



STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Linda Bassi, Chief 
Jeff Baessler, Deputy Chief 
Stream and Lake Protection Section

DATE: January 15, 2014

SUBJECT: **Agenda Item 29, January 27-28, 2014 Board Meeting**
Stream and Lake Protection Section – New Appropriation Recommendations in
Water Divisions 1, 4 and 5

John W. Hickenlooper
Governor

Mike King
DNR Executive Director

James Eklund
CWCB Director

Introduction

This memo provides an overview of the technical analyses that were performed by both the recommending entities and CWCB staff to provide the Board with sufficient information to declare its intent to appropriate in accordance with the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program ("ISF Rules"). Staff's detailed analysis of each stream contained in the "Instream Flow Recommendation Notebook," which was mailed to the Board separately, provides the technical basis for each appropriation.

Staff Recommendation

Staff recommends that, pursuant to ISF Rule 5d., the Board declare its intent to appropriate an instream flow ("ISF") water right on each stream segment listed on the attached Tabulation of Instream Flow and Natural Lake Level Recommendations, and direct Staff to publicly notice the Board's declaration of its intent to appropriate.

Background

Pursuant to ISF Rule 5d., staff is requesting the Board to declare its intent to appropriate ISF water rights on the stream segments identified in the attached table. Staff has reviewed each proposed stream segment to ensure that for each ISF recommendation, the data set is complete and standard methods and procedures were followed. In addition, staff has completed its water availability studies. Staff has identified 18 stream segments in Water Divisions 1, 4, and 5 for which sufficient information has been compiled and analyses performed upon which the Board can base its intent to appropriate. These segments are located in Larimer, Gunnison, Mesa, Montrose, and Garfield Counties.

Technical Investigations

Staff's executive summary and technical analysis of each stream are contained in the Instream Flow Recommendation Reports and form the basis for staff's recommendations. In addition to the reports, the scientific data and technical analyses performed by the recommending entity are accessible on

the Board's web site at <http://cweb.state.co.us/environment/instream-flow-program/Pages/2013ProposedInstreamFlowAppropriations.aspx>.

Natural Environment Studies

The Bureau of Land Management (BLM) and Colorado Parks and Wildlife (CPW) have conducted field surveys of the natural environment resources on these streams and have found natural environments that can be preserved. To quantify the resources and to evaluate instream flow requirements, the BLM and CPW collected biologic and hydraulic data and performed R2CROSS modeling on all segments, and PHABSIM modeling on the Dolores River segment. All of the data and models used to support the recommendation were analyzed and/or reviewed by CWCB staff. Based on the results of these analyses, staff prepared recommendations of the amount of water necessary to preserve the natural environment to a reasonable degree for each of the streams listed on the attached Tabulation of Instream Flow and Natural Lake Level Recommendations.

Water Availability Studies

Staff has conducted an evaluation of water availability for the streams listed. To determine the amount of water physically available for the Board's appropriations, staff analyzed available USGS gage records, available streamflow models, and/or utilized appropriate standard methods to develop a hydrograph of median daily and/or mean monthly flows for each stream flow recommendation. In addition, staff analyzed the water rights tabulation for each stream and consulted with the Division Engineer's Office in the relevant water division to identify any potential water availability problems. Based upon its analyses, staff has determined that water is available for appropriation on each stream to preserve the natural environment to a reasonable degree without limiting or foreclosing the exercise of valid water rights.

Stakeholder Outreach

Staff provided public notice of the recommendations in both March and November of 2013 and met with the County Commissioners for each county where the stream segments were located. In addition, water commissioners and local land owners were contacted when possible to further discuss the recommendations.

For the Dolores River ISF recommendation, staff also met with and gave presentations to the Southwest Colorado Water Conservancy District Board and the Southwest Basin Roundtable. In addition, Staff, BLM and CPW presented information on the Dolores River ISF recommendation and answered questions at the Dolores River Management Coordination Workshop held in Cortez on January 10, 2014. Numerous issues were identified during these meetings, including: 1) the proximity of the ISF reach to the state line; 2) concerns over interstate compacts and the potential effect of an ISF water right during a period of compact curtailment; 3) concerns that an ISF water right could deprive the people of the State of Colorado the beneficial use of waters available by law and interstate compact; 4) concerns that the ISF water right could interfere with future changes of existing uses, or the development of new future water rights; 5) whether the Board intends to include a "future use allocation" as part of the ISF water right; 6) concerns that dry years are not adequately addressed in Staff's water availability analysis; and 7) concerns that the flows quantified to preserve the natural environment are excessive. Although multiple concerns were voiced, staff is confident that sufficient information and analyses have been compiled and performed to support findings that a natural environment exists; that water is available for the appropriation to be made, and that no material injury will occur to water rights. Further, staff intends to continue discussions with stakeholders on these issues.

Numerous stakeholders have also expressed support for the appropriation of Dolores River ISF recommendation. Letters from stakeholders received to date are attached.

Instream Flow Rule 5d.

Rule 5d. provides that the Board may declare its intent to appropriate ISF water rights after reviewing Staff's recommendations for the proposed appropriations. Rule 5d. also sets forth the activities that take place after the Board declares its intent that initiate the public notice and comment procedure for the ISF appropriations. Specifically,

5d. Board's Intent to Appropriate. Notice of the Board's potential action to declare its intent to appropriate shall be given in the January Board meeting agenda and the Board will take public comment regarding its intent to appropriate at the January meeting.

- (1) After reviewing Staff's ISF recommendations for proposed ISF appropriations, the Board may declare its intent to appropriate specific ISF water rights. At that time, the Board shall direct the Staff to publicly notice the Board's declaration of its intent to appropriate.
- (2) After the Board declares its intent to appropriate, notice shall be published in a mailing to the ISF Subscription Mailing Lists for the relevant water divisions and shall include:
 - (a) A description of the appropriation (e.g. stream reach, lake location, amounts, etc.);
 - (b) Availability (time and place) for review of Summary Reports and Investigations Files for each recommendation; and,
 - (c) Summary identification of any data, exhibits, testimony or other information in addition to the Summary Reports and Investigations Files supporting the appropriation.
- (3) Published notice shall also contain the following information:
 - (a) The Board may change flow amounts of contested ISF appropriations based on information received during the public notice and comment period.
 - (b) Staff will maintain, pursuant to Rule 5e.(3), an ISF Subscription Mailing List for each water division composed of the names of all persons who have sent notice to the Board Office that they wish to be included on such list for a particular water division. Any person desiring to be on the ISF Subscription Mailing List(s) must send notice to the Board Office.
 - (c) Any meetings held between Staff and members of the public will be open to the public. Staff may provide Proper Notice prior to any such meetings and may provide notice to persons on the ISF Subscription Mailing List(s).
 - (d) Any Notice to Contest must be received at the Board office no later than March 31st, or the first business day thereafter. All Notices of Party status and Contested Hearing Participant status must be received at the Board office no later than April 30th, or the first business day thereafter.
 - (e) Staff will announce its Final Staff ISF Recommendation concerning contested appropriations at the September Board meeting and will send notice of the Final Staff Recommendation to all persons on the Contested Hearing Mailing List.
 - (f) The Board may take final action on any uncontested ISF appropriations at the May Board meeting.
- (4) After the Board declares its intent to appropriate, notice of the Board's action shall be mailed within five working days to the County Commissioners of the county(ies) in which the proposed reach or lake is located.

