individual signatories. The PST will continue to advise individual signatories to talk with the EC co-chairs between meetings to provide direction. John S. also noted that the PST serves as a contractor for the MRGESCP, and at some point, the EC may want to evaluate the cost of a third-party contractor versus other potential projects to undertake.

### Past Meeting Minutes

*Action items from the June 2019 meeting*

June 2019 meeting summary and related action items were reviewed with comments by the EC members and the PST. The EC requested the following changes to the meeting summary:

- Draft a one-page summary of the EC-requested changes to the mission statement.
- Move the summary of the group dynamics conversation to a separate reference document.

- **Decision:** Approval of June 2018 meeting minutes with amendments

## **Program Manager Update**

*Newsletter Updates*

*Science Symposium Update*

*FY18 Annual Report*

*Scopes of Work Update*

*COR Update*

Debbie Lee, PST, reminded the EC that registration for the Science Symposium is open through November 17, 2019, and the call for abstracts is open through October 17, 2019. Non-Federal FY19 cost share is due on October 22, 2019 and will be reported to Reclamation at the end of October 2019, and to the EC at the next meeting.

The EC reviewed the newsletter:

- Joel Lusk, U.S. Fish and Wildlife Service (USFWS), updated the EC regarding revised regulations for actions taken in riparian areas that could impact SWFL and YBCU. There is a one-year waiting period from the date of the survey for the action to be taken. Impromptu surveys will also have lag time. It is advised to do protocol surveys. If there are no survey data, then it is assumed the species occur and there could be an effect determination. Vicky Ryan, USFWS, can clarify anything or answer questions in this regard.
- Jennifer Faler, Reclamation, announced that Reclamation is working with the USFWS to meet protocols. She invited NMISC, MRGCD, and any other interested parties to join Reclamation on a plan to contribute to bird surveys. Brian Hobbs is the contact at Reclamation for this effort.
- Lynette Gieson, U.S. Army Corps of Engineers (USACE), made an announcement regarding the write-up on USACE's aerial surveys (page 11). Contact Jon Peterson and supply him with a 1-terabyte hard drive or USB to get USACE's files pertaining to the aerial surveys.

Debbie L. described the relationship between the PST and Reclamation's Contract Officer Representative (COR) to the EC. The PST and the COR currently hold monthly phone calls related to contract matters, including billing, staffing, and deliverables.

Clayton Derby, PST, announced that Western Ecosystems Technology, Inc. (WEST) will continue to provide full support in the absence of the science coordinator position. He and Dale Strickland will continue to provide senior level support and work with Ashley Tanner to complete the necessary work for science support. WEST is looking for candidates, but so far applicants have not met the requirements for the position. The PST will wait for direction from the EC regarding the adaptive management (AM) framework drafts and will continue to work with the Adaptive Management Work Group (AMWG) to develop a framework and plan.

- **Decision:** Approval to finalize the MRGЕСP’s FY18 Annual Report
- **Action Item:** Interested signatories email Brian Hobbs to join Reclamation on a plan to contribute to bird surveys

### **By-laws Ad Hoc Group Update – Program’s Legislative Authority**

Bill Grantham, New Mexico Attorney General’s Office (NMAGO), indicated that there was uncertainty amongst the signatories on current legislation regarding the Program. The By-laws group determined that the MRGЕСP’s only authority is under the 2009 Omnibus Appropriations Act. No other relevant legislation has passed since 2009. Lynette G., stated that because the USACE is not part of the 2016 MRG BO, any legislation that refers to the 2003 MRG BO is no longer applicable to the USACE. Lynette indicated that while the Program has an Interim Long-Term Plan, a real Long-Term Plan would be more useful in providing coverage to the USACE with no room for debate. The USACE provides MRGЕСP-related funding at 100 percent, with no cost share requirement.

Cody Walker, Pueblo of Isleta, asked whether the 2009 Omnibus Appropriations Act expires, and Bill G. indicated that the answer is likely no, because the legislation uses the word “hereafter,” which is generally used for long-term effect.

Paige Pegram, NMISC, inquired whether the Program is complying with Part 2 [SEC. 206(d)(2)] regarding administrative expenses, and indicated that it seems to be unclear where Reclamation’s allocated money goes. It was discussed that the Program signatories should show compliance with the statute in the event of any future challenges, and that the EC decide how to complete an accounting for this. Members of the EC requested that Reclamation look into how the 15 percent administrative costs are quantified.

