



**COLORADO**

**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  
Suzanne Sellers, Interstate, Federal & Water Information Section

**DATE:** May 17-18, 2017 Board Meeting

**AGENDA ITEM:** 20. Wild and Scenic Rivers Update and Fund Annual Review

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**Background:**

The CWCB Staff continues to work with stakeholder groups to develop 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 Lower Dolores Plan Working Group (LDPWG); 2) the River Protection Workgroup (RPW); and 3) the Upper Colorado River Wild and Scenic Stakeholder (UCRW&S) Group. Updates on these processes are set forth below along with updates on the BLM's upcoming Royal Gorge Field Office Resource Management Plan (RMP) revision and the USFS's Rio Grande National Forest Plan Revision. Also, Staff's annual update on the use of the Wild and Scenic Alternatives Fund is presented below.

**Staff Recommendation:**

Regarding the Wild and Scenic Alternatives Fund, the Staff recommends that the Board:

- 1) Affirm that the need and purpose of the Wild and Scenic Alternatives Fund still exists and is expected to continue in the future; and
- 2) affirm that the existing Terms and Conditions for the Allocation of Funds from the Wild and Scenic Alternatives Fund are adequate without revisions. See attached.

**Discussion:**

Lower Dolores Plan Working Group Update

The team of key stakeholders appointed by the group's Legislative Subcommittee continues to work on refining the draft federal legislation that would establish a National Conservation Area (NCA) along the Dolores River from below McPhee Dam to Bedrock and remove the finding of Wild and Scenic suitability from the Dolores River. The legislative effort continues



to receive input from a variety of community stakeholders across local, state and federal entities, and conservation and recreation groups.

The process on the Lower Dolores River is also benefiting from a large snowpack which, combined with good carryover storage, will result in a large managed release of 45 days (+ or -). The Lower Dolores River Implementation Monitoring and Evaluation Plan for Native Fish defines a number of opportunities to benefit native fish with large managed releases that also provide recreational boating opportunities. The Native Fish Monitoring and Recommendation Team (M&R Team) is charged with coordinating Implementation Plan efforts.

The M&R Team met on February 10, 2017 to assess the magnitude of the forecasted release, and consider the integration of boating, ecological and water supply goals to advise on the impending spill. A subgroup of the M&R Team met on March 3, 2017 in Grand Junction to fine tune "model spill hydrographs" used to align the objectives of these interests in guiding managed releases under a range of spill volume scenarios. The subgroup will also work on coordinated monitoring of the ecological response and the integration of boating flows and monitoring of the boating experience. This work was brought to the full M&R Team to finalize flow and monitoring objectives on March 16, 2017, followed by a public operations meeting that evening.

Based on M&R Team and public meeting input, pre-announced flows have been set for 10 days of optimal flows at 1,900 to 2,100 cfs, followed by ramp-up to high flows, including 4 days at 4,000 cfs in early May. After ramping down from the high flows, flows will be lowered to minimal boating levels of 800 cfs +/- to allow for fish surveys and to regain reservoir elevations in advance of Memorial Day releases. The optimal and high flow releases were set to meet the targets agreed to in the "model spill hydrograph" for a large "spill," a/k/a "managed release opportunity." Because water has been committed to these objectives, ongoing adjustments are being made in flows between the high releases and Memorial Day. Dolores River Boating Advocates (DRBA) and American Whitewater (AW) are working closely with The Nature Conservancy (TNC), who is coordinating field monitoring with Colorado Parks and Wildlife (CPW) to assess the ecological response to the optimum and high releases. For example, pre-and-post floodplain inundation is being captured by drone flights and coordinated with field monitoring activities. As the inflow forecasts continue to change, ongoing planning for these releases is being worked through in weekly phone calls involving the Bureau of Reclamation, Dolores Water Conservancy District (DWCD), DRBA, AW, and TNC.

Many tools have been added to the tool kit since the last extended managed release in 2008, including: 1) the Implementation Plan; 2) a system for tracking annual ecological objectives and responses; 3) several years of "small spill" and "no-spill" years of monitoring data; 4) temperature loggers to evaluate thermal suppression to avoid pre-spill spawning; 5) a pit tag array and a growing population of pit tagged native and non-native fish; and 6) improved cooperation among state, federal, and local agencies and non-governmental organizations (NGOs) that are working to integrate and share their monitoring capabilities in 2017.