Attachment



Colorado Water Conservation Board

Instream Flow Tabulation - Streams



Water Division 1

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
13/1/A-002	Shell Creek	Upper Laramie	Larimer	headwaters in the vicinity of lat 40 55 11N long 105 51 03W	BLM boundary at lat 40 58 53N long 105 52 49W	6.25	Crazy Mountain Sand Creek Pass	1 (11/1 - 3/31) 1.1 (4/1 - 10/31)	

Totals for Water Division 1	Total # of Stream Miles =	6.25
	Total # of Appropriations =	1
<i>(Totals do not include donated/acquired water rights)</i>		

Instream Flow Tabulation - Water Division 4

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
14/4/A-006	Dolores River	Lower Dolores	Montrose Mesa	confl San Miguel River at lat 38 22 47N long 108 48 13W	confl West Creek at lat 38 40 39N long 108 58 34W	34.21	Gateway Juanita Arch Red Canyon Roc Creek	200 (3/16 - 4/14) 900 (4/15 - 6/14) 400 (6/15 - 7/15) 200 (7/16 - 8/14) 100 (8/15 - 3/15)	
14/4/A-004	East Creek	Lower Gunnison	Mesa	confl North East Creek at lat 38 55 06N long 108 29 57W	hdgt East Creek Ditch at lat 38 58 27N long 108 27 27W	4.94	Whitewater	1.6 (3/15 - 6/30) 0.25 (7/1 - 3/14)	
14/4/A-007	East Creek	Lower Gunnison	Mesa	East Creek Ditch hdgt at lat 38 58 27N long 108 27 39W	confl Gunnison River at lat 38 58 35N long 108 27 16W	0.37	Whitewater	1.6 (3/15 - 5/31)	
13/4/A-001	Granite Creek	Lower Dolores	Mesa	confl two unnamed tributaries at lat 38 50 57N long 108 57 43W	Colorado-Utah border at lat 38 49 49N long 109 03 21W	5.79	Steamboat Mesa Two V Basin	2.7 (4/1 - 6/30) 0.5 (7/1 - 3/31)	
14/4/A-005 (increase)	Hot Springs Creek	Tomichi Creek	Gunnison	outlet Hot Springs Reservoir at lat 38 30 47N long 106 32 29W	LL Bush Ditch No. 4 hdgt at lat 38 29 23N long 106 35 09W	3.46	Doyleville Pitkin	2.4 (5/1 - 7/21)	
14/4/A-001 (increase)	Oh-Be-Joyful Creek	East-Taylor	Gunnison	confl unnamed tributary at lat 38 54 25N long 107 03 21W	confl Slate River at lat 38 54 37N long 107 01 49W	1.66	Oh-Be-Joyful	3 (4/1 - 4/30) 14 (5/1 - 7/15) 3 (7/16 - 8/15)	
14/4/A-002 (increase)	Slate River	East-Taylor	Gunnison	confl Poverty Gulch at lat 38 56 46N long 107 03 40W	confl Oh-Be-Joyful Creek at lat 38 54 37N long 107 01 49W	3.69	Oh-Be-Joyful	30 (5/1 - 7/15)	
14/4/A-003 (increase)	Slate River	East-Taylor	Gunnison	confl Oh-Be-Joyful Creek at lat 38 54 37N long 107 01 49W	confl Coal Creek at lat 38 52 38N long 106 58 39W	5.63	Gothic Oh-Be-Joyful	45 (5/1 - 7/15)	
12/4/A-001	Ute Creek	Lower Dolores	Mesa	headwaters in the vicinity of lat 38 42 23N long 108 47 16W	confl West Creek at lat 38 43 29N long 108 54 36W	7.87	Gateway Pine Mountain	2 (4/1 - 6/15) 0.3 (6/16 - 3/31)	

Instream Flow Tabulation - Water Division 4

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
					Totals for Water Division 4	Total # of Stream Miles =		67.62	
						Total # of Appropriations =		9	
						(Totals do not include donated/acquired water rights)			

Instream Flow Tabulation - Water Division 5

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
12/5/A-001	Beaver Creek	Colorado Headwaters-Plateau	Garfield	headwaters in the vicinity of lat 39 22 48N long 107 51 58W	Dame Ditch hdgt at lat 39 28 06N long 107 49 06W	8.11	North Mamm Peak	0.7 (12/1 - 4/30) 4.75 (5/1 - 6/30) 2.85 (7/1 - 7/31) 1 (8/1 - 11/30)	
12/5/A-002	Beaver Dam Creek	Colorado Headwaters-Plateau	Mesa	headwaters in the vicinity of lat 39 21 29N long 107 26 55W	confl East Divide Creek at lat 39 21 52N long 107 28 22W	1.60	Quaker Mesa	0.14 (11/1 - 4/30) 0.9 (5/1 - 8/31) 0.35 (9/1 - 10/31)	
12/5/A-003	East Divide Creek	Colorado Headwaters-Plateau	Mesa Garfield	confl Gennings Creek at lat 39 20 25N long 107 28 24W	confl Camp Creek at lat 39 23 03N long 107 28 32W	3.49	Center Mountain Quaker Mesa	1.4 (4/1 - 4/15) 4.8 (4/16 - 6/30) 1.5 (7/1 - 7/15) 1.2 (7/16 - 7/30) 0.3 (8/1 - 3/31)	
12/5/A-004	East Divide Creek	Colorado Headwaters-Plateau	Garfield	confl Camp Creek at lat 39 23 03N long 107 28 32W	confl June Creek at lat 39 26 03N long 107 34 51W	9.45	Center Mountain Gibson Gulch	3 (4/1 - 4/15) 7.2 (4/16 - 6/30) 3 (7/1 - 7/31) 1.1 (8/1 - 3/31)	
14/5/A-003	East Fork Parachute Creek	Parachute Creek-Roan Creek	Garfield	confl Bull Gulch at lat 39 33 48N long 108 00 53W	BLM boundary at lat 39 34 34N long 108 01 52W	1.28	Forked Gulch	5 (4/15 - 6/30) 0.65 (7/1 - 4/14)	
14/5/A-004	Left Fork Carr Creek	Parachute Creek-Roan Creek	Garfield	headwaters in the vicinity of lat 39 35 26N long 108 36 52W	Franklin Ditch # 2 hdgt at lat 39 33 25N long 108 30 32W	6.43	Henderson Ridge	0.75 (11/1 - 3/31) 2 (4/1 - 8/31) 1 (9/1 - 10/31)	
12/5/A-006	Meadow Creek	Colorado Headwaters-Plateau	Garfield	outlet of Meadow Creek Reservoir at lat 39 48 25N long 107 32 44W	confl Main Elk Creeek at lat 39 42 19N long 107 34 05W	8.21	Deep Creek Point Meadow Creek Lake	1.3 (10/1 - 3/31) 2.1 (4/1 - 9/30)	

