

**COLORADO RIVER RECOVERY PROGRAM
FY-2002-2003 PROPOSED SCOPE OF WORK**

Project No.: C-6-LA

Lead Agency: U.S. Fish and Wildlife Service
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Category:

- Ongoing project
- Ongoing-revised project
- Requested new project
- Unsolicited proposal

Expected Funding Source:

- Annual funds
- Capital funds
- Other

I. Title of Proposal:

Land Acquisition for the Habitat Restoration Program.

II. Relationship to RIPRAP:

- GENERAL RECOVERY PROGRAM SUPPORT ACTION PLAN
ACTIVITY II. RESTORE HABITAT
II.A.2. Screen high-priority sites for potential restoration/acquisition.
- GREEN RIVER ACTION PLAN: MAINSTEM
ACTIVITY II. RESTORE HABITAT
II.A.2. Acquire interest in high-priority flooded bottomland habitats.
- COLORADO RIVER ACTION PLAN: MAINSTEM
ACTIVITY II. RESTORE HABITAT
II.A.5. Acquire interest in high-priority flooded bottomland habitats.
- COLORADO RIVER ACTION PLAN: GUNNISON RIVER
ACTIVITY II. RESTORE HABITAT
II.A.3. Acquire interest in high-priority flooded bottomland habitats.

III. Study Background:

Green River

There are an estimated 3,000 ± acres of privately-owned lands and 3,500± acres of Tribal lands within the Green River floodplain from the boundary of Dinosaur National Monument (River Mile 318) downstream to Pariette Draw (RM 238). This stretch of river

is home range to the last remaining wild riverine population of razorback suckers. Upstream of this area (and at RM 311.5), razorback suckers spawn during high spring flows. After a few days razorback eggs hatch and larvae drift downstream into floodplain and backwater nursery areas. Levees and reduced spring flows have denied access to many of these floodplain nursery areas. The goal of Green River Land Acquisition is to restore and protect a contiguous riparian corridor to assist in recovery of the razorback sucker and other endangered fishes. Plan implementation focuses on privately-owned lands and Tribal lands within the Green River floodplain from Dinosaur National Monument downstream to Pariette Draw, where razorback adults reside; where numerous razorback larvae have been found; where flood frequency and duration can be controlled, in part, by Flaming Gorge operations; and where floodplain development has been relatively minimal and is, therefore, reversible.

The "Flaming Gorge High Flow Damage Assessment Report" (developed jointly by the U.S. Fish and Wildlife Service, the Provo Area Office of the U.S. Bureau of Reclamation, and the Western Area Power Administration), stated that 1993 flows damaged 521 acres of pasture lands, 105 acres of cropland, pumps, and 2 mobile home properties in the Jensen, Utah, area of the Green River. Estimated costs for resolving the problems and preventing future damage (e.g., by acquiring properties and moving the mobile homes and pumps) ranged from approximately \$320K to \$600K.

Therefore, acquisition of interests in floodplain properties along this stretch of river would be expected to help the endangered fishes by providing/protecting habitat; the area residents by reducing flood damages; and the Bureau of Reclamation by allowing greater flexibility in operating Flaming Gorge. The plan is to acquire perpetual easements, fee title, or other forms of agreements from willing landowners.

Gunnison River

The Gunnison River between RM 50 and RM 75 is an area where razorbacks are believed to have been historically abundant. Pikeminnow still reside in this section of river. There are approximately 774 acres of floodplain habitat in this stretch; mostly privately owned; mostly with flood prevention levees. Target areas for restoration and/or protection include Escalante State Wildlife Area (RM 51-53), owned by CDOW; Johnson Boy's Slough (RM 53.6); Confluence Park (RM 57.1), and other bottomland areas. Landowners at these and other sites are being contacted to see if they would be interested in entering into an agreement which would permit flooding during spring runoff.

