

# STATE OF COLORADO

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## Colorado Water Conservation Board Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Ted Kowalski and Linda Bassi

DATE: November 8, 2009

SUBJECT: **Agenda Item 11, November 17-18, 2009 Board Meeting  
Water Supply Protection Section – Wild and Scenic  
Rivers**

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Bill Ritter, Jr.  
Governor

James Martin  
DNR Executive Director

Jennifer L. Gimbel  
CWCB Director

Dan McAuliffe  
CWCB Deputy Director

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### Background

As we have discussed at a number of previous meetings, there are several different BLM and USFS field offices that have initiated NEPA analysis through their planning processes, including considering whether certain river segments are appropriately “suitable” for designation under the Wild and Scenic River Act. With regard to these processes, the CWCB Staff have continued to attend meetings with the various stakeholders, who include environmental interests, local governments, recreational interests, federal agencies, state agencies, and water providers, to explore a variety of alternatives for protecting the Outstandingly Remarkable Values (“ORVs”) associated with these river segments without affecting Colorado’s ability to fully use its compact entitlements. Stakeholder groups are currently discussing alternatives in the Dolores River basin (“DRD group”), the San Juan River basin (separated into five different basins) (“RPW group”), the Upper Colorado River basin (“the Upper Colorado group”), and the lower Gunnison, Dolores, and Colorado River basins (“the lower Colorado group”).

This past legislative session, the General Assembly enacted Senate Bill 09-125, which created the Wild and Scenic Rivers Fund (“Fund”) and continuously appropriated \$400,000 annually from the CWCB’s Construction Fund to develop protection of river-dependent resources as an alternative to wild and scenic river designation. This Fund refreshes up to \$400,000 each year; however, the “Board shall review the purpose of the Fund annually and hereby is authorized to cease providing moneys in the following year if, in its discretion, the Board determines that the purposes for which the Fund was established has ceased. The Board may set terms and conditions as it deems appropriate concerning the annual expenditures of moneys from the Fund.” At the September Board meeting, the Board requested the Staff to develop a draft of terms and conditions for distributing monies from the Fund, which are attached. In addition, the Board requested additional details about the four existing alternatives processes.

### Staff Recommendation

The Staff recommends that the Board adopt the attached terms and conditions for Fund distribution. In addition, the Staff recommends that the Board provide feedback on the current status of the various processes.

### **Additional Background on the Various Processes**

The various stakeholder processes are in vastly different stages. Following is a brief description of the current status of the various processes.

### **Upper Colorado Stakeholder Group Update (Upper Colorado River)**

As provided in the Director's report, Director Gimbel and the Stakeholder Group both wrote letters requesting that the BLM grant the State and the Stakeholder Group additional time to develop an alternative for consideration within the EIS process. The BLM Acting State Director granted the Stakeholder Group up to November 30, 2009 to submit its proposal, but the Director made suggestions and requests. These letters are attached.

The Stakeholder Group has one key issue that we are working on—provisional boating resource guides. This issue has proven to be one of the thorniest issues of this negotiation; however, we recently have made some substantial strides towards resolution of this issue. The Stakeholder Group is (at the time of this writing) exploring a proposal wherein we include provisional boating flows that are based on PACSIM numbers as resource guides. These provisional boating flows represent future hydrology based on both west slope and east slope water development futures. Because of concerns with using PACSIM (which the west slope interests do not agree with), and with including the boating flow preference ranges (which the front range providers do not agree with), we have developed the following “poison pill” language proposal to include in the plan:

This language is submitted for consideration by the full Stakeholder Group (SG) with the understanding that the SG still needs to address the following issues:

- We need to make sure that we reflect in the appropriate place(s) in the SG Plan that we understand that we don't have the information we need to set permanent guides and that setting those guides will be informed by information about the resource and water uses.
- We need to be comfortable with how we explain the rationale, context, and related caveats with respect to setting the provisional guides, while at the same time putting forth the best we can do at this time.

The Provisional Boating Flow Guides, as set forth in Paragraph \_\_\_ of the Plan, were negotiated using an assumed future hydrology. Some Stakeholders have expressed serious concern with such an approach because they believe that it will result in a reduction of usable boating days from what occurs under existing hydrology. However, these Stakeholders have agreed to include the provisional boating guides in the Plan, subject to the negotiation of protective measures within the context of the permitting for the Windy Gap Firing Project and the Moffat Collection System Project (“Projects”) that will address consistency of the Projects with the ORVs. If the outcome of those negotiations precludes continued support of the Plan by any Stakeholder, it is recognized that the Stakeholder Group will withdraw the Plan from consideration by BLM as a locally supported Wild and Scenic management plan alternative. To clarify, the net effect of such withdrawal will be that the BLM will be left to determine the appropriate Wild and Scenic determinations and protective measures for Segments 4, 5, 6 and 7, if any, without taking into account the Stakeholder Group's local management plan alternative. Notification to BLM of Plan withdrawal should occur prior to the issuance of federal permits for the Projects or prior to the issuance of BLM's Revised Resource

Management Plan, whichever first occurs. If federal permits for the Projects have yet to issue within 30 days before BLM's final decision on its Revised Resource Management Plan, the Stakeholder Group will advise BLM as to the status of the continued support for the local Wild and Scenic management alternative. If the outcome of those negotiations results in terms and conditions or other agreements related to the Projects that allow for the continued Stakeholder Group support of the Plan, the Stakeholder Group will modify the Plan to confirm that the Windy Gap Firing Project and the Moffat System Improvement Project fall under ["Para. B on Reopeners"].

The inclusion of this language resolves some of the concerns. However, the current debate is whether to include just the front range water providers table of usable days as the provisional resource guides or whether to also include the boating community's preferred numbers of usable days as goals for consideration as we implement cooperative measures. The front range water providers are concerned that if we include a table, even one with disclaimers saying that the number of usable days within the table is just aspirational, then others will use that table in different regulatory processes to thwart proposed water projects. In response, the west slope interests have proposed the following text to address this issue:

**Provisional Recreational Floatboating Flow Guides - Segments 4, 5, and 6**

The Stakeholder Group will develop permanent flow guides protective of the Recreational Floatboating ORV as soon as possible but in no event later than 3 years after submittal of this Plan to BLM. In the interim, this Plan adopts the following numeric and narrative criteria as Provisional Flow Guides. The numeric criteria describe the number of boatable days ("Usable Days") within the recreational boating season of April 1 to October 1, expressed as a range from minimum to median and maximum under each boating experience category. For purposes of this Provisional Flow Guide for Segments 4, 5, and 6, flows between 700 cfs and 1300 cfs are presumed to provide a low water experience ("green"); flows between 1300 cfs and 4000 cfs are presumed to provide a standard experience ("blue"); and flows above 4000 cfs are presumed to provide a high water experience ("black"). Flows through Segments 4, 5, and 6 less than 700 cfs or more than 7400 cfs are not considered to be Usable Days under these Provisional Flow Guides.

Even in the absence of cooperative measures contemplated by the plan, the following chart reflects the range of Usable Days within each boating experience category expected to be achieved, depending on the type of water year. During the provisional 3-year period, Usable Days less than the median number identified below within each boating category (depending on year-type) may present a significant risk of impairment for determination by the Stakeholder Group under paragraph [X] of this Plan.<sup>1</sup>

	Green Opportunities 700 – 1300 cfs	Blue Opportunities 1300 – 4000 cfs	Black Opportunities 4000 – 7400 cfs
<b>Wettest 25% Years</b>	121 (74) 38	79 (72) 39	28 (22) 4

<sup>1</sup> For purposes of this Provisional Flow Guide, the median number of Usable Days shall be determined by [including the number of Usable Days in the current recreational boating season into the median number of days represented by each of the respective year-types included in the modeled future hydrology that was used to develop the above-chart].

<b>Wet Typical 25% Years</b>	119 (108) 68	79 (57) 19	5 (0) 0
<b>Dry Typical 25% Years</b>	127 (106) 68	33 (14) 0	0 (0) 0
<b>Driest 25% Years</b>	87 (73) 53	25 (1) 0	0 (0) 0

The numeric criteria shown in the above chart are based on simulated future stream flow conditions based on past natural stream flows coupled with future demands and system operations (herein “simulated future flows”) instead of existing hydrology which some stakeholders (including those representing the boating recreation community) maintain is not protective of the ORVs. The entire Stakeholder Group agrees to implement cooperative measures when practicable (considering available resources and protection of the other ORVs) in order to maximize the number of Usable Days for each boating experience category, within each year type. It is anticipated that stakeholders will bring their specific preferences and goals to the cooperative measure planning process and to the negotiation of final boating flow guides. The use of simulated future flows as part of these Provisional Flow Guides does not reflect agreement on the part of the Stakeholders regarding whether simulated future flows or historical stream flows should be used to develop permanent Recreational Floatboating Flow Guides, even if [the Poison Pill] was not exercised.

#### NOTES:

1. Definitions required for the four year types.
2. A frequency of compliance standard is required for permanent flow guides, or anything past the 3-year period.
3. Channel Maintenance Flows are needed for significant sediment transport and riparian health. As part of the provisional fishing guides and based upon the relevant literature, adequate channel maintenance flows are typified by overbank flows associated with less frequent but higher flows, on the order of a 10 year recurrence interval streamflow of approximately 6,700-8,000 cfs in the upper W&S reaches.
  - a. 6,700 cfs is the reported 10 year event from the Grand County Flood Insurance Study (F.I.S.) published by F.E.M.A (6,700 cfs; 1962-2006 hydrology); analysis of gaged streamflow data at the Kremmling indicates a range of 7,000 to 8,000 cfs (1982-2008 hydrology).
  - b. Duration of channel maintenance flows should be determined.
  - c. In the provisional period, appropriate stream segments for further field-based evaluation of channel maintenance flows should be identified (for all W&S stream segments). Additionally, a corresponding monitoring protocol should be developed.
4. Flushing Flows are needed to clean spawning gravels. For the provisional fishing guides, flushing flows should be 1,800 cfs for 3-days in duration with a 1 in 2 year frequency, coinciding with peak flow (based upon Grand County studies).
  - a. Flushing flow criteria need to be developed for Segment 7.

5. Add clear criteria for science used in next 3 years. I.e., independent consultant, etc. Agree to process.
6. Need to develop separate table for permanent flow guide for Segment 6.
7. Need to develop provisional flow guide for Segment 7.
8. Further elaboration on specific types of cooperative measures needed.

This language is being discussed currently, and the Staff will be able to update the Board on the outcome of these negotiations.

### **Wild and Scenic Alternatives Group (Dolores River)**

#### **Background**

In 2007, the San Juan Public Lands Center (comprised of both the Bureau of Land Management (“BLM”) and U.S. Service (“USFS”)) issued the draft San Juan Public Lands Land Management Plan. Based upon previous recommendations from a 1976 Wild and Scenic River Study Report, the draft Plan designates the Dolores River from McPhee Dam to Bedrock as eligible for Wild and Scenic designation, and also contains a preliminary finding of suitability for the same reach of the Dolores River. The Outstandingly Remarkable Values (“ORVs”) identified by the draft Plan for this 105-mile reach of the Dolores River are fish, wildlife, recreation, geography, scenery, ecology, and archaeology. A map of the subject reach and a table of the ORVs are attached to this memo. The draft Plan also contains the following statement:

“The [Dolores River Dialogue] process shows great promise in achieving enduring protections for this stream reach. Should the DRD make substantial progress in identifying and securing needed protections of the ORVs, the recommendations of the group could be used to supplement or replace this preliminary finding of suitability. Ideally, the DRD will be able to provide their recommendations for management of the lower Dolores River prior to the close of the public comment period for this draft Plan Revision. Input from the DRD could then be more fully considered in the final Plan and associated environmental analysis.”

In response to the draft plan, the Dolores River Dialogue (“DRD”) organized the Lower Dolores Management Plan Working Group (“Dolores Group”) to develop alternatives to Wild and Scenic designation on the Dolores River through a broad public process. The DRD is a collaborative group of conservation, water management, land management, recreational and governmental representatives working since January 2004 to explore opportunities to manage McPhee Reservoir to improve downstream ecological conditions while honoring water rights, protecting agricultural and municipal water supplies and the continued enjoyment of rafting and fishing.<sup>2</sup> The actions that may result from this effort include: (1) river channel work (maintenance, restoration, habitat improvement); (2) spill flow management / enhancement; (3) base flow – pool management/operation; and /or (4) some combination of the foregoing. The Dolores Group will submit recommended alternatives to the San Juan Public Lands Center (“SJPLC”) (comprised of both the Bureau of Land Management (“BLM”) and U.S. Service (“USFS”)), as part of the San Juan Public Lands Land Management Plan Revision process.

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<sup>2</sup> Participants in the DRD include the Dolores Water Conservancy District, Montezuma Valley Irrigation Company, Bureau of Reclamation, Colorado Division of Wildlife, San Juan Public Lands, Montezuma County, Dolores County, CWCB, Fort Lewis College, Trout Unlimited and the Dolores River Coalition.

Dolores Group participants include DRD participants and representatives from Dolores, Montezuma, and San Miguel Counties; the Towns of Dove Creek and Dolores, the City of Cortez, water managers and water rights holders; grazing and property owner stakeholders; oil, gas, mineral and mining representatives; recreationists; conservation groups; staff members from the USFS/BLM; and other interests.

The Dolores Group is focusing on using ongoing field research from the Dolores River Dialogue, monitoring and adaptive management, and McPhee Reservoir spill management to develop tools and strategies to protect the Outstandingly Remarkable Values (“ORVs”) identified on the Dolores River. For example, the DRD’s Big Gypsum field site is being used to evaluate the ecological response of the Dolores River to various flow, spill management and restoration opportunities resulting from a combination of weather conditions, water management decisions and restoration experiments. Information on the activities of the Dolores Group, including detailed meeting summaries and presentation materials can be found on the Dolores River Dialogue Website at: <http://ocs.fortlewis.edu/drd/> at the link entitled “Lower Dolores Plan Working Group.” To date, the CWCBC has dedicated \$99,980 of Wild and Scenic alternatives funding towards this process. Below is a summary of the Dolores Group’s activities to date, planned activities, and deliverables produced. A schedule of the Dolores Group’s meetings and activities is attached to this memo.

### **Dolores Group Activities**

Meetings 1-6 from December 2008-May 2009 began with an introduction to key laws and documents (including the Wild and Scenic Rivers Act and the Dolores River Corridor Management Plan and role of the Dolores River Dialogue), followed by a series of topical meetings relevant to the protection of Outstandingly Remarkable Values (ORVs) including: Meeting 2 – Science, Recreation and Spill Management; Meeting 3 – Fish, Ecology and Wildlife; Meeting 4 – Archaeology, Geology and Wild and Scenic Rivers; Meeting 5 – Potential Protection Tools and the 319 Watershed Study; and Meeting 6 – Minerals, Oil & Gas Development and Grazing. Facts Sheets briefing each of the meetings were placed on the website, and distributed in hard copy to key distribution points throughout the local area.

Field Trips in May, July and September 2009 focused on five reaches of the Dolores River delineated by the DRD that fall within the jurisdiction of the Dolores Public Lands Office. A Reach Map depicting DRD reaches 1-5 as well as how the River is divided into Wild, Scenic and Recreational eligibility classifications is Attachment D. The May Field Trip was on Reach 2, accessible only by raft. Nine rafters volunteered to take Dolores Group members down this unique and isolated stretch characterized by a unique combination of red rock desert canyons populated by large old growth ponderosa pines. The July Field Trip was to the lower end of Reach 1 to discuss research and monitoring of the fisheries, water quality, riparian health and flows. The September Field Trip was along Reaches 3 and 4 which include substantial private property, the Big Gyp Monitoring Site, major tamarisk removal and native vegetation restoration efforts, grazing and the Slick Rock Boat Launch.

Dolores Group Meetings 8-11 will focus on information on the ORVs and small group brainstorming on Management Strategies and Tools for Protection on a reach-by-reach basis. The discussion at each of these meetings will begin with Overall Goals and Objectives for the 1990 Dolores River Corridor Management Plan. The update of the Corridor Management Plan is one of the Management Actions to be taken by the Dolores Public Lands Office based upon Dolores Group recommendations and public input during the subsequent Environmental Assessment process that will be conducted by the Public Lands Center. After Meeting 11, the

Dolores Group will move to a series of 3 Topic Workshops that will result in proposed Protection Strategies.