Instream Flow Tabulation - Water Division 5

Case Number	Stream	Watershed	County	Upper Terminus	Lower Terminus	Length (miles)	USGS QUADS	Amount(dates) (CFS)	Approp Date
12/5/A-005	West Divide Creek	Colorado Headwaters-Plateau	Mesa	confl Little Beaver Creek at	confl Mosquito Creek at	8.11	Quaker Mesa	4.2 (3/15 - 4/15)	
				lat 39 16 14N long 107 27 31W	lat 39 18 26N long 107 33 43W		Flatiron Mountain	14.1 (4/16 - 7/15)	
								4.2 (7/16 - 7/31)	
								1.14 (8/1 - 3/14)	

Totals for Water Division 5	Total # of Stream Miles =	46.68
	Total # of Appropriations =	8
<i>(Totals do not include donated/acquired water rights)</i>		

Report Totals	Total # of Stream Miles =	120.55
	Total # of Appropriations =	18
<i>(Totals do not include donated/acquired water rights)</i>		



January 15, 2014

Alan Hamel
Colorado Water Conservation Board
1313 Sherman St., Room 721
Denver, CO 80203

Dear Mr. Hamel and CWCB Board Members:

As some of the 1000 businesses in the Protect the Flows network, we submit the following comments in support of the instream flow (ISF) recommendation for the lower Dolores River from the confluence of the San Miguel River to confluence with West Creek. **As business owners, we support common sense solutions for managing the river in a way that supports our West Slope tourism and recreation economy for years to come.** Our network of businesses, owned and operated along the Colorado River and its tributaries (including the Dolores), includes outfitters, restaurants, guides, chambers of commerce, and more. We understand, firsthand, the critical importance of a healthy, well managed river that balances the needs of all users. Healthy, flowing rivers support the \$26 billion dollar annual tourism and outdoor recreation economy in the West, and are a vital component of rural economies.

Here in Colorado, total output resulting from recreation on the Colorado River and its tributaries is nearly \$10 billion annually. A river that flows strong beckons people to come visit. Visitors rent boats, eat at restaurants, buy gas and gear, and fall in love with the area.

The importance of this stream reach has led to cooperation between the Bureau of Land Management (BLM) and the Colorado Parks and Wildlife (CPW) to document the natural environment and to implement cooperative studies to determine the flow rates needed to support the natural environment.

But keeping the lower Dolores running strong requires sound management practices and protection. One such protection is the proposed ISF water right. This will help with maintaining a flowing river which, in turn, will protect fish, riparian habitat, and the long term health of the river. But we know this right is not at the detriment of others.

Most notably, the instream flow water right proposed can be achieved while still allowing water to be developed for current and future needs municipal to agricultural uses. Further, this water right is junior to established senior and conditional water rights in the reach.

The Dolores River is a world-class resource deserving of every protection available. It's free flowing waters support rare fish species in addition to its scenic value, making it a popular recreation and tourism destination. The success of our businesses is highly dependent on adequate flows and without protection there is no assurance those flows will continue. We respectfully request your support for this ISF filing for not only this iconic river, but also for our West Slope economies.

Sincerely,

Godot Communications
Kathy Kittelsen, Owner
Boulder

Peregrine River Outfitters
Tom Klema, Owner
Durango

Osprey Packs, Inc.
Gareth Martins, Director of Marketing
Cortez

Performance Video
Kent Ford, Owner
Durango

Dolores River Boating Advocates
Lee-Ann Hill, Program Coordinator
Dolores

Salt River Rafting
James Wilkes, Owner
Durango

4 Corners Riversports
Tony Miely & Andy Corra, Co-Owners
Durango

Surf the San Juans LLC
Anna & Drew Fischer, Owners
Durango

Mild to Wild Rafting and Jeep Trail Tours, Inc.
Alex Mickel,
Durango

Vino Salida
Judy Smith-Shuford, Owner
Durango

Mountain Waters Rafting & Adventure
Company
James Wilkes, Owner
Durango

Rimrock Adventures
Travis Baier, Owner
Fruita

CBVphotographics
Copi Vojta, Owner
Glenwood Springs

Cherry Berry
Kellan Jordan, Owner
Palisade

Inyanga Ranch LLC
Stuart Ross, Owner
Glenwood Springs

High County Orchards
Theresa High, Owner
Palisade

Adventure Bound Inc. / River Expeditions
Tom Kleinschnitz, President
Grand Junction

Mesa Park Vineyards
Brooke Webb, Owner
Palisade

Desert Sun Vineyards
Doug Hovde, Owner
Grand Junction

High Camp Hut
Cindy Farny, Owner
Telluride

Whitewater West
Pete Atkinson, Owner
Grand Junction

Jagged Edge
Erik Dalton, Owner
Telluride

Scott Fly Rod Company
Jim Bartschi, President
Montrose

La Cocina de Luz
Lucas Price, Owner
Telluride

Dvorak Raft, Kayak & Fishing Expeditions
Bill Dvorak, Owner
Nathrop

Melange
Melissa Harris, Owner
Telluride

Box Canyon Lodge and Hot Springs
Karen Avery, Owner
Ouray

Picaya
Lisa Horlick, Owner
Telluride

The Hub
Brian Werner, Owner
Telluride

Ice House Lodge & Camel's Garden Hotel
Michael Zivian, Owner
Telluride

BootDoctors/ Further Adventures
Bob Gleason, President
Telluride

Steaming Bean
Meghan McCormick, Owner
Telluride

Honga's Restaurant
Honga Im, Owner
Telluride

Telluride Outside/Telluride Angler
John Duncan, Owner
Telluride

cc: Governor John Hickenlooper, James Eklund, Linda Bassi, John Melhoff

HIGH COUNTRY CITIZENS' ALLIANCE

PO Box 1066 • Crested Butte, Colorado 81224
(970) 349-7104 • FAX: (970) 349-0164
office

January 16, 2014

Colorado Water Conservation Board
1313 Sherman St., Room 721
Denver, CO 80203

Dear Directors:

High Country Citizens' Alliance writes to express our support for the instream flow appropriations proposed by the Bureau of Land Management (BLM) for Hot Springs Creek, Oh-Be-Joyful Creek, and two segments of the Slate River. We encourage the Board to vote to declare its intent to appropriate augmented spring and early summer instream flows on these beloved local streams.

