

Lower Dolores Working Group Meeting 10 Nov. 16, 2009

Note: Presentations, documents, meeting summaries, agendas and other information related to the Lower Dolores Working Group process are posted at <http://ocs.fortlewis.edu/drd>. There is a button on the left on the home page for the Lower Dolores Working Group.

Public comment: none.

Meeting schedule: Facilitator Marsha Porter-Norton suggested changing the dates of the January and February meetings, as the third Monday of each of those months is a federal holiday. The Working Group agreed to meet on Tuesday, Jan. 19, and Tuesday, Feb. 16, instead. Beginning in December, the group will have four workshops to discuss different general issues (not just the ORVs) related to the Lower Dolores River and its management.

Meeting summary: Review of the October meeting summary was postponed until December's meeting.

Summary document: Marsha provided a document that summarizes:

- Information about each of the Outstandingly Remarkable Values (ORVs) identified along the reaches of the Lower Dolores;
- The brainstormed list of ideas for landscape and water protection tools and a summary of the findings of the small groups;
- A range of options related to management questions given to the Working Group by the Dolores Public Lands Office (DPLO).

Marsha asked that the group members read the Summary Document before the workshops commence so they will understand what the potential solutions are. The document presents the range of ideas for solutions for each of the questions in a summarized form. She said a complete record of all the comments and findings resulting from the small-group discussions, including this night's, will be e-mailed to group members.

The workshops will utilize the same small groups that have been utilized in recent meetings. The first workshop will be for considering some of the "easier", more concrete topics relating to the river to try to see if there is consensus on those issues and, if not, what the range of ideas is.

The second workshop will be for discussion of the sideboards for management in the corridor, with a focus on the bigger-picture issues: When should there be a management change in the corridor? Under what conditions? Should a certain area be closed if conditions reach a particular threshold?

The third workshop will be for taking a look at the ORVs from a landscape perspective. Are there tools that apply across the reaches that people can achieve consensus on? If not, why not?

The final workshop will be spread over two sessions in February and March and will deal with the question of Wild and Scenic Rivers (WSR) suitability.

The ultimate output of the Working Group's efforts will be a report to the San Juan Public Lands Center with the group's recommendations for management of the Lower Dolores River and the corridor, along with recommendations on the WSR question. What are the best tools to protect the ORVs? Is WSR designation recommended, or are there better alternatives to protect the values? This will be the thrust of the report. Marsha and Gail Binkly will prepare the report, acting as scribes who will reflect the recommendations and wishes of the group.

During the workshops, the small groups will be asked to create three "buckets" for potential tools: the tool each group prefers to protect the values; the tool to use if the first will not work; and a third tool to use only if the first two won't work.

Marsha said she believes the DPLO will have to prioritize some of the issues in the Summary Document because there will not be time to go through the complete process of deliberation and "buckets" for each value. For issues where there is general consensus the groups may choose not to run through the bucket-list exercise. There could be one "catch-all" meeting to talk about "everything else" besides the big issues. This is yet to be decided. The group also needs to decide whether it wants education on any particular issue – for instance, on WSR status and what it means.

Discussion: Amber Kelley of the San Juan Citizens Alliance suggested Roy Smith of the state BLM Office, who is an expert on WSR, might be able to speak about other tools as well. Others said they would like to learn what flexibility there is within the WSR designation. Can WSR legislation be written any way the group wants?

Don Schwindt of the Dolores Water Conservancy District said water-users might prefer someone other than a BLM representative to speak about alternatives to WSR designation. Marsha said perhaps Roy and another person with a different view about WSRs could speak at the same session. It was agreed that there should be a panel discussion about WSR status rather than a debate. Marsha said after she confirms the speakers, group members can e-mail her with specific questions for them so they don't have to go over the basics. She said she will bring in the panel prior to the discussions on WSR status.

Next meeting: The next meeting will be Monday, Dec. 14, from 5:30 to 10 p.m. at the Lewis-Arriola Community Center. **NOTE DIFFERENT DATE AND LONGER TIME.**

Small Groups Exercise

11/16/09 – General Issues

Group #1 – Chester Anderson, Chris Burkett, Don Schwindt, Comm. Ernie Williams and Amber Kelley

1. What is your input on the 1990 Plan management goals and objectives? Are there goals or management objectives missing from the current list?

