



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: July 19-20, 2017 Board Meeting

AGENDA ITEM: 14. Wild and Scenic Rivers Stakeholder Group Updates and
Proposed Changes to Fund Terms and Conditions

Background

Colorado Water Conservation Board (CWCB) Staff continues to work with stakeholder groups to develop solutions in response to federal determinations by the U.S. Bureau of Land Management (BLM) or U.S. Forest Service (USFS) that certain river segments are "eligible" or "suitable" for designation under the Wild and Scenic Rivers Act. There are three stakeholder groups that have recently been working 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 Royal Gorge Field Office Resource Management Plan (RMP) revision, the USFS's Rio Grande National Forest Plan Revision, and the USFS's Grand Mesa, Uncompahgre and Gunnison (GMUG) National Forests Plan Revision.

The Board asked Staff to evaluate 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) at their May 2017 meeting. A description of CWCB's recommendations are included in this memo.

Staff Recommendation

Staff recommends that the Board adopt the proposed changes to the existing Terms and Conditions (attached). Other items are informational.

Discussion

Proposed Changes to Fund Terms and Conditions

During the May 2017 Board Meeting, Director Montgomery requested that Staff review the Terms and Conditions to determine whether the concept and term "alternative" was necessary to the Terms and Conditions. She also suggested other housekeeping edits to the document.



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After reviewing the Wild and Scenic Rivers Fund statute¹, Staff incorporated Director Montgomery's suggestions and took the opportunity to improve the readability of the document. Staff recommends the changes shown in redline on the attached Terms and Conditions. A clean copy of the proposed revised Terms and Conditions is also attached for convenience.

Lower Dolores Plan Working Group Update

The big news for the Lower Dolores Plan Working Group continues to be the managed releases from McPhee Reservoir that took place this spring. A two-page brochure summarizing the ecological and recreational monitoring related to the releases is attached to this memo. The managed release and related science and water management challenges will be vetted in three upcoming settings. On August 17, 2017, a public meeting will be held at the Dolores Community Center that will focus primarily on the boating experience, and will also address ecological monitoring and reservoir management. In October or November, the Monitoring and Recommendation Team will meet, focusing on the ecological work and preliminary monitoring results, along with additional discussions of boater cooperation and reservoir management. In late 2017 or early 2018, there will be a full Dolores River Dialogue/Lower Dolores Working Group meeting to vet all dimensions of the 2017 releases, report on the status of the NCA legislative effort, and discuss how sample hydrographs will be used to set objectives for the 2018 release, as forecasted release volumes come into focus in late winter.

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

The RPW Steering Committee held its most recent meeting on May 19, 2017 in Durango. During the meeting, individual Steering Committee members expressed displeasure with the draft legislative language and stated that they want to cease participation in the negotiations on the draft language. The draft legislation, as it stands now, was 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. In reaction to the ceased negotiations, the Steering Committee voted to disband the RPW. Individual stakeholders plan to continue to pursue an "outstanding waters" designation for Grasshopper Creek. In addition, individual stakeholders would like to conduct Phase II of the Iron Fen Water Study; however, the CWCB cannot approve a grant request from the Wild and Scenic Alternatives Fund for this purpose because a stakeholder group structure is required to qualify for those funds and individual stakeholder matching funds have been withdrawn.

Upper Colorado River Wild and Scenic Stakeholder Group Update

The UCRW&S Group held its quarterly Governance Committee (GC) meeting on June 14, 2017 in Summit County. The GC discussed a draft Memorandum of Understanding (MOU) between the UCRW&S Group and the federal agencies (BLM and USFS). The draft MOU defines how the parties will communicate, work together on monitoring, share data, and coordinate funding. The GC also heard various updates including updates on refining Provisional Outstandingly

¹ C.R.S. 37-60-122.3

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Remarkable Values (ORV) Indicators and Resource Guides. In June, the UCRW&S Group submitted a request for \$99,455 from the Wild and Scenic Rivers Fund. These funds will be used to continue operation of the UCRW&S Group and continue the current ORV monitoring and research projects. Director Ris approved the request after consultation with Director George. The next GC meeting is scheduled for August 28, 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 as part of its Eastern Plains RMP update. 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. Stakeholders in the Arkansas River Basin are currently considering whether they would like to create a Wild and Scenic stakeholder group to address the suitability recommendations. Meanwhile, Staff attended the BLM's cooperating agency update meeting on June 22, 2017.

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. 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.

USFS's Grand Mesa, Uncompahgre and Gunnison (GMUG) National Forests Plan Revision

In June, the USFS initiated its Forest Plan revision process for the Grand Mesa, Uncompahgre and Gunnison (GMUG) National Forests. The USFS anticipates completing its Phase 1 Assessment during late fall of 2017. As part of the assessment, the USFS will be reviewing the information in its 2007 Wild and Scenic Rivers Eligibility Report. The 2007 report found 77 miles on 12 tributaries eligible for Wild and Scenic designation.

Because the USFS does not necessarily complete suitability studies immediately following completion of their eligibility studies, the USFS's determination of eligibility is analogous to the BLM's determination of suitability, as both represent a commitment to long-term protections for the identified ORVs. The USFS's new *Land Management Handbook* (2015) indicates that water projects on eligible or suitable segments "shall be analyzed as to their effect on a river's free-flow, water quality, and outstandingly remarkable values, with adverse effects to be prevented to the extent of existing agency authorities (such as special-use authority)."

Attachments

TERMS AND CONDITIONS ~~DEVELOPED BY THE~~
~~COLORADO WATER CONSERVATION BOARD~~
FOR THE ALLOCATION OF FUNDS FROM
THE WILD AND SCENIC ~~ALTERNATIVES RIVERS~~ FUND

Adopted January 27, 2010

Revised July __, 2017

Introduction

Background

~~In 2009, the~~The Colorado General Assembly: ~~1)~~ established the Colorado Water Conservation Board's ("CWCB's") Wild and Scenic Rivers ~~Act Alternatives~~ Fund ("~~the~~ Fund") ~~in 2009.~~¹ ~~The legislature;~~ ~~2(1)~~ provided that the Fund would be refreshed annually up to \$400,000; ~~3(2)~~ 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~~ "work with stakeholders within the state of Colorado to develop protection of river-dependent resources as an alternative to wild and scenic river designation under the federal Wild and Scenic Rivers Act"; and, ~~4(3)~~ provided that the Board may adopt terms and conditions for fund disbursements.

The Fund is used for two primary purposes: (1) to support local resource protection groups ("stakeholder groups") that form to respond to federal Wild and Scenic processes in order to explore different approaches that will most benefit the resource and the community, and (2) for CWCB staff operational expenses related to participation in such stakeholder groups. ~~In response to federal processes, local groups may form alternative resource protection groups ("alternatives stakeholder 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 ~~stakeholder~~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~~On an annual basis, consider and make any necessary revisions to these terms and conditions.

¹ C.R.S. 37-60-122.3

- 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 projects identified in the application and work plan is-are implemented within the time and budget identified in the application.
- Ensure that sound fiscal, fiduciary, and accounting practices are implemented.

Stakeholder Groups

Stakeholder groups are associations of interested parties and organizations that cooperate and collaborate to protect outstandingly remarkable values (“ORVs”) associated with rivers within Colorado, while protecting Colorado’s ability to fully use its compact and decree entitlements. Stakeholder groups should include, but are not limited to, traditional consumptive water interests and non-consumptive interests.

Stakeholder groups often have nuanced opinions regarding federal agencies’ proposed Wild and Scenic designations. Protection measures which support findings of eligibility, or suitability or Wild and Scenic river designation should be developed based on the discussions of the diverse parties within the stakeholder group.

Stakeholder groups may receive a Fund allocation to support distinct projects and/or ongoing stakeholder processes (collectively referred to as “projects”). Applications may be submitted by the stakeholder group itself or an entity applying on behalf of the group, as described in the next section.

Overview of the Fund Management Eligibility Requirements for Project Sponsorship

The CWCB Staff may use the Fund to pay for travel costs or other operating expenses incurred by the Staff for activities related to participation in alternativesstakeholder 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 either 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~~stakeholder 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~~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 and/or stakeholders is-are 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-toand protect ~~ing-the~~ ORVs identified through the Wild and Scenic ~~designation-suitability~~ 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-state species of concern.
- k. Whether the project will complement or assist in the implementation of other CWCB 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.~~

TERMS AND CONDITIONS FOR THE ALLOCATION OF FUNDS FROM THE WILD AND SCENIC RIVERS FUND

Adopted January 27, 2010

Revised July __, 2017

Introduction

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- 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.
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- 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 and/or stakeholders are 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 degree to which the project will help meet environmental or recreational needs and protect ORVs identified through the Wild and Scenic suitability 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 CWCB programs.

2017 Ecological and Recreation Monitoring *on the Dolores River*



Working under the science-based Lower Dolores River Implementation, Monitoring and Evaluation Plan for Native Fish, members of the Dolores River Native Fish Monitoring and Recommendation Team are conducting scientific research and monitoring on the Lower Dolores River.

Along with Colorado Parks & Wildlife, The Nature Conservancy is deploying the ecological monitoring, working closely with the Bureau of Land Management, private landowners, and several academic institutions. American Whitewater and the Dolores River Boating Advocates are monitoring recreational use on the river.



ECOLOGICAL MONITORING

Ecological monitoring on the Lower Dolores River in 2017 is focused on the ecological response to the managed release from McPhee Reservoir. This includes sediment transport monitoring, riparian vegetation monitoring, fish surveys, and groundwater monitoring. High carry-over storage in McPhee Reservoir combined with a large snowpack in the basin provided a rare opportunity for water managers to shape the 2017 managed release. Their goal was to provide a range of flows in the Lower Dolores River, including habitat maintenance flows of 2,000 cfs and a peak release of 4,000 cfs in early May.



LOCATION

Monitoring work is focused on the Lower Dolores River between McPhee Reservoir and Bedrock. Five ecological monitoring sites have been established between the Dove Creek Pumps and the Bedrock boat ramp/public access sites.



RECREATION MONITORING

American Whitewater and the Dolores River Boating Advocates are conducting a survey to directly gather information from paddlers that experienced the Dolores River during the 2017 boating release from McPhee Dam. The feedback from that survey will help to understand the economic impact of river-recreation to local communities, inform how successfully releases for boating were managed this year, and help to improve managed releases in the future.



INFORMATION GAINED

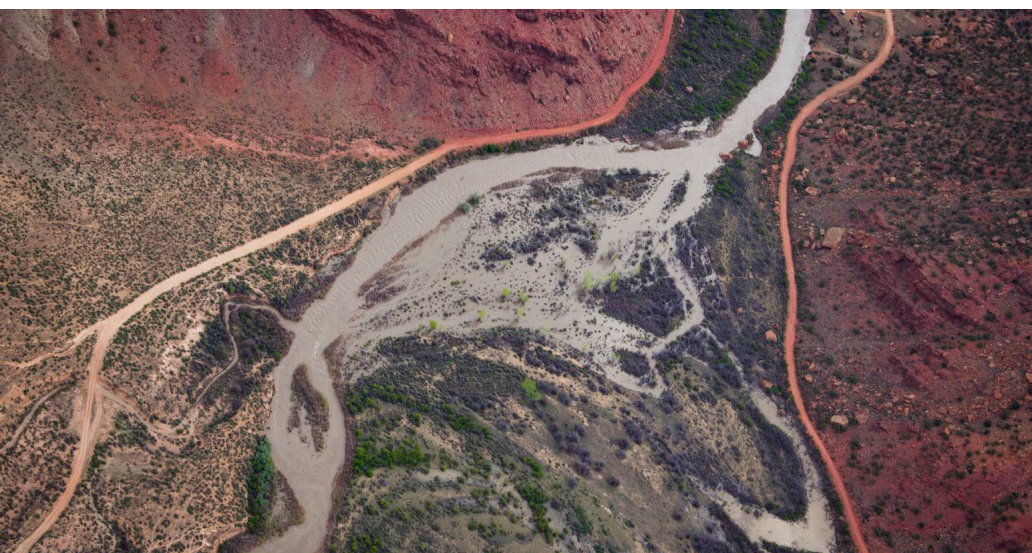
Monitoring the 2017 managed release will provide important information to the Dolores River Native Fish Monitoring and Recommendation Team and to stakeholders on the river. Monitoring work will help to test and verify flow hypotheses and sample hydrographs, providing important information for how to shape future releases to improve habitat and spawning conditions for warm-water native fish while providing diverse flows for recreational boating.



TIMELINE

Ecological monitoring will be occurring on the Lower Dolores River during the summer and fall of 2017. Processing of data collected in the field will take place over the winter of 2017-2018. Some follow up field work is anticipated to occur in 2018 and in future years.

The recreational boater survey will be available through August 2017 (<http://bit.ly/DoloresSurvey>).



Native flannelmouth sucker during a Colorado Parks & Wildlife fish survey © Celene Hawkins/TNC, Dolores River floodplain © Lauryn Wachs/TNC with aerial support from Lighthawk