

# 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, Chief, Interstate & Federal Section  
Linda Bassi, Chief, Stream & Lake Protection Section  
Suzanne Sellers, Interstate & Federal Section

DATE: January 11, 2012

SUBJECT: **Agenda Item 19, January 23-24, 2012 Board Meeting**  
Interstate & Federal /Stream & Lake Protection Sections –  
Wild and Scenic Rivers

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John W. Hickenlooper  
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 currently three stakeholder groups that are continuing to work on Wild and Scenic protections: 1) the San Juan River basin group (separated into five different basins) (“RPW”); 2) the Upper Colorado River basin group (“the Upper Colorado Stakeholder Group”); and 3) the Lower Dolores Working Group.

The Staff has provided updates on several of the processes below:

### Staff Recommendation

The Staff recommends that the Board continue to support these processes.

### River Protection Workgroup Update (various sub-basins of the San Juan River)

The Animas River Protection Workgroup (RPW) workgroup held meetings on November 17 and December 15, 2011 in Silverton, CO and its next meeting is scheduled for January 30, 2012 at a location to be announced. Presentations on various river and stream protection tools were given, including a presentation on the CWCB’s Instream Flow Program by Linda Bassi. The workgroup began an in-depth review of its first segment of the Animas River from Baker’s Bridge to Silverton.

The Piedra River RPW workgroup held a meeting on December 6, 2011 in Pagosa Springs, CO and its next meeting is scheduled for January 17, 2012 at the same location. During this meeting, a review of the RPW Wild and Scenic river process and the purpose and the intent of the work

group were discussed. Also during this meeting, the values of the group were discussed as well as basin specific information with regard to the Piedra River drainage.

Representatives from the RPW will be providing the CWCB with an update on RPW activities on January 24, 2012 at the CWCB's regular board meeting.

For more information, see the following link: <http://ocs.fortlewis.edu/riverprotection>.

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

On September 16, 2011, the Bureau of Land Management (BLM) issued its Colorado River Valley Draft Resource Management Plan (DRMP)/Draft Environmental Impact Statement (DEIS) and the Kremmling DRMP/DEIS. The preferred alternative for each document is Alternative B. Alternative B is further divided into two options; B1 and B2. Between the two documents, Alternative B1 would find four Colorado River segments suitable while Alternative B2 would defer Wild and Scenic River suitability determination, and adopt and implement the Stakeholder Group's proposed Management Plan. Under either Alternative B1 or B2, two segments of Deep Creek would be found suitable. As the Staff discussed with the Board at the November Board meeting, comments on the Colorado River Valley DRMP/DEIS and the Kremmling DRMP/DEIS are both due January 17, 2012. For more information or electronic copies of these documents, see the following links:

[http://www.blm.gov/co/st/en/BLM\\_Programs/land\\_use\\_planning/rmp/kfo-gsfo/crv.html](http://www.blm.gov/co/st/en/BLM_Programs/land_use_planning/rmp/kfo-gsfo/crv.html) and  
[http://www.blm.gov/co/st/en/BLM\\_Programs/land\\_use\\_planning/rmp/kfo-gsfo/kremmling.html](http://www.blm.gov/co/st/en/BLM_Programs/land_use_planning/rmp/kfo-gsfo/kremmling.html)

Since November 2011, the Upper Colorado Stakeholder Group has met several times to coordinate the stakeholders' comments on the DRMP/DEIS in support of Alternative B2. Recently, the Upper Colorado Stakeholder Group submitted a joint comment letter, signed by Rob Buirgy on behalf of the Stakeholder Group. A copy of this letter is attached to this memo. In addition, Colorado Parks and Wildlife has a substantial number of comments that it is working on submitting. These comments do not contradict, or directly relate to, the Stakeholder Group joint comment letter about the Wild and Scenic values and the best methods for protecting those values. Thus, the Department of Natural Resources is currently drafting a cover letter to transmit those comments, and we will provide the Board with a copy of that letter at the upcoming Board meeting. The Colorado Department of Natural Resources letter will expressly support the comments articulated in the Stakeholder Group joint comment letter. Many of the individual stakeholders may also be submitting additional comments, which are consistent with the joint comments, if necessary. At the Board meeting, the Staff will be prepared to answer any questions, or address any concerns.