High Country Citizens' Alliance (HCCA) is a regional conservation group based in Crested Butte, Colorado which has worked to protect the health and natural beauty of our region's rivers, lands and wildlife for over thirty seven years. Our 700 plus members include locals in Gunnison and Crested Butte as well as visitors and friends from across the country who appreciate the headwaters of the Gunnison River.

The Slate River, Oh-Be-Joyful Creek, and Hot Springs Creek each contain outstanding natural environments which will be protected for future generations by the Board's action to preserve instream flows. Oh-Be-Joyful Creek originates in the Raggeds Wilderness area, supports a population of brook trout, and is a popular recreational destination for both hikers and boaters. Oh-Be-Joyful Creek joins the Slate River at a popular BLM campground, and flows south to the Town of Crested Butte. The Slate River is a primary feature of both the Slate River Valley and the Upper East River Valley, feeding key wetlands and protected open space around Crested Butte and supporting a riparian corridor vital to local wildlife. Hot Springs Creek east of the city of Gunnison is similarly important for its trout habitat and riparian amenities in the midst of rolling sagebrush steppes.



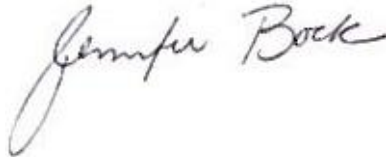
HIGH COUNTRY CITIZENS' ALLIANCE

PO Box 1066 • Crested Butte, Colorado 81224
(970) 349-7104 • FAX: (970) 349-0164
office@hccaonline.org • www.hccaonline.org

HCCA staff assisted the BLM with its summer 2012 field work on the Slate River and helped organize a meeting of local stakeholders with water rights and property interests on the Slate River. We have found the community to be broadly supportive of protecting these streams. As the BLM notes in its supporting documentation, the Crested Butte community is working hard to address heavy metals pollution in the Oh-Be-Joyful and Slate River watersheds. Augmented instream flow protection for Oh-Be-Joyful and the two Slate River segments will guarantee that the gains we achieve in water quality remediation are not threatened by low flows. Hot Springs Creek is also recovering from grazing impacts and will benefit from protected flows.

We appreciate the opportunity to comment on the Board's important work and thank you for all you've done to preserve the integrity of the headwaters of the Gunnison River.

Sincerely,



Jennifer Bock
Water Director
High Country Citizens' Alliance
Crested Butte, CO
(970) 349-7104 ext. 4
jen@hccaonline.org



January 16th, 2014

Dear Colorado Water Conservation Board Members,

We the undersigned businesses of the Upper Gunnison River Basin write in support of the BLM's recommendation that the CWCB appropriate augmented instream flows on the Slate River, Oh Be Joyful Creek and Hot Springs Creek. The health of these tributaries to the Gunnison River is essential to the well being of our local recreational economy.

The BLM's proposal for these Gunnison River tributaries will ensure that spring and summer flows continue to flush heavy metal pollutants from these streams, maintain thriving riparian communities, and preserve the natural hydrograph which supports both fishing and boating opportunities. Whether directly on the river everyday in our work or indirectly benefitting from the visitors who come to enjoy the headwaters, the health of our business is tied to the health of our local waters.

Thank you for supporting healthy rivers in the Gunnison Basin.

Sincerely,

Business Name	Owner/Manager Signature	Date
Bliss Chiropractic	Mimi Chatwood	12-18-13
McGills	Jaime Timmons	12-18-13
Teocalli Temale	Andrew Canale	12-18-13
Mountain Earth, LTD	Cini Jackson	12-18-13
Rumor's Coffee and Tea	Arvin Ramgoolam	12-18-13
Iron Orchid Events	Shaun Matuszewicz	12-18-13
Coal Creek Watershed Coalition	Zach Vaughter	12-18-13
CB Farmers Market	Zach Vaughter	12-18-13
Dragonfly Anglers		12-18-13
RoShamBo	Delanie Keating	1-14-14
The Boom-a-Rang	Janet M Lucas	1-13-14
The Bean Coffee House		1-13-14
Anette Akselsen Jewellery	Anette Akselsen	1-13-14
Castle Creek Guitars	Kent Viles	1-13-14

Townie Books	Danica Ramgoolam	1-14-14
Mountain Roots Food Project	Holly Conn	1-14-14
Ginger Café	Jen Hestwood	1-14-14
The Sunflower	Ken Ricker	1-15-14
The Art Nest	Kate Seeley	1-15-14
Zacchariah Zipp	Michele Reep	1-15-14
Gallery 3	Joe Newton	1-15-14
UrbaneJane Design	Jane Newton	1-15-14
Montanya Distillers	Karen Hoskin	1-15-14
The Last Steep Bar & Grill	Kevin Hartigan	1-15-14

Letter organized by: Cassidy Tawse-Garcia

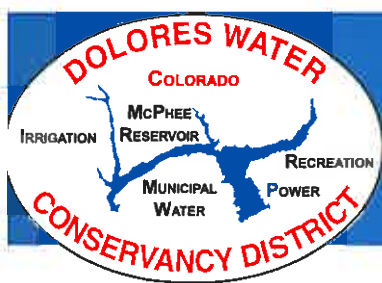
High Country Citizens Alliance

Outreach Director

cassidy@hccaonline.org

(970) 349-7104 ext. 5

For questions please contact Cassidy Tawse-Garcia.



Dolores Water Conservancy District

60 S. Cactus St. • P.O. Box 1150 • Cortez, CO 81321
Phone: 970-565-7562 • Fax: 970-565-0870 • Email: dwcd@frontier.net

Testimony:

CWCB Intent to Appropriate an Instream Flow, Lower Dolores River Submitted by Dolores Water Conservancy District For Consideration on January 28, 2014

Dear CWCB Board,

Let me begin by thanking the Colorado Water Conservation Board, the Department of Natural Resources and Governor Hickenlooper for your vital support in protesting and appealing the recently released Tres Rios/San Juan Land and Resource Management Plans (LRMPs). The assertion of Colorado Water Law and the MOUs between Colorado, the BLM and USFS have already resulted in an offer on the part of BLM to change the by-pass flow "Standards" in the BLM portion of the LRMP to "Guidelines".

We also appreciate the protest and appeal support from the Colorado Water Congress, Southwestern Water Conservation District, the Colorado River District, Montezuma County and Dolores County. It is our belief that the opening that has been created to address problems in the BLM LRMP can be extended to the Forest Service and to additional problems created by both Plans.

We are also very pleased by the outcome of the Lower Dolores River Management Coordination Workshop convened by CWCB on January 9. Suzanne, Ted and Linda did a wonderful job of organizing a workshop, with 80 in attendance, that provided an opportunity for everyone to express their perspectives in a very civil and informative exchange. Products presented at this workshop are referenced and attached to this request.