Mitchell (1995) identified 61 ponds along the Gunnison River, ~40 located between RM 50 and 75. Pond owners will be contacted to see if they will permit connection of the pond with the river, to serve as surrogate floodplain habitat for use by endangered fishes.

Colorado River

Razorbacks are believed to have been abundant historically in the Colorado River between Westwater and Rifle (RM 127-240). The area currently includes pikeminnow larval nursery areas and adult high concentration areas. There are an estimated 3,588 acres of potential floodplain habitat; mostly privately owned; mostly with levees. Landowners are being contacted to see if they would be interested in entering into an agreement which would permit flooding during spring runoff.

Mitchell (1995) identified 253 ponds between Rifle and State Line. Pond owners will be contacted to see if they will permit connection of ponds with the river, to serve as surrogate floodplain habitats for use by endangered fishes.

IV. Study Goals, Objectives, End Product:

Goal: To assist in razorback sucker recovery by restoring and protecting high priority floodplain habitats along the Green, Gunnison, and Colorado rivers, by acquiring interests on floodplain properties.

Objectives: The Project can be divided into five different areas of concentration:

1. Land acquisition planning - define the need for real property, analyze the available property on a project basis, and develop an acquisition program that provides the habitat.

FY2002-2003 Objective - Acquisition planning was completed for acquisitions by Bureau of Reclamation (Bureau). During FY1999, Fish and Wildlife Service (Service) completed planning to allow transfer of Bureau easements to the Service. During FY2000, procedure for transferring easements from Reclamation to the Service was established. The Land Acquisition and Habitat Restoration coordinators also worked with the Service to develop guidelines for monitoring and managing the easements as a part of the National Wildlife Refuge System within the Service.

By FY2001, the pre-acquisition planning to obtain project maps, identify potential tracts for acquisition, etc., was completed for all project areas

2. Public contacts - meet with local, state, and federal government agencies; special interest groups; and landowners; to identify issues, develop policy, gain support, and encourage landowners to participate.

FY2002-2003 Objective - Continue and strengthen contacts that have been developed in the past. New contacts will be developed as appropriate to accomplish acquisitions.

3. Land acquisition procedure - based on planning and public contact efforts, develop procedure in cooperation with the agencies within the Recovery Program to provide real estate assistance. Both the Bureau and the Service are providing real estate assistance to acquire habitat.

FY2002-2003 Objective - To continue to revise and streamline the procedures established to acquire interests in land. The goal is to become more successful by eliminating errors, delays, and unnecessary paperwork. New acquisition procedures will be implemented as the need arises.

4. Project approvals - Approvals to authorize the overall land acquisition project.

FY2002-2003 Objective - Approvals have been received for both the Bureau and the Service to acquire property and transfers acquired property. Unless there is a change in policy, all required approvals have been received for the land acquisition project.

5. Processing individual tracts - Once a landowner expresses an interest in the program, this extensive process either eliminates their property as an acquisition alternative or prepares that property for acquisition.

FY2002-2003 Objective - To continue processing for all tracts that were not acquired in FY2001, and obligate all available funding. The method used to prepare individual tracts will continue to be reviewed and modified to make it more efficient and to establish a system of checks and balances.

End Products:

Easement or fee title agreements to restore and protect flooded bottomland within the floodplain along the Green River between Pariette Draw (RM 238) and Dinosaur National Monument (RM 318); along the Gunnison River (to RM 75); and along the Colorado River between Westwater and Rifle (RM 127 to RM 240).

Description of past performance on this or similar projects:

1. Land Acquisition Planning: This step has basically been completed. The purpose of the project is to protect and restore flooded bottomland habitat that directly benefits razorback suckers and Colorado Pikeminnow and indirectly benefits Bonytails and Humpback Chubs. The Project is limited to floodplains along limited segments of the Colorado, Green, and Gunnison Rivers in Colorado and Utah.