### **Lower Dolores Working Group Update**

The "A Way Forward" ("AWF") Implementation Team met on October 31 and November 29, 2011. The Team includes representatives of the Bureau of Reclamation, Colorado Parks and Wildlife, Montezuma Valley Irrigation Company, Dolores Water Conservancy District, The Nature Conservancy, San Juan Citizens' Alliance, American Whitewater and Trout Unlimited. The Team intends to try some of the alternatives from the AWF Report to help native fish that can be done under existing regulatory authority prior to proposing permanent management changes that could trigger a NEPA process. The Team is working on a monitoring, evaluation and implementation plan that will be completed by June 2012 and is funded in part by a Severance Tax Operational Account grant. The Team is focusing on spill management to

address temperature issues in the River and may implement a dry run of a spill shaped around native fish needs in spring 2012.

Topics discussed at the Implementation Team's October 31 meeting include:

- Identification of reservoir release amounts that address the concurrent goals of Colorado Parks and Wildlife (CPW), American Whitewater (AW), the Bureau of Reclamation (BR) and the Dolores Water Conservancy District (DWCD) of temperature suppression, boatable flows, and monitoring;
- Issue of boaters' need for predictability and more advance notice of a reservoir spill to enable planning boat trips versus potential uncertainty of forecasts and last-minute developments related to spills;
- The Implementation Team's development of a recommended hydrograph to provide to the BR, and various hydrographs developed by staff of CPW, AW, BR and DWCD in preparation for this meeting;
- Monitoring issues – CPW's current practices and whether more specialized monitoring is needed to assess biological response to how the reservoir is managed; and
- Implementation plan goals in general.

Topics discussed at the Implementation Team's November 29 meeting include:

- Structure of the implementation plan (deadline for formal document is June 30, 2012);
- Thermal monitoring, including where to house thermal data;
- Additional monitoring needs such as evaluating spawning success and recruitment, and geomorphic and riparian monitoring;
- How to garner community support for implementing the opportunities;
- Relative roles of Implementation Team and DRD Science Committee;
- Timeline for implementation and monitoring of 2012 spill;
- How the implementation plan will mesh with the legislation establishing the NCA; and
- Assessing the extent of and diminishing the impacts of predators (smallmouth bass and brown trout) on native fish.

Additional information on the Lower Dolores Working Group can be found at <http://ocs.fortlewis.edu/drd/meetings.asp>.

January 10, 2012

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Re: Draft Resource Management Plan/Draft Environmental Impact Statement documents (DRMP/DEIS documents) for U.S. Bureau of Land Management (BLM) Kremmling and Colorado River Valley Field Offices and U.S. Forest Service (USFS) White River National Forest.

Dear Mr. Mendonca, Mr. Stout, Ms. Espy and Mr. Fitzwilliams:

These comments are submitted on behalf of the Upper Colorado River Wild and Scenic Stakeholder Group (SG), which is comprised of the following entities:

American Whitewater  
Aurora Water  
Blue Valley Ranch  
Colorado River Outfitters Association  
Colorado River Water Conservation District  
Colorado Springs Utilities  
Denver Water  
Eagle County  
Eagle Park Reservoir Company  
Eagle River Water and Sanitation District  
Grand County

Middle Park Water Conservancy District  
Municipal Subdistrict, Northern Colorado Water  
Conservancy District  
Northern Colorado Water Conservancy District  
Northwest Colorado Council of Governments  
Summit County  
The Wilderness Society  
Trout Unlimited  
Upper Eagle Regional Water Authority  
Vail Associates, Inc.

This broad-based group of Stakeholders, including environmental groups, water users, recreational users, private landowners, and local governments, has worked together and in consultation with several divisions within the Colorado Department of Natural Resources since 2008 to develop the proposed Upper Colorado River Wild and Scenic Stakeholder Group Management Plan (SG Plan or Plan) to protect the outstandingly remarkable values (ORVs) identified in the BLM and USFS Eligibility Reports for Segments 4 through 7 of the Upper Colorado River. All references hereinafter to Segment 7 of the Colorado River are intended to include BLM Segment 7 and USFS Segments 1 and 2 of the Colorado River. The Plan has been endorsed by the members of the SG and the Colorado Water Conservation Board, and has been identified as the federal agencies' Preferred Alternative B2 in the DRMP/DEIS documents.