On the evening of January 9, the Dolores Water Conservancy District (DWCD) Board voted to request a delay in the intent to appropriate and Instream Flow on the Dolores River from the San Miguel confluence to Gateway.

We seek this delay so that a variety of problems resulting from pending federal actions can be evaluated and resolved, while protecting the integrity of local collaborative efforts on the Dolores River and across the Southwest Basin. The unfolding efforts on the Dolores River below McPhee Dam have been enabled and supported by an evolving water policy framework which reflects the foresight and leadership of CWCB and the State of Colorado.

DWCD views the request to delay the instream flow as a compliment to this policy framework as outlined below:

1. CWCB and the State of Colorado had the foresight to establish an instream flow program within Colorado Water Law to provide an alternative to federally imposed by-pass flows and federal reserved water rights.
2. When the Federal Government began to over-reach on by-pass flows in the Arapahoe-Roosevelt Forest Plan, CWCB and the State of Colorado had the foresight to enter into MOUs with the BLM and USFS in 2004-2005, committing to federal-state cooperation prior to unilateral federal action in matters involving Colorado water rights. These MOUs were renewed in 2008-2011.
3. As the BLM and USFS began to dramatically expand the number of stream reaches deemed as "eligible" or "suitable" for Wild and Scenic River Act designation, CWCB had the foresight to establish a policy and fund to explore alternatives to Wild and Scenic Suitability. DWCD and our partners used the CWCB WSR Alternatives program to develop the critical knowledge and relationships to embark on a collaborative adaptive management effort to address the needs of the three sensitive native fish species. A primary outcome of what is known as the Lower Dolores Plan Working Group (LDPWG) was the formation of a Legislative Subcommittee. (Dolores River Dialogue Purpose and Evolution of Collaborative Structures is attached).
4. The LDPWG Legislative Subcommittee was appointed in March 2010 and developed a set of parameters for National Conservation Area (NCA) legislation. A sticking point was a lack of agreement and understanding concerning the needs of the three native fish species. The Legislative Subcommittee raised \$90K (\$25K in Basin Roundtable funds), to hire three independent native fish scientists to evaluate the status of the three species and make recommendations to improve their status known as "A Way Forward." Once the "Way Forward" report was issued, institutions with responsibilities and investments on the lower Dolores River formed an Implementation Team to implement opportunities identified by the scientists.
5. The Implementation Team set to work on drafting the "Lower Dolores River Implementation Monitoring and Evaluation Plan for Native Fish", with assistance from the CWCB Severance Tax Fund. The first draft of the Plan was released in August of 2012, and after 18 months of input and re-drafting, the Plan is scheduled to be completed and adopted in the first half of 2014.
6. One of the key findings of the Implementation Plan evaluations was that the roundtail chub (a pool habitat species) is stable, with abundant populations in parts of the Dolores River above the San Miguel confluence. However, it is very uncommon below the San Miguel confluence. By contrast, the bluehead sucker and flannelmouth sucker (which require more water) are "rare" above the San Miguel confluence, and doing much better below the San Miguel. In the 2007 Draft LRMP,

the roundtail chub was listed as the only native fish ORV. This made sense to the Implementation Team and Legislative Subcommittee partners because it was consistent with information coming from Implementation Plan monitoring.

7. DWCD and many of our partners in these efforts were taken by surprise when the Tres Rios/San Juan LRMP came out with the bluehead sucker and flannelmouth sucker added as ORVs above the San Miguel confluence. The added ORVs are not supported by the monitoring data. In effect, the BLM/FS put their thumb on the scale in a way that put all of the partners in an awkward position, particularly given the diverse constituencies that are looking on as efforts to complete the Implementation Plan and draft consensus legislation proceed. Fortunately, we have well developed relationships going back to the formation of the Dolores River Dialogue in 2004 and are committed to staying the course. The water users, however, remain in a bind.
8. Soon after DWCD discovered that the two native fish that were rare in the planning area had been added as ORVs, we learned that by-pass flow standards were also being imposed in the LRMP. The by-pass flow standards coupled with the addition of two native fish ORVs, that the planning area cannot support, combined to exponentially increase the risks that the Plans created for Dolores River water users.
9. Added to these concerns is the proliferation of Wild and Scenic Suitability, native fish ORVs and the proposal for a very large instream flow on the Dolores River below the San Miguel confluence (Wild & Scenic Rivers Suitability Status Dolores River Map and table are attached).

It is the compounding of events and issues outlined above that leads DWCD to request a delay in the intent to appropriate an instream flow. It is our hope that delaying this action will allow CWCB and the State of Colorado to continue to work with us to defuse as many as possible of the problems created by the LRMP.

We believe that with the full support of the State, many if not all of these problems can be resolved and all of the positive momentum for adaptive management science and protective legislation can continue to advance.

It may take a variety of tools to address these issues and opportunities, but a delay in the intent to appropriate the instream flow would provide a powerful impetus for the parties to get together and work towards solutions. Recognizing that the requested delay is no small matter, DWCD owes the CWCB Board a clear sense of the outcomes we are seeking:

1. Resolve problems created by-pass flow standards in both the Tres Rios BLM and San Juan Forest Plans.

2. The roundtail chub was the only native fish ORV in the 2007 Draft Tres Rios/San Juan LRMP. Eliminate the bluehead sucker and flannelmouth sucker as ORVs (added with no consultation between draft and final). Collaborative adaptive management and monitoring indicate that the roundtail chub is a pool habitat species that is abundant within the planning area, while the bluehead and flannelmouth suckers are rare above the San Miguel confluence. By contrast, the sucker species, which require more water, are more common below the San Miguel confluence and the roundtail chub are very uncommon. (Dolores River: Populations of Native & Predator Fish Map and Table are attached)
3. One outcome proposed by DWCD at the January 9 Workshop is to evaluate habitat opportunities on the entire 175 miles of the Dolores River from McPhee Dam to the Colorado state line, and to begin to match up population status and habitat potential for these native fish so we can build on these opportunities to address the unique needs of each of the three native fish where conditions are most promising. The Six State Three Species Conservation Agreement for dealing with these species is rangewide. To date, monitoring indicates that while we cannot support all three species in every reach of the river, there are reaches where the prospects for one or more of these fishes are good. These efforts need to be realistic, focused and vigilantly monitored.
4. Carefully evaluate the cumulative risks to Dolores Project allocations and Dolores River water rights from the compounding of added suitability, added flow related ORVs, by-pass flow standards or guidelines and the request for a very large instream flow below the San Miguel confluence and formulate protective stipulations to avoid any undesired and unintended consequences.
5. Complete the Lower Dolores River Implementation, Monitoring and Evaluation Plan in the months to come, knowing that the scientific underpinnings of collaborative adaptive management efforts are intact.
6. Provide scientifically grounded and practical water-related parameters in the LRMPs so that the effort to craft NCA Legislation can proceed from a stable foundation.