The Dolores Group will draft and review a Final Report in March-May of 2010. The Report will contain a Preferred Alternative in areas where consensus can be reached, and a range of alternatives in areas where a range of opinions exist. The Interdisciplinary Team from the Dolores Public Lands Office will draw on the Dolores Group Report in formulating a Corridor Plan update, and recommendations for incorporation or amendment into the San Juan Forest/BLM Resource Management Plan.

### **Summary of Field Science Work**

One of the science-related deliverables is “a summary of field work conducted . . . and the knowledge gained and its application to ORVs.” Two reports have been produced related to the field work: (1) a Field Science Summary prepared by Chester Anderson, which includes science, monitoring and adaptive management questions going forward; and (2) a research report by M.A. Candidate Adam Coble on the “Relationship between Regulated Stream Flow and the Establishment of Native Riparian Tree Species in the Dolores River Watershed.” The combination of these reports address ORVs pertaining cold water and native fisheries, riparian vegetation, channel maintenance, and rafting. Specific issues include water quality, water temperature, dissolved oxygen levels, flushing flows, tamarisk removal and cottonwood regeneration. All of these functions are considered in light of managing for rafting flows. A key question that comes out of these studies is how to prioritize among native fish, trout, and rafting in managing spills, fish pool releases, and outlet levels in McPhee dam. Results from the ongoing DRD field research, monitoring and adaptive management, particularly in relationship to Wild and Scenic ORVs will continue to be integrated into the Working Group effort to develop tools and strategies for ORV protection.

### **River Protection Workgroup Update (Hermosa Creek)**

The River Protection Workgroup is a group of interested stakeholders including the Southwestern Colorado Water Conservation District, the U.S. Forest Service, the State, local governments, environmental organizations, the tribes, and others who are exploring river resource protection in a manner that allows Colorado water users to fully develop our compact entitlements. This group has a steering committee and had divided the basin into five sub-basins so that each sub-basin could hold a series of meetings and adopt a proposal that meets their local needs and purposes. The sub-basins are the Hermosa Creek basin, the San Juan River basin, the Pine River basin, the Piedra River basin, and the Animas River basin. Over the last two years, the Hermosa Creek sub-basin has been engaged in a public process to explore resource protection consistent with the steering committee’s goals. At the November public meeting, this sub-basin generally settled on a proposal to proceed now with land protections on Hermosa Creek in the form of a National Conservation Area and a Wilderness Area, using the existing 1993 Wilderness Act legislative language on water, with the understanding that all of the parties have agreed to “circle back” to this group to provide water protection once the other sub-basin processes are complete or near complete. However, there are a couple of remaining issues regarding the land protections. A copy of the draft Hermosa Creek River Protection Work Group is attached for your consideration, and the issues are identified therein. Of primary interest to the Board is the fact that the SWSI Reports have identified a possible reservoir within the Hermosa Creek watershed. The RPW is discussing how to allow land protection to proceed in a way so that the possible reservoir site will not be prevented as a result.

**Grand Junction Process (Lower Colorado River)**

This process is still in its infancy. The stakeholders have contributed funds towards this effort, and the Colorado River Water Conservation District has agreed to act as the fiscal agent. The District has entered into a contract with Heather Bergman, of the Keystone Center, to act as a facilitator, and there was a meeting on November 3, 2009 in Grand Junction wherein they agreed to establish subgroups to deal with certain streams. This process is moving very quickly to meet a May 2010 deadline. Rebecca Mitchell, of the Executive Director's Office is overseeing this effort.



# PROCEDURES DEVELOPED BY THE COLORADO WATER CONSERVATION BOARD FOR THE ALLOCATION OF FUNDS FROM THE WILD AND SCENIC ALTERNATIVES FUND

## **Background**

In 2009, the General Assembly: 1) established the Colorado Water Conservation Board Wild and Scenic Rivers Act Alternatives Fund (“the Fund”); 2) provided that the Fund would be refreshed annually up to \$400,000; 3) stated that the Fund should be used to support cooperative and collaborative processes designed to protect outstandingly remarkable values (“ORVs”) associated with rivers within Colorado, while protecting Colorado’s ability to fully use its compact and decree entitlements; and, 4) provided that the Board may adopt terms and conditions for fund dispersal. Currently, there are seven different federal processes where a federal agency is evaluating the eligibility or suitability of different rivers or streams for Wild and Scenic designation. In response to several of these federal processes, some local stakeholders have formed alternative resource protection groups (“alternatives groups”) that are exploring different avenues for resource protection—some of which include “wild and scenic” designation as an option for resource protection. These terms and conditions are designed to assure that the Fund is used to support the efforts of these various alternatives groups in an equitable and efficient manner.

## **Introduction**

Except for funds used by the CWCB staff for operational expenses, requests for use of the Fund shall be provided to the CWCB Director in writing. It is the goal of the CWCB to ensure wise and effective use of monies from the Fund. The CWCB strongly encourages the use of this Fund for projects that result in the compilation of the best available data at the earliest stages of the federal agencies’ plan revisions and processes to evaluate streams and rivers for eligibility and suitability for Wild and Scenic designation.

## **Administration of the Fund**

The CWCB will:

- Annually review information regarding the Fund.
- Each year consider and make any necessary revisions to these criteria and guidelines.
- Determine if the purposes for which the Fund was established have ceased, and if so, de-authorize the Fund.

The CWCB Director will:

- Approve or reject the use of all funds.

The CWCB Staff will:

- Ensure that the Fund is managed consistently with state statutes, applicable state fiscal rules, and these terms and conditions.
- Review applications and recommend use of the Fund. The CWCB Director must approve all applications to use the Fund.
- Enter into contracts with appropriate entities and ensure that the project identified in the application and work plan is implemented within the time and budget identified in the application.
- Ensure that sound fiscal, fiduciary and accounting practices are implemented.

## **Overview of the Fund Management**

### **Eligibility Requirements for Project Sponsorship**

The Staff may use the Fund to pay for travel costs or other operating expenses incurred by the Staff for activities related to participation in alternatives groups. In addition, entities may apply for use of monies from the Fund. Eligible entities that may sponsor projects and apply for allocations from the Fund include:

- Public (Government) - municipalities, enterprises, counties, and State of Colorado agencies. Federal agencies are encouraged to work with local entities and the local entity should be the recipient of monies from the Fund. Federal agencies are eligible, but only if the proposed project provides significant benefits to Colorado and the federal agency can make a compelling case for why a local non-federal partner cannot sponsor the project and receive monies from the Fund.
- Public (Districts) - special, water and sanitation, conservancy, conservation, irrigation, and water activity enterprises.
- Private Incorporated - mutual ditch companies, homeowners associations, and non-profit corporations.
- Private - individuals, partnerships, and sole proprietors.
- Non-governmental organizations - are broadly defined as any organization that is not part of the government.

### **Project Sponsorship Process**

Project sponsors may submit applications for monies from the Fund at any time. The Board will be notified of any requests for use of the Fund that are granted and/or denied, through the Director's report or a memorandum to the Board.

### **Written Request Submittal Requirements**

To apply for use of the Fund, the project sponsor must submit a written request to the CWCB Director ("application" or "request for funds"). The CWCB Director's and Staff's review and analysis of the application, utilizing the terms and conditions, will form the basis for the CWCB Director's decision to fund, partially fund, or not fund the request. Therefore, project sponsors should prepare their applications to address these terms and conditions. The following paragraphs provide a general overview of the information that is needed to complete an application for use of the Funds.

Application information and requirements may vary depending upon the stakeholders involved, the status of a federal agency's Wild and Scenic review process, and other unique circumstances that may exist. The project sponsor is encouraged to discuss the application with CWCB staff if any questions arise.

### **Description of Project Sponsor(s) and/or Stakeholders involved in the process**

Each request for funding should include a description of the entity/entities that are involved in the process. The project sponsor may be a public or private entity. Given the diverse range of potential project sponsors, not all of the following information may be relevant. Where applicable and relevant, the description should include the following:

- Type of organization, official name, the year formed, the statute(s) under which the entity was formed, a contact person and that person's position or title, address and phone number.
- The project sponsor's background, interest and capacity, organizational size, staffing and budget, and funding.

### **Background**

#### Purpose

This section should provide: 1) a brief overview of goals of the alternatives group; 2) the status of the federal agency (or agencies) Wild and Scenic process; and, 3) a description of the project the funds would support.

#### Project Area Description

The project area is generally the geographic area that is being discussed. This description should include a listing of the rivers that are under "Wild and Scenic" consideration by a federal agency. The description should include the following items:

1. A narrative description of the project area that includes the county (counties), the location of towns or cities, topography, land ownership along the river systems, and locations of major rivers.
2. An area map showing each of the items above, as well as the locations of existing facilities, proposed project facilities and river segments that are listed as eligible and/or suitable for Wild and Scenic designation.

### **Scope of Work**

The request for funds must provide a scope of work. The scope of work should include a detailed summary of how the project will be accomplished. The scope of work must include a description of the activities and tasks that will be undertaken, logistics, and final product/deliverables to be produced with the monies distributed by the Fund for the various tasks.

The scope of work should include the following:

- Detailed summary of the work plan.
- Description of the work plan's goals and how the work will accomplish those goals.
- Description of how the work will be accomplished and major deliverables/products.
- A list of participants.
- A description of the selection process of the entity that will complete the scope of work, or if an entity has already been selected, then a list of the entity's qualifications to accomplish the project.
- A detailed budget by activity, level of effort, and rates. The budget shall also detail the source and amount of matching funds and/or in-kind contributions, if any. If applicable, the budget should also include any other outstanding or previously applied for funding that also supports the project.
- A detailed project schedule that includes key milestones.

### **Reporting**

The project sponsor shall provide progress reports to the CWCB at least every 6 months, and on a more regular basis to the CWCB staff, beginning from the date of the CWCB approval of the project. The progress report shall describe the completion or partial completion of the tasks identified in the scope of work, including a description of any major issues that have occurred and any corrective action taken to address these issues.

### **Final Deliverables**

At completion of the project, the project sponsor shall provide a final report to the CWCB that summarizes the project and documents how the project was completed. This report may include photographs, summaries of meetings and/or additional reports.

### **Evaluation Process for Allocation of Funds**

Allocation of funds will depend upon availability of funds and an evaluation of the project using the terms and conditions in this section.

#### **Matching Requirement:**

Applicants will be required to demonstrate a 20 percent (or greater) match from other sources of the total amount of funds requested. Recognizing the limited resources of some entities, in-kind services will be eligible as matching funds. Past expenditures directly related to the project may be considered as matching funds if the expenditures occurred within 9 months of the date the request for funds was submitted to the CWCB.

### **Evaluation Terms and Conditions**

The following terms and conditions will be utilized to further evaluate requests for funds:

- a. The number and types of entities represented by the application and the degree to which the project will promote cooperation and collaboration among traditional consumptive water interests and/or non-consumptive interests.
- b. Whether the project could help in assuring that ORVs or potential ORVs are protected while protecting Colorado's ability to fully use its entitlements under compacts or decrees.
- c. Whether the project will reduce uncertainty for water providers. For this criterion, the project sponsor should discuss how the project will assist in enabling Colorado to fully use its compact and decree entitlements.
- d. Urgency of need for the project and/or any compelling "window of opportunity" that may be missed without the requested funding.
- e. The length of time needed to implement the project. Projects that can be accomplished within a specified time period will receive more favorable consideration for receiving monies from the Fund.
- f. The expertise and ability of the project sponsor and participants to implement the project.
- g. The level of matching funds the project sponsor is providing. The greater the amount of matching funds, the more likely the project will receive monies from the Fund.
- h. The degree to which the project will help meet environmental or recreational needs.
- i. The degree to which the project will assist in the administration of compact-entitled waters or address problems related to compact entitled waters and compact compliance, and the degree to which the project promotes maximum utilization of state waters.
- j. Whether the project will assist in, or not impair, the recovery of threatened and endangered wildlife species or Colorado State species of concern.
- k. Whether the project will complement or assist in the implementation of other CWCB programs.

For additional information, questions or assistance please contact Ted Kowalski (Colorado Water Conservation Board), at (303) 866-3441 ext.3220 or email Ted at [ted.kowalski@state.co.us](mailto:ted.kowalski@state.co.us).



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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In Reply Refer to:  
6400 (CO-932)

OCT 21 2009

Ms. Jennifer Gimbel, Director  
Colorado Water Conservation Board  
1313 Sherman Street, Seventh Floor  
Denver, CO 80210

Dear Ms. Gimbel:

The Bureau of Land Management (BLM) Colorado State Office (COSO) has determined it can accommodate the Upper Colorado River Wild and Scenic Stakeholder Group request for an extension to November 30, 2009. However, the COSO will not be able to accommodate any changes to the stakeholder alternative after that date due to analysis and publishing time constraints. The BLM's planning contractor will have completed the initial impact analysis of all the other sections of the land use plan by October 31, 2009. Accordingly, the BLM has committed to sharing the draft plan with cooperating agencies in December 2009.

While the BLM is encouraged by the stakeholder group's progress to date, it cannot justify further delay of an entire land use plan to accommodate additional stakeholder deliberations. The Wild and Scenic Rivers analysis is only one portion of a broad land use plan affecting an extensive range and number of stakeholders on other resource management issues. These stakeholders are awaiting BLM resource management decisions so they can proceed with their plans that will have significant economic impacts on local economies.

Because of the time needed to develop a durable river management plan, and the BLM's need to fulfill planning obligations, we have several suggestions to facilitate cooperation between BLM and the stakeholder group.

- If the stakeholder group is unable to deliver a final plan to the BLM by November 30, 2009, the BLM would appreciate receiving an indication of whether a final consensus on key conceptual issues for a river management plan is possible, or has been achieved but there is insufficient time to write a detailed agreement.
- If a consensus has been reached, the BLM would appreciate receiving an indication whether the plan would specifically address the stream segments in Glenwood Canyon. Currently, the conceptual plan and implementation outline contain very little detail concerning Outstanding Remarkable Value (ORV) status, ORV flow needs, and the baseline hydrology for this stream reach.

- The stakeholder group should take advantage of the lengthy period between the publishing of the BLM draft plan in the Spring of 2010, and the final plan and record of decision to further refine a proposed river management plan, react to new information found in the Moffat Tunnel Firming Project EIS, and respond to public comments on the alternate river management plan.

The BLM believes the ultimate deadline for full consideration of a stakeholder alternative will occur during the time period between the draft plan and the final plan. The November 30, 2009, deadline is based on the BLM's desire to facilitate cooperation with the stakeholders group. If the BLM performs an environmental analysis of at least a conceptual proposal in the draft plan, rather than wait until the final plan, feedback from the public will be facilitated.

The BLM recognizes the importance of this river segment to the State of Colorado and to the stakeholders. The BLM also recognizes the impact that its suitability determination could have on future river management. The BLM remains committed to working with the stakeholder group within the confines of our statutory obligation to complete resource management plans and Wild and Scenic River analysis in a timely manner.

Sincerely,



for/ David B. Hunsaker  
Acting State Director /s/ Anna Marie Burden Acting

cc:

Dave Stout, Kremmling Field Office Manager

Steve Bennett, Silt Field Office Manager

Rob Buirgy, Stakeholder Group Facilitator

# STATE OF COLORADO

## Colorado Water Conservation Board

### Department of Natural Resources

1313 Sherman Street, Room 721  
Denver, Colorado 80203  
Phone: (303) 866-3441  
Fax: (303) 866-4474  
www.cwcb.state.co.us



September 29, 2009

Dave Hunsaker,  
Acting Colorado Director  
Bureau of Land Management  
U.S. Department of the Interior  
2850 Youngfield Street  
Lakewood, CO 80215

Bill Ritter, Jr.  
Governor

Harris D. Sherman  
DNR Executive Director

Jennifer L. Gimbel  
CWCB Director

Dan McAuliffe  
CWCB Deputy Director

Dear Dave:

I am writing to you to request that you grant additional time for submittals for consideration in the context of BLM's revisions to the Resource Management Plans for the Glenwood Springs and Kremmling field offices where the BLM is considering the "suitability" of certain stream segments for Wild and Scenic designation. My staff has been meeting regularly with your staff (and a host of other representatives) for the past two years regarding the BLM's process. I am encouraged by a dialogue that has been initiated with your staff, the Colorado River Water Conservation District, the Northern Colorado Water Conservancy District, Denver Water, Trout Unlimited, Summit County, Eagle County, Grand County, the Northwest Colorado Council of Governments, the Wilderness Society, Colorado Springs Utilities, American Whitewater, representatives of stakeholders involved in the lower Blue River management planning process, and others to explore alternative approaches to protecting Outstanding Remarkable Values while at the same time considering the State's water supply needs. We appreciate your staff's dedication to working with the State and local entities to determine whether Wild and Scenic designation is the best management alternative for these certain stream segments.