- Add a goal that addresses the respect of/protection of private property rights (land & water).
- Don said if ORVs are focused on in reach by reach method then there will be other tools appropriate other than W&S because the W&S designation has baggage, and if land managers recognized the baggage they could be pushed to look at other options. Chris has heard about the baggage but doesn't know what it is. Don said federal rescue water rights. Chris said a panel would be good.
- We realized that there is a #14 and there is some disagreement about this goal. The recommendation from the Working Group is to replace #14 – that's what we're here to talk about. BLM should maintain suitability until an alternative to W&S is actualized.
- Goal #7: The fish pool in McPhee is a large right and should be acknowledged. Don doesn't like the word "maximize" – should focus on utilizing what's there or maximizing the already available water to help protect ORVs.
- Ernie said recreation shouldn't be on the top of the priority list – prioritize needs, i.e., maybe do flush & flow.
- Chester said there's no water for Roundtail Chub.
- Don – management of spill and base flow spill – use these charts for other purposes as well
- Amber – worthwhile to explore other options such as leasing if willing seller and as allowable under Colorado water law
- Look back to intent of DRD (respecting private rights)
- Roundtail Chub – unknown if they need more water or if we can use existing pools to manage them - Chester thought this should be addressed in goals, but lots of unknowns so we're not sure

2. Are there any additional thoughts or recommendations your group would like everyone to consider related to property owners and property rights?

- Public Plan shouldn't negatively impact values of private property
- Private property rights should be respected

3. Are there any additional thoughts or recommendations your group would like everyone to consider around water issues?

- Water rights around the Roundtail Chub should be considered - ESA listing should be avoided (see question #6) – explore ways to utilize existing pools to address those needs and explore leasing from willing rights owners in accordance with Colorado water law
- Some said to consider base flow management, spill management, and leasing from willing rights owners in accordance with Colorado water law
- Prioritize downstream needs as there isn't always enough water to make them all happen, i.e., rafting/recreation shouldn't necessarily be the priority every year – prioritize through a public process
- Concern that if rafting times are shortened then may need to limit number of rafters

4. What are your group's specific thoughts on how oil and gas should be managed in the Lower Dolores River Corridor?

- Ernie - it's different for each reach of the river: 1) Dam to bridge at Slickrock – no drilling in the corridor, but I don't see a problem with drilling above the rim with directional drilling, and 2) Slickrock to downstream – set a buffer from the river a half mile or so
- Chris – if you can directionally drill for long distances then you should be further away from the rim

- Amber – you should not be able to see rigs/wells on the rim from the river – visual impacts should be avoided
- Consensus: NSO stipulations should be maintained ¼ mile!
- Need some clarification on the definition of corridor for the purpose of NSO stipulations
- Amber suggested mineral withdrawal in the corridor while honoring existing lease rights
- Ernie is concerned about the track record of BLM on this, and there was concern about the future ability to get resources
- Aside from no drilling in the corridor, there should be no exploratory activities taking place there either
- Ernie supports oil & gas as important income to the county, but doesn't want to see exploration and development in the corridor

5. Does your group have any input on grazing issues or management?

- Generally support grazing as it is occurring, particularly grazing management strategy is important to consider
- Grazing should not be detrimental to riparian community – Al Heaton's grazing on Crocker-Bedford's place is a good example of how to do this

6. Are there any other protection tools related to the ORVs and the corridor in general that your group would like the Working Group to think about as we move into the final stages of this process?

- Ernie thinks we should use management tools specific to different reaches of the river: 1) trail management – some places have access and some don't, 2) protect existing users – protect from being shut down and also from being over developed
- Amber agrees with above, but thinks there should be a big picture tool that holds it together – special management around NCA
- Almost agreement, but concern that this could get out of our hands or hijacked by the outside world
- But in theory, a legislated community-based plan seems like the solution
- The group is interested in a community-based legislated plan for the Dolores – there are concerns and caveats, but a very productive discussion
- Fear that process could be hijacked by forces outside of here – would need to be local control
- Interest in maintaining a say in an alternative as it would fuel actualization
- Critical question is “What are we trying to protect against – what are the threats?”
- We have to remember that we're here because of W&S process and we need to make sure that the ORV's weigh into our discussions
- Remember that some ORVs are not directly dependent on federal reserve water right, so look to other tools

Group #2 – Clint Cressler, Andy Logan, Meghan Maloney, Steve Tredeau, Comm. Steve Chappell, and Leslie Sesler

1. What is your input on the 1990 Plan management goals and objectives? Are there goals or management objectives missing from the current list?