This request to delay the intent to appropriate an instream flow on the Dolores River below the San Miguel confluence is made to address the very vital interests of the Dolores Water Conservancy District in protecting Dolores water rights and Project allocations, along with practical opportunities to address the needs of native fish and the downstream ecology below McPhee Reservoir.

We are also keenly aware that significant risks posed to DWCD by the current proliferation of federal actions will have serious ramifications for the Southwest Basin and the State of Colorado as a whole.

For decades to come, we will all have to live with the precedents set if these federal Land and Resource Management Plans are implemented as now proposed. We believe that the focused attention and careful evaluation that will result from a delay in the instream flow intent to appropriate will reinforce the policy tools that CWCB and the State of Colorado have developed over a 40-year period, as these issues increasingly involve lower elevation river reaches below stored community water supplies.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Michael Preston', is written over the printed name.

Michael Preston, General Manager
Dolores Water Conservancy District

Attachments from July 9, Dolores River Management Coordination Workshop:
Dolores River Management Workshop: Evolution of Collaborative Structures
Wild & Scenic Rivers Suitability Status Dolores River Map and Table
Dolores River: Populations of Native & Predator Fish Map and Table



THE SOUTHWESTERN WATER CONSERVATION DISTRICT

Developing and Conserving the Waters of the
SAN JUAN AND DOLORES RIVERS AND THEIR TRIBUTARIES
IN SOUTHWESTERN COLORADO

West Building – 841 East Second Avenue
DURANGO, COLORADO 81301
(970) 247-1302

January 15, 2014

Colorado Water Conservation Board
Department of Natural Resources
1313 Sherman Street, Room 721
Denver, CO 80203

Re: Request that CWCB delay adopting an intent to appropriate an instream flow for the lower Dolores River.

Dear Members of the Board:

The Southwestern Water Conservation District ("SWCD") respectfully requests that the CWCB table any action concerning an intent to appropriate an instream flow for the lower Dolores River. The SWCD is requesting this delay because all parties need additional time to fully evaluate the proposal and potential consequences.

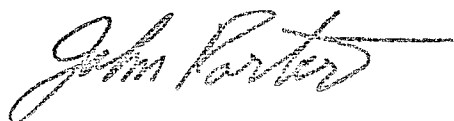
- Recent actions by the BLM and the Forest Service cast doubt on those agencies' commitments to working collaboratively with the State and respecting water rights appropriated under Colorado law. In particular, the recently released Land and Resource Management Plan for much of the BLM and Forest Service lands in southwest Colorado included bypass flow and minimum reservoir pool requirements, which are unprecedented in this state. This signals either that the agencies are actively reconsidering their commitment to working collaboratively with the State, as required by memoranda of understanding with both agencies or that the agencies are singling out the water resources of southwest Colorado for unfair treatment. Even before the new Plan was released, the Forest Service was extremely aggressive in its requests for instream or bypass flows as a condition of reauthorizing long-operating, environmentally beneficial hydroelectric projects. Time is needed to complete the administrative appeals processes for the new Plan to determine whether this is a deliberate change in federal policy and how it may affect water use and development throughout Colorado.
- The quantity of the proposed instream flow is unprecedented in size, proximity to the Colorado state line, and implications for the Western Slope to develop its interstate compact entitlement. The proposed appropriation would effectively shepherd up to 900 cfs, or about 1,800 acre-feet, per-day of developable Colorado water supplies out of the State. Because the magnitude of the appropriation peaks at the same time that reservoirs typically fill (i.e., during spring runoff), the development of reliable water supplies for future growth in Colorado will require building enough reservoirs of sufficient size to provide multiple years of carryover capacity. This means that utilizing Colorado's compact entitlement will require projects that have a greater environmental

impact at greater cost and with less reliability. Given that the proposed appropriation is for the lower reaches of the Dolores River, it will also limit the development of upstream water supplies in the entire basin. These local and statewide policy implications, especially in light of the current preparation of a statewide water plan, deserve careful and deliberate study.

- There is no urgent need to appropriate an instream flow at this time. There are already several instream flows appropriated on the Dolores River and its tributaries. Just two years ago, the CWCB appropriated a sizeable instream flow on its primary tributary, the San Miguel River, a controversial action that created a great deal of uncertainty for future development in communities on the San Miguel River, and resulted in costly water rights filings by a number of public and private entities that otherwise would not have occurred. There is no reason to believe that the availability of water for an instream flow appropriation will be substantially impacted for several decades. Accordingly, there would be no harm to delaying the proposed appropriation to allow time to consider each of the issues raised above.
- Consideration of the proposed instream flow comes at a sensitive time for multiple collaborative efforts to improve conditions for the lower Dolores River. Many stakeholders that support environmental protection and enhancement for the lower Dolores River are not persuaded that the proposed instream flow is the correct approach at the right time. As the State, federal agencies, and stakeholders heard at the January 9 workshop in Cortez, there are several collaborative stakeholder processes coming together around solutions that balance environmental protection for the Dolores River with community needs and development. For example, subcommittees of the Lower Dolores Plan Working Group are drafting a second, improved version of an "Implementation Plan" to prioritize and coordinate conservation efforts of all private and governmental parties with the capability to implement the recommendations of the "A Way Forward" scientists. In turn, the Implementation Plan is a blueprint for crafting legislation that would create consensus-based permanent federal protection for the River, its values, and surrounding lands as a national conservation area. Multiple other stakeholder groups and federal planning processes are also underway. Additional time is needed to see these processes to completion without the complication of a new instream flow appropriation that has not been adequately vetted and is not supported by all stakeholders.

We thank you in advance for your consideration of this request. Please let us know if we can provide any additional information. The District looks forward to our continued collaborative efforts to balance the protection of environmental resources and the sound development of Colorado's water resources.

Sincerely,



John Porter, President
Southwestern Water Conservation District

cc: SWCD Board
Maynes, Bradford, Shipps and Sheftel

Dolores River Management Coordination Workshop

Michael Preston January 9, 2014

Purpose Statement: Dolores River Dialogue

The DRD is a coalition of diverse interests, whose purpose is to explore management opportunities, build support for and take action to improve the ecological conditions downstream of McPhee Reservoir while honoring water rights, protecting agricultural and municipal water supplies and the continued enjoyment of boating and fishing.

Evolution of Collaborative Structures

Dolores River Dialogue (DRD): (Purpose Statement above, founded January 2004)

1. Established diversity of representation, purpose and defined underlying interests
2. Agreed on science based, adaptive management approach
3. Divided 200 miles of river from McPhee Dam to Colorado Confluence into 8 reaches
4. Focused on reaches 1-6 to the confluence with the San Miguel River
5. Commented on Wild and Scenic Eligibility/Suitability (June, 2006)
6. Began to adapt collaborative structure to specific purposes: Formed Lower Dolores Plan Working Group

Lower Dolores Plan Working Group (LDPWG) (December, 2008)

1. Broadened collaboration
2. Focused on update of corridor management plan as an alternative to wild and scenic suitability.
3. Got educated about ORVs and management issues from agency presentations, breakout groups and field trips.
4. Submitted corridor management recommendations to Dolores Public Lands ID Team
5. Unanimously agreed to form and appoint a Legislative Subcommittee to develop a legislative alternative to address fish, flow and river corridor protection issues.