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

The RPW Steering Committee held a meeting on April 5, 2017 in Durango, CO and it anticipates holding another meeting in May. During the April meeting, the Steering Committee discussed the progress of draft legislative language for a regional package, the results of Phase I of the Iron Fen Water Study, and next steps for the group. The draft legislation, as it stands now, is to include: 1) removal or maintenance of suitability (depending on reach); 2) Wild and Scenic designation; 3) creation of a Special Management

Area (SMA); 4) mineral withdrawal; 5) “no new major impoundments”; and 6) permitting restrictions to protect scenery. Also included in the regional package is the continued study of iron fens, pursuing an “outstanding waters” designation for Grasshopper Creek, and pursuing instream flows to preserve habitat for black swifts. The regional package is a work in progress. Some of the environmental members still have some concerns and will need to vet the package with their organizations. More detailed information on the regional package and the process will be presented to the board by RPW Steering Committee members during the board tour on Tuesday, May 16, 2017.

The RPW is planning on seeking a grant from the Wild and Scenic Alternatives Fund to conduct Phase II of the Iron Fen Water Study that will help inform protection of that ORV.

#### Upper Colorado River Wild and Scenic Stakeholder Group Update

The UCRW&S Group held its quarterly Governance Committee (GC) meeting on March 15, 2017 in Summit County. The annual meeting included the re-election of Governance Committee Chairs and confirmation of Executive Committee members. A presentation was given by CPW on their biosurveys and other research projects on the Upper Colorado River. The GC discussed refining Provisional ORV Indicators and Resource Guides. Two ad-hoc committees are currently tasked with indentifying issues and developing a roadmap on how best to update the Provisional ORV Indicators and Resource Guides. The GC also heard interest group updates, federal agency updates, committee updates and reviewed the Executive Committee Charter. The next GC meeting is scheduled for June 14, 2017 in Summit County.

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

The BLM’s Royal Gorge Field Office issued a Draft Suitability Report in March 2017. Of the 19 stream segments assessed, the Draft Suitability Report recommends four segments on the Arkansas River and one segment on Eightmile Creek as suitable. On April 25, 2017, CWCB Staff presented information on the use of the Wild and Scenic Rivers Fund to the Arkansas River Basin Roundtable. The Arkansas River stakeholders are currently considering whether they would like to create a Wild and Scenic stakeholder group to address the suitability recommendation. As directed at the March 2017 Board Meeting, the CWCB Director submitted the attached comments on the Draft Suitability Report, on behalf of the Board.

#### USFS’s Rio Grande National Forest Plan Revision

As part of its Rio Grande National Forest Plan Revision, the USFS is planning to conduct Wild and Scenic river related inventories through a separate public engagement process. In July 2016, the USFS issued a Need for Change document that indicated that they would be evaluating 34 stream segments as part of this inventory process. The results of this inventory process are expected to be completed by the USFS this summer. Depending on the outcome of this inventory process, there is a possibility that local stakeholders would seek a grant from the Wild and Scenic Alternatives Fund for the purpose of forming a stakeholder group during the next fiscal year.

#### Wild and Scenic Alternatives Fund Update

The Terms and Conditions Developed by the Colorado Water Conservation Board for the Allocation of Funds from the Wild and Scenic Alternatives Fund (“Terms and Conditions”) require that the Board:

- Annually review information regarding the fund, in May of each year.
- Each year, consider and make any necessary revisions to the Terms and Conditions.
- Determine if the purposes for which the fund was established have ceased, and if so, "de-authorize the fund."

Below is a summary table detailing the status of the monies in the Wild and Scenic Alternatives Fund for this fiscal year (FY) and next FY:

FY16-17	
Amount encumbered in July 2016	\$242,027.28
Unencumbered Annual Refresh Amount in July 2016	\$400,000.00
Funds spent this fiscal year to date by LDPWG	(\$15,600.72)
Funds spent this fiscal year to date by UCRW&S	(\$64,501.78)
Funds spent this fiscal year to date by RPW	(\$73,821.67)
<b>Current remaining funds</b>	<b>\$488,103.11</b>
Encumbered funds under purchase order (PO) with RPW	(\$38,720.61)
Encumbered funds under existing PO with UCRW&S	(\$35,033.22)
Encumbered funds under existing PO with LDPWG	(\$14,349.28)
RPW anticipated request in FY16-17	(\$82,500.00)
UCRW&S estimated request in FY16-17	(\$100,000.00)
<b>Potential unencumbered funds remaining on June 30, 2017</b>	<b>\$217,500.00</b>
FY17-18	
Unencumbered Annual Refresh Amount in July 2017	\$400,000.00
RPW anticipated request <sup>1</sup>	(\$82,500)
UCRW&S estimated request in FY17-18	(\$133,000.00)
Arkansas basin estimated request in FY17-18	(\$30,000.00)
Rio Grande basin estimated request in FY17-18	(\$30,000.00)
<b>Anticipated unencumbered funds remaining for FY17-18</b>	<b>\$124,500.00</b>

<sup>1</sup>Included in event that PO is not issued until after July 1, 2017

The Terms and Conditions for the Wild and Scenic Alternative Funds are attached for the Board's review. Staff believes that these Terms and Conditions are necessary and adequate in their current form.

As described in the updates above, the existing Wild and Scenic Stakeholder groups are developing or implementing alternatives to Wild and Scenic designations and anticipate the need for additional funding in the future. Lastly, as other federal agencies update their management plans in the future, they will be required to evaluate the eligibility of rivers within their jurisdiction for inclusion in the National Wild and Scenic Rivers System.

Attachments

**TERMS AND CONDITIONS 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 disbursements. In response to federal processes, local groups may form alternative resource protection groups (“alternatives groups”) that explore different avenues 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, in May of each year.
- Each year consider and make any necessary revisions to these terms and conditions.
- 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 deny the use of all funds, after consultation with the Board member(s) of basins involved with the project.

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, non-federal 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.
- 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 non-federal 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 being considered for listing 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, but written documentation of in-kind services will be required. Past expenditures directly related to the project may be considered as matching funds if the expenditures occurred within 12 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 still enable 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. In addition, projects that will be completed in a timely manner, rather than projects that have sought many lengthy delays, 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; provided that all other terms and conditions are satisfied.
- h. The degrees to which the project will help meet environmental or recreational needs as an alternative to protecting the ORVs through the Wild and Scenic designation process.
- 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 CWCBC 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).



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Lauren Ris, CWCB Acting Director

April 26, 2017

John Smeins  
Royal Gorge Field Office, BLM  
3028 East Main Street  
Cañon City, CO 81212

**Subject: Comments on the Royal Gorge Field Office (RGFO) Draft Wild and Scenic River  
Suitability Report**

Dear Mr. Smeins:

The Colorado Water Conservation Board (CWCB) appreciates the opportunity to comment on the Bureau of Land Management (BLM)'s Draft Wild and Scenic River Suitability Report that recommends four segments on the Arkansas River and one segment on Eightmile Creek as suitable for inclusion in the National Wild and Scenic Rivers System (NWSRS).

#### Stakeholder Process

At its last meeting on March 23, 2017, the CWCB decided to remain neutral on the question of whether the five segments in question should be considered suitable until a wild and scenic stakeholder group has the opportunity to convene. If a stakeholder process were to convene, any consensus recommendations would inform the CWCB's future opinions on suitability when it comments on the RGFO's upcoming draft Eastern Colorado Resource Management Plan (RMP).

#### Non-federal Land

The BLM indicates in its draft suitability report that a majority (55%) of the land adjacent to the proposed suitable segments along the Arkansas River is not owned by the BLM. In one of the Arkansas River segments proposed for suitability, BLM ownership is as low as 22%.

Because the future status of the Waters of the United States (WOTUS) Rule is unknown, it is difficult to determine how much of an impact a suitability finding would have on non-federal land owners within a suitable stream segment. Consequently, the Board requests that the BLM consider modifying any proposed suitable segments to exclude stream reaches adjacent to non-federal land where the landowner has not consented.

We would like to thank you for considering our comments. We look forward to working with you to ensure a successful outcome for the citizens of Colorado and for the ORVs that you have identified for protection. Please contact Suzanne Sellers or Linda Bassi of my staff if you have any questions.

Best regards,

Lauren Ris, Acting Director  
Colorado Water Conservation Board

