



COLORADO
**Colorado Water
Conservation Board**
Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Linda Bassi, Chief
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DATE: September 19-20, 2018 Board Meeting

AGENDA ITEM: 29. Deep Creek Stakeholder Group Update

This is an informational item with no Board action requested.

Background

On July 8, 2015, the U.S. Forest Service (USFS) White River National Forest issued its final Record of Decision (ROD) for adoption of its Suitability Report and the Bureau of Land Management (BLM) Colorado River Valley Field Office approved its Resource Management Plan and issued its ROD. **These documents set forth the agencies' findings that** three reaches of Deep Creek are suitable for inclusion into the National Wild and Scenic (W&S) Rivers System. The subject reaches of Deep Creek cover approximately 15 miles, with the upper 10.77 miles flowing through USFS land, and the remainder flowing through BLM land. See Vicinity Map at Attachment 1. The CWCB holds an instream flow (ISF) water right on the subject reach of Deep Creek that extends about five miles past the downstream terminus of the suitable reach. The federal agencies have identified Scenic, Geologic, and Ecologic Outstandingly Remarkable Values (ORVs) present in the Deep Creek corridor.

In fall of 2015, CWCB staff met with representatives from American Rivers, the Colorado River **Water Conservation District (River District)**, the **USFS**, the **BLM**, and **staff members from Colorado's** congressional delegation to visit Deep Creek and discuss issues related to a potential Wild and Scenic designation of the Deep Creek segments. Representatives from American Rivers made a presentation about Deep Creek and the potential designation process to the Board at the **CWCB's** January 2016 meeting.

On June 9, 2016, the first Deep Creek stakeholder group meeting was held in Gypsum, CO, and was attended by a staff member for Sen. Cory Gardner; representatives of the Town of Gypsum, Eagle County, grazing allotment holders, the USFS, the BLM, CPW, CWCB, American Rivers, the Eagle River Watershed Council, the River District, and the Middle Colorado Watershed Council; and by private individuals interested in the process. At this first meeting, the group discussed the process of developing proposed legislation to designate Deep Creek as Wild and Scenic, looked at potential boundaries of the Wild and Scenic corridor, identified concerns with a Wild and Scenic designation, and discussed pursuing **stream flow protection for the subject reaches through the state's Instream Flow Program** rather than under a federal reserved water right. In September 2016, CWCB Board members visited Deep Creek, which entailed a bumpy van ride up Coffee Pot Road to a spectacular point overlooking Deep Creek Canyon. Representatives of the USFS, the BLM, and American Rivers **spoke to the Board members on site about Deep Creek's attributes and the continued dialogue on a** potential Wild and Scenic designation. From the start, discussions of such a designation have



included the concept of a CWCB ISF water on the subject reach of Deep Creek in lieu of a federal reserved water right. The recommendation would be to appropriate an increase to the existing ISF water right. American Rivers and BLM are working on collecting data to support such a recommendation. CWCB staff has coordinated with American Rivers and BLM to identify what data is needed.

Recent Stakeholder Group Activity

The most recent Deep Creek Stakeholder Group (SG) meeting occurred on August 21, 2018. Currently, SG members include:

Current Stakeholder Member Groups (in alphabetical order)

American Rivers
Betty Ford Alpine Gardens
City of Glenwood Springs
Colorado Cave Survey of the National Speleological Society (Local Chapter - Timberline Grotto)
Colorado Parks and Wildlife
Colorado River District
Deep Creek Climbers Coalition
Eagle County
Eagle County Environmental Health
Eagle County Open Space
Eagle River Watershed Council
Garfield County
Grazing Community
High Altitude Training Center/HAATS/National Guard
Middle Colorado Watershed Council
Landowners whose land touches Deep Creek
Trout Unlimited (Local Chapter - Eagle River)
Water rights holders whose water rights may be implicated by this discussion
Wilderness Workshop

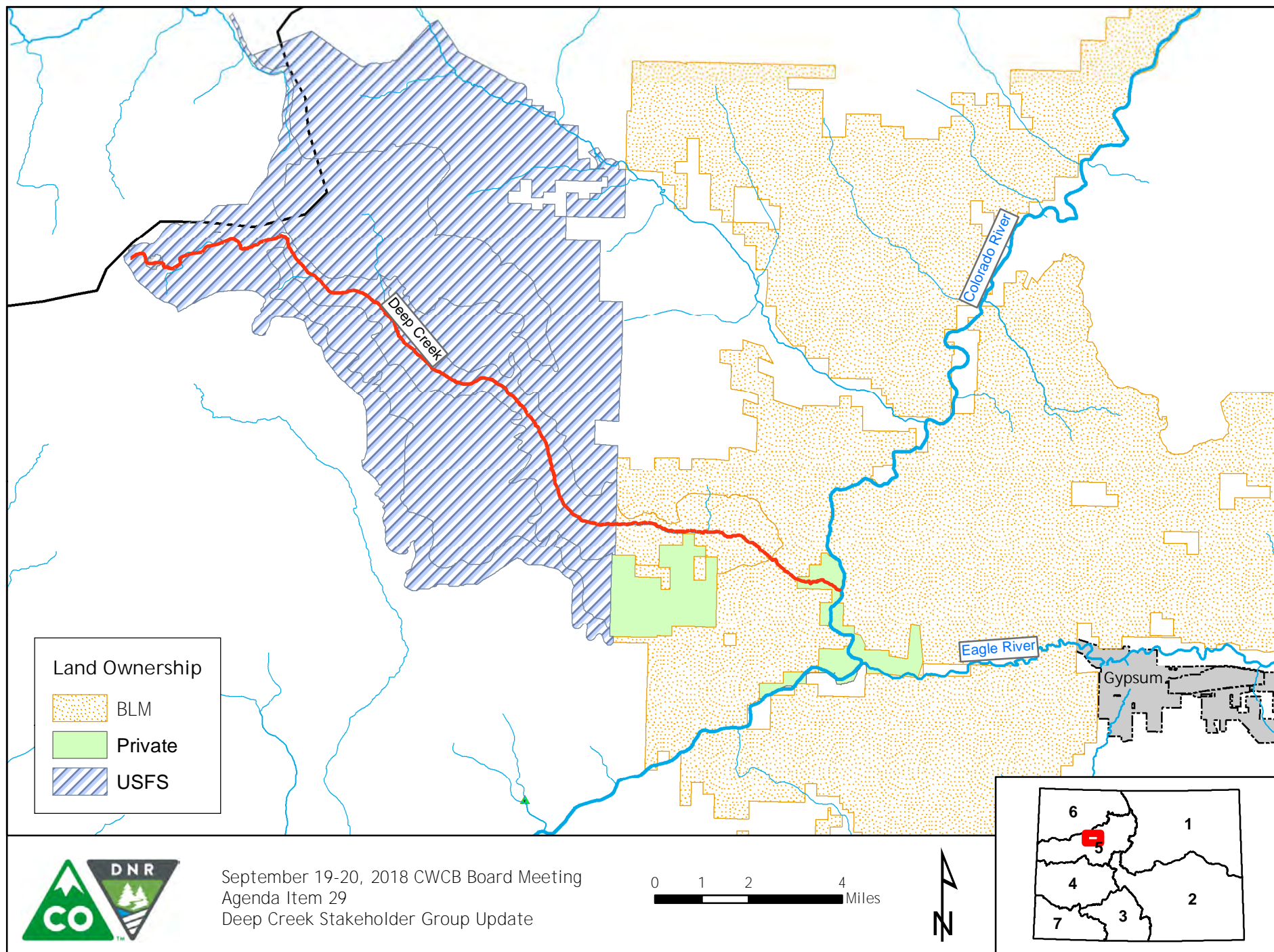
Advisors to the Stakeholder Group

Bureau of Land Management
Congresswoman Diana DeGette
Congressman Scott Tipton
Senator Cory Gardner
Senator Michael Bennet
U.S. Forest Service
Colorado Water Conservation Board

CWCB staff has concluded that its participation is best categorized as an advisor to the SG, and CPW is considering transferring to the advisory capacity. Staff anticipates its role to be focused on assisting with the development of an instream flow recommendation on Deep Creek and with drafting legislative language.

The SG has developed Guiding Principles that are intended to guide the drafting of legislation for a Wild and Scenic designation on Deep Creek, provided here as Attachment 2. As set forth in the

Guiding Principles, **the SG's intent is that** any legislation establishing a Wild and Scenic designation "will recognize the importance of maintaining the values of Deep Creek and the surrounding area while respecting private property rights and allowing current access and uses of the creek and corridor to continue." Currently, SG members are circulating the Guiding Principles to their respective entities for review and input, with the goal of formally approving the Guiding Principles at the next SG meeting. The SG also is working on forming subcommittees to work on the instream flow recommendation, drafting, and education and outreach.



FINAL Guiding Principles for Deep Creek Wild and Scenic

The goal of this group is to determine how as a collective stakeholder group potential consensus legislation could be written to designate most of Deep Creek as a Wild and Scenic River. A Wild and Scenic designation will protect and enhance the three identified ORVs (ecologic, geologic, and scenic) and the current streamflows that support the protection of the ORVs. To build consensus around how Deep Creek should be preserved, members of the stakeholder group have collectively drafted and agreed upon guiding principles that demonstrate consensus surrounding the permanent protection of Deep Creek.

These principles, drafted by the stakeholder group, will guide the writing of legislation for a Wild and Scenic designation on Deep Creek. A Wild and Scenic designation would provide safeguards to protect clean water, protect a buffer of approximately 1/4 mile on both sides the creek on publicly owned lands, preserve a river's free-flowing condition, and the river's immediate environments shall be protected for the benefit and enjoyment of present and future generations. Legislation will recognize the importance of maintaining the values of Deep Creek and the surrounding area while respecting private property rights and allowing current access and uses of the creek and corridor to continue. After Congress establishes the designation, a separate but consistent river management plan will be drafted by the United States Forest Service and Bureau of Land Management with significant community input and engagement.

Principles to help guide this stakeholder group and Deep Creek protections include:

- Deep Creek is highly regarded by the local communities for its spectacular natural setting, ecological significance, and unique recreational opportunities. These communities also respect and value historical uses of the stream corridor;
- We should preserve existing recreational activities, including but not limited to fishing, hunting, climbing, camping, hiking, and wildlife watching on Deep Creek and the surrounding lands and plan for possible increased use at sustainable levels;
- The unique and important resources and values of the stream corridor, including the geologic, ecological, and scenic values of the public land should be protected for the benefit of future generations;
- The water resources of Deep Creek are necessary to support the adjacent karst resources, as well as the aquatic, riparian, and terrestrial species and communities;
- Livestock grazing has been an important part of the history and economy of the region. Allowing for continued grazing activities and maintenance of associated infrastructure, subject to the existing level of standard administrative review and renewal processes is important to broader management objectives for Deep Creek and will be unaffected by Wild and Scenic designation;

- Preserve the natural ecosystem processes that create and maintain a functioning, unfragmented landscape that supports and sustains a flourishing biotic community, while supporting local economic activity;
- Safeguard existing property rights, including water rights;
- National Guard HAATS training helicopter overflights and landings, including overflights and flight testing and evaluation, are currently permitted in the Deep Creek corridor. Preserving the existing military helicopter training exercises and existing management authority, subject to the existing level of standard administrative review and renewal process, is important to the broader management objectives for Deep Creek and will be unaffected by the Wild and Scenic designation;
- Enhance and protect the three identified outstandingly remarkable values (ecologic, scenic, and geologic) and related natural values through a Wild and Scenic designation, combined with a state-held instream flow water right sufficient for the purposes of that designation.