As you know, Wild and Scenic designation may or may not be the optimal management tool, but I am sure you would agree that a collaborative, consensus-driven approach to protecting those values would be preferable. Given the importance of these water resources to the Bureau of Land Management, the State of Colorado, environmental organizations, and local communities, I hope you will be able to support the collaborative process described above. I believe that it would be in the best interests of the State and the Bureau of Land Management to continue this dialogue.

Pursuant to your process, which requires you to consider a range of alternatives, we request that you allow additional time for the State, environmental, and local representatives to continue to explore alternatives for resource protection by extending the September 30, 2009 deadline by 60 days to allow the stakeholder group adequate time to refine its proposal. While 60 days may be enough time to resolve the remaining issues, we may seek an additional extension if necessary. I would remind you that the Platte River Protection Plan took close to ten years to negotiate and



that plan is a model for protecting water dependent resources while allowing water providers some flexibility in water management. I hope you agree that this would be an appropriate way to proceed in order to further your goal to respond to both national and community needs. Please do not hesitate to contact me if you have any questions about this matter.

Sincerely,



Jennifer Gimbel

cc: Ken Salazar, U.S. Department of the Interior  
David Stout, BLM Kremmling Field Office  
Steve Bennett, BLM Glenwood Springs Field Office  
Roy Smith, BLM  
Colorado Water Conservation Board members

October 1, 2009

Dave Stout  
Kremmling Field Office  
2103 East Park Avenue  
Kremmling, CO 80459

Steve Bennett  
Glenwood Springs Field Office  
50629 Highways 6 & 24  
Glenwood Springs, CO 81601

Subject: Upper Colorado River Implementation Outline for a Wild and Scenic  
Management Plan Alternative

Dear Mr. Stout and Mr. Bennett:

Enclosed is the latest draft of an Implementation Outline for the Upper Colorado Wild and Scenic Stakeholder Group (SG) Management Plan Alternative. We are submitting this document so that the BLM and its NEPA contractor can analyze some of the key points of the Plan.

The SG understands the time pressures for BLM to complete its RMP and the necessity for the SG to provide a more detailed proposal on the SG W&S Alternative Management Plan. However, we are not able to submit a more comprehensive Plan at this time because important elements of the SG Plan are the subject of current negotiations within the SG.

While we have made significant progress on refining and expanding the Plan, key elements of this Implementation Outline have not changed significantly since it was submitted in November of last year. In particular, we believe that the "Tier 1 Long-Term Protection Measures" (See pg. 8, para. IV.b) and the "Tier 2 Cooperative Measures" (pg. 9, para. IV.c) will continue to form the "backbone" of the SG Plan. It is our hope that BLM and its NEPA contractor can use the next eight weeks to analyze those protective measures while the SG continues to work on a more comprehensive plan.

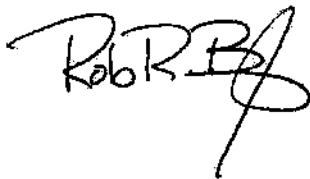
This Implementation Outline remains a work in progress and will be refined with time. References in blue text indicate incomplete or unresolved items as of the date of this submission. The key areas that the SG is addressing are itemized in red at the end of the Outline. As it is anticipated that the provisional resource guides and ORV standards referenced in this draft may be adjusted, it is important that the assumptions employed by BLM for its analysis of this Management Plan Alternative in the Draft EIS afford

flexibility to cover these sorts of adjustments within the scope of the NEPA analysis supporting BLM's Resource Management Plan revision process.

The Stakeholder Group feels we have made significant progress over the past 10 months. We are hopeful that unresolved issues will be addressed with additional time and we will continue to work toward resolution concurrent with finalization of other aspects of the proposed Plan.

The SG continues to dedicate a tremendous amount of time and effort to the development of this Plan. We respectfully request that BLM accept the SG's proposal to submit a more comprehensive Plan by November 25, 2009. In addition, SG expects to be able to provide more advanced versions of the plan to BLM to allow for adjustments in BLM's NEPA analysis prior to release of the draft EIS. Final adjustments would be made upon receipt of comments on the draft EIS and before issuance of BLM's final EIS.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Buirgy". The signature is stylized with a large, sweeping "B" and a long, horizontal stroke extending to the right.

Rob Buirgy, Project Manager

cc: Stakeholders and Consulting Agencies

American Whitewater  
Aurora Water  
Blue Valley Ranch  
Colorado Division of Wildlife  
Colorado River Outfitters Association  
Colorado River Water Conservation District  
Colorado Springs Utilities  
Colorado Water Conservation Board  
Colorado Whitewater Association  
Denver Water  
Eagle County

Eagle River Watershed Council  
Grand County  
Middle Park Water Conservancy District  
Northern Colorado Water Conservancy District  
Northwest Colorado Council of Governments  
Summit County  
The Wilderness Society  
Trout Unlimited  
U.S. Forest Service  
U.S. Bureau of Reclamation

References in blue indicate  
incomplete or unresolved items

## **IMPLEMENTATION OUTLINE**

October 1, 2009 Draft

### **I. INTRODUCTION**

The Upper Colorado Wild and Scenic Stakeholder Group (Stakeholder Group) is working together in good faith to develop a management plan in order to protect the outstandingly remarkable values (ORVs) identified in the BLM's 2007 Eligibility Report for Segments 4 through 7 of the Upper Colorado River. The Plan is being proposed to the BLM as a potential Wild and Scenic Rivers management alternative for the BLM Resource Management Plan revision process. The Stakeholder Group's intention for this collaborative plan is to balance permanent protection of the ORVs; certainty for the stakeholders; water project yield; and flexibility for water users. A significant benefit of the Plan is that through the cooperative and voluntary efforts of interested water users, local governments, and other entities, the ORVs can be protected (and perhaps enhanced) in ways that coordinate with federal agency management.

This document outlines the implementation framework that will govern administration of the Plan. Section VII defines the key words used in this document.

### **II. DESCRIPTION OF ORVs**

#### **a. Identification of ORVs**

BLM's Eligibility Report identifies the following ORVs that are the subject of this Plan:

Segment	Reach	ORVs	Preliminary Classification
Segment 4	Colorado River from top of Gore Canyon to the Pumphouse recreational site (5.36 miles)	<p>Scenic (canyon, cliffs)</p> <p>Recreational (fishing - DOW Wild Trout waters; floatboating - Class V whitewater boating; scenic driving).</p> <p>Geological</p> <p>Wildlife (bald eagle nesting and winter habitat; river otter habitat).</p> <p>Historic (Moffat Rd.; early hydroelectric projects; WWII German POW camp).</p>	Recreational
Segment 5	Colorado River from the Pumphouse Recreational Site down to State Bridge (15.26 miles)	<p>Scenic (Little Gore Canyon &amp; Red Gorge).</p> <p>Recreational (fishing - same as Segment 4; floatboating - Class II/III run; scenic driving).</p> <p>Geological</p> <p>Wildlife (same as above).</p> <p>Historic (early hydroelectric projects; early copper mining; Brass Balls Mine/Cable Rapids Cabin; State Bridge; historic Moffat Road).</p> <p>Paleontological (fossils).</p>	Recreational
Segment 6	Colorado River from State Bridge to Dotsero (18.02 miles)	<p>Scenic</p> <p>Recreational (floatboating; scenic driving).</p> <p>Geological</p> <p>Wildlife (river otter habitat).</p> <p>Historic (Ute Trail).</p> <p>Botanical (riparian plant communities).</p>	Recreational
Segment 7	Colorado River from Dotsero to ½ mile east of No Name Creek/Glenwood Canyon (15.78 miles).	<p>Scenic</p> <p>Recreational (floatboating).</p> <p>Geological</p>	Recreational

## **b. Nature of and Factors Influencing ORVs**

This Plan aims to protect all ORVs while focusing on the primary streamflow-influenced ORVs identified in subsection (i) below. The Plan's implementation procedures will provide a feedback loop to periodically assess and confirm that the management measures under the Plan, in coordination with BLM's other land management actions, are protective of all ORVs.

- i. The primary "streamflow-influenced ORVs" are:
  - Recreational Fishing
  - Recreational Boating
- ii. Other streamflow-influenced ORVs are:
  - Wildlife
  - Botanical
  - Scenic
- iii. Additional ORVs are:
  - Geological
  - Historical
  - Paleontological

This Plan aims at preserving the *recreational opportunities* of opportunities for recreational fishing (in Segments 4 and 5) and recreational boating (in Segments 4 through 7). The Plan uses two distinct tools – "ORV Indicators" and "Resource Guides" – as follows:

### **ORV Indicators**

In the first 3 to 5 years of implementation of this Plan, the Stakeholder Group will gather necessary data and develop specific indicators which will be used to gage whether the *recreational opportunities* of recreational opportunities are being preserved. These indicators, referred to in the Plan as "ORV Indicators," will be developed in accordance with the following criteria:

*ORV Indicators will be developed to monitor the effectiveness of the Plan in preserving the recreational opportunities of recreational opportunities.*

Until such time as ORV Indicators are developed, the Plan will use the following narrative Provisional ORV Indicators:

*Fishing (Segments 4 and 5):* a range of opportunities for fishing the existing range and quality of opportunities for fishing.

*Boating (Segments 4 through 7):* a range of opportunities for floatboating the existing range and quality of opportunities for floatboating.

Impairment of or a significant risk of impairment to the Provisional or final ORV Indicators would be cause for elevation of this Plan to BLM pursuant to Section IV.e.

#### Resource Guides

Streamflow-influenced ORVs may be affected by factors such as flows, temperature and water quality. This Plan establishes ranges for these factors, referred to as "Resource Guides," which are described in Part III of the Plan. Not all stakeholders endorse these Resource Guides or believe that the ranges they represent are necessary to support the ORVs. Nevertheless, the Stakeholder Group agrees to include these guides to inform decision-making and as a trigger for implementation of the cooperative measures process described in Section IV.c of the Plan. Section IV.f addresses how Resource Guides will inform decisions with respect to new projects and changes to existing projects requiring federal approvals or requesting federal funding or other federal assistance.

Failure to achieve these Resource Guides may trigger the elevation procedures within the Stakeholder Group as provided in Section IV.d of the Plan but would not independently be cause for elevation of this Plan to BLM pursuant to Section IV.e.

#### c. Context of ORVs - Existing Conditions

##### i. Existing Flow Conditions

Figure 1 (see Attachment C) compares the average annual flow at Kremmling for the 1984 – 2006 period with the periods 1904 – 1919 (pre-Moffat and C-BT systems) and 1962 – 1984 (pre-1984 Operating Rules for Green Mountain Reservoir and pre-Windy Gap).

Figure 2 (see Attachment C) shows the average annual Colorado River flows at the Kremmling gage for the period 1984 – 2006. This period of record generally represents the level of flows in existence at the time that the BLM identified the ORVs. Figure 2 also illustrates the dry, average and wet flow regimes that are used to assist management decisions under Sections III and IV.

ii. Existing Temperature Conditions

Flow Regime Map

iii. Existing Water Quality Conditions

Flow Regime Map

iv. Other Conditions??

Flow Regime Map

### III. RESOURCE GUIDES

a. Establishment and Use of Provisional Resource Guides

Factors which may influence or affect the condition of the primary streamflow-influenced ORVs include flow levels, temperature, and water quality.

Provisional Resource Guides are established for each of these factors as part of this Plan, as follows:



## Provisional Flow Guides

Table 1

**Summary of Provisional Flow Guides**  
(average streamflow (cfs) at the Kremmling, CO streamgage)

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Dry Years	400	400	400	400	400	400	600	600	600	600	600	600
Average Years	600	600	550	500	500	600	800	1,350	1,350	1,100	950	900
Wet Years	700	700	700	700	700	900	1,600	3,500	4,500	2,800	1,500	900

**Notes:**

Dry year flow guides are based upon Grand County Stream Management Plan (GCSMP) critical flows.

Average year flow guides are based upon current data that includes a combination of GCSMP fish flows and acceptable levels of floatboating flows.

Wet year flow guides are based upon current data that includes preferred recreation boating flows and historical hydrology.

Wet year flow guides also include flushing flows recommended in the GCSMP (1800 cfs for 3 days; 1 in every 2 years).

## Provisional Water Quality Guides

## Provisional Temperature Guides

## Other Provisional Guides?

### b. Basis for Provisional Flow Guides

Provisional Flow Guides are established by the type of hydrologic year: dry, average or wet (see Figure 2). Initial prediction of a given hydrologic year is made in early spring and will be based on the April to July "Most Probable" forecast of streamflows from the Colorado Basin River Forecast Center for the Kremmling gage. In early summer, the initial prediction will be adjusted based on actual flows at Kremmling. That adjustment may result in re-defining the type of hydrologic year and thus the management approach.

The prediction of type of hydrologic year is used to define whether a wet, average or dry hydrologic year is in progress in a given year, and the appropriate management considerations to put into play. For example, dry year management may be focused on protecting the survival of fish rather than focusing on an optimal recreational boating experience;

therefore dry year Flow Guides are established to inform management decisions in relation to desired flow levels for protection of fish. Figure 3 (see Attachment C) depicts the Provisional Flow Guides.

**c. Refinement of Provisional Resource Guides**

**i. Flow Guides**

The Provisional Flow Guides will be evaluated and may be adjusted as a result of defined data collection, monitoring efforts, and technical review as part of the 3-to-5 year study effort described in the Monitoring Plan in Section V. It is anticipated that information such as that developed in Phase 3 of the Grand County SMP, CDOW studies to develop a proposed ISF, and estimations of future water availability by stakeholders, etc. will be used to help finalize these Resource Guides during this period.

*Flow Guides will be evaluated and may be adjusted as a result of defined data collection, monitoring efforts, and technical review as part of the 3-to-5 year study effort described in the Monitoring Plan in Section V. It is anticipated that information such as that developed in Phase 3 of the Grand County SMP, CDOW studies to develop a proposed ISF, and estimations of future water availability by stakeholders, etc. will be used to help finalize these Resource Guides during this period.*

**ii. Temperature Guides**

*Temperature Guides will be evaluated and may be adjusted as a result of defined data collection, monitoring efforts, and technical review as part of the 3-to-5 year study effort described in the Monitoring Plan in Section V.*

**iii. Water Quality Guides**

*Water Quality Guides will be evaluated and may be adjusted as a result of defined data collection, monitoring efforts, and technical review as part of the 3-to-5 year study effort described in the Monitoring Plan in Section V.*

**iv. Other Guides?**

*Other Guides will be evaluated and may be adjusted as a result of defined data collection, monitoring efforts, and technical review as part of the 3-to-5 year study effort described in the Monitoring Plan in Section V.*

**IV. MEASURES TO ENSURE PROTECTION OF ORVs**

**a. Implementation of Protection Measures**

This Plan adopts the following tiered system for implementation of management measures for the protection of the ORVs.

Tier 1 Implementation of Long-Term Measures. These measures, described in Section IV.b below and Attachment A to this Plan, are supported by the Stakeholder Group and will be pursued pursuant to identified Milestones in Attachment B to this Plan.

Tier 2 Implementation of additional Cooperative Measures. These will complement the Tier 1 measures. These may serve to maintain or enhance the ORVs, assist in achieving Provisional or Refined Resource Guides, and/or address Changed Circumstances. Section IV.c of this Plan mandates a specific process to ensure timely and periodic consideration of data pertaining to the ORV Indicators and Resource Guides and to assess the need and available opportunities for implementing additional measures.

Tier 3 SG Elevation Process. This Plan incorporates an elevation process to the full Stakeholder Group for purposes of addressing unresolved concerns of SG members material to implementation of the Plan or the status of the Provisional or Refined Resource Guides or ORV Indicators. That elevation process is summarized in Section IV.d below.

Tier 4 Elevation to BLM. The Plan specifies an elevation process to BLM as may be warranted in the event material unresolved concerns arise under the Plan as set forth in Section IV.e that are not being addressed by adaptive management responses under the Plan.

**b. Tier 1 Long-Term Protection Measures**

These are measures that are expected to result in ongoing protection of the ORVs, unless a material change in circumstances occurs.

The long-term protective measures are summarized below. Additional detail on the long-term protective measures is provided in Attachment A. The long-term protective measures will be pursued in accordance with the Milestones in Attachment B.