LDPWG Legislative Subcommittee (March 2010)

1. Based on DRD Principles: Enduring ecological and water rights protections
2. Looked at legislative options/examples. Chose National Conservation Area (NCA).
3. Drafted legislative principles
4. Got stuck on fish and flows
5. Raised funds to hire native fish experts, who reviewed the science and presented nine opportunities to help native fish known as "A Way Forward".

“A Way Forward” Implementation Team (July, 2011)

1. Formed by institutional players with responsibilities and investments in implementing an adaptive management “Implementation Monitoring and Evaluation Plan” based on the “A Way Forward” scientific evaluation.
2. Released 1st iteration Plan in August 2012 followed by 18 months intensive input and re-drafting. The re-draft stripped out positioning and focused strictly on how to integrate fish needs, science and available water.
3. All re-drafted IP chapters have been cleared through the Legislative Subcommittee.
4. Working on the interface of the Implementation Plan and NCA Legislation.

What has been learned by adaptive management and monitoring? – See Map Dolores River: Populations of Native and Predator Fish in DRD Reaches and accompanying Reach Map Table. New learning will be integrated as we move forward with the Adaptive Management process.

What’s Next?

1. Completion and adoption of the re-drafted Implementation, Monitoring and Evaluation Plan (March, 2014 target). The Plan will provide an agreed upon and well-structured adaptive management framework going forward.
2. Finishing legislative parameters framework and drafting agreed upon NCA principles into legislative language to provide enduring protections for downstream ecological values as well as water rights and allocations. The legislation may also resolve some of the uncertainties resulting from the federal LRMP/EIS processes.
3. Reaching out to other stakeholders on the Lower Dolores River to coordinate efforts that will protect the ecological and recreational values along with water rights and allocations on the Dolores River as a whole. This Workshop is a good start.

Table 1. Status of Wild and Scenic Rivers Designation for the Dolores River (updated December 23, 2013)







Reach on Map	Segment	Segment Length (miles)	Current Preferred Alternative	Status of Process	W&S Class (ORVs)	Comment Due Date	Stakeholder Process	Stakeholder Group Planned Action
GJFO W&S suitable reaches	Dolores River	32.01 (18.62 BLM) miles	11.53 miles suitable (excludes private property): 1.15 - state line & 10.38 - Sewemup	DRMP/EIS Issued January 2013, final pending.	Recreation (Scenic, Fish, Recreation, Geologic, Paleontological)	6/24/2013	Lower Colorado River Wild and Scenic Stakeholder Collaborative	No consensus on suitability; recommended larger Dolores River stakeholder group (did not come to fruition); recommended ISF; group dissolved
UFO W&S eligible reaches	Lower Dolores River	10.53 (6.93 BLM)	SW RAC recommendation: suitable excluding private property	DRMP/EIS due out in winter 2013/spring 2014	Scenic (Scenery, Recreation, Geologic, Fish, Wildlife)	TBD	RAC Subgroup	On February 25, 2011, based on a recommendation from the subgroup, the Southwest RAC recommended that the subject segments be recommended as suitable (excluding private property).
	Dolores River, Segment 2	11.5(5.42 BLM)	SW RAC recommendation: 5.3 miles suitable (all BLM lands)		Recreation (Scenic, Recreation, Geologic, Fish, Wildlife, Vegetation)			
	Dolores River, Segment 1	11.5 (9.56 BLM)	SW RAC recommendation: suitable excluding private property (11.8 miles)		Wild (Scenic, Recreation, Geologic, Fish, Wildlife, Vegetation, Ecology, Archeology)			
TRFO & SJ USFS suitable reaches	Dolores River McPhee to Bedrock	109.02 (89.78 federal lands)	108.5 miles suitable (includes 11.8 miles above)	FLRMP/EIS issued 9/20/13	Wild, Scenic & Recreation (Fish, Wildlife Recreation, Scenery, Geology, Ecological, Archaeology)	Protests were due: 10/18/13 for BLM segments Appeals were due: 12/18/13 for SJNF segments	Lower Dolores Plan Working Group (subgroup of DRD)	A LDPWG Legislative Subcommittee is drafting principles for proposed legislation to establish an NCA to protect ORVs & remove suitability. As part of this compromise, the group is discussing whether the Dolores River Canyon WSA should become permanent Wilderness

Notes:

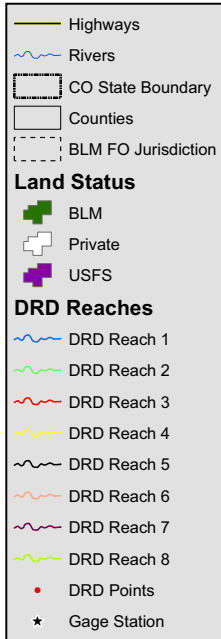
BLM = Bureau of Land Management ORV = Outstanding Remarkable Value GJFO = BLM Grand Junction Field Office UFO = BLM Uncompahgre Field Office TRFO = BLM Tres Rios Field Office SJ USFS = San Juan United States Forest Service DRMP/EIS = Draft Resource Management Plan / Environment Impact Statement FLRMP/EIS = Final Land and Resource Management Plan / Environment Impact Statement W&S = Wild and Scenic SW RAC = BLM Southwest Colorado Resource Advisory Council TBD = to be determined NCA = National Conservation Area DRD = Dolores River Dialogue ISF = Instream Flow NA = Not Applicable NCA = National Conservation Area LDPWG = Lower Dolores Plan Working Group

Lower Dolores DRD Reach Map Table: Currently Known Status of Native Fish and Predators

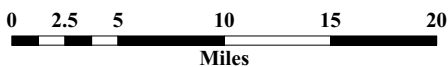
Source: Re-draft of Native Fish Conservation Measures, Implementation, Monitoring and Evaluation Plan, Lower Dolores River (color bars keyed to Reach Map)