- Sometimes the goals and management objectives are written with broad strokes and need to be implemented using common sense – being too specific with management objectives may prove onerous
- Consensus by group: reaffirm that the ORVs need protected. A range of opinion expressed on BLM's support for the inclusion of the Dolores River into the W&S river system.

2. Are there any additional thoughts or recommendations your group would like everyone to consider related to property owners and property rights?

- Concerning mineral leases, wildfires should be controlled to protect mineral lease property values

- Consensus by group: valid existing rights should be honored, preserved and protected – and this should be stated specifically in document /legislation

3. Are there any additional thoughts or recommendations your group would like everyone to consider around water issues?

- Protect valid existing water rights
- Doing a fair job of water management
- Management of water could be balanced between releases for rafting and releases for fish/ecology
- Consensus by group: ecology should take precedence over rafting

4. What are your group's specific thoughts on how oil and gas should be managed in the Lower Dolores River Corridor?

- Uranium impacts/opportunities should be managed as well
- Buffer zone around corridor to protect ORVs from oil and gas or minerals – minimum of 500 feet set back from rim (exclude private land) – it's currently managed in 40 acre segments and there is currently a setback for scenic values – what is it?

5. Does your group have any input on grazing issues or management?

- Leave it to range specialists and grazing lease holders – encourage best management practices
- Grazing management on river corridor has been managed fairly well

6. Are there any other protection tools related to the ORVs and the corridor in general that your group would like the Working Group to think about as we move into the final stages of this process?

- Special management area – rethink ORVs in relationship to segments – manage each reach a little more specifically – use legislation
- Need more science to determine how much water is needed to support ORVs
- Need to review existing science on water as necessary
- Final analysis & consensus on Dolores River Corridor Special Management Area – use this SMA to remove Dolores River from W&S river suitability

Group #3 & #4 – Jim Fisher, Comm. Julie Kibel, Jeff Widen, Bill Kees, Jim Siscoe, Tony Littlejohn, and Comm. Art Goodtimes

1. What is your input on the 1990 Plan management goals and objectives? Are there goals or management objectives missing from the current list?

- Energy development and increased recreation – adequately protect private property in the face of increasing recreation and energy development
- On Objective #8 reword to say “BLM shall provide recreational opportunities year-round”

2. Are there any additional thoughts or recommendations your group would like everyone to consider related to property owners and property rights?

- If W&S is designated, take out provision in W&S Act prohibiting changes in use on private land, subject to applicable Colorado land use regs (clarify these land use regs)
- What restrictions does the W&S Act place on current or future uses of private land in each category?

3. Are there any additional thoughts or recommendations your group would like everyone to consider around water issues?

- Need a spring flush for aquatic and riparian health, and for **beating?** flows as far as possible when hydrology allows
- We need to have some spill every year, no matter how small

4. What are your group's specific thoughts on how oil and gas should be managed in the Lower Dolores River Corridor?

- No new roads in corridor
- Some mineral withdrawal
- Some no mineral withdrawal
- Legislated NSO

5. Does your group have any input on grazing issues or management?

- Maintain proper functioning conditions

6. Are there any other protection tools related to the ORVs and the corridor in general that your group would like the Working Group to think about as we move into the final stages of this process?

- Look into special federal legislation besides W&S to protect ORVs. Where are there examples of this? Rio Grande? Cuchara?
- W&S concerns because of federal control – want to be educated on other possibilities
- Need long-term protection

7. Are there any other issues or concerns that have not been addressed in the discussions to date that your group would like to discuss?

- Not ready to reaffirm W&S until versed on other federal protection options

Group #5 – Scott Clow, Carolyn Dumire, Mike Preston, Dale Smith, Peter Mueller, Comm. Larrie Rule, and Cole Crocker-Bedford

1. What is your input on the 1990 Plan management goals and objectives? Are there goals or management objectives missing from the current list?