- i. Appropriation of CWCB instream flow (ISF) right: The Stakeholder Group has expressed support for a CWCB ISF right or water rights for base flows in the subject stream segments. An ISF water right can protect stream flows between two points on a stream from future water rights appropriations in accordance with the State's prior appropriation system. ISF water rights are held exclusively by the CWCB for minimum stream flows to preserve the natural

environment to a reasonable degree, and are adjudicated and administered within the State's water right priority system.

- ii. **Delivery of water to a downstream demand:** Water released from storage or otherwise made available from upstream sources can be delivered to downstream demands. Such deliveries can be "shepherded" (i.e., protected) through the subject stream segments. A primary example is the release of water from Green Mountain Reservoir pursuant to the 1984 Green Mountain Reservoir Operating Policy for delivery to irrigation demands in the Grand Valley near Grand Junction.

**Existing senior water rights:** The Shoshone and Cameo groups of senior water rights generally control the administrative call within the Colorado River Basin. These water rights are located downstream of the subject stream reaches; therefore, an administrative call during dry or average conditions by these water rights can curtail diversions from upstream junior water rights or require the release of water from storage to replace those junior diversions. This administrative call generally results in additional stream flow through the subject stream segments than would exist in the absence of the administrative call.

- iv. **Upper Colorado River Endangered Species:** This is an existing mechanism by which water is released or bypassed from upstream reservoirs for the benefit of the endangered fish species in the Grand Valley on a temporary basis. The water deliveries are protected through the subject stream segments downstream through the 15-Mile Reach of the Colorado River. During peak runoff, bypasses from upstream reservoirs can provide peak flushing flows through the subject stream segments. During dry periods in late summer or early fall, releases from upstream storage to supplement low flows in the 15-Mile Reach can significantly supplement flows in the subject stream segments.

**Changed Circumstances:** The Plan includes mechanisms to address changed circumstances that could impact the effectiveness of these long-term measures in protecting the ORVs. These are included as part of the detailed Milestones in Attachment B to this Outline.

**c. Tier 2 Cooperative Measures**

As a complement to the long-term protection measures, or in the event that ORV Indicators or Provisional or Refined Resource Guides are not

met or are not expected to be met, the following voluntary cooperative measures strategies will be implemented under the terms of this Plan.

- i. The Stakeholder Group commits to rigorously explore potential cooperative measures that would achieve ORV Indicators and/or Provisional or Refined Resource Guides pursuant to the procedures specified in this Section.
- ii. Cooperative measures will take into account the nature of the hydrologic year (i.e., dry, average or wet) as defined pursuant to Part II of this Plan.
- iii. The Stakeholder Group, through its [Subcommittee] will meet [specify frequency] to assure a timely and periodic assessment of the need for, focus of, and available opportunities for implementation of these cooperative measures. A record will be kept of the concepts discussed at these meetings. Progress in implementing cooperative measures shall be an agenda item on the meetings of the full Stakeholder Group.
- iv. It is recognized that the need for and availability of certain cooperative measures will be opportunistic in nature, and that certain measures may be implemented without full coordination of the Stakeholder Group. In that event, they shall be reported on at the next ensuing meeting of the [Subcommittee].
- v. Cooperative measures will respect the priority system and the operations of water right holders, and will take into account impacts of implementation of the cooperative measures on other segments of the Colorado River and its tributaries.
- vi. It is recognized that it may not be possible to implement cooperative measures in every year.
- vii. Possible cooperative measures may include but are not necessarily limited to:
  - (a) Acquisition of Water Rights for ISF Purposes.  
The CWCB could enter into an agreement with a water user under which it would acquire water, water rights, or an interest in water to use to preserve or improve the natural environment to a reasonable degree through the reaches of the river subject to this Plan. The CWCB could explore the potential for

securing instream flows for large seasonal or flushing flows under its acquisition authority. Depending on the conditions of the agreement, such acquisition could result in long-term protection of flows in higher amounts than the new ISF appropriation made under Section IV.b.(i). The SG and the CWCB are continuing to explore options for protection of flows pursuant to such voluntary arrangements. Because attempting to decree an ISF water right for higher flows could slow down the new ISF water right appropriation process pursuant to Section IV.b.(i), the protection of higher flows could be achieved via a water acquisition implemented through a separate water right decree.

- (b) Strategic timing of reservoir releases to meet winter storage elevations.

Several major reservoirs upstream of the stream segments have winter season storage target levels that require the release of previously stored water in anticipation of spring runoff. The coordinated timing/scheduling of late summer and early fall reservoir releases to meet annual reservoir target elevations can help to satisfy late season flow demands. Such measures would take into account needs and effects during other seasons.

- (c) Storage and subsequent release of historical consumptive use and return flows.

The Stakeholder Group will not encourage the dry-up of agricultural land. However, as development occurs in the area, some agricultural land and associated water rights will be taken out of production. On an "if and when/excess capacity" basis, the historical consumptive use and, in some cases the historical return flow, of the water rights can be placed into storage in upstream reservoirs for later release for a variety of purposes (both consumptive and non-consumptive). The timing of such releases may benefit the ORVs. Potential examples of such arrangements include the Red Top Valley Ditch, the Vail Ditch, and the Moser/Water Trust transaction.

(d) Use of Windy Gap system.

Depending on the circumstances, excess capacity may exist in the Windy Gap system and Granby Reservoir for the diversion and storage of water for the benefit of the ORVs. For example, in July 2008, Grand County reimbursed the Municipal Subdistrict for the pumping costs to pump 1,500 acre feet of Windy Gap water into Granby Reservoir. Pursuant to contract, the Windy Gap water was then released downstream in September for consumptive uses in the Grand Valley, benefitting in-channel resources enroute.

(e) Spring peak enhancement.

Spring flushing flows could be enhanced through the coordinated bypass of reservoir inflow during the spring runoff. Close coordination and cooperation with the State Engineer's Office to protect the annual fill of reservoirs would help to implement this strategy.

(f) Cooperative Flow Management.

Voluntary flow management programs provide a water management tool that can be used for maintaining and enhancing flow-related values within a given stream reach, while meeting downstream demands such as those for the endangered fish species, through the collaborative operation of water facilities and other cooperative efforts.

**d. Tier 3 Stakeholder Group Elevation Process**

Any member of the Stakeholder Group may elevate an issue to the full Stakeholder Group for purposes of addressing unresolved concerns material to implementation of the Plan or to the status of the Provisional or Refined Resource Guides or ORV Indicators. Prior to elevation, that concern shall be summarized in writing, together with an explanation of any "competing views" on the issue and the efforts to date to resolve the matter among the [Subcommittee]. Data pertinent to the Stakeholder Group's deliberations shall be summarized or compiled. Elevation shall be triggered by submitting a written request, accompanied by the above materials, for the Stakeholder Group to convene a meeting (or add an agenda item to a previously set meeting). The Stakeholder Group shall address such issue in accordance with its Governance protocols outlined in Section VI.

**e. Tier 4 Elevation to BLM**

The following matters may be elevated to BLM for resolution: (1) Failure to meet a designated Milestone in Part I of Attachment B related to implementation of the Tier 1 long-term protection measures; (2) Failure to address a material Change in Circumstances through Cooperative Measures pursuant to Part IIB and IIC of Appendix B; or (3) Impairment of or a significant risk of impairment to the ORV Indicators attributable to circumstances considered by the Plan. [Fn: [Bureau of Land Management, 2015, p. 10](#)]

Proponents of projects that seek federal authorization, funding or assistance may choose to rely on (i.e., "opt-in" to) this Plan as a means for proposing protection of the ORVs. New project proponents that opt-in to this Plan will agree to follow the Cooperative Measures procedures in paragraph IV.c.i. above. In addition, opt-in proponents would agree to either (1) demonstrate to BLM and any federal action agency that the proposed project will be operated consistent with the Resource Guides; or (2) demonstrate to such agency(ies) that operation of the proposed project in a manner inconsistent with the Resource Guides will not impair the ORV Indicators; or (3) propose measures that are adopted by such agency(ies) that will effectively mitigate impacts to the ORVs due to the operation of the proposed project.

Elevation to BLM for any of the reasons identified in this Section IV.e shall be initiated by a formal notification to BLM which details the issue, relevant data, and any steps undertaken to date in efforts to address the concern. Upon elevation to BLM, the Stakeholder Group shall work with BLM in efforts to resolve the identified concern to the satisfaction of BLM prior to BLM exercising its discretionary authorities.

**f. New Projects (including changes to existing projects undergoing federal permitting or requesting federal funding or other federal assistance)**

Proponents of new projects that seek federal authorization, funding or assistance may choose to rely on (i.e., "opt-in" to) this Plan as a means for proposing protection of the ORVs. New project proponents that opt-in to this Plan will agree to follow the Cooperative Measures procedures in paragraph IV.c.i. above. In addition, opt-in proponents would agree to either (1) demonstrate to BLM and any federal action agency that the proposed project will be operated consistent with the Resource Guides; or (2) demonstrate to such agency(ies) that operation of the proposed project in a manner inconsistent with the Resource Guides will not impair the ORV Indicators; or (3) propose measures that are adopted by such agency(ies) that will effectively mitigate impacts to the ORVs due to the operation of the proposed project.

[Fn: [Bureau of Land Management, 2015, p. 10](#)]



1. The effectiveness of the Monitoring Program will depend on the willingness of stakeholders and other participants to implement its provisions.

The effectiveness of this Plan depends on the willingness of stakeholders and other participants to implement its provisions. If a new project proponent does not choose to opt-in to this Plan, it is the intent of the stakeholders that Parts III and IV of this Plan not be relied upon by regulatory agencies to assess impacts to the ORVs. Nothing herein would prevent the Stakeholder Group by unanimous agreement from providing unified comments on new projects, including recommendations of mitigation measures.

## V. MONITORING PLAN

1. The Monitoring Program will be implemented by the Stakeholder Group.

## VI. GOVERNANCE AND AGENCY COORDINATION

1. The Stakeholder Group will be organized and governed as follows:

### a. Governance

- i. Rules for membership/participation in SG to be identified.
- ii. SG Governance Committee will be created.
- iii. Advisory Committees (Technical Committee and others) will be created.
- iv. Governance rules will be established (meeting protocols, decision-making, process for amendment of Plan, etc.).
- v. Reliable, sustainable funding will be procured.

### b. Agency Coordination

- i. SG will provide an annual report to BLM.
- ii. SG will notify BLM within 30 days if the Monitoring Program data indicates that an ORV Indicator has been degraded or is at significant risk of degradation.

## VII. DEFINITIONS (to be developed by the Stakeholder Group and approved by the Board)

- a. **"Streamflow-influenced ORVs"** means Outstandingly Remarkable Values which depend on streamflow and water quality, as defined in Part II of the Plan.
- b. **"ORV Indicators"** means the conditions that characterize the primary streamflow-influenced ORVs as they exist today. Provisional ORV Indicators are narrative indicators to be used by the Plan until such time as the final ORV Indicators are developed pursuant to the criteria in Section II of this Plan.
- c. **"Resource Guides"** means flow, temperature and water quality ranges specified in Part III of this Plan to inform decision-making and trigger implementation of the Cooperative Measures process and other procedures under the Plan. "Provisional Resource Guides" are identified in Part III of this Plan, subject to the qualifications on their use and the procedures for their refinement described in the Plan. "Refined Resource Guides" means Provisional Resource Guides that have been adjusted or confirmed as set forth in Part III of the Plan.
- d. **"Material Change in Circumstances"** means ..... [Need to define prior to Draft EIS].
- e. **"Impairment of" and "significant risk of impairment to" ORV Indicators** ..... [Need to define prior to Draft EIS]
- f. [ ]

The following will be addressed during 6-to-8 month period prior to completion of DEIS:

1. Agreement on criteria for data collection to quantify the ORV Indicators.
2. Refinement of the "placeholder" Provisional Resource Guides, including any refinement of the Provisional Flow Guide ranges and establishment of the Provisional WQ, Temperature, and other Resource Guides.
3. Agreement on provisional standards for identifying a "significant risk of impairment" to the ORV Indicators.
4. Monitoring Plan – Details of Section V of Outline.
5. Description of the process that will be followed for any adjustment of the Provisional ORV Indicators and Provisional Resource Guides during the 3-5 year study period, and periodically thereafter (when, by what standard, and by who?).
6. Agreement on SG Governance protocol for addressing Changed Circumstances (how the SG will determine that a material change in circumstances exists, how to address it, and under what circumstances it will be elevated to BLM).
7. All matters related to Governance – Details of Section VI of Outline.
8. Additional issues or concerns identified by BLM.

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**Attachment A** – Description of Tier 1 Long Term Protection Measures.

**Attachment B** – Milestones for implementation of Tier 1 Long Term Protection Measures and Mechanisms for addressing Changed Circumstances.

**Attachment C** – Figures 1, 2, and 3.

**ATTACHMENT A**  
**Detailed description of Long-Term Protective Measures**

**A. CWCB Instream Flow for Baseflow**

**I. Concept**

The CWCB can protect stream flows in and through a reach between two points on a stream by appropriating new ISF water rights. ISF water rights are held exclusively by the CWCB for minimum stream flows to preserve the natural environment to a reasonable degree, and are adjudicated and administered within the State's water right priority system.

**II. Benefit to Stream Segments**

For the segments containing a wild trout fishery, the ISF water rights would be based upon data collection and analysis geared toward the needs of the trout species present, and would establish a water right for those flows that would be administered in priority. The ISF water rights would meet the basic habitat needs of the wild trout fishery.

**III. Permanent Flow Protection**

An ISF water right provides permanent stream flow protection by virtue of its place in the priority system. While it cannot affect operation of existing senior decreed water rights, under state water law, it is entitled to stream conditions as they existed at the time of the ISF appropriation. ISF water rights have standing in Water Court to ensure that proposed plans for augmentation and changes to senior water rights do not alter stream conditions to the detriment of decreed ISF water rights.

**IV. Pros and Cons**

**Pro**

- An ISF would provide permanent protection based on habitat needs.

**Con**

- An ISF would be a junior water right and CWCB may not be able to appropriate flows in the amounts needed to adequately protect the ORVs if those flows were determined to be more than the minimum required to preserve the natural environment to a reasonable degrees.

## **B. Delivery of Water to a Downstream Demand**

### **I. Basic Concept**

Water that is made available for streamflow protection would be released into the Colorado River or its tributaries upstream of the protected stream segments. That water would be delivered to a party within or downstream of the protected segments who contracts for the use of the water. Potential sources of water include: storage releases from upstream reservoirs, such as Granby, Williams Fork, Green Mountain, or Wolford Mountain Reservoirs; changes of existing water rights, such as the Peabody Ditch in Summit County; and bypasses from trans-mountain diversion facilities. Examples of potential downstream delivery points could include municipal or agricultural users in the Grand Valley, municipal or energy industry users in Garfield County, on-channel hydroelectric projects, or a mainstream RICD. This approach could also be used to deliver water to an ISF right under an agreement with the CWCB.

### **II. Benefit to Stream Segments**

The amount of water that could realistically be developed and delivered to a downstream demand needs to be assessed.

### **III. Permanent Flow Protection**

Permanency of flow protection will depend on the duration of agreements between the source of supply and the ultimate water user.

### **IV. Pros and Cons**

#### **Pros**

- Provides an additional tool for protecting flows outside of the CWCB instream flow program; depends on voluntary, market-based transactions among water users rather than a regulatory approach.
- Offers flexibility in structuring transactions to match demands.
- Provides multiple benefits by enhancing flows in the protected segments while also allowing the water to be consumptively used below those segments.

#### **Cons**

- Some water rights are not decreed for downstream use.
- There may be potential difficulty in ensuring administrative control of the water against intervening diversions that might be able to provide a substitute supply below the protected segment.
- The timing of the deliveries would need to be structured to match the demand pattern of the ORVs.

### **C. Administration of Existing Senior Water Rights**

#### **I. Basic Concept**

The two main calling water rights on the main stem of the Colorado River are the Shoshone Rights and a group of rights known as the Grand Valley rights or the Cameo Call, actually 3 different structures. The Shoshone rights are capable of calling for water year round (1250 to 1408 cfs), while the Grand Valley rights are irrigation rights which can only call for water April through October. These are absolute water rights, which under dry to average hydrologic conditions may govern the flows on the Colorado River through Glenwood Canyon during portions of the year. The Shoshone senior right is the focal point of this concept as it is the most senior water right and located at the bottom of the study area. However the Grand Valley rights do receive the delivery of the supplies from the Green Mountain Reservoir Historic Users Pool (HUP).

