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MEMORANDUM OF UNDERSTANDING

Between

United States Fish and Wildlife Service

United States Bureau of Reclamation

State of Colorado

State of Utah

State of Wyoming

I. PURPOSE

The purpose of the parties to this Memorandum of Understanding is to cooperate in discussions seeking ways to develop and implement a program of reasonable and prudent alternatives which will enable Federal agency actions associated with water project development and depletions in the Upper Basin of the Colorado River to proceed pursuant to Section 7 of the Endangered Species Act without the likelihood of jeopardizing the continued existence of any threatened or endangered fishes, while fully acknowledging and considering the beneficial uses of water pursuant to the respective State water rights systems and the use of water apportioned to a State pursuant to the compacts concerning the waters of the Colorado River.

II. STATUTORY AUTHORITIES

Pursuant to the Endangered Species Act (ESA), the Secretary of the Interior has the responsibility to determine whether any species is an endangered or threatened species, to designate its critical habitat, to advise whether Federal agency actions are likely to jeopardize the continued existence of such species, and to suggest those reasonable and prudent alternatives that he finds will not violate Section 7 (a)(2) of the ESA. Federal agencies are also required to use their authorities to promote the conservation of these listed species.

Pursuant to Title 43, Chapter 12 of the U.S. Code, the United States Bureau of Reclamation has authority to construct and operate water projects.

Pursuant to their statutory authority, the States of Colorado, Utah, Wyoming, and New Mexico manage fish and game resources. and oversee administration and development of water resources, and the pertinent interstate compact.

III. ORGANIZATION

The parties **agree** to constitute the following committees.

A. Coordinating Committee

1. A Coordinating Committee shall include the Regional Director, Fish and Wildlife Service, Region 6; Regional Directors, Bureau of Reclamation, Upper Colorado Region and Lower Missouri Region; Executive Director, Department of Natural Resources, State of Colorado; Executive Director, Department of Natural Resources, State of Utah; and a representative of the Governor of the State of Wyoming, and such other members as the Committee designates.

2. The tasks of the Coordinating Committee are identified in the following order of **importance**:
 - a. Develop greater understanding of and agreement on scientific data and the interpretation of such data concerning factors affecting the **present** and future of endangered fishes in the Upper Basin of the Colorado River.

 - b. Identify reasonable and prudent alternatives, including but not limited to hatchery and **stocking** programs, measures addressing competition with non-native species, fish passage facilities, establishment of preserves, instream flows, water delivery and reregulation, and any other reasonably feasible and effective methods or procedures to comply with sec. 7 (a) and (b) of the ESA.

 - c. Discuss with the USFWS the development of an upper basin program of reasonable and prudent alternatives which will enable the Federal agency actions associated with individual

water projects to be carried out without jeopardizing the continued existence of any endangered fishes.

- d. Discuss how such a program could be implemented, including **consideration** of the responsibilities of Federal and State agencies and of private parties.
 - e. Guide the work of the steering and any **other** committees.
 - f. Discuss with the USFWS strategies for responding to Section 7 consultations regarding the endangered fishes during the time period of this Memorandum of Understanding.
 - g. Discuss the status and review requirements of the three species of endangered fishes in the Colorado River Basin .
[Colorado squawfish (Ptychocheilus lucius), Humpback chub (Gila cypha), and Bonytail chub (Gila elegans)], **including** the appropriateness of downlisting and/or delisting as set forth in the ESA.
 - h. Shall appoint an Executive Director to coordinate the activities of the Coordinating Committee and its appointed committees.
3. The Coordinating Committee has selected Frank Dunkle, a representative from the USFWS, to serve as Executive Director. The Executive Director shall have the following duties:

- a. Circulate draft recommendations prior to meetings to allow adequate time for preparation for meetings.
- b. Coordinate the direction of the Committee on a daily basis.
- c. Keep minutes of Coordinating Committee meetings.
- d. Keep Records of all Coordinating Committee and other committee actions.
- e. Communicate the reports of Steering, Hydrological and Biological Committees to the Coordinating Committee.
- f. Implement a program of public information concerning the public activities of all committees.
- g. Organize a method of submitting monthly reports from other committees and track the progress of all committees to insure they are in keeping with the goals of the Coordinating Committee.
- h. Assist all committees with collecting necessary information and data.
- i. Serve as the conduit between committees, other public groups and concerned governmental agencies.