The Stakeholder Group has invested substantial effort to date in the development of this collaborative SG Plan and believes it is the best approach for balancing permanent protection of the ORVs, certainty for the stakeholders, water project yield, and flexibility for water users. We request that the federal agencies approve the proposed SG Plan as the means to address Wild and Scenic River values in the above-referenced segments of the Colorado River.

The following three points are critical to the SG. We ask that BLM and USFS carefully consider them in proceeding with their land use planning process and developing their RMP/FEIS documents and records of decision:

1. As BLM and USFS are aware, there exists a divide among members of the SG between those who believe Segments 4 through 7 may be suitable or not suitable. The SG Plan was able to move forward based upon a fundamental principle that the Plan is contingent upon the agencies' "neutral" deferral of making any suitability determination for these segments for so long as the Plan is in effect (SG Plan Guiding Principles, p. 9). We request that the BLM and USFS utilize an approach similar to the USFS process adopting the South Platte Protection Plan, where the basis and rationale for protective management of the ORVs is found in the current eligibility status. We specifically request that the agencies defer evaluation of the potential suitability of Segments 4 through 7 in the analysis for the Final Suitability Report, Final EIS, and records of decision, should the proposed SG Plan in Alternative B2 be approved.
2. A related and equally important principle of the SG Plan is that, should the SG Plan terminate, the BLM/USFS should proceed as expeditiously as possible with an evaluation of whether or not Segments 4 through 7 are suitable, providing an opportunity for and consideration of additional public comment at that time. It is our understanding that this process would likely involve issuance of a revised draft/final suitability report addressing the status of those segments. We request that BLM/USFS confirm this procedure in their respective decision documents.
3. The principles and elements of the SG Plan have been developed by means of a broad-based consensus process and are supported by the SG. Members of the SG view it contrary to the spirit of the Plan and this group's commitment to be united in supporting the Plan for individual stakeholders to comment now on aspects of the Wild and Scenic issues addressed under the SG Plan or on the merits of suitability/non-suitability for Segments 4 through 7 of the Upper Colorado River<sup>1</sup>. For this reason, the SG collectively requests a subsequent 30-day opportunity for submission of comments on these issues for these four segments if the SG Plan in Alternative B2 is not selected.

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<sup>1</sup> Aurora Water and Colorado Springs Utility plan to resubmit comments previously submitted outside the scoping public comment period strictly for purposes of preserving the administrative record.

We anticipate that individual SG entities may submit separate comments on other aspects of the DRMP/DEIS documents.

Included with these comments is an updated January 2012 version of the SG Plan reflecting modest refinements to the February 2011 Plan submittal which do not change the SG Plan in a significant way. These changes address the current status of the Upper Colorado Instream Flow water rights filings, provide year-type definitions for the recreational floatboating provisional resource guides, and other minor non-substantive edits. The attached January 2012 version retains all of the ORV protective measures included in the February 2011 submittal.

Should you have questions regarding this SG comment letter or the updated January 2012 SG Plan, please let me know at your earliest convenience.

On behalf of the Upper Colorado River W&S Stakeholder Group,

A handwritten signature in black ink, appearing to read 'Rob R. Buirgy' with a stylized flourish at the end.

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Enclosure

cc via email:

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Jennifer Gimbel, Colorado Water Conservation Board

Stakeholders and Consulting Agencies (via email only):

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  
Denver Water  
Eagle County  
Eagle Park Reservoir Company  
Eagle River Water and Sanitation District

Grand County  
Middle Park Water Conservancy District  
Municipal Subdistrict, Northern Colorado Water  
Conservancy District  
Northern Colorado Water Conservancy District  
Northwest Colorado Council of Governments  
Summit County  
The Wilderness Society  
Trout Unlimited  
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