#### **II. Benefit to Stream Segments**

The year round utilization of the Shoshone right has the ability to keep flows of around 1250 cubic feet per second (cfs) in the Colorado River at the Dotsero gage. The Shoshone right is more protective for the Glenwood Canyon segment. The Grand Valley rights call for water from all upstream junior rights. During portions of the year, flows on the Colorado River have historically been maintained by the operation of the Shoshone rights, and to a lesser extent the Grand Valley rights.

#### **III. Permanent Flow Protection**

When operating at full capacity, the Shoshone rights offer year round protection in the operation of existing water rights administration. The administration of these rights has largely shaped the historic hydrograph. The Grand Valley rights accept delivery of HUP supplies, generally from August through October, but the Grand Valley Project Power Plant water rights may have the potential to affect the existing water rights administration year round.

#### **IV. Pros and Cons**

##### **Pros**

- These are established water rights in place to call for water under dry to average hydrologic conditions and that can help maintain ORV's during portions of the year.
- Reliance on these existing rights allows for upstream operational flexibility to deliver water to calling rights provided replacements are made upstream of Segment 4.
- Grand Valley HUP deliveries take place during drier conditions and therefore benefit the study area reaches when other concepts may not provide physical supply.
- Segments 4 through 7 are downstream of Green Mountain and therefore would benefit from HUP releases.

## **Cons**

- Existing water rights do not provide guaranteed flows under all conditions.
- Existing water rights typically provide 1250 cfs at Dotsero, below the confluence with the Eagle River, and this may not be sufficiently protective to maintain all of the ORVs in Segments 4 through 7 above the confluence with Eagle River.
- The Shoshone right can be reduced when the plant does not operate and when the "Power Interference Agreement" which allows for reduced deliveries during drought periods is operating.
- There may be a lack of permanency since the Shoshone right is a private right. (e.g., the water rights may be sold and no longer call flows through the reach).
- Calling rights could potentially be satisfied through means other than flows through the ORV reaches.
- Grand Valley rights are not year-round rights.

### **D. Delivery of Flows Made for the Upper Colorado River Endangered Species Recovery Program**

#### **I. Basic Concept**

The Final Programmatic Biological Opinion issued in December of 1999 includes a Recovery Action Plan that identifies several flow enhancements to assist the recovery of fish in the 15-mile reach above the confluence of the Colorado and Gunnison Rivers. The flow preservation and enhancements/sources that could impact the stream segments identified by BLM as potentially eligible for designation are as follows:

- Colorado Water Conservation Board (CWCB) Instream flow (ISF) Decrees
  - i. 581 cfs in the 15-mile reach during July, August, and September
  - ii. 300 cfs for water accretions occurring in the 15-mile reach during July, August and September
- Late summer and fall flow augmentation sources to enhance flows in the 15-mile reach for the period July 15 through October 31, when flows in the 15-mile reach are most impacted by existing diversions. Program flows are considered to be in addition to the natural flows in the river with respect to the Shoshone water rights, and consequently enhance the natural condition in that section of the river. Supplies are made available through:
  - i. Woford Mountain Reservoir
    - a. 6000 AF fish pool
    - b. 5412.5 AF temporary pool (for 10 years beginning in 2000)

- ii. Green Mountain Reservoir Supplies that are “Surplus” to the HUP supplies
    - a. This amount varies depending on flow conditions (can summarize from annual HUP reports)
  - iii. Williams Fork Reservoir
    - a. 5412.5 AF temporary pool (for 10 years beginning in 2000)
- Spring Peak Enhancement – to provide additional water up to approximately 20,000 AF/year for spring peak flow enhancement (10 day period) without impairing project yield or causing projects sponsors to incur significant costs. This occurs in all but extremely dry or wet years or generally when peak flows are between 12,900 cfs and 26,600 cfs in the 15-mile reach.
  - i. Coordinated Reservoir Operations
    - a. Operated in 1997 (+2000 cfs), 1998 (2400 cfs), 1999 (+2500 cfs) and in 2006. Coordinated Reservoir Operations have been impacted by drought conditions since 2000.
  - ii. Coordinated Facilities Water Availability Study
    - a. Feasibility investigation to examine additional alternatives to supply the 20,000 AF/year to enhance spring peak flows.

## **II. Benefit to Stream Segments**

The operations associated with the Upper Colorado River Endangered Fish Recovery Program have produced positive benefits to the stream segments each year. Those benefits vary according to flow conditions in the basin, but historic contributions can be summarized in the hydrographs for the Colorado River at Dotsero and the Colorado River at Kremmling.

## **III. Permanent Flow Protection**

The permanency of protection provided by the Program is linked to the continued operation of the Program and use of flow enhancement sources upstream of the reaches to be protected.

## **IV. Pros and Cons**

### **Pros**

- The Program requirements to provide flow mitigation are presently in place and operating.
- Program flows enhance both peak and low flow periods in the stream segments.
- CWCBC in-stream flows may provide a permanent protection, even if the Program fails, depending on the parameters of the water rights.



**Cons**

- Certainty on the length of the Program is difficult to assess.
- Operations are variable, depending upon the yearly basin flow conditions.
- It is unclear whether recovery target flows are sufficient to satisfy ORVs.
- Location of flow enhancement sources may change over time. More or less water may be available to the stream segments.

## **Attachment B**

### **Milestones for Implementation of Tier 1 Long-Term Protection Measures, and Mechanisms for Addressing Changed Circumstances in Long-Term Protection Measures**

- I. Milestones for Implementation of Tier 1 Long-Term Protection Measures.
  - A. Measure 1: Appropriation of a CWCB Instream Flow(s). Refer to section IV.b.i of the Implementation Outline.
    1. SG will provide the BLM with the SG's recommendation for a CWCB instream flow ("ISF") appropriation prior to the BLM's deadline for submittal of information to be included in the BLM's Draft Environmental Impact Statement (anticipated July 2009). The SG will make a written recommendation for appropriation of instream flow(s) ("ISF") to the CWCB for on or prior to January 31, 2010. The SG's recommendation will include results of the most recent data collection available. Additional data collection could continue in 2010.
    2. CWCB will declare its intent to appropriate ISF(s) prior to March 31, 2010, which initiates the notice and comment procedure under Rule 5 of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program. SG members will participate in process to support an ISF appropriation(s) that is(are) consistent with the SG's recommendation to the CWCB.
    3. CWCB will file a water court application to adjudicate an instream flow(s), on or prior to December 31, 2010. This date will set the administrative priority of the instream flow with respect to junior water rights.
    4. Entry of a final decree for CWCB's instream flow(s) should occur prior to December 31, 2014. Individual participants in the SG will consider participating in the CWCB ISF adjudication process in support of the CWCB's application.
    5. If item 3, above, is not completed by the anticipated date, the SG will (1) determine the cause of the delay, (2) request that the CWCB file an application for the recommended instream flow as soon as possible within the 2011 calendar year, (3) determine whether the delay in filing an application will result in a material

diminution in the amount of water available in priority to the anticipated CWCB instream flow and, (4) if the SG believes a material diminution exists, the SG will determine the appropriate management activities to implement to reasonably mitigate the decrease in water available in priority to the instream flow. If, in accordance with the SG's adopted Governance Protocol, the SG agrees that a material diminution exists, but is not able to reach consensus on any of the above, the SG agrees to proceed to elevate this matter to BLM pursuant to Section IV.e of the Implementation Outline.

6. If item 4, above, is not completed by the anticipated date, the SG will (1) determine the cause of the delay, (2) determine whether the delay causes any material adverse impact to the purpose of the Long-Term Protection Measures, and (3) if a material adverse impact is found, the SG will determine the appropriate management activities to implement to reasonably mitigate the material adverse impact. If, in accordance with the SG's adopted Governance Protocol, the SG agrees that a material adverse impact exists, but is not able to reach consensus on any of the above, the SG agrees to elevate this matter to BLM pursuant to Section IV.e of the Implementation Outline.

**B. Measure 2: Delivery of water to downstream demands. Refer to section IV.b.ii of the Implementation Outline.**

1. This is an existing feature of Colorado's stream administration and operations on the Colorado River that delivers previously stored water through the subject stream segments to downstream demands. No milestones are necessary to implement this existing long-term protection measure.

**C. Measure 3: Existing water rights administration. Refer to section IV.b.iii of the Implementation Outline.**

1. This is an existing feature of Colorado's stream administration and operations on the Colorado River that operates to curtail diversions (or require the replacement of such diversions) from upstream junior water users to provide water through the subject stream segments for delivery to downstream senior water rights. No milestones are necessary to implement this existing long-term protection measure.

D. Measure 4: Delivery of water to the 15-Mile Reach in the Grand Valley pursuant to the Upper Colorado River Recovery Program. Refer to section IV.b.iv of the Implementation Outline.

1. This is an existing mechanism by which water is delivered from upstream reservoirs for the benefit of the endangered fish species in the Grand Valley on a temporary basis. The water deliveries are protected through the subject stream segments downstream through the 15-Mile Reach of the Colorado River. The SG recognizes that negotiations are currently proceeding in a separate forum to develop alternative sources of supply for the water users portion (10,825 acre feet) of water delivered to the endangered fish. The water users' portion averages approximately \_\_\_% of the total amount of water delivered to the fish, and \_\_\_% of the water delivered to the fish from sources above Kremmling. The SG recognizes that within the next ten[??] years, approximately \_\_\_% of the water users' obligation likely will cease to be delivered from points above Kremmling, and instead will be made from sources of water downstream of the subject BLM stream reaches. Significant releases of water to the endangered fish can be expected to continue to be made from Green Mountain Reservoir pursuant to the Recovery Program and the operation of the Green Mountain Reservoir Rule Curve established in the Orchard Mesa Check Decree, Case No. 91CW247, Water Division 5. No milestones are necessary to implement this existing long-term protection measure.

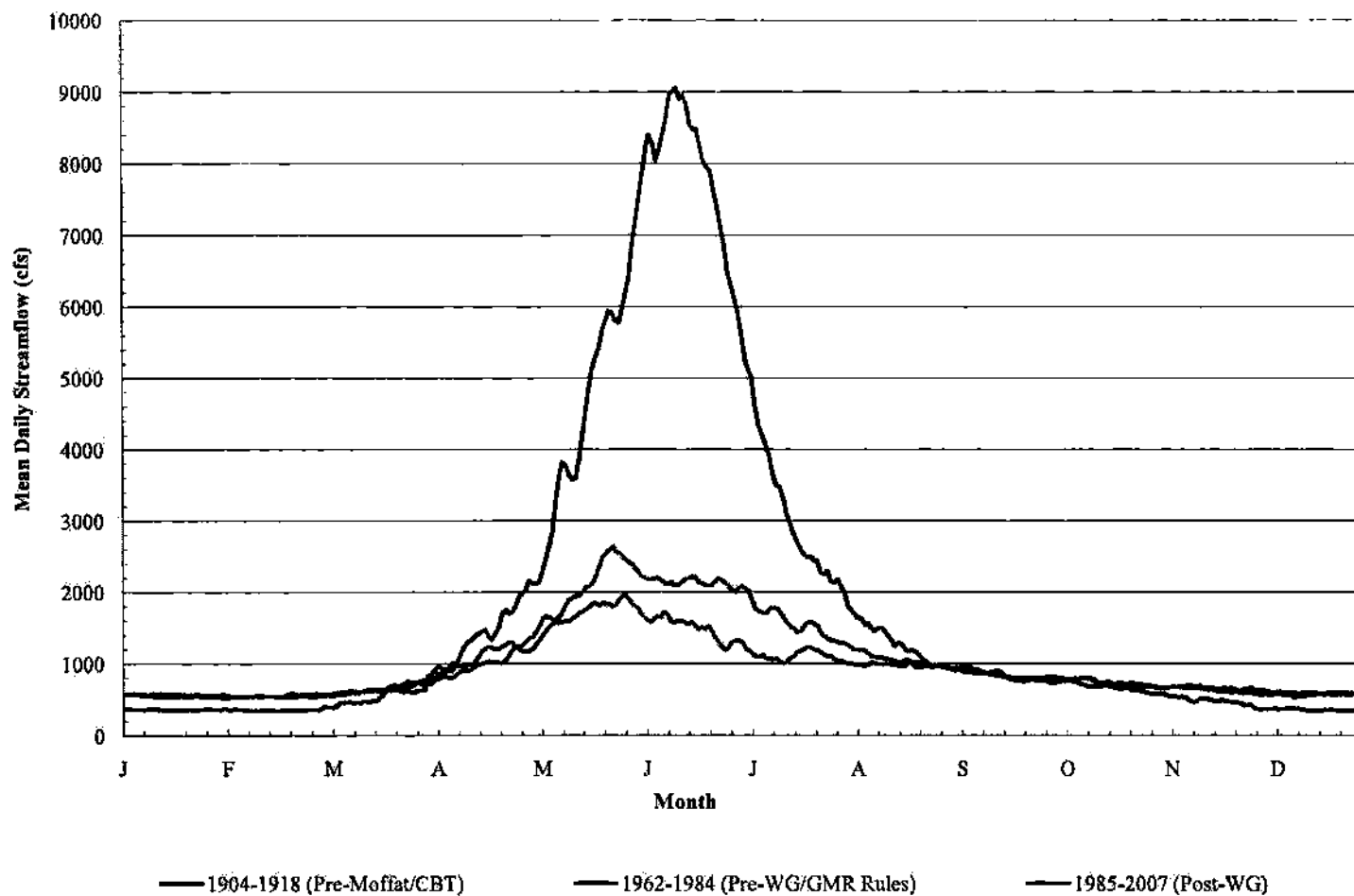
II. Mechanisms for Addressing Changed Circumstances in Long-Term Protection Measures

A. Examples of Changed Circumstances that Trigger Action of the SG.

1. Measure 1: Examples of a material change in circumstances include, but are not limited to, the CWCB's appropriation of an ISF that is not consistent with the SG's recommendation to the CWCB, a significant new water right appropriation upstream of or within the subject stream reaches that is senior to the CWCB's anticipated ISF(s), the CWCB's determination to abandon its instream flow water right or to allow the inundation of part of the instream flow right; an administrative or judicial reduction of the instream flow right; or the implementation of an increase in the amount of the instream flow right, either by appropriation or by donation.