Perpetual easements will be acquired to protect existing habitat from development and to restore habitat with flood potential. The terms and conditions of the easement document have been drafted, reviewed, and approved. By using easements, we acquire all rights that we need to restore and protect endangered fish habitat, but we keep acquisition, operation,

and maintenance costs to a minimum. We also have minimal impact on the community and private property. Fee acquisitions may be used whenever easements are not practical.

All potential habitat has been identified and prioritized within the approved geographic areas. Data on the remaining landowners has been collected including names, addresses, and phone numbers, and they have been contacted by letter and follow-up telephone calls whenever possible. Meetings have been held in Utah and Colorado with landowners and other interested parties to review the proposed project and address local issues.

2. Public contacts: A wide variety of the public has been contacted and this will continue throughout the project. It serves to inform others of the proposed project, identify their issues and concerns, look for alternative ways to protect habitat, and develop opportunities to acquire easements in conjunction with other programs or projects. It helps us strengthen public support for land acquisitions and the Recovery Program as a whole. It also helps us identify landowners that are willing to consider an easement on their property.

Formal informational presentations have been given to all of the city and county government bodies within the project, and followup presentations will continue. Informal meetings have been held with the staff for many of the local government bodies and federal agencies that have an interest in the riparian areas. Attended various meetings with other groups such as Partners for Wildlife, Colorado Riverfront Commission, trust organizations, conservation organizations, etc. Public meetings and media interviews were held during the review period for the Draft Environmental Assessment. Informational presentations will be offered to water users, gravel industry representatives, environmental groups, and Realtors.

3. Land acquisition procedures: The Colorado River Recovery Program did not have policies and procedures for land acquisition and these had to be established. Initially it was determined that Bureau of Reclamation (Bureau) would provide technical real estate support for the program. Funding for land acquisition is a part of their budget. Using their policies and procedures complies with their acquisition approval authority. Minor modifications were adopted so that all acquisitions meet Recovery Program criteria. This includes but is not limited to development of the project; review and approval of right of entry, lease, and easement documents; initial review and approval of candidate properties; and overall assistance and monitoring.

The Bureau indicated that they would only acquire fee and easement property if another entity would accept transfer and assume responsibility for that property. Utah and Colorado were contacted by letter to see if they would accept the property. There was no response. There also was some question if the Bureau could transfer acquired property outside of the federal government. The Fish and Wildlife Service (Service) agreed to accept administrative control of the property after they complete their planning process, which has been completed. The Bureau then agreed to acquire property for the Program if their operation and maintenance costs are reimbursed by the Program. A number of transfers have been successfully completed.

This has now been expanded to allow the Service to actively acquire easements along a portion of the Colorado River with funding from the Colorado River Recovery Program.

Attempts were made without success to develop a policy with the State of Utah on the navigable sovereign lands issue. Once a contract is signed to acquire an easement, the acquisition package will be forwarded to the Department of Interior Solicitor's Office to review title under standard operating procedure. If title cannot be approved because of this issue, negotiations with the State of Utah will be handled by the Solicitor's Office.

The method of acquisition was extensively discussed and reviewed within the Program. The Bureau drafted an easement based on our summary of real property rights that had to be included. The easement document has been reviewed and approved by Program, Fish and Wildlife Service, and Bureau.

4. Overall project approvals: A Draft Environmental Assessment was completed, submitted for public review and comment. The final draft has been approved and acquisitions can proceed under the National Environmental Policy Act. A Supplemental Environmental Assessment was completed and approved by the Service so the acquisitions could be included in the National Wildlife Refuge System.

A Biological Opinion was prepared and approved. The acquisition project now complies with the Endangered Species Act and we can proceed with the acquisitions.

As mentioned above, the easement document was approved.

5. Individual tract processing: Once a landowner expresses an interest in selling an easement, an extensive process is used to eliminate undesirable property and prepare to acquire an interest in desirable property.

Many properties are eliminated from consideration during the initial stages of the processing because their land is located outside the project area or is otherwise incompatible. Other properties were dropped from consideration by the Program or the landowner during the review process.