- Regionalized context (#6) – why is this here?
- Pike Minnow River Plan – ESA recovery driving/determining releases out of McPhee Reservoir, which would be bad – threat to how dam is operated
- #6 is also an opportunity to maximize or leverage outcomes in coordination with regional efforts
- consider what others are doing, but can't make planning too cumbersome by keeping all information and issues coordinated
- disseminate DR plan with other downstream offices (Uncompahgre & GJ) – prefer to disseminate rather than be controlled
- Shauna – 10 team direction to compare ORVs on the Dolores River - must be compared to regional rivers
- Water being moved out of Upper Colorado River Basin and diverted to Front Range out of Green River – water out of Green River will put pressure on Pike Minnow and affect the Dolores River for recovery plan – basin roundtable/interbasin compact commission is where these issues are handled (Eric M. proposal)
- #7 – maximize availability of “managed” water rather than “impounded” water
- #14 – W&S 1976 report – can't support or not support until after DRWG is done – can reaffirm support of ORVs and variety of other values
- don't jeopardize private land owner water rights or OHVs that are not included as ORVs – these other values can be left out or “lose them” because they are not ORVs
- #7 suggested wording: “Maximize recreation and ecological benefits from fish pool and managed spills”
- Need to add fishing as a recreational ORV or value

2. Are there any additional thoughts or recommendations your group would like everyone to consider related to property owners and property rights?

- Sept. 12 Slick Rock field tour notes are complete
- Not that hard to resolve these issues
- Access should consider what is proper for environment, not just ownership boundaries

- Consideration of any future protections should not jeopardize access that currently services private land owner or private property rights
- Slick Rock launch site: BLM should consider defacto management lease for private land used publicly and should divert recreationists to another location away from private land
- Priority lease or diversion should consider minimizing environmental impacts
- BLM should help/support honoring private property rights – Slick Rock has “private property” sign, not “no trespassing”
- BLM should respect autonomy of local government planning and zoning – should not encourage zoning against development on river as included in the 1976 Corridor Plan
- BLM/USFS and county should enter into a MOU with each individual land owner on future management and zoning (at the initiative of the land owner)
- It could be easier to negotiate a better situation and reduce development on the river through individual land owner wishes – especially important in counties with limited or no zoning for long term protection
- Appropriation setup considered for conservation easements on private lands for willing land owners/sellers to protect conservation values

3. Are there any additional thoughts or recommendations your group would like everyone to consider around water issues?

- Water issues need to be addressed within the framework of Colorado water law and adjudicated water rights – allocation out of Dolores Project
- Concern that federal reserve water rights would be “senior” to conditional water rights holder that would be potentially harmed by W&S designation
- Lease of water should be considered from both DWCD and MVIC or other water rights holders that are willing sellers – lease a solution for meeting federal reserve water right requirement of W&S
- Improve fish habitat for lower downstream flows – specifically the lower river is lacking large woody debris – toss the debris that is caught by dam into the lower river

4. What are your group’s specific thoughts on how oil and gas should be managed in the Lower Dolores River Corridor?

- NSO stipulations – should be a buffer around river depending on ecological, visual, environmental conditions
- Slick Rock area NSO is well done
- Hydrologic connection to springs – need to be careful of fracturing and drilling disturbance to ground water

5. Does your group have any input on grazing issues or management?

- Continue grazing rights within sound range management practices
- Emphasize winter grazing rotation in lower river – reach 4 & 5

6. Are there any other protection tools related to the ORVs and the corridor in general that your group would like the Working Group to think about as we move into the final stages of this process?

- W&S: consider Wilderness study area, don’t change current management of existing W&S, avoid private land, consider converting W&S to Wilderness area, but concern over federal reserve water right must be considered
- National Conservation Area (NCA): landscape scale management – different from W&S – does not include federal reserve water right and condemnation
- NCA language – tailored to each area, enabling legislation unique for each area
- Funding can be better for NCA – managed by National Park Service
- Local government/county ordinances work with private land owners to create interface for protecting ORVs and other values (OHV, private rights)
- Chester: source water protection plan – watershed planning effort

- Source water protection plan driving water sources – filed with CDPHE – five grants currently being used to create plan from Rico to Dove Creek
- Long term tool: use Theme Level management suite - Theme 2, appropriate emphasis on leave like it is/minimum human impact/natural focus

7. Are there any other issues or concerns that have not been addressed in the discussions to date that your group would like to discuss?