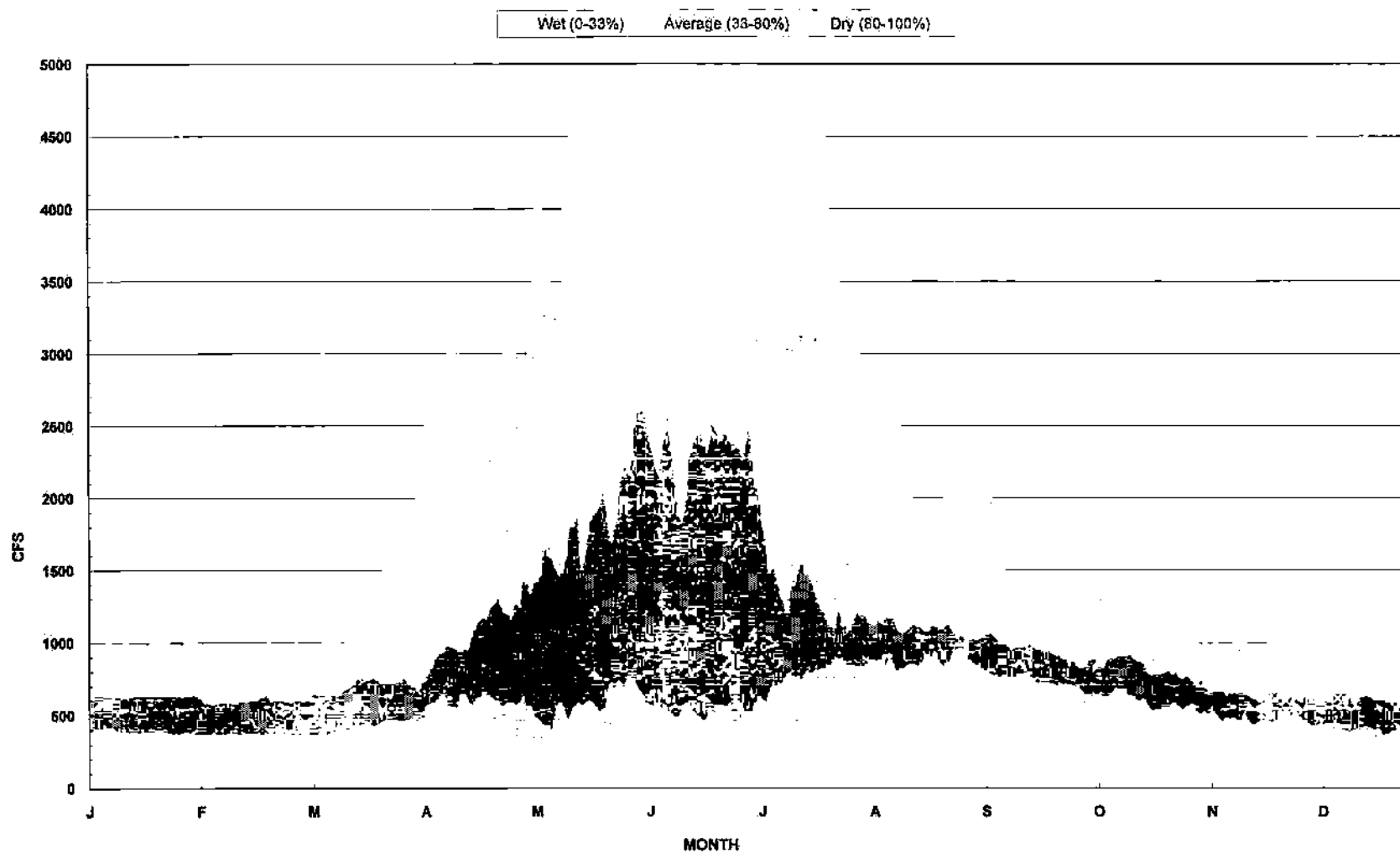
2. Measure 2: Examples of a material change in circumstances include, but are not limited to, a change in the operating procedures by which previously stored water is released from Green Mountain Reservoir under the 1984 Operating Policy and the terms of the Orchard Mesa Check Decree, Case No. 91CW247, Water Division 5.
  3. Measure 3: Examples of a material change in circumstances include, but are not limited to, a reduction, elimination, or other significant change from historical practice in the operation of the administrative call of the Shoshone Power Right, except as expressly set forth in paragraph \_\_\_\_ of the \_\_\_\_\_ agreement between Xcel Energy and the Denver Water Board dated \_\_\_\_\_. Another example is an abandonment, material reduction, or change in the manner of operation of the Cameo group of water rights.
  4. Measure 4: As discussed above, the SG expects a change in the methods by which the water users' obligation of water delivered to the endangered fish in the 15-Mile Reach within the next \_\_\_\_ years. The SG will not assert a material change in Measure 4 if the anticipated change is limited to no more than \_\_\_\_% of the existing average annual deliveries of water to the endangered fish species from points upstream of Kremmling.
- B. Any active member of the SG may assert a Changed Circumstance in the implementation of one of the Long Term Protective Measures by submitting a written request for the SG to convene a meeting (or add an agenda item to a previously set meeting) pursuant to the procedures for elevation in Section IV.d of the Implementation Outline. The SG will determine by consensus whether a material change in circumstances exists and, if so, how to address the change by cooperative measures.
- C. If, in accordance with the SG's adopted Governance Protocol, the SG agrees that a material change in circumstances exists, but does not agree how to address by cooperative measures any material change that the SG does agree exists, then the SG agrees to proceed to elevate this matter to BLM in accordance with Section IV.e of the Implementation Outline.

**Figure 1**  
**Colorado River near Kremmling Mean Daily Flows**  
**(1904-2007)**



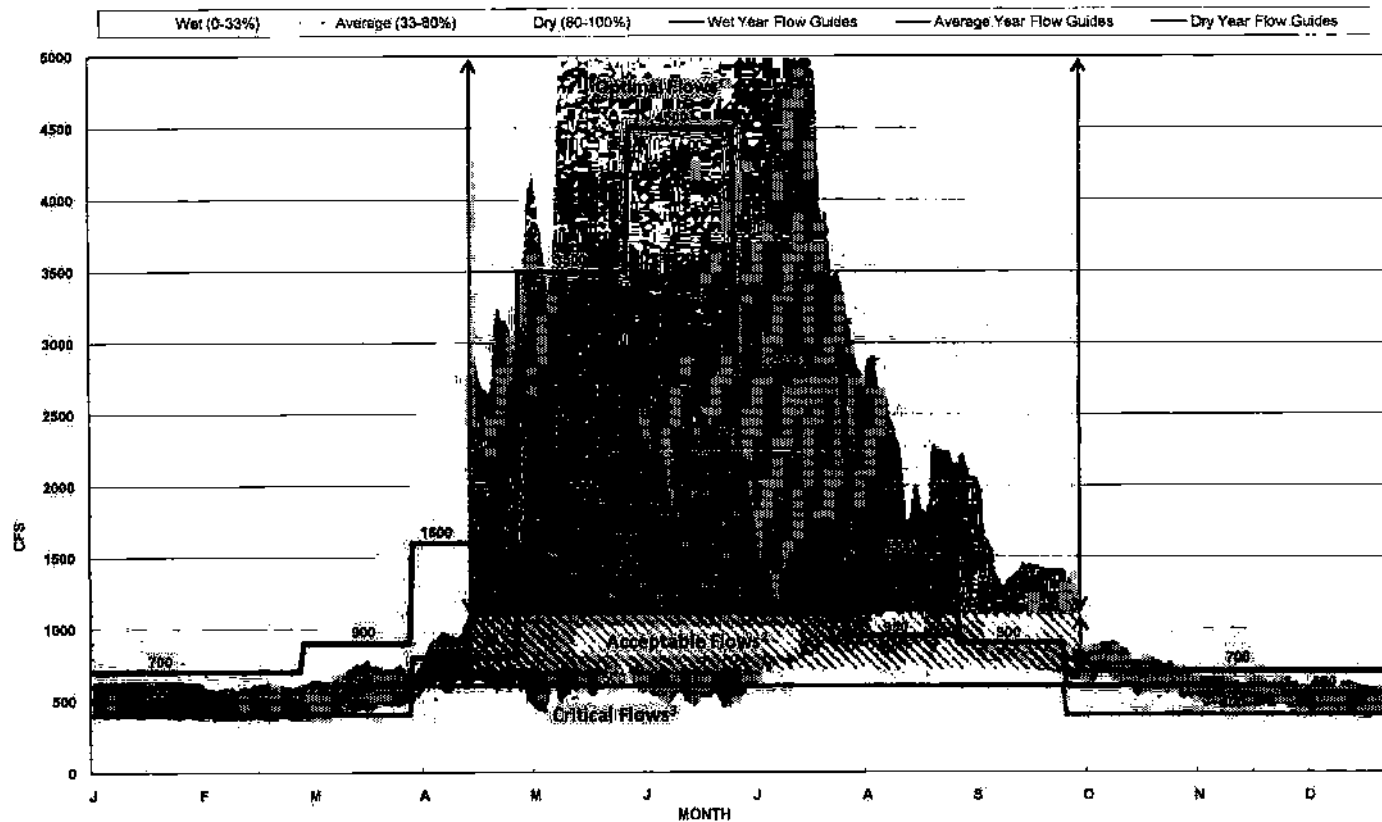
(Note: Colorado River near Kremmling flow data is unavailable from 1919 to 1961 and 1971.)

Figure 2: Colorado River near Kremmling, % Exceedances  
(1985-2006)



Percent exceedance curves are based upon daily historical Colorado River hydrology near Kremmling from 1985-2006.

Figure 3: Colorado River near Kremmling, % Exceedences, Flow Ranges & Provisional Stream Flow Guides (1985-2006)



Dry year flow guides are based upon Grand County Stream Management Plan critical flows.

Average year flow guides are based upon a combination of fish flows and acceptable levels of floatboating flows.

Wet year flow goals are based upon preferred recreational boating flows, historic hydrology, and include flushing flows recommended in the Grand County Stream Management Plan (1800 cfs for 3 days, 1 in every 2 years).

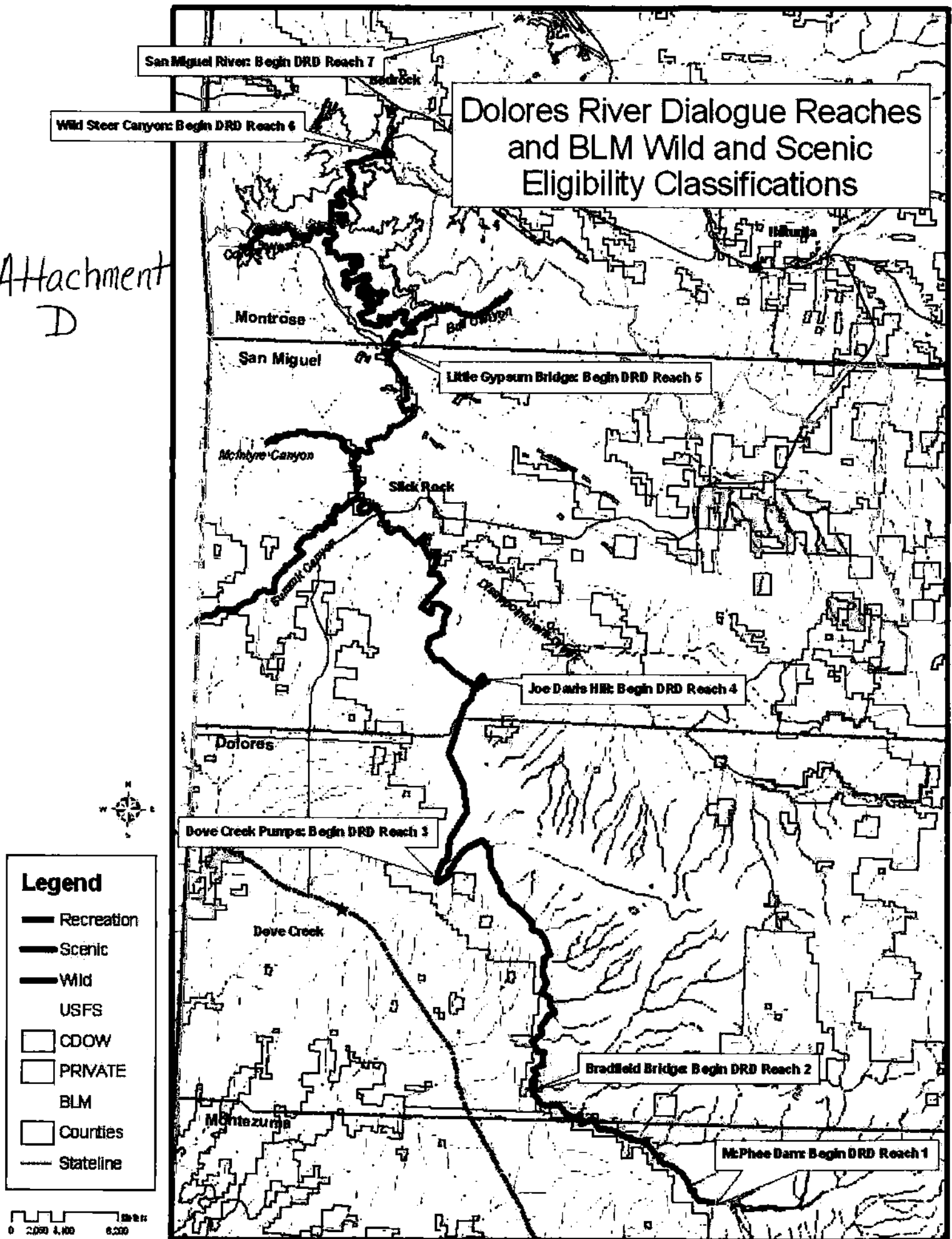
1. Optimal Flows for commercial rafting (1100-4500+ cfs). The width of the shaded area represents the commercial rafting season (4/15-9/30) (American Whitewater).

2. Acceptable Flows for commercial rafting (700-1100+ cfs). The width of the shaded area represents the commercial rafting season (4/15-9/30) (American Whitewater).

3. Critical Flows according to the Grand County Stream Management Plan



Attachment  
D



## Attachment H

### Outstandingly Remarkable Values DRD Reaches 1-5 Lower Dolores Plan Working Group

DRD Reach	Archeology	Fish, Wildlife and Ecological (plants)	Geology	Recreation	Scenery
1	* rare and exemplary prehistoric sites	* Roundtail Chub (rare in this reach)	* sandstone cliffs	* Rafting	* cliffs,
2	- rare and exemplary prehistoric sites * large Anasazi pueblos	* Roundtail Chub	* sandstone cliffs * linear canyons	* Rafting	* cliffs, linear canyons and groves of old growth ponderosas
3	- rare and exemplary prehistoric sites	* Roundtail Chub	* Sandstone cliffs * linear canyons	* Rafting	* cliffs, linear canyons and groves of old growth ponderosas
4	- rare and exemplary prehistoric sites	* Roundtail Chub * Canyon Tree Frog (and Summit Canyon) * NM Privet* Eastwood's Monkey Flower (and McIntyre Canyon)	* Sandstone cliffs * linear canyons	* Rafting	* cliffs, linear canyons and groves of old growth ponderosas
5	* Rare and exemplary prehistoric sites *sacred site (rock art panel)	*Roundtail Chub * Canyon Tree Frog *NM Privet *Eastwood's Monkey Flower * Kachina Daisy (Coyote Wash)	*Sandstone cliffs * linear canyons	* Rafting * Hiking to Pools (Bull Canyon) * Hiking sandy wash(Coyote Wash)	*Cliffs * Linear canyons

## Attachment B

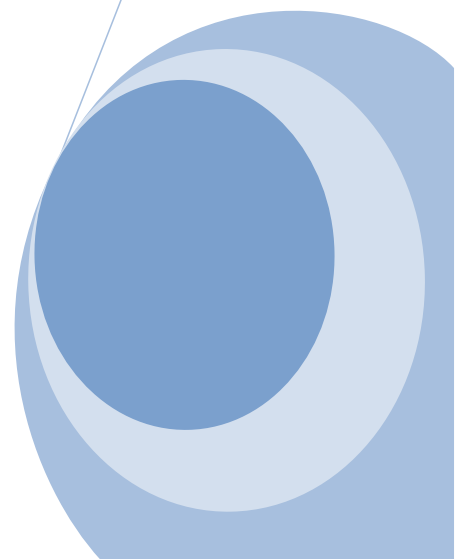
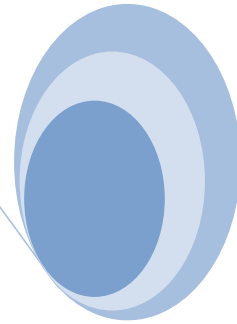
		<b>Lower Dolores Plan WORKING GROUP SCHEDULE</b>	<b>Approved (as of 10/27/09)</b>
<b>Meeting</b>	<b>Date</b>	<b>Topic</b>	<b>Presenters/Other</b>
<b>2008</b>			
<b>Meeting #1</b>	<b>December 15, 2008</b>	-Orientation -Overview -History of the Effort and 1990 Plan	- Shauna Jensen, DPLO - Steve Beverlin, DPLO - Mike Preston, DWCD - Marsha Porter-Norton, Facilitator
<b>2009</b>			
<b>Meeting #2</b>	<b>January 19<sup>th</sup></b>	-Recreation -DRD Science	- Rick Ryan, DPLO - Steve Beverlin, DPLO - Mike Preston, DWCD - Jim Siscoe, DRD Science Committee
<b>Meeting #3</b>	<b>February 17<sup>th</sup></b>	-Ecology (riparian and otherwise) -Wildlife (land -Fish	-Ann Oliver, DRD Science Committee -Jim White, Colorado Division of Wildlife - Kathy Nickell, DPLO
<b>Meeting #4</b>	<b>March 16<sup>th</sup></b>	-Power Point on WSR sections of SJPLC Draft Plan -Geology -Archeology -Scenery	- Steve Beverlin, DPLO - Vince MacMillan, DPLO
<b>Meeting #5</b>	<b>April 20<sup>th</sup></b>	- "Process Check in" - Tools Power Point - Alternatives to Wild Scenic Discussion - 319 Study	- Chester Anderson - Marsha P-N
<b>Meeting #6</b>	<b>May 11<sup>th</sup></b>	- Grazing - Sense of Place - Minerals/Oil& Gas - Review of Issues, Opportunities and Concerns	- Tom Rice - Steve Beverlin - Jim Felton
<b>Field Trip</b>	<b>May 17<sup>th</sup></b>	- Field Trip: Reaches 1 and 2 & Rafting	- Carolyn Dunnire
<b>Field Trip</b>	<b>July 20<sup>th</sup> (Note: this served as meeting #7)</b>	- Field Trip: River Ecology and Fisheries Field Trip	- Jim White, CDOW; Adam Coble, NAU Graduate Student; Chester Anderson, BUGS Consulting; Ann Oliver, DRD Science Committee
<b>Meeting #8</b>	<b>August 17<sup>th</sup></b>	- Reaches 1 & 2 (ORVs & DRD information) - Small Groups: Brainstorm management strategies and tools for protection	- Ann Oliver
<b>Field Trip</b>	<b>September 12<sup>th</sup></b>	Field Trip: Slickrock Area -- Private Property; scenery; cultural resources; grazing; tamarisk project; boat launch issues; & land restoration	- Cole and Kara-Lynn Crocker- Bedford; the Randolph's; Peter Mueller, TNC, and Al Heaton  (CONTINUED)