After the initial contact is made a physical review of the property is conducted with the landowner or their representative by the Habitat and Land Acquisition Coordinators. During FY 2001, we have been working with the Refuge Manager for the Colorado River Wildlife Area to integrate refuge review of the potential acquisition properties into the acquisition process. If the property has good potential, an initial search of the county records is conducted and basic information on the property is compiled to begin processing. This includes maps, aerial photographs, legal descriptions, lease and permit information, loans, and basic background data. A contaminant survey and topographic floodability survey are requested for the property. This can take up to six months until completion. The acquiring agency is requested to order a preliminary title search and a right-of-entry agreement is forwarded to the landowner for signature.

Once the property passes the contaminants survey and is approved for floodability, basic information and the floodability maps are forwarded to the acquiring agency to survey the fee and easement property boundaries and to issue an appraisal contract. Incidental information on leases, gravel rights, gravel permits, loans, etc. are also collected and analyzed to prepare for acquisition.

The Bureau of Reclamation has made offers on 29 properties and successfully acquired fourteen properties in fee or with easements. Other properties are in various stages of the acquisition process and they are being processed to prepare to obligate FY2002 available funding before the end of the fiscal year. The Service is preparing to make their first three offers the end of FY2002.

During the early stages of the project, considerable time was spent negotiating with Bureau of Indian Affairs and the Ute Tribe to reach an agreement to protect flooded bottomland on tribal lands along the Green River. Those negotiations ended without an agreement. During FY2001, negotiations were initiated again.

V. Study Area

This SOW pertains to the Green River floodplain between Pariette Draw (RM 238) and Dinosaur National Monument (RM 318); the Gunnison River floodplain between Escalante SWA (RM 50) and the North Fork (RM 75) and the Whitewater area; and the Colorado River floodplain between Westwater (RM 127) and Rifle (RM 240).

Green River

A number of privately-owned floodplain properties were initially identified as having possible acquisition potential between Dinosaur National Monument and Pariette Draw.

The following table lists sites which had standing water during May 1993 (when flows were 18.2kcfs at Jensen and 23.9kcfs at Green River) that are either private or Tribal lands. In some cases, standing water may have been caused by "subbing" as opposed to flooding. Some of the sites may have levees which could not be detected on the 35mm aerial photos. Private owners for most of these sites have been contacted to see if they would be interested in some form of agreement.

Table - Green River floodplain habitats with standing water during 1993.

<u>SITE</u>	<u>RIVER MILES</u>	<u>5/93 ACRES</u>	<u>9/93 ACRES</u>
Escalante	302.5-309.5	149	51.9 Pri/Dep/Lev
Meril Snow Ranch	302.0-303.0	82	1.3 Pri/Dep/Lev
Gravel Ponds	301.0-302.0	10	9.9 Pri/Dep
Little Stewart	295.5-297.5	132	143.3 Fed/Pri/Dep/Lev
Spring Hollow	295.0-296.0	19	9.4 Pri/Ter
Walker Hollow	294.0-295.0	22	13.1 Pri/Ter
Alhandra Ferry	292.0-294.0	18	1.9 Pri/Dep
Gravel Pits	292.0-293.0	5	1.2 Pri/Dep
Horseshoe Bend	277.0-284.0	85	14.1 Fed/Pri/Ter
Hamacker/Baeser	271.0-274.0	316	4.0 Pri/Dep
Brennan	262.0-266.0	100	0.0 Fed/Pri/Dep/Lev
Ute Pasture	248.0-251.0	432	0.0 Tribe/Ter
Duchesne confluence	248.0-249.0	134	3.0 Tribe/Ter/Lev
White confluence	248.0-249.0	496	0.0 Tribe/Ter/Lev
West Branch	243.0-247.0	615	37.4 Tribe/Dep
Tia Juana	242.0-244.0	319	64.6 Tribe/Dep
Pariette Draw	238.0-241.0	106	0.0 Pri/Ter
Gold Hole	201.0-202.0	29	0.0 Tribe/Ter
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Total = 18	201.0-310.0	3,069	355.1
Terraces -	1,323 acres	<u>KEY</u>	
Depressions -	1,746 acres	Pri-Private lands	Dep-Depression
		Fed-Federal lands	Ter-Terrace
Tribal -	2,025 acres	Tribe-Tribal lands	Lev-Levee
Private -	1,044 acres		
With Levees -	872 acres (some sites may have levees which could not be detected in the aerial photos)		
Without Levees -	2,197 acres		

