

# 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: Linda Bassi, Chief, Stream & Lake Protection Section  
Ted Kowalski, Chief, Interstate and Federal Section

DATE: September 1, 2010

SUBJECT: **Agenda Item 28: September 13-15, 2010 Board Meeting**  
Interstate & Federal /Stream and Lake Protection Sections –  
Wild and Scenic Rivers

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Bill Ritter, Jr.  
Governor

Mike King  
DNR Executive Director

Jennifer L. Gimbel  
CWCB Director

#### Background

The CWCB Staff continues to work with stakeholder groups to develop resource protection methods that could serve as alternatives to federal determinations by the U.S. Bureau of Land Management (BLM) or U.S. Forest Service (USFS) that certain river segments are “suitable” for designation under the Wild and Scenic River Act. There are two stakeholder groups that are continuing to have discussions about alternatives: 1) the San Juan River basin group (separated into five different basins) (“RPW group”); and, 2) the Upper Colorado River basin group (“the Upper Colorado Stakeholder Group”). The Lower Dolores Working Group is continuing its work on developing proposed legislation that would protect the Outstandingly Remarkable Values (“ORVs”) present in the subject reaches of the Dolores River. In addition, there are two new alternatives groups that have not met but that are planning on meeting soon: 1) the Uncompahgre River basin group; and, 2) the San Miguel River basin group.

The Staff has provided updates on the two existing processes below.

#### Staff Recommendation

The Staff seeks the Board’s input on the various processes.

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

The Upper Colorado Stakeholder Group continues to work through the last several issues related to the development of a management plan. We have met several times since the July Board meeting and we have resolved some difficult issues within that time, but we still do not have a “review draft” of the Management Plan Alternative. One of the key sticking points at this time is how water development entities could “opt in” to this Management Plan in the future. The Front Range Diverters have suggested that if an entity seeks to develop a new water development project that could affect the flows of the Colorado River within the relevant segments, and a federal nexus exists, then that entity would have to demonstrate to BLM or the USFS that the project would not negatively affect the ORVs or that the project would adequately mitigate the adverse effects of the project. The Front Range Diverters have further suggested that in such a

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situation, if any stakeholder participating within the Management Plan wanted to submit negative comments to the federal agency about the impacts of the proposed water development project, then that stakeholder would have to withdraw from the Management Plan. This language is not acceptable to most of the other stakeholders involved in this process—including CWCB staff. Nevertheless, we have not been able to develop a mutually acceptable alternative as to how we could allow future water developers to “opt in” to this plan. We have meetings scheduled over the next several weeks, and we will provide the Board with an update about the outcome of those meetings at the Board meeting. The Stakeholder Group still hopes to submit a final Management Plan Alternative to the BLM and the USFS in 2010, although it has depleted the funds that it obtained from the CWCB in June 2010. The USFS and BLM expect to publish a Draft EIS by January 2011, so the Stakeholder Group may continue working until then, if necessary.

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

The River Protection Workgroup (“RPW”), has continued to conduct work on the San Juan River basin, and has begun work on the Vallecito Creek/Pine River basin. The San Juan River basin group had a field trip on July 22, 2010. In addition, the San Juan River basin group hosted a workshop, along with representatives of the Vallecito Creek/Pine Creek basin, on the Federal Wild and Scenic Rivers Act and alternatives to Wild and Scenic designation. The panel consisted of Senator Whitehead, Meghan Maloney of the San Juan Citizen’s Alliance, two federal agency representatives, and Ted Kowalski. The Vallecito Creek/Pine River basin group started work in June, and has continued to meet over the summer. The Hermosa Creek basin is still working on draft legislation that would address the land protections and that may be offered for Congressional approval this Congressional session. The CWCB Staff will share the draft legislation once it is ready for review. For more information, see the following link:

<http://ocs.fortlewis.edu/riverprotection/>.

The Uncompahgre and San Miguel basin groups have not met as of the date of this memo, but we will provide the Board with a verbal update at the Board meeting.