	Roundtail Chub	Flannelmouth Sucker	Bluehead Sucker
Reach 1 (McPhee Dam to Bradfield) 	Unoccupied; no potential	Unoccupied; no potential	Unoccupied; no potential
Reach 2 (Ponderosa Gorge) 	Status unknown; potentially occupied in lower reaches but none found in 2005 or 2007.	Status unknown but may be extirpated from reach; limited potential or seasonal occupation only	Status unknown; limited potential or seasonal occupation only during spawning season
Reach 3 (Dove Ck Pumps to Pyramid) 	Abundant.	FMS rare; nearly absent from DCP surveys. no juveniles from 2012 seine surveys	BHS rare; nearly absent from DCP surveys. no juvenile fish from 2012 seine surveys
Reach 4 (Pyramid to Big Gyp Valley Bridge) 	SM Bass occupy reach above Disappointment Ck. RTC uncommon but slightly larger than in Reach 3.	FMS uncommon but need INFO on utilization of Pyramid reach; may be important for spawn. SM Bass above Disappointment Ck. 2012 seine survey found a few young FMS.	BHS uncommon; no juveniles in 2012 seine surveys.
Reach 5 (Slickrock Canyon) 	Few fish (2 caught per mile) but larger when caught. Spawning or fry use may be linked to tributaries.	Few fish (2-3 caught per mile) but larger.	Extremely rare (1 fish caught per 5 miles of canyon) but larger when caught.
Reach 6 (Paradox Valley - Bedrock to San Miguel confluence) 	NO DATA	NO DATA	NO DATA
Dolores River below San Miguel River confluence	Very uncommon in surveys. (1 fish caught for every 5-10 river miles)	Uncommon (~2/mile); good age structure amongst sampled fish.	Common (~4/ mile); good age structure amongst sampled fish.
OVERALL - Dolores River below McPhee Dam	Abundant in reaches 3 & 4 but small; better age structure but less abundant below Disappointment or SMR.	Gone or nearly gone from reaches 1-3; Reach 4 may be important spawn area. Juveniles in reach 4. uncommon but present below SM confluence	Gone from Reach 1 and likely Reach 2; some evidence of reproduction in Reach 3, less so in 4 and 5; part of intact assemblage below SM confluence.

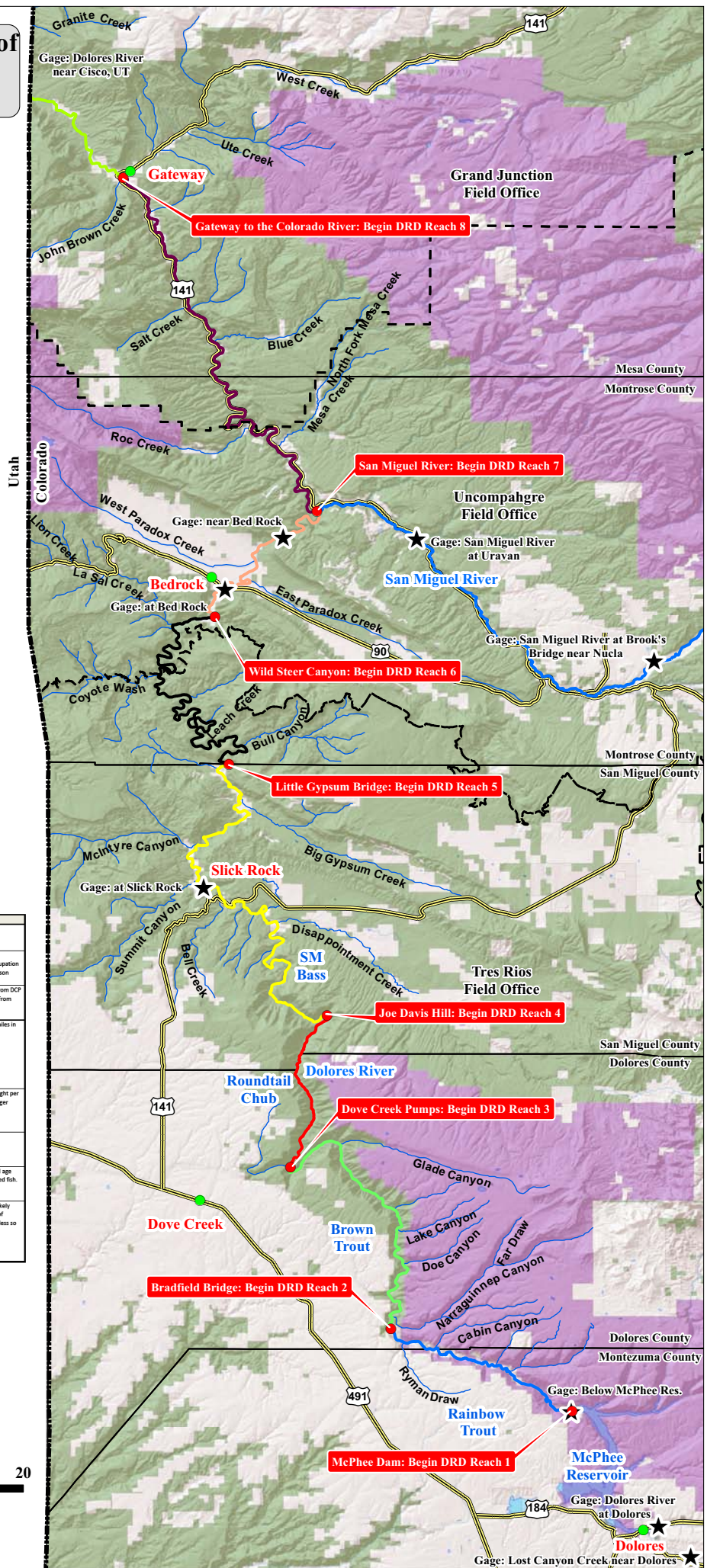
Dolores River: Populations of Native & Predator Fish in the DRD Reaches.



Reach	Roundtail Chub	Flannelmouth Sucker	Bluehead Sucker
Reach 1 (McPhee Dam to Bradford)	Unoccupied, no potential	Unoccupied, no potential	Unoccupied, no potential
Reach 2 (Ponderosa Gorge)	Status unknown; potentially occupied in lower reaches but none found in 2005 or 2007.	Status unknown but may be extirpated from reach; limited potential or seasonal occupation only during spawning season.	Status unknown; limited potential or seasonal occupation only during spawning season.
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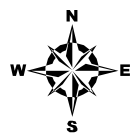
Produced by Dolores Water Conservancy District in 2014.
DWCD is not responsible for the accuracy of this map.
This map is not up to survey standards and should be used for general location purposes only.



Wild & Scenic Rivers Suitability Status
Dolores River
McPhee Reservoir - CO/UT Boundary
Water Divisions 4 & 7

Legend

- GFO Prelim Suitability Recommended
- TRFO & SJ USFS Suitable
- UFO Eligibility Determinations
- Decreed CWCB ISF
- Proposed CWCB ISF
- BLM Field Office Boundaries
- County Boundaries
- Municipal Boundaries
- Water Divisions
- BLM
- USFS



0 2.5 5 10 15 20 Miles

Utah

Colorado

MONTEZUMA

Dove Creek

Joe Davis Hill

Slick Rock

Little Gypsum Bridge

SAN MIGUEL

TRFO & SJ USFS

DOLORES

Dolores

Naturita

Nucla

UFO

MONTROSE

MESA

GFO

Gateway

Bedrock

Coyote Wash

San Miguel River

Dolores River