- We are missing many values because we are focusing on “official” ORVs – we are missing recreational fishing, OHV, private land owners, and hiking in other canyons. This could skew management to not protect these important values – could add these in Opportunities and Concerns. 1990 Plan does not focus on ORVs exclusively.
- Recreational facilities from dam to Bradfield Bridge - no boat launch at dam – decommissioned campground should be reopened
- Hiking trails, ATV or horse trails – do we need more?
- Travel Management Plan – what is the current plan for travel management? Right amount of trails now.
- Traditional Ute management practices need to be considered in management

Group #6 – Ann Oliver, Karel Miller, James Dietrich, Bruce Smart, David Vackar, and Comm. Doug Stowe

1. What is your input on the 1990 Plan management goals and objectives? Are there goals or management objectives missing from the current list?

- BS: More info should have been put out about the 1990 Plan – increase awareness
- DV: Comfortable with goals and objectives, but can’t assess how well they’ve been accomplished.
- #6: Sounds interesting and forward thinking. What does it mean?
- #4: CDOW would say that BLM does not coordinate with them.
- Doug: So the basic reasoning for this process is to address #14 when you get past all the smoke and mirrors.
- DV: Seems like the consensus is to protect, but “how” is the problem.
- The suitability standards will stay if we don’t generate [ideas].
- Doug: If BLM has been following the 1990 plan up until now, and the quality of the river today is still high, and the W&S status has been protected through management, seems like the WSA, the rivers topography, and the 1990 Plan have been effective in protecting the W&S values.
- DV: Yes, but the W&S suitability standards were already in place in 1990. How can we continue that protection?
- BS: This plan addresses varying uses in each zone: not the same management the whole way through. Need something that is flexible. Does Wild and Scenic have to be the whole way?
- DV: No, doesn’t need to be the same. WSA was inventoried in the 1980s.
- BS: Can you have some kind of river designation with gaps in it?
- DV: Yes, in other rivers I’m familiar with (New Mexico, Oregon) Wild and Scenic with different standards, and some reaches without W&S, but still with a management plan.
- The only thing you gain with legislation is consistency over time in the priorities guiding management.

2. Are there any additional thoughts or recommendations your group would like everyone to consider related to property owners and property rights?

- CM: Dad sold 600 acres to CDOW when the dam came in – he kept 20 acres. I’m concerned that the USFS’s VRM Class II will lower my property value: if you can’t build because you need to protect peoples view...
- Group discussed and concluded that USFS could not dictate what Carol can do on her own private property. Situation with respect to valuation different than Cole’s property, because of Cole’s issue around access through BLM land.

- CM: land might be beneficial to sell or exchange to public lands. Also has a water right.

3. Are there any additional thoughts or recommendations your group would like everyone to consider around water issues?

- JD: Montezuma County is very concerned to protect private property as long as federal water rights are not a part of it, there's lots to talk about.
- BS: Water is polarizing. A bit of a sticking point.
- DV: What tool could be as good as a Federal Reserved Water Right?
- BS: Well, there are already two water protections in place: the Fish Pool and the CWCB in-stream flow right.
- CM: Dam improves river by keeping base flows in the river. It's in better shape now.
- BS: Pre MVIC diversions you would have probably had a little less water than what you see @ Dolores.
- DV: Have you all seen the water rights language in the Dominguez Wilderness Bill? What amount of water is necessary for ecological values – protect it through some other tool?
- JD: This is an important point. If we leave the quantity to be determined by the feds, that is a problem. Need to address the ecology; there will not be much support from Montezuma County if it's just focused on flows for boating.
- DV: How do we sustain what we have now?
- Doug: Fish Pool shares shortages?
- BS Yes.
- DV: Is it enough water? I hear that it is not.
- BS: DRD is focusing on this question/issue.
- JD: Which fish?
- BS: too much water may propagate non-natives.
- Doug: when set up dam was it set up for a fishery?
- BS: Yes, it was designed for fishery.
- AO: Designed for trout fishery.
- Doug: Should manage water to benefit the largest # of people. Would like to see trout fishery expanded.
- DV: Be careful, because the "largest number of people" may be national.
- BS: If there is a shortage where do you get that water?
- DV: Rafters can ride bikes, but fish suffer in a shortage. Sounds like we still lack the foundation for a consensus. In 5 -20 years alfalfa may not be that big a crop in this area.
- CM: Yes, maybe we'll be growing houses instead.
- AO: I'm taking my facilitator hat off. The challenge seems to be: in the face of potential ESA listing somewhere down the line for the Roundtail, and in the face of W&S suitability, what are the proactive local solutions to protect the roundtail?
- Doug: Build a bigger dam.
- BS: Plateau Creek, but very expensive.
- CM: What are the problems facing the roundtail?
- AO: Best available information says: flows (could be amount, could be timing), and non-native predators.

