



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Ted Kowalski, Chief, Interstate, Federal & Water Information Section
Linda Bassi, Chief, Stream & Lake Protection Section
Suzanne Sellers, Interstate, Federal & Water Information Section

DATE: January 25-26, 2016 Board Meeting

AGENDA ITEM: 8. Wild and Scenic Rivers Alternatives Update

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) ("River Protection Workgroup" or RPW); 2) the Upper Colorado River Wild and Scenic Stakeholder (UCRW&S) Group; and 3) the Lower Dolores Plan Working Group (LDPWG). Updates on these processes are set forth below along with an update on the BLM's Royal Gorge Field Office Resource Management Plan (RMP) revision. Also included is information on a proposal to designate Deep Creek as a Wild and Scenic River.

Staff recommendation: This item is informational only, with no Board action requested.

Discussion:

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

The River Protection Workgroup (RPW) Drafting Committee held a regular meeting on November 20, 2015 in Durango, Colorado with its next meeting not yet set, however a subset of the drafting committee has been meeting to discuss specific concerns. At the November 20, 2015 meeting, Linda Bassi and Jeff Baessler gave a presentation to the group on quantification of ISF's and the process and timing for submittal of ISF recommendations. The group is also drafting an RFP to conduct an Iron Fen water study. It is anticipated that the RPW will be requesting a grant from the Wild and Scenic Alternatives Fund for this study.

The Drafting Committee is currently engaged in negotiations and development of consensus approaches for the protection of the five rivers, and specifically related outstanding remarkable values (ORVs) in the San Juan River basin, while protecting the ability of water users, within Colorado, to fully use its compact entitlements. The group has been working on resolving the remaining differences between a proposal by Trout Unlimited and an alternate



proposal by the Wilderness Society and the San Juan Citizen's Alliance. The RPW Steering Committee has come to a tentative agreement-in-principle that incorporates features from both of the proposals. The Steering Committee has now shifted to the "drafting phase" of a regional legislative package with the understanding that there are still some details to be worked through. The agreement-in-principle includes pursuing instream flow (ISF) rights, the removal of suitability, Wild and Scenic designation, and the maintenance of suitability within the five watersheds of the San Juan Basin. Additional information on the RPW can be found at: <http://ocs.fortlewis.edu/riverprotection>.

Lower Dolores Plan Working Group Update

In March 2015, the Legislative Subcommittee of the Lower Dolores Plan Working Group released a discussion draft of proposed federal legislation that would establish a National Conservation Area ("NCA") (from below McPhee Dam to Bedrock) and remove the finding of Wild and Scenic suitability from the Dolores River, among other things. In response to some stakeholders' concerns about certain legal aspects and potential consequences of establishing a NCA, the Southwestern Water Conservation District, Dolores Water Conservancy District, Montezuma Valley Irrigation Company, Dolores County, San Miguel County, and Montrose County retained attorney David Robbins to conduct a legal review of the draft legislation. Mr. Robbins provided his legal review to the above-referenced water boards and counties via a letter dated August 8, 2015. After providing extensive background on how federal land management decisions can affect state water uses and users, Mr. Robbins recommended that local stakeholders work with Congress to craft legislation establishing a statutory mechanism that permits special management of the federal lands and adjacent waters in and along the Dolores River and its tributaries, similar to the current proposed approach. On September 30, 2015, Mr. Robbins met with board members and commissioners of the sponsoring entities and also presented his findings at a well-attended public meeting in Cortez, CO. Stakeholders are continuing discussions of the NCA proposal in light of Mr. Robbins's legal analysis. Additionally, some stakeholders are providing funding to retain Mr. Robbins to work with the Legislative Subcommittee on refining the proposed legislative language and negotiating with all key stakeholders to achieve consensus on a proposed bill. The Lower Dolores Plan Working Group submitted and CWCB Director James Eklund approved a request for \$29,950 from the Wild and Scenic Alternatives Fund for the costs of coordination and facilitation, technical assistance, and public outreach necessary to achieve that consensus. Additional information on the Lower Dolores Plan Working Group can be found at: <http://ocs.fortlewis.edu/drd/meetings.asp>.

Upper Colorado River Wild and Scenic Stakeholder Group Update

The provisional period of the Stakeholder Group Plan began on December 19, 2015. The Stakeholder Group has not met since the last CWCB meeting. The first Governance Committee meeting will be held on January 12, 2016 in Summit County. The first provisional period annual meeting for all stakeholders will be held on March 23, 2016. Additional information on the UCRW&S Group can be found at <http://www.upcowildandscenic.com>. Representatives from the Stakeholder Group will be providing the CWCB with an update on their activities at the CWCB's January 25-26, 2016 meeting.

BLM's Royal Gorge Field Office Resource Management Plan (RMP) Revision

The BLM's Royal Gorge Field Office issued their Final Eligibility Report in December 2015. The Final Eligibility Report lists 19 streams, rivers, or segments as eligible for inclusion in the National Wild and Scenic Rivers System (NWSRS). Based on comments from the USFS and the Wilderness Society et

al., 9 more segments were added since the Draft Eligibility Report that was issued in June 2015. The 19 segments include the Arkansas River (4 segments from Leadville to just above Canon City), East Fork of the Arkansas River (near Chalk Creek to near Birdseye Gulch), Beaver Creek, East Beaver Creek, West Beaver Creek, Eightmile Creek, Fourmile Creek, Grape Creek (3 segments), East Gulch, Cottonwood Creek, Falls Gulch, Little High Creek, Pass Creek, and Red Creek, all located within the Arkansas River Basin. With this Final Eligibility Report completed, the BLM will start work on a Draft RMP for consideration and comment. The CWCB Staff will continue to keep the Board, and interested stakeholders within the Arkansas River basin, informed about the possibility of finding segments suitable for wild and scenic designation.

Deep Creek

The USFS White River National Forest issued its final ROD for adoption of its Suitability Report and the BLM Colorado River Valley Field Office approved its Resource Management Plan and issued their Records of Decision (ROD), all on July 8, 2015. These documents found that three segments of Deep Creek, totaling roughly 15 miles, are suitable for inclusion into the NWSRS. There is currently some interest in exploring possible designation of these segments as Wild and Scenic Rivers. The proposed designation could begin within the White River National Forest at the Deep Lake outlet in Garfield County and continue to the downstream BLM boundary in Eagle County. However, exploration of this concept has just begun. This fall, CWCB Staff met with representatives from American Rivers, the Colorado River Water Conservation District, the USFS, the BLM, and staff members from Colorado's congressional delegation to visit Deep Creek and to discuss the issues with possible designation. Representatives from American Rivers will make a presentation to the Board at the CWCB's January 25-26, 2016 meeting.