## Attachment B

Meeting #9	September 21 <sup>st</sup>	<ul style="list-style-type: none"> <li>- Reach 5 (ORVs &amp; DRD information)</li> <li>- Small Groups: Brainstorm management strategies and tools for protection</li> </ul>	- Ann Oliver
Meeting #10	October 19 <sup>th</sup>	<ul style="list-style-type: none"> <li>- Reaches 3 &amp; 4 (ORVs and DRD information)</li> <li>- Small Groups: Brainstorm management strategies and tools for protection</li> <li>- Review and Approve Revised Schedule</li> </ul>	- Ann Oliver
Meeting #11	November 16 <sup>th</sup>	<ul style="list-style-type: none"> <li>- Wrap up Reaches discussion</li> <li>- Working Group Selects Top 3 priority issues for Workshops (DRD-TC recommends)</li> <li>- Summarized grid of Reach information</li> <li>- Discuss landowner/property rights</li> <li>- Present list of revised planning goals/discuss</li> </ul>	- TBA
Meeting #12	December 14 <sup>th</sup> Workshop #1  2 <sup>nd</sup> Monday	Workshop #1 <ul style="list-style-type: none"> <li>- Recap Issue</li> <li>- Brainstorm tools and strategies</li> <li>- Small Groups</li> <li>- Build consensus where possible</li> <li>- Reflect range of options/alternatives</li> </ul>	TBD
<b>2010</b>			
Meeting #13	January 18 <sup>th</sup> Workshop #2	Workshop #2 <ul style="list-style-type: none"> <li>- Recap Issue</li> <li>- Brainstorm tools and strategies</li> <li>- Small Groups</li> <li>- Build consensus where possible</li> <li>- Reflect range of options/alternatives</li> </ul>	TBD
Meeting #14	February 15 <sup>th</sup> Workshop #3	Workshop #3 <ul style="list-style-type: none"> <li>- Recap Issue</li> <li>- Brainstorm tools and strategies</li> <li>- Small Groups</li> <li>- Build consensus where possible</li> <li>- Reflect range of options/alternatives</li> </ul>	TBD
Meeting #15	March 8 <sup>th</sup> Workshop #3-II  2 <sup>nd</sup> Monday	Workshop #3B -- Second Part <ul style="list-style-type: none"> <li>- Recap Issue</li> <li>- Brainstorm tools and strategies</li> <li>- Small Groups</li> <li>- Build consensus where possible</li> <li>- Reflect range of options/alternatives</li> <li>- STAFF: START WRITING REPORT</li> </ul>	TBD
Meeting #16	April 19 <sup>th</sup>	<ul style="list-style-type: none"> <li>- Initial Report Discussions, Edits, Etc.</li> </ul>	n/a
Meeting #17	May 3 <sup>rd</sup>  1 <sup>st</sup> Monday	<ul style="list-style-type: none"> <li>- Finalize Report, Conclude</li> </ul>	n/a
	May 17 <sup>th</sup>	<ul style="list-style-type: none"> <li>- Meeting if Necessary</li> </ul>	n/a

# Hermosa Creek Workgroup Final Report

| Second Draft: 11/2/09 First Draft: 10/28/09



## **Insert: Table of Contents Here**

Cover Photo Credit: Ann Bond, San Juan Public Lands Center and Google Earth Photos

### **Hermosa Creek Workgroup – Final Report** (~~second first draft: 11/2/09 10/28/09~~)

#### **Background**

The Hermosa Creek Workgroup (hereinafter referred to as the "HCW") was launched in April 2008 by the River Protection Workgroup (hereinafter referred to as the RPW). The RPW was started in late 2005 and the purpose of this effort is:

- ❖ to bring together citizens and organizations interested in selected streams in the region ~~Hermosa Creek and its watershed~~ to determine values worthy of protection;
- ❖ to recommend the types of tools necessary, either existing or newly-developed, to protect the values; and
- ❖ to set these recommendations in the context of protecting values while allowing water development to continue.

This report documents the work of the HCW which met 17 times from April 2008 to \_\_\_\_2009 and presents recommendations for action. A full set of minutes provide the group's detailed proceedings and are on the Web site at: <http://ocs.fortlewis.edu/riverprotection>.

The report is for anyone interested in this special and unique area of Colorado including individuals, governments, elected officials, non-profits and other organizations. *Each recommendation represents consensus of the participating HCW members.*



**River Protection Workgroup Basin  
Area of Interest**

## River Protection Group and Starting the HCW

This unique community-based process was started by a regional initiative called the River Protection Workgroup ("RPW"). The RPW was formed in late 2005 by the San Juan Citizens Alliance and the Southwestern Water Conservation Board in response to the San Juan Public Land Center's (USFS/BLM) *Draft Land Management Plan* which recommended certain segments of the areas' rivers and streams as suitable for the Wild and Scenic Rivers designation (WSR). These two organizations, which represent sometimes competing or conflicting interests, decided to address this contentious water issue by *working together*. They established an RPW Steering Committee and the members are:

- Colorado Department of Natural Resources (Division ~~s of Wildlife and~~ of Water Resources, and the Colorado Water Conservation Board);
- San Juan Citizens Alliance (SJCA);
- San Juan Public Lands Center (USFS/BLM);
- Southern Ute Indian Tribe;
- Southwestern Water Conservation District (SWCD);
- Staff from the local offices of U.S. Senator Michael Bennet, U.S. Senator Mark Udall and U.S. Representative John Salazar;
- Southwestern Water Conservation District (SWCD):
- The Nature Conservancy;
- Trout Unlimited - Five Rivers Chapter; and
- Wilderness Support Center, a project of The Wilderness Society (TWS).

Funding for the initiative comes from the State of Colorado and other sources including:

- ✓ Southwestern Water Conservation District
- ✓ San Juan Citizens Alliance
- ✓ Trout Unlimited
- ✓ Southern Ute Indian Tribe
- ✓ National Forest Foundation (through SJCA)
- ✓ CWCB End FY '07 and '08 Severance Tax; CWCB Project Fund 09
- ✓ The Wilderness Society
- ✓ (funding sources as of 10/09)

*There is an information sheet on the RPW project in Attachment A.*

The RPW Steering Committee decided to conduct public workgroups on five area rivers/streams beginning with Hermosa Creek using a set of collaborative and consensus-based approaches and the following principles:

- Anyone with an interest is a stakeholder and has a seat at the table.
- Dialogue must be respectful to ensure that the whole range of opinions is heard and understood and that a future recommendation will meet as many concerns as possible.
- Facts and information must be accurate.
- There will be a lot of interaction, collaboration, and possible negotiations to reach a consensus.
- The process will be fair, open and transparent.

Thus, the Hermosa Creek Workgroup meetings, which were led by a professional facilitator, operated as an "open table" where anyone could participate. Many answered the call to do so (see Attachment B for a roster).

### **Getting Started**

First, significant outreach efforts were conducted by the RPW to get key stakeholders to the table. Over 70 people attended the first meeting at which time there was community agreement to accept the RPW's invitation. The Hermosa Creek Workgroup was launched!

The area which the HCW focused on includes Hermosa Creek and all its tributaries down to the southeastern (lower) United States Forest Service ("USFS") boundary. Four of those tributaries were not considered to be eligible for Wild & Scenic Rivers ("WSR") designation by the USFS. The Area also includes 160 acres of private land with a decreed water right diverted from the main stem of Hermosa Creek at the Three Sisters Ditch, for which a land exchange is being considered between USFS and Tamarron Properties.

In the first meetings, it was noted that there are no "pre-set outcomes" or "done deals" decided upon by the RPW. The HCW agreed to the process principles, set ground rules and defined consensus.





*Photo: Trails 2000, Mary Monroe*

#### *Definition of Consensus...*

- Includes steps so that all views are heard and considered
  - Recognizes that differences of opinion are natural/expected
  - Group makes a good faith effort to reach a decision that everyone can support
- Consensus does not mean everyone agrees with the decision but... they can support it

#### *Ground Rules...*

- Respect
- One person talks at a time
- Every person's opinion is important
- Determine truth and facts based on solid data
- Speak up and raise issues for discussion



*Photo: Trails 2000, Mary Monroe*

Prior to the HCW kicking off, the RPW devised a process model which was agreed to by the HCW. This phased approach to the discussions is described as follows:

#### Phase I:

Background information will be shared. The group process will be fully discussed and agreed upon.

#### Phase II:

Hermosa Creek values will be discussed, including natural, social, cultural and/or economic values, addressing any protections already in place. By the end of Phase II, participants will have considered a range of options for protecting important values on Hermosa Creek. No decisions will be made in this phase.

### Phase III:

The group will look to the future. Each option will be discussed in-depth. Through consensus-building and other decision-making tools, the group will reach conclusions and develop action plans.

### **Learning about the Creek**

Next, to gain a *common understanding* of the Creek and its watershed, and to ensure the groups' discussions were grounded in facts, an "Initial Information Sheet" developed by the RPW Steering Committee was reviewed. This information sheet presented the following: description of the area; values; protections currently in place; potential protection mechanisms (as defined by the HCW); water rights; information on existing In-stream Flows and the status of water quality; uses which require permits; court actions; location of a dam site (through the Statewide Water Supply Initiative or "SWSI"); transportation issues; potential conflicts; and reasonably foreseeable economic development in the area. Changes were made to this document by the HCW and a final edited document was agreed to (see Attachment C).

The group which was comprised of interested citizens *along with* some professional water experts. So, a "Water 101" learning discussion was given by Bruce Whitehead, executive director of the Southwestern Water Conservation District (SWCD). Accompanying this presentation were two handouts: one on basic water terms and another one related to agencies/entities involved in water in Colorado (find Web site).

A comparative stream flow model was requested by the group. The Colorado Water Conservation Board completed the project and presented it. The San Juan Public Lands Center (USFS/BLM) gave information when asked including much detail about past planning efforts in the Hermosa Creek watershed, the Roadless Inventory and Roadless Rules along with their reasoning for recommendations made in the *Draft Land Management Plan*. And finally, based on a request from a Working Group, the SJPLC was conducting an Environmental Impact Statement (called the Hermosa Landscape Grazing Analysis), and a USFS staff person gave information on that effort.

## Values

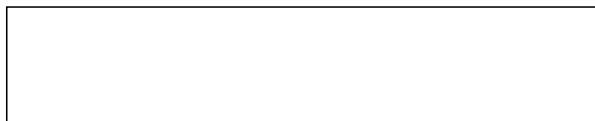
The HCW then deliberated for several meetings and eventually agreed to a values statement (below). The word "values" was defined as what people hold dear about the Creek or simply put: what do they think is important? The word "values" can be loaded so the HCW avoided making judgments about whose values were most important. They elected to consider the full range of diverse values: economic, environmental, recreational, cultural, and social.

In the San Juan Public Land Center's (USFS/BLM) *Draft Land Management Plan*, there were two official "Outstandingly Remarkable Values" (ORVs) that prompted the Agency to deem Hermosa Creek and its tributaries suitable for the Wild and Scenic River (WSR) status. These ORVs are:

1) Recreational use: The Area is subjected to heavy recreational use because of its proximity to Durango. Uses include mountain biking; motorcycle riding; hiking, camping, backpacking, hunting, fishing, snowmobiling on the East Fork, Class IV and V whitewater kayaking, cross-country skiing, and single-track use.

(2) Cutthroat conservation use: This ORV is a result of the naturally isolated Hermosa Creek tributaries. These tributaries provide excellent habitat for existing Colorado River cutthroat trout and opportunities for restoration. An outcrop of limestone occurs at the terminus of many Hermosa Creek tributaries, providing a natural fish migration barrier. A pure strain of Colorado River cutthroat trout has been stocked in the East Fork of Hermosa Creek, Clear Creek, and North Hope Creek. Clear Creek was stocked from the native cutthroat trout population found in Big Bend Creek. A Colorado Division of Wildlife ("CDOW") Colorado River cutthroat trout restoration project, in cooperation with the USFS, is currently planned for the headwaters of Hermosa Creek, with the long-range goal of linking the East Fork and headwaters cutthroat trout populations. Note: the Aquatic Biologist from the Colorado Division of Wildlife (CDOW), Jim White, addressed the group at one meeting to discuss the trout population including the CDOW's management practices and plans. Find the *Draft Land Management Plan* here: <http://ocs.fortlewis.edu/forestplan/>.

Insert WSR suitability map from the Draft Land Management Plan



## Additional values were defined as also being important:

### *General*

- the area's sense of remoteness
- Hermosa drainage contains almost no private property (it is rare for such a large watershed to be mostly publicly-owned)
- there is accessibility to the area and multiple access points
- existence of biodiversity and large blocks of road-less, un-fragmented land, providing ecological continuity and integrity; the area represents many major life zones and has large areas of intact old-growth and healthy ponderosa pine forest

### *Economic*

- grazing
- outfitting
- hunting

### *Fish Species*

- species in the Hermosa Creek main stem and many of the tributaries of Hermosa Creek drainage include, but are not limited to: rainbow, brown, brook, hybridized and pure strain Colorado River cutthroat trout, and other wild trout populations

### *Plants*

- presence of a G2 community of white fir - Colorado blue spruce - narrow leaf cottonwood/Rocky Mountain maple, considered globally imperiled, as measured on a scale of G1-G5 by the Colorado Natural Heritage Program

### *Recreation*

- ATV use (motorized)
- horseback riding
- hiking
- mountain biking ~~ATV use (motorized)~~
- ~~Other: hiking,~~
- Snowmobiling ~~g, mountain biking, etc.~~
- Other



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#### *Terrestrial Wildlife and Wildlife Habit*

- elk
- bear
- deer
- Canada lynx
- snowshoe hare
- blue grouse
- wild turkey
- river otters
- coyote
- beaver
- bob cat

#### *Water*

- Hermosa Creek's natural flow variation
- Hermosa Creek was one of the first drainages outside a Wilderness Area or National Park to be designated as "Outstanding Water" by the Colorado Water Quality Control Commission
- Hermosa Creek provides water for ditch users in the Animas Valley and it flows into the Animas River
- Potential for water development

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**Eventually, the HCW agreed to this values statement :**

*The Hermosa Creek Area is exceptional because it is a large intact (unfragmented) natural watershed containing diverse ecosystems, including fish, plants and wildlife, over a broad elevation range, and supports a variety of multiple uses, including recreation and grazing, in the vicinity of a large town.*

## Broad Issues Identified

Many hours were then spent deliberating, discussing and debating various issues plus proposed actions. One of the first realizations the group agreed to was a set of issues that are considered “threats” or “concerns” as follows:

- ❖ Carrying capacity of the area as a result of high use
- ❖ Conflicts among user groups
- ❖ Sedimentation
- ❖ Possible development (roads, water, mining, private land, expansion of the ski area)

The group concluded that these issues may have impacts on:

- . Water quantity/volume and flows for cutthroat trout
- . Water quality
- . Wildlife
- . Solitude and quiet
- . Safety
- . Agricultural uses and sustainability

*It is noted that this list does not represent every concern that exists but simply was a summation done at this point.*

## Protection of the Values

The next step was deciding if additional protections were needed. The HCW again reviewed the “Initial Information Sheet” which gave information on the current levels of protection and they include:

a) USFS Management: The Hermosa Creek Area is managed by the USFS. Most of the Area is within the USFS 2001 Roadless Rule boundaries and managed under this rule. The Area contains the largest roadless land block under USFS jurisdiction in Colorado. The west side of Hermosa Creek, because of a lack of disturbance, has an unbroken sequence of various life zones, which can serve as reference areas for other parts of the San Juan National Forest. Under current USFS management, a majority of the area is classified as a Management Area 3

(MA3) which allows for grazing and some management activities that would benefit the resource conditions. The popular Hermosa Creek Trail is motorized and there are motorized trails on both the west and east sides. The San Juan Draft Land Management Plan/Draft Environmental Impact Statement released in December 2007 recommends Alternative B which features: the western portion managed as a MA1; the eastern side managed as a MA3; recommendation of 50,895 acres for Wilderness and 15,469 acres as a Research Natural Area; and a recommendation that 62.4 miles of Hermosa Creek and its tributaries are suitable for Wild and Scenic River designation.

b) Water Quality: Hermosa Creek has been designated an Outstanding Water of the State of Colorado by the Colorado Water Quality Control Commission, except for the East Fork and its tributaries, which have the next highest water-quality classification. Also, the Colorado Division of Wildlife has fishing regulations in place on the East Fork from the headwaters to Sig Creek, including the use of artificial flies and lures only and a policy of catch and release.

c) Instream Flows: The Colorado Water Conservation Board (CWCB) holds an In-stream flow water rights on the Hermosa Creek main stem and a number of tributaries. The Initial Information sheet provides details and is on the Web site.