- **Action Item:** Reclamation will research what it would take to quantify 15 percent administrative expenses as outlined in the Omnibus Appropriations Act, 2009 Sec. 206(d)(2)

### **Adaptive Management Work Group Update**

#### *Goals Update*

#### *Reach Plan*

#### *MRGЕСP Species of Interest*

Kate Mendoza, ABCWUA, explained to the EC that the AMWG has been working through the details of draft goals and objectives. The group intends to develop programmatic goals for each species that covers the entire Program area. At this time the seven draft goals are meant to be broad (see read ahead), and further planning will include development of goals for each species within the reaches.

The group proposes structuring the plan by each of the four MRG reaches, and is currently working on an outline. An AM plan by reach would provide an effective way of looking at



how the river is managed by reach, and help the Program track and achieve its goals. The reach plans could include reach descriptions, the species present, their distribution, contributing stakeholders, and their role in research and management. Each stakeholder, which is not necessarily a MRGESCP signatory, will help develop reach-specific plans, for which the Program can help identify funding and other needs for each reach. Reach goals will be developed with objectives and will have relevance to management. This will help figure out the connections, which may include water management, population, etc. Critical uncertainties will be tied to management, and hypotheses will help inform management actions. This effort is proposed to tie into the Program's Long-Term Plan.

Kate discussed the AMWG's intention of using conceptual ecological models (CEMs) as a tool to identify critical uncertainties, initially, for each species. The AMWG tasked the ScW/HR with developing the CEMs for discussion, and requests that each signatory involve their species experts in the next ScW/HR meeting to participate for broad Program involvement.

The AMWG recommended that the EC formally include all of the listed species within the defined Program area. These include the NMMJM, Pecos sunflower, YBCU, SWFL, and RGSM. The EC discussed the merits and the trade-offs of expanding the species of interest for the Program. While the Program signatories will have to continue to balance resources such as water and funding, the AM plan, with the reach component, will aid signatories in coordinating decisions that consider all species.

- **Decision:** The EC decided to expand the Program's scope to include all the listed species within the Middle Rio Grande: RGSM, SWFL, YBCU, NMMJM, and the Pecos sunflower

### **Science/Habitat Restoration Work Group Update**

#### *Sediment, Water Quality, and Water Temperature Gages*

#### *Avian Monitoring*

USACE's FY20 budget was cut by approximately 51 percent, and USACE is not able to continue funding several projects. At its last meeting, the ScW/HR expressed interest in several USACE projects continuing, and identified two priorities: avian monitoring and sediment, water quality, and water temperature gage monitoring. Avian monitoring has occurred annually since December 2013, and there is a 20 plus year dataset that allows comparison in avian abundance and richness. The USACE may have carry over money to fund some gages, but a list of unfunded gages is being compiled and the list will be sent to the Program. The FPC intends to meet to discuss funding opportunities for these projects given EC approval.

- **Decision:** The EC approved the ScW/HR priority projects to move forward to find funding opportunities

## **Announcements**

### *Population Monitoring Work Group Co-chairs*

#### *Others*

- The PMWG appointed two new co-chairs: Joel Lusk, USFWS and Rich Valdez, SWCA
- Brent Esplin is Reclamation's new Regional Director for the Upper Colorado Region, and no longer the Deputy
- The Santa Ana Environmental Fair is Saturday, September 28, 2019
- Rolf Schmidt-Peterson is the new Director of the NMISC, and the NMISC has eight new Commissioners
- USFWS changed some rules for consultation as of the end of August 2019 ([Federal Register Notice](#) 84 FR 44976)

## **Public Comment**

No public comments were provided.

## **Action Items and Next Steps**

### *Action Item Review*

*Next planned EC meeting: December 9, 2019; location TBD*

- **Action item:** WEST will distribute follow-up meeting materials and presentations.

## **Adjourn**

## Meeting Participants

<b>Participant</b>	<b>Organization</b>
Kim Bannerman	Department of the Interior - Office of the Solicitor
Dave Campbell	U.S. Fish & Wildlife Service
Rick Carpenter	Buckman Direct Diversion
Rex Coriz	Santo Domingo Pueblo
Clayton Derby	Western EcoSystems Technology, Inc.
Julie Dickey	Western EcoSystems Technology, Inc.
Brent Esplin	U.S. Bureau of Reclamation
Jennifer Faler	U.S. Bureau of Reclamation
Lynette Giesen	U.S. Army Corps of Engineers
Bill Grantham	Assistant New Mexico Attorney General's Office
Ryan Gronewold	U.S. Army Corps of Engineers
Grace Haggerty	New Mexico Interstate Stream Commission
Kyle Harwood	Buckman Direct Diversion
Alan Hatch	Pueblo of Santa Ana
Mo Hobbs	Albuquerque Bernalillo County Water Utility Authority
Derek Jarner	Pueblo of Isleta
Janet Jarratt	Assessment Payers Association of the Middle Rio Grande Conservancy District
Briony Jones	University of New Mexico – Law/Water Resources
Debbie Lee	Western EcoSystems Technology, Inc.
Joel Lusk	U.S. Fish and Wildlife Service
Mike Marcus	Assessment Payers Association of the Middle Rio Grande Conservancy District
Anne Marken	Middle Rio Grande Conservancy District

