

COOPERATIVE AGREEMENT

for

RECOVERY IMPLEMENTATION PROGRAM FOR
ENDANGERED SPECIES IN
THE UPPER COLORADO RIVER BASIN

1. Purpose. The parties hereto agree to participate in and implement the recovery program as provided for in the document "Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin" (Program), dated September 29, 1987. The parties also agree to participate in the Recovery Implementation Committee which will be established to oversee the implementation of the Program. The Program provides for a broad range of measures to manage and recover three endangered fishes and to manage the razorback sucker, while providing for new water development to proceed in the Upper Colorado River Basin. The Program has five principal elements: (a) habitat management through the provision of instream flows; (b) nonflow habitat development and maintenance; (c) native fish stocking; (d) management of nonnative species and sportfishing; and (e) research, data management, and monitoring. The Program depends on the effective implementation of all of these elements and on their successful coordination. It is agreed that the Program may be modified from time to time by the Committee as experience is gained in implementing the Program.

2. Geographic Scope. The Program and this Cooperative Agreement apply only to the Upper Colorado River Basin above Glen Canyon Dam, excluding the San Juan River Subbasin.

3. Term. This Cooperative Agreement shall remain in effect for a period of 15 years from the date of its execution.

4. Amendment. This Cooperative Agreement may be extended, amended, or terminated by agreement of the parties, or any party may withdraw from this Cooperative Agreement upon written notice to the other parties.

5. Authorities and Responsibilities

A. Federal Cooperation with States. Section 2(c)(2) of the Endangered Species Act, states that "the policy of Congress is that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species." Under Section 6 of the Act, the Secretary of the Interior is directed to cooperate to the maximum extent practicable with the States in carrying out the program authorized by the Act and to consult with affected States before acquiring any land and water, or interest therein, for the purpose of conserving endangered species. Under Section 6 of 41 USC 505, an executive agency should enter a cooperative agreement when anything of value will be transferred to a State or local government to carry out a public purpose authorized by Federal statute.

B. Recovery Plans and Teams. Under Section 4(f) of the Endangered Species Act, the Secretary is directed to develop and implement plans for the conservation of endangered species and may procure the services of public and private agencies and institutions in developing and implementing such recovery plans.

C. Consultation and Coordination Among Federal Agencies. Under Section 7 of the Endangered Species Act, Federal agencies shall utilize their programs and authorities in furtherance of the purposes of the Act and ensure

that their actions are not likely to jeopardize listed species. Under Section 2 of the Fish and Wildlife Coordination Act, Federal agencies must consult with the Fish and Wildlife Service and with State wildlife agencies on the fish and wildlife impacts of Federal or federally licensed or permitted water projects.

D. Operation of Federal Water Projects. The Bureau of Reclamation is charged with the operation of the Flaming Gorge and Curecanti storage units under the 1956 Colorado River Storage Project Act and with the operation of Ruedi Reservoir under P.L. 87-590 and other applicable Federal laws.

E. Applicable State Law. Pursuant to applicable State laws and interstate compacts, Colorado, Utah, and Wyoming administer water rights, including water rights for instream flows, and oversee development of water resources, allocated and apportioned to them in perpetuity by interstate compacts. Each of these States also has certain statutory authority and responsibility to protect and manage its fish and wildlife resources.

6. No Delegation or Abrogation. All parties to this Cooperative Agreement recognize that they each have statutory responsibilities that cannot be delegated, and that this Cooperative Agreement does not and is not intended to abrogate any of their statutory responsibilities.

7. Consistency with Applicable Law. This Cooperative Agreement is subject to and is intended to be consistent with all applicable Federal and State laws and interstate compacts.

8. Legislative Approval. All funding commitments made under the Program and this Cooperative Agreement are subject to approval by the appropriate State and Federal legislative bodies.

Ronald Paul Hodel

Donald Paul Hodel
Secretary of the Interior

Jan. 21, 1988

Date

Roy Romer

Roy Romer
Governor of Colorado

1/21/88

Date

Norman H. Bangerter

Norman H. Bangerter
Governor of Utah

1/22/88

Date

Mike Sullivan

Mike Sullivan
Governor of Wyoming

1/21/88

Date

William H. Clagett

William H. Clagett
Administrator, Western Area Power
Administration, Department of Energy

21 Jan 88

Date