### **New Ideas**

The HCW agreed to consider additional protections and devised a list for study. At this juncture a document produced by the RPW was handed that relayed all the current river/stream protection tools available (find it on the Web site). However, the group was encouraged to develop, if appropriate, new tools if applicable. This list (below) became the initial set of ideas upon which the group deliberated:

#### Land Management

1) San Juan National Forest -- Land Management Plan and other Agency rules, standards, plans, guidelines, etc.:

- ❖ Greater dispersing/ment of users  
Designation of a Research Natural Area
- ❖ Limiting the number of users without eliminating use

- ❖ Road and trail standards and rehabilitation
  - Gather information about and monitoring of user numbers (use of clubs and interest groups)
- ❖ weed control (management practices)
- ❖ other rules, standards, policies and guidelines
- 2) Wilderness Area designation (meaning Wilderness only)
- 3) Other designations such as National Conservation Area or National Recreation Area
- 4) Roadless Area Rules/policies
- 5) Water
  - ❖ In-stream flow rights to protect water (possibly more ISFs)
  - ❖ Wild and Scenic River designation
  - ❖ CDOW regulations regarding fishing
  - ❖ Inventory of sediment sources
  - ❖ New potential tool: "negative water right"
- 6) Other - Water
  - ❖ A new tool/standard for sediment, to be developed by the group
- 7) Private land acquisition
- 8) Special Legislation

It is noteworthy that one proposal studied and accepted for consideration was a package developed by Trails 2000, the San Juan Citizens Alliance and The Wilderness Society. These groups had developed a comment letter to the SJPLC as part of the formal EIS comment period for the *Draft Land Management Plan*. Their proposal was put on the table at the January 2009 meeting and included Wilderness, a Wild and Scenic River status for the Creek, keeping the roadless area roadless, designation of travel management routes, water shed protection measures, and setting up a Special Management Area.



In subsequent meetings, the list above was then narrowed and summed as follows:

1. Trails 2000, TWS and SJCA proposal
2. John Taylor's proposal for a Advisory Council (local management)
3. Special legislation. (If No. 1 is too much and No. 2 is not adequate, try to find another way with elements of both.)
4. A basin-wide framework/umbrella concept
5. WSR designation
6. Wilderness
7. National scenic area, national resource area, national conservation area
8. Instream flow

### **Discussions of Protection Tools**

Next, during this phase, dialogue, information-sharing and certainly debate occurred about the merits or perceived problems with the various tools on the list. Speakers were invited to give information including: Roy Smith, from the State BLM office who gave a presentation on WSR; and Linda Bassi who gave a presentation on the State's In-Stream Flow and other programs. Mark Stiles, Forest Supervisor with the SJPLC and Jeff Widen, from the TWS's - Wilderness Support Center gave information on wilderness and other federal protection tools. John Taylor, a member of the HCW, promoted an Advisory Council that would function as a local watershed group. He show cased a model from the Verde Valley in Arizona. Both Steve Fearn and Bruce Whitehead with SWCD gave perspectives from the water management and planning arenas. *These discussions allowed the various tools on the protection tool idea list to be vetted and thoroughly understood.*

Further, the HCW group looked at all the various ideas through many different lenses. They received a matrix developed by a member of the RPW Steering Committee which compared each of the tools to this criteria:

- Would apply to all or Part of Hermosa Watershed?
- Public or Private Land?
- Level in Hierarchy (\*)
- Relative level of Permanency

- Relative level of Local Control
- Relative level of flexibility
- Hermosa Creek Watershed Value Addressed

(Find the matrix on the Web site.)

Also, as the group began to assess various tools for protection, Mark Stiles offered a chart that showed the hierarchy of federal laws and regulations as follows (from the highest to the lowest in terms of local control):

- -U.S. Constitution
- -Treaty
- -Statute (e.g., National Conservation Areas, Wilderness Areas, Wild and Scenic Rivers, etc.)
- -Regulation (e.g., the Roadless Rule)
- -Agency policy
- -Resource management plan
- -Project plan

He noted that there is greater permanency but less flexibility and less local control as one moves up the scale from the bottom to the top. Finding a set of tools that supported and bolstered local control and involvement became one theme of the group.

### **Drafting Committee Forms and HCW Consensus Recommendations**

A working group of this size has great advantages. However, at this juncture, a smaller group that became known as the Hermosa Creek Drafting Committee (hereinafter referred to as "HCDC") was formed to work out details and bring recommendations back to the larger HCW. Those who volunteered to serve on the group include: Steve Fearn, Meghan Maloney, Chuck Wanner, Bruce Whitehead, Mely Whiting, Jeff Widen, and Ed Zink with Thurman Wilson (or Dave Baker) advising from the SJPLC and with John Whitney, from Congressman Salazar's office ex officio as well. The group decided early on to continue using the HCW facilitator, Marsha Porter-Norton. This Drafting Committee met a total of \_\_\_\_times from June to \_\_\_\_.

A framework the HCDC agreed to operate within in Attachment E. The HCDC worked within established a diversity of goals and interests expressed by based on the HCW. A particular

challenge for the HCDC and the HCW was to develop recommendations that reflect these goals and interests, which may in some cases conflict with each other. Those Goals and Interests are larger group's discussions as follows:

### **Goals**

- Protect the values as defined by the Working Group statement
- Protect the watershed and Hermosa Creek itself
- Preserve the intact nature of the area (e.g., road-less features)
- Allow water development to continue
- Protect existing outstanding water quality
- Manage for accelerated sedimentation caused by human activity
- Provide for local collaboration and problem solving among stakeholders
- Protect existing uses

### **Interests**

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The following list of interests was developed by the HCDC that attempts to capture what people on the HCW care about or their interests:

### **Land**

- 1) To permanently preserve Hermosa Creek and its watershed because it is a special and unique place; permanently protect the land/watershed; protect the water, land, wildlife and fisheries for future generations
- 2) To protect Hermosa Creek and its watershed with flexibility and local control built into the solutions
- 3) Employing management tools that keep the number of users to a sustainable level and the carrying capacity of the area is not exceeded
- 4) Existing uses should continue including grazing, mining, outfitting, recreational uses, etc.; and they should continue in the places where they currently exist
- 5) To retain the road-less portions of the area as they currently exist

- 6) To prevent unwanted development that would threaten the watershed and water quality
- 7) Respect private property rights
- 8) To find ways for user groups and the public land managers to work out solutions and employ stewardship practices for the land and water (local control); reduce human impacts to the land and water

### **Water**

- 1) Need to allow water development to continue; desire for ability to use water from Hermosa Creek for future *water needs* - basin wide; do not tie up water rights
- 2) Protect Hermosa Creek's hydrograph at current level (or close to it) so watershed is preserved in-tact; permanently preserve the natural values of Hermosa Creek and in its watershed for future generations
- 3) Ensure Hermosa Creek is not dammed
- 4) Ensure water quality stays at current level
- 5) Ensure trout fisheries stay strong
- 6) To reduce human impacts to the water (in general)

### **Other**

- 1) Get something done; "we've been talking about this for years"
- 2) To find solutions that work for as many as possible

Note: These are not listed in any priority order.

### **Recommendations**

Finally, the last step: The HCW arrived at its conclusions for the future. Here are the recommendations (note: some of these issues need discussed on 11/3 and a determination needs to be made around agreement):

Red = areas still being worked on.

### **Legislation**

Move forward and develop "*Hermosa Creek Legislation*." This legislation will include language that protects the values in Hermosa Creek and the watershed itself, and includes

goals to maintain Hermosa Creek's State of Colorado Outstanding Water Quality designation. The legislation will encompass the watershed boundaries and focus on land protection measures at the present time

### ***Wilderness***

This federal legislation will, if passed, establish a new *Hermosa Creek Wilderness Area*. The boundaries include: (exact boundary of the eastern and southern sides of the Wilderness are still under discussions). Water in the wilderness would be addressed by inserting previous language established in 1993 for other Wilderness Areas in Colorado. XXXX

INSERT MAP showing the proposal XXXX



### ***Special Management Area (SMA)***

The legislation will also establish the *Hermosa Creek Special Management Area* that essentially include lands surrounding the Hermosa Creek Wilderness Area (refer to the map above). By law, a management plan specifically for the SMA will be developed with broad public comment. In the SMA and related to it, the following details are recommended:

- Boundary: The proposed SMA includes lands shown on the map above (XXX color). The SMA also encompasses current Inventoried Roadless Area and recommends that this area remain permanently road-less (note: SWSI site still being worked on).
- Grazing: The legislation needs to ensure flexibility for grazers. It should allow grazing where it exists now in the proposed Wilderness Area. Grazing in the SMA would be managed under the Forest Plan and management goals. An existing set of Congressional Grazing Guidelines that were established in other legislation should be used for guidance (Drafting Committee currently reviewing these). The legislation should ensure a reasonable level of activity for maintenance of grazing allotments and relocation of grazing facilities.

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- Motorized: Motorized use in the SMA should be limited to designated routes/trails defined by the SMA management plan (note: motorized equipment is not allowed in Wilderness).
- Ski Area: The ski area is managed under current USFS rules, permits and guidelines. There are no recommended changes. The HCDC is reviewing the footprint of the ski area in relation to the SMA.
- Wildfire: The goal is to establish a natural fire regime. The USFS should be able to do what they think needs to be done around pre-mitigation and fighting fire. A minimum tool analysis should still be required for Wilderness but mechanized tools should not be prohibited for the Wilderness Area all together. The intention is to reduce confusion for the USFS/BLM Fire Service Personal and Public Land Managers and to take care of the resource. (Drafting Committee is reviewing some language.)
- Logging: The legislation will be silent on logging. (currently being vetted by the Drafting Committee members' groups).
- Recreation: Recreation is allowed as per USFS policies and the management plan adopted. (Note: This has not been discussed at length yet.)
- Water: A specific decision was made that water language will not be recommended for inclusion in the SMA legislation because such matters will be discussed under the "circle back" process described below.
- **SMA issues still being worked on:**
  - SWSI site in relation to Roadless Area
  - Mineral-ed areas (north and south) (Key issue: the issue of whether or not to allow additional locations for "infill" mineral development, in the two areas with existing valid mining rights)

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Note: At the current time, the legislation would set up a Special Management Area (SMA). However, if, as the legislation proceeds, another designation is more fitting - such as a National Conservation Area – the designation sought might be changed.

### **Roadless Area**

Within the SMA, establish a permanent Road-less Area using the current map of the Inventoried Roadless Area. (Several boundary adjustments are under discussion namely related to the SWSI site).

### **Sedimentation**

The HCW discussed the fact that sedimentation in the Creek, while an issue, is hard to quantify both in terms of the amount and sources. Therefore, the group agreed that:

*Standards for roads and/or trails need to be bolstered to reduce sedimentation caused by human activity. The appropriate forum is to work on this is with the USFS.*

### **Proposed Land Exchange**

During the HCW process, a proposed land exchange process was occurring that would, if finalized, bring the 160 acres of private lands in the Hermosa Creek watershed into USFS ownership. This was discussed on many occasions. A policy was agreed to by HCW regarding this proposed land exchange (note: the comment period ended 10/30/09):

- support the USFS' goal to have an the watershed be comprised of in-tact Public Lands;
- it is noted that some HCW members' have concerns about the potential development of the private lands in the watershed and the possible impacts;
- it is also noted that these lands are private property and many in the group support private property rights; and
- the HCW did not choose not to take a position on the current proposed land exchange in the formal EIS public comment period.

### **Advisory Council**

The establishment of a community-based Hermosa Creek Advisory Council is recommended to continue to allow many diverse people and organizations to *work together* for the betterment of the Hermosa Creek watershed through education, projects, providing public input to the USFS, and mainly: to promote overall stewardship endeavors. It is recommended this Advisory Council not be included in the Hermosa Creek Legislation but rather that it be set

up through a grassroots structure. It is hoped that the HCW can be the beginning of this group. Model programs such as the Verde Valley Group can be studied. One major concern is that this group does not become politicized and partisan nor that it functions as a group that is "meeting just to meet." Finally, it needs to be helpful to and work in concert with the Public Land Managers yet able to give input where it deems necessary. The San Juan Mountains Association could serve as a role in this endeavor.

### **Water**

The RPW was established because of the general contentious nature of water across the West especially in relation to the WSR designation. So, not surprisingly, current and future water protections were discussed at length in this process. After many weeks of deliberation, the following consensus was reached:

*The Hermosa Creek Workgroup and the RPW Steering Committee will "circle back" for discussion of additional water protections for Hermosa Creek, and most especially the Wild and Scenic Rivers designation issues, after four remaining public workgroups are concluded in 2011. These public workgroups will be organized by the RPW for the Animas; Piedra; Vallecito Creek/Pine; and the San Juan.*

This approach became known as "Option 1" in the HCW and HCDC meeting as well at the RPW level. This option was selected so that clear momentum on land protections for Hermosa Creek can be capitalized on now. Yet, in order to get consensus on any additional water protections for Hermosa Creek, it was decided that the context of the entire basin needs to be known and under consideration.

In the HCW meetings, many expressed a desire for addition water protections on the Creek beyond what is there now. For the conservation/environmental community(ies) and some others, a primary concern is impoundment of the water via a major reservoir or structure on Hermosa Creek and its tributaries. Additionally, the presence of the trout fishery and the designation of the Creek as having "Outstanding Waters" make the case, many said, for lasting protections. Still others simply said that this is a very special area and it needs to be



"saved." Others said: We do not want this Creek degraded.

For those who are concerned with planning for future water and water development, the main concerns are implementing any tools that would limit options for water planning, development and use in the future; quantification – in terms of being asked to specifically state how much water will be needed for what, when and where; and the potential of a Federally Reserved Water Right that comes with a WSR designation. This constituency also noted several times that the land protections agreed to *also serve* as protections for water namely Wilderness, the Roadless Area and the SMA.

Therefore, it was determined at an important juncture during the summer of 2009 that recommendations regarding potential additional water protections for Hermosa Creek are tied to the other four river/streams under consideration by the RPW project. Launching and concluding public workgroups, very similar to the HCW, will give everyone a broader understanding of where trade-offs may occur, where future additional water protections might be agreed to and where future water development might happen. This compromise, while not entirely popular with everyone, was reached over the course of three months and involved many discussions and some caucusing on the part of groups involved.

**The "circling back" action step does not mean that water issues for Hermosa Creek are being placed on the shelf indefinitely nor does it mean the WSR designation is no longer an option.** It should be strongly noted that the "circling back" for discussion of water issues for Hermosa Creek will happen and sooner than originally planned. A new goal was established to finish the remaining public workgroup by 2011, earlier than the original target date of 2013.

By agreeing to this approach, the RPW Steering Committee reiterated their ongoing support to not only fund and conclude the public workgroups across the basin but to set up a structure by which regional negotiations can occur on key water issues, including ideas, issues and protection tools raised in the HCW meetings. So, discussions on additional water protections on Hermosa Creek are "to be continued" but the land protections, the Advisory Council and other recommendations should move forward now.

Participants:

- Names of HCW who wish to have names listed
- 

Attachments

- A- RPW Information Sheet
- B- HCW Roster
- C- Hermosa Creek Information Sheet
- D- Planning Matrix
- E- Hermosa Creek Drafting Committee Framework
- F- HCW minutes