

LOWER DOLORES WORKING GROUP

Meeting 4 Summary

March 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.

Meeting summary: The February meeting summary was approved with some changