

Upper Colorado River Wild & Scenic Rivers Act Process

Briefing Paper for the Upper Colorado River Stakeholder Group Management Plan

Process Background

The Bureau of Land Management (Kremmling and Colorado River Valley Field Offices) (BLM) and the Forest Service (White River National Forest) (USFS) are in the process of revising Resource Management Plans (RMPs) for a combined Planning Area that includes a large segment of the upper Colorado River within Colorado. As a part of the plan revision process, the federal agencies are required to inventory and evaluate waterways within the Planning Area pursuant to requirements under the Wild and Scenic Rivers Act to determine if those waterways meet the Act's free flowing standard and also possess Outstandingly Remarkable Values (ORVs) that would be subject to agency protection under the Act.

Because this reach of river is so critical in supporting Colorado's many other existing and future water uses, a Stakeholder Group¹ (SG) has formed to bring local government, water users, and other interested entities together to develop a plan that balances protection of the ORVs with Colorado's other competing needs through cooperative and voluntary efforts. The SG includes a broad range of East Slope and West Slope interests including water providers, landowners, local and state governmental agencies, and conservation sportsmen and recreation groups in consultation with the Colorado Water Conservation Board, Colorado Parks and Wildlife, and the Bureau of Reclamation. The SG Plan developed by the group over the past five years has been included as one of the four management alternatives in the agencies' Draft RMPs and Draft Environmental Impact Statement.

This briefing paper describes the salient features of the locally-controlled and voluntary SG Plan which, if adopted by the BLM and USFS, will be integrated with federal agency management under the agencies' RMPs.

SG Plan Purpose

The SG Plan is being proposed to BLM and USFS as a Wild and Scenic management alternative to protect the ORVs identified in the Eligibility Reports for BLM Segments 4 – 7 (USFS Segments 1 – 2) of the Upper Colorado River². The purpose of the SG Plan is to “balance permanent protection of the ORVs, certainty for the stakeholders, water project yield, and flexibility for water users.” The SG Plan is under evaluation by the federal agencies as part of their resource management plan revision process. The SG Plan would become effective upon its approval by BLM and USFS without material change as the Wild and Scenic Rivers Act management alternative for these segments.

¹ See attached membership list

² See attached map

Key Elements of the Plan

Protection of the ORVs:

- The SG Plan aims to protect all ORVs identified in the Eligibility Reports for these segments, while focusing on the water-related Recreational Fishing and Recreational Boating ORVs.
- Long Term Protection Measures include appropriation of CWCB instream flows, continued delivery of water to downstream demands, continued delivery to downstream senior water rights, and ongoing deliveries to the endangered fish species under the Upper Colorado River Recovery Program. The SG Plan contains provisions for addressing a material change in circumstances that undermines the value of these long term protection measures. The instream flow filings were developed jointly by the SG members and filed in state water court by the CWCB in 2011.
- Cooperative Measures strategies will be used by the Stakeholders to maintain or enhance the ORVs. Examples of cooperative measures are identified in the Plan. Implementation will be considered annually and will be based on hydrologic conditions, forecasted needs for the ORVs and availability of voluntary cooperative actions that do not impair the ability of water providers to meet their water supply commitments using prudent operational constraints.
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Monitoring and Protection Plan:

- The SG uses *ORV Indicators* and *Resource Guides* to monitor and protect the ORVs. The SG will monitor *ORV Indicators* and *Resource Guides* to assist with implementation of the SG Plan.
 - *ORV Indicators*, which describe conditions that characterize the ORVs, will be monitored to gauge whether the ORVs are being protected under the SG Plan. Failure to meet criteria related to the provisional or final *ORV Indicators* would trigger actions under the Plan intended to address issues within the SG's control.
 - *Resource Guides* include flow ranges for recreational boating, fish habitat and sediment mobilization, as well as water quality standards. The *Resource Guides* will be used as a source of information to inform SG discussions under the Plan. The *Resource Guides* are not intended to be used as a test for Plan success nor for use by permitting agencies or entities as criteria for evaluating a project's effects on the ORVs.
- The Monitoring Plan has an initial 3-to-5 year provisional period during which the SG will monitor, evaluate, and revise, if necessary, the Provisional ORV Indicators and Resource Guides.

Governance:

Under the SG Plan, implementation and decision-making will be conducted by a Governance Committee comprised of six Interest Groups, each with three representatives:

- West Slope Water Conservancy/Conservation Districts and Landowners/Water Users
- Local Government
- Trans-Mountain Diverters
- Conservation/Environmental/Fishing
- Recreational Floatboating
- State Interests (e.g., CWCB, CP&W, and State or Division Engineer)

(BLM and USFS will be advisors to the SG)

Elevation/Referral/Termination process:

Any stakeholder can elevate issues to the full SG to address unresolved concerns related to implementation of the Plan or the status of the ORVs. The SG Plan provides governing mechanisms to address a Significant Risk of Impairment to an ORV, a missed Milestone or Material Change in Circumstances. If cooperative attempts fail and concerns remain about the ORVs, the Plan can be terminated on a vote of five out of six Interest Groups.

Water Projects Poison Pill:

If the outcome of negotiations or final permitting related to Denver Water's Moffat Project and/or the Municipal Subdistrict's Windy Gap Firming Project precludes continued support of the Plan by any stakeholder, that stakeholder shall provide written notification of such position to the SG and the SG will withdraw the Plan from consideration by BLM and USFS as a locally supported Wild and Scenic management alternative. Such withdrawal will leave the BLM and USFS to determine the appropriate Wild and Scenic determinations and protective measures, if any, for Segments 4, 5, 6 and 7, without taking into account the SG Plan alternative.

Funding:

Administrative and operating costs associated with the SG Plan will be provided by annual funding from each Interest Group (comprised of at least three stakeholders) which is initially set at \$10,000.

In addition to the annual revenue from Interest Group dues, the SG Plan contemplates an endowment fund of at least \$1.5M to be used for protecting and enhancing the ORVs. The SG anticipates seeking funding from a variety of grant programs and federal, state and local sources.

Issues for Consideration in Evaluating the SG Plan:

Resource Guides and ORV Indicators are provisional. The intent is that monitoring data and information gathered in the 3-5 years after the plan becomes effective will provide information to develop the Final Resource Guides and ORV Indicators. The Plan contains a list of tasks the SG group will undertake prior to the effective date.

Water Project Permits. Continued participation in the SG Plan by the Municipal Subdistrict and Denver Water is contingent upon completion of all NEPA and related environmental permitting for the Municipal Subdistrict's Windy Gap Firing Project and Denver Water's Moffat Project, and upon the Subdistrict's and Denver Water's election to proceed with the permitted Projects, as well as the non-exercise of the Poison Pill.

Suitability Determination and Agency Coordination. The SG Plan is contingent upon the neutral deferral of a suitability determination under the Wild and Scenic Rivers Act by BLM/USFS. The SG Plan will terminate if either agency enters formal findings that Segments 4, 5, 6 or 7 of the Upper Colorado River are suitable or not suitable.

New Projects. Proposed new water projects may seek to opt-in to the SG Plan but are not required to do so. All new projects will go through normal regulatory approvals, regardless of whether or not they opt-in to the SG Plan.

Additional Information

Upper CO River Wild & Scenic Stakeholder Group

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U.S. Bureau of Land Management

Kremmling Field Office: <http://www.blm.gov/co/st/en/fo/kfo.html>

Colorado River Valley Field Office: <http://www.blm.gov/co/st/en/fo/crvfo.html>

U.S. Forest Service

White River National Forest: <http://www.fs.usda.gov/detail/whiteriver/landmanagement>

The SG Plan is endorsed by the governing boards of the following stakeholder entities:

American Whitewater
Aurora Water
Blue Valley Ranch
Colorado River Outfitters Association
Colorado River Water Conservation District
Colorado Springs Utilities
Denver Water
Eagle County
Eagle Park Reservoir Company
Eagle River Water and Sanitation District
Grand County
Northern CO Water Conservancy District (NCWCD)
Northwest CO Council of Governments (NWCCOG)
NWCCOG/Quality Quantity Committee
Middle Park Water Conservancy District
Municipal Subdistrict, NCWCD
Summit County
Trout Unlimited
Upper Eagle Regional Water Authority
Vail Resorts, Inc
The Wilderness Society