Terry McDill	New Mexico Interstate Stream Commission
Kate Mendoza	Albuquerque Bernalillo County Water Utility Authority
Megan Osborne	University of New Mexico
Page Pegram	New Mexico Interstate Stream Commission
Matthew Peterson	City of Albuquerque Open Space Division
Michael Porter	U.S. Army Corps of Engineers
Nathan Schroeder	Pueblo of Santa Ana
Chris Shaw	New Mexico Interstate Stream Commission
Trevor Stevens	U.S. Army Corps of Engineers
John Stomp	Albuquerque Bernalillo County Water Utility Authority
Dale Strickland	Western EcoSystems Technology, Inc.
Ashley Tanner	Western EcoSystems Technology, Inc.
Paul Tashjian	Audubon New Mexico
Cody Walker	Pueblo of Isleta
Jim Wilber	U.S. Bureau of Reclamation
Nick Williams	U.S. Bureau of Reclamation
Ara Winter	Bosque Ecosystem Monitoring Program
Matthew Wunder	New Mexico Department of Game & Fish
Brooke Wyman	Pueblo of Sandia

**MIDDLE RIO GRANDE ENDANGERED SPECIES COLLABORATIVE PROGRAM  
Legislation**

OMNIBUS APPROPRIATIONS ACT, 2009, **PL 111-8**, March 11, 2009, 123 Stat 524

SEC. 106. Section 121 of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2256) is amended by striking subsection (a) and inserting the following:

“(a) Hereafter, the Secretary of the Army may carry out and fund planning studies, watershed surveys and assessments, or technical studies at 100 percent Federal expense to accomplish the purposes of the 2003 Biological Opinion described in section 205(b) of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2949) as amended by subsection (b) or any related subsequent biological opinion, and the collaborative program long-term plan. In carrying out a study, survey, or assessment under this subsection, the Secretary of the Army shall consult with Federal, State, tribal and local governmental entities, as well as entities participating in the Middle Rio Grande Endangered Species Collaborative Program referred to in section 205 of this Act: *Provided*, That the Secretary of the Army may also provide planning and administrative assistance to the Middle Rio Grande Endangered Species Collaborative Program, which shall not be subject to cost sharing requirements with non-Federal interests.”.

SEC. 203. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

SEC. 206. (a) Section 209 of the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137; 117 Stat. 1850) is repealed.

(b) The Secretary of the Interior (referred to in this section as the “Secretary”) shall establish and maintain an Executive Committee of the Middle Rio Grande Endangered Species Collaborative Program (referred to in this section as the “Executive Committee”) consistent with the bylaws of the Middle Rio Grande Endangered Species Collaborative Program adopted on October 2, 2006.

(c) Hereafter, in compliance with applicable Federal and State laws, the Secretary (acting through the Commissioner of Reclamation), in collaboration with the Executive Committee, may enter into any grants, contracts, cooperative agreements, interagency agreements, or other agreements that the Secretary determines to be necessary to comply with the 2003 Biological Opinion described in section 205(b) of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2949) as amended by section 121(b) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2256) or

any related subsequent biological opinion or in furtherance of the objectives set forth in the collaborative program long-term plan.

(d)(1) The acquisition of water under subsection (c) and any administrative costs associated with carrying out subsection (c) shall be at full Federal expense.

(2) Not more than 15 percent of amounts appropriated to carry out subsection (c) shall be made available for the payment of administrative expenses associated with carrying out that subsection.

(e)(1) The non-Federal share of activities carried out under subsection (c) (other than an activity or a cost described in subsection (d)(1)) shall be 25 percent. The non-Federal cost share shall be determined on a programmatic, rather than a project-by-project basis.

(2) The non-Federal share required under paragraph (1) may be in the form of in-kind contributions, the value of which shall be determined by the Secretary in consultation with the executive committee.

(f) Nothing in this section modifies or expands the discretion of the Secretary with respect to operating reservoir facilities under the jurisdiction of the Secretary in the Rio Grande Valley, New Mexico.