- j. The subcommittees shall select the chairmen of the Biological and Hydrological subcommittees. The Subcommittee chairman, shall keep minutes, circulate drafts and final reports, and arrange for meetings of the subcommittees.
4. The Coordinating Committee shall meet as necessary during the term of this Memorandum of Understanding.
5. The Coordinating Committee shall meet periodically in a roundtable setting with representatives of the **Steering** Committee, conservation **organizations**, proponents of water **projects**, other Federal agencies, and the public. Prior to submitting its final recommendations, the Coordinating Committee shall present draft recommendations for discussion at roundtable meeting open to the public.
6. The Coordinating Committee shall appoint members to a Steering Committee and other committees.
7. The Coordinating Committee shall appoint hydrological and biological subcommittees to perform the technical analyses called for by the approved work plan as discussed in paragraph B.3. on page 7 of this document.
8. All parties agree to provide all necessary and available data (including raw data, analyses, and other information) to the Coordinating Committee or to other committees, as directed by the

Coordinating Committee, provided that anything related to litigation involving any parties may be withheld at their discretion to the extent permitted by law.

9. The Coordinating Committee, through the Executive Director, may circulate drafts and findings from the Steering Committee or its subcommittees for peer review to groups and individuals recommended by the Steering Committee.

B. Steering Committee

1. The Steering Committee shall be chaired by the Executive Director of the Coordinating Committee.
2. The Steering Committee shall include a biological expert and a hydrological expert representing each party to this Memorandum of Understanding who wishes to appoint a member. In addition, representatives of other organizations may be asked to join the Steering Committee by the Coordinating Committee.
3. The Steering Committee shall meet from time to time to discuss and consider such subjects or tasks as the Coordinating Committee deems **appropriate**. The Steering Committee shall develop a work plan, subject to the approval of the Coordinating Committee, which shall guide its work and the work of the Biological and Hydrological subcommittees.

4. The Steering Committee members may attend the roundtable public meetings of the Coordinating Committee to hear and consider views proponents of water projects and other interested parties.

C. Drafting Committee

1. A Drafting Committee **may** be convened by the Coordinating Committee as necessary to prepare or review any draft documents.
2. The Drafting Committee shall include a member appointed by each **party** to this MOU. Additional members shall be appointed by the Coordinating Committee from the organizations that have been participating members of the technical subcommittees.

D. Other Committees

From time to time, the Coordinating Committee may establish other committees or subcommittees.

IV. STAFFING

- A. Each participating agency shall contribute such staff time as may be necessary to carry out the activities called for above consistent with their resources and other priorities.
- B. In the event that earmarked funds become available, the Coordinating Committee may design an operating plan for the use of the funds. Any

such plan will be submitted to the Secretary of Interior for consideration.

V.. DECISION AUTHORITY

- A. All parties to this Memorandum of Understanding recognize that they **each** have responsibilities under their statutory authorities that cannot be dele'gated to the committees described above and that this agreement cannot and is not intended to abrogate any of their independent decision-making responsibilities. This MOU per se is not intended to be inconsistent with any existing Federal or State law or regulation.

- B. All parties to this agreement agree to seek mutually agreeable solutions to the problems addressed by this Memorandum of Understanding.

VI. TERM

- A. This Memorandum of Understanding shall expire March 31, 1985, unless it is otherwise extended by agreement of a majority of the Coordinating Committee members.

- B. Parties to this Memorandum of Understanding may withdraw from this Memorandum of Understanding upon written notice to the Executive Director of the Coordinating Committee, but the work of the Committee shall continue for so long as a majority of the remaining members

determine or until the Memorandum has expired or its purposes are achieved.

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Galen L. Buteraug
Galen L. Buteraug, Regional Director
Region 6
United States Fish and Wildlife Service

Date

Bill E. Martin
Bill E. Martin, Regional Director
Lower Missouri Region
United States Bureau of Reclamation

7-2-84

Date

Cliff Barrett
Cliff Barrett, Regional Director
Upper Colorado Region
United States Bureau of Reclamation

7/30/84

Date

David H. Getches
David H. Getches, Executive Director
Colorado Department of Natural Resources

7/31/84

Date

Joseph A. Reynolds
Joseph A. Reynolds, Executive Director
Utah Department of Natural Resources

7/14/84

Date

Warren G. White
Warren G. White;
Natural Resources Adviser to the Governor
State of Wyoming

7/14/84

Date