4. What are your group's specific thoughts on how oil and gas should be managed in the Lower Dolores River Corridor?

- Doug: Manage just like now: NSO. As managed now, directional drilling allowed.
- DV: Would prefer legislation to permanently withdraw, so can't be changed in the future.
- CM: What about uranium?
- Doug: Yes, potential. Could legislation do both? Legislate NSO (allow to access directionally), but withdraw surface?
- BS: But I'm not sure, because we don't know what minerals will be viable in the future.
- Doug: Yes, like potash. Could be really important in the future.
- DV: There is more than 1 potash deposit, but there is only 1 Dolores. In most cases wilderness (or legislation) does require mineral withdrawal. But the Wilderness act allows entry in extreme emergencies.

- Doug: Propose that mineral extraction only be allowed in extreme situations, with no surface occupancy.
- DV: Could probably craft something legislatively.

5. Does your group have any input on grazing issues or management?

- JD: Montezuma County considers cows to be an ORV.
- All: Some livestock managers are better than others (consensus).
- All: Maintain grazing (consensus) as long as adhering to standards.
- All: Keep for “Western heritage”.
- JD: Would like to see BLM include language guaranteeing that grazing will continue (no permanent removal via grass bank, as in the Monument of the Ancients).
- JD: language in proclamation for Escalante might work.
- DV: not much use actually.
- Doug: used to be winter grazing.
- JD: important to community and culture.
- DV: Yes, include statement in “preamble” reaffirming grazing.
- BS: USFS demanding higher standards for range.
- DV: some adapt better than others.

6. Are there any other protection tools related to the ORVs and the corridor in general that your group would like the Working Group to think about as we move into the final stages of this process?

- DV: W&S protects against power lines and corridors and pipelines, so we would need to incorporate such protections into any alternative legislation.
- BS: SWCO is the recipient of many utility corridors. The reality is that saying “none” is probably impossible. Good sentiment to guard against it, but probably not realistic.
- DV: Legislation could protect against utility corridors.
- BS: We probably will need more. Many already known.
- CM: transmission lines are worse than pipelines.
- DV: Probably could look at certain places that are more appropriate than others.
- Doug: Exactly what Bruce said: you need flexibility based on past or current use, instead of 1 general management for all. For example: the WSA can stay as WSA (not go to Wilderness because of water rights issues). Make Bradfield to Pumps a WSA (protect Al Heaton’s right to trail cattle). Keep above Bradfield as Multiple Use.
- DV: Leave the river as suitable? If so, will have to rehash every few years. Like with WSA, only congress can remove WSA status. Only congress can remove suitability.
- The way suitability works: either Legislate to transfer to Wild and Scenic designation (a few rivers have removed the Federal Reserved Water Right) –or take other action to protect ORVs . Could be Special Management Area by legislation, where you list the things you want to protect/maintain but it never becomes W&S (removes suitability).
- BS: Could you use SMA plan through RMP? Enact protection specific to uses?
- DV: the way I see it the Dolores is an outstanding part of the West. A 10-yr management plan is too impermanent, too subject to politics for long term protection. In my opinion, the only way to protect values is through legislation, with a management plan.
- CM: Enough protection to protect, but leave flexibility.

7. Are there any other issues or concerns that have not been addressed in the discussions to date that your group would like to discuss?

- Introduction of condors
- Keep grizzlies out
- No wolves either