Not all of the owners of all of these properties have been contacted, at least not initially. For example, some of the properties are small lots with houses, surrounded by other small lots with houses, with multiple-owner tracts between them and the river. The ideal bottomland property would be large, single owner, within the 5-year floodplain, with levees that could be breached to enhance floodability, and no adjacent landowners that would be affected by enhanced floodability. The following criteria were considered in determining which landowners to contact first:

1. Property within the 100-year floodplain.

2. The most "floodable" properties will be targeted first (i.e., properties within the 1 to 10-year floodplain which flood or could be made to flood at the lowest flows; determined by aerial photos, 1993 High Flow Damage Assessment surveys; and/or floodability surveys).
3. No known contaminants problems (based on existing available data).
4. Surface acreage.
5. Improvements on property (which would affect the value and cost of the property and the potential for flood damage).
6. Ownership patterns (e.g., bottomlands with multiple owners).

Based on these criteria, on the Bottomlands Reconnaissance Inventory, on results of the 1993 High Flow Damage Assessment surveys, and on aerial photos taken during spring runoff, lists of private and Tribal lands have been compiled as a starting point for making contact with landowners. This has been refined to 44 actual ownerships that have acquisition potential. All of these landowners have been contacted to determine if they might be interested in some form of agreement (i.e., to assess their willingness to cooperate/participate). Where landowners have shown an interest, their properties go through a standard screening process before an easement/agreement can be finalized. Each candidate site require a contaminants assessment, a floodability survey, environmental compliance, title search, appraisal, and solicitor review before an agreement can become final. The property's failure to pass any of the "tests" could eliminate it as a potential acquisition site.

Of these 44 land owners, all of them have been contacted by letter and most of them have been contacted by phone or in person.

Total number of landowners:	44
Landowners that responded positively:	23
Properties rejected by the Program:	3
Interested landowners that dropped out	<u>2</u>
Remaining interested landowners:	18
Approved landowner being prepared for offer:	1
Offers refused:	9
Offers outstanding:	0
Acquired easements:	<u>8</u>
Total interested landowners:	18

Gunnison River

There are approximately 774 acres of potential floodplain habitat between RM 50 and RM 75. Mitchell (1995) identified approximately 40 ponds along the river in this area. The most floodable lands and the ponds closest to the river will be targeted for easement agreements.

Total number of owners:	14
Landowners that responded positively:	11
Properties rejected by the Program:	3
Interested landowners that dropped out	<u>0</u>
Remaining interested landowners	9
Approved landowners being prepared for offer	6
Offers refused	2
Offers outstanding	0
Acquired easement or fee	<u>1</u>
Total interested landowners:	3

Note: Two of the properties that refused our offers were sold to another party and we are preparing an offer for them.

Colorado River

There are an estimated 3,588 acres of potential floodplain habitat between Westwater and Rifle (RM 127-240). Also, Mitchell (1995) identified 253 ponds between Rifle and State Line. The most floodable lands and the ponds closest to the river will be targeted for easement agreements.

Total number of owners:	113
Landowners that have responded positively:	34+
Properties rejected by Program:	8
Interested landowners that dropped out	<u>8</u>
Remaining interested landowners	18
Interested acquired by State of Colorado	2
Approved landowners being prepared for offer	8
Offers refused	3
Offers outstanding	1
Acquired easement or fee	<u>4</u>
Total interested landowners:	18

VI. Study Methods/Approach

Strategy:

The Land Acquisition Coordinator is responsible for coordinating all aspects of the acquisition project. The coordinator works directly with landowners, the local community, and appropriate agencies to acquire habitat so it can be enhanced and

protected. Specific information on the five areas of concentration and our FY02 objectives can be found in Section IV, above.

Our efforts in the past were to design the project, conduct extensive outreach in the local communities, identify willing landowners, seek project approvals, and process potential tracts for acquisition. After we completed our initial planning and established contacts within the local communities, we concentrated more of our efforts on actual land acquisition with less emphasis on outreach and project development.

Geographically, our initial efforts were focused on Green River habitat in Utah. In FY1999 we contacted every remaining landowner on the Green River and contacted landowners with priority habitat along the Colorado River in Mesa County, Colorado. In FY2001, we finished contacting all of the remaining landowners on the Colorado River and Gunnison River in Colorado. Available tracts with good habitat will be processed as quickly as possible for acquisition.

Public contact will continue to provide information on our project and to solve issues that develop. The focus for public contact has shifted more toward developing partnerships that will help us acquire land and provide habitat.

VII. Task Description and Schedule (FY2002-2003)

1. Acquisition Coordinator develops community relations throughout local community; and contacts landowners to introduce concept of habitat restoration and the land acquisition program. (ongoing).
2. Coordinator oversees the processing of individual tracts as described in Section IV, in subsection identified as Description of past performance on this or similar projects, under Item 5 - Land acquisition procedures.

Note: Contaminants screening, floodability assessments, and NEPA will be funded from other Habitat Restoration Program components.

Following are time estimates (per site) for portions of the process:

- Initial contact and review: 1 month
 - Floodability and contaminant surveys: 4-7 months
 - Boundary survey and appraisal process: 3-6 months
 - Negotiation process: 1-3 months
 - Title clearance, legal review, closing: 1-3 months
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- Total: 10-20 months per site

Note: New procedures are being tested to reduce the time and expenses required to complete the floodability and contaminant surveys.

VIII. FY-2002 Work

-Description of Work

See study methods/approach and task descriptions, above.

-Deliverables (due dates vary as willing landowners are identified)

- Floodability reports
- Contaminants reports
- Preliminary and Final Title Reports
- Appraisal reports
- Boundary surveys, maps, and legal descriptions
- Cooperative agreements with third parties (if needed)
- Final agreements/easements
- Final Title Opinion and Recordation
- Transfer easements from Reclamation to Service
- Summary report of results 12/2002

-Budget

\$ 748.0K

Project Leader (operational expenses, travel, etc.) = \$87.5K

Appraisals \$4K to \$8K per site X 20 sites = \$80K to \$160K

Land Values

Green River - \$150 to \$1,500 per acre

Colorado and Gunnison rivers - \$300 to \$15,000 per acre

Perpetual easement = 10% to 100% of fee value

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Range \$15 to \$15,000 X 1000 acres = \$15K to \$15,000K

Miscellaneous costs (title, survey, legal, closing) = \$40K to \$200K
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Total Needed = \$215K-\$15,440K (versus \$748K available)

*The Management Committee will decide what to do with any unexpended funds.

FY 2003 Work

-Description of Work

An assessment of progress will be made. Assuming we have been successful, then work will continue as described above.

-Deliverables (due dates vary as willing landowners are identified)

- Floodability reports
- Contaminants reports
- Preliminary and Final Title Reports
- Appraisal reports

Boundary surveys, maps, and legal descriptions
Cooperative agreements with third parties (if needed)
Final agreements/easements
Final Title Opinion and Recordation
Transfer easements from Reclamation to Service
Summary report of results 12/2003

-Budget
\$ 500.0K

IX. Budget Summary

FY2002 \$ 748.0K plus \$26.5K overhead
FY2003 \$ 500.0K
Total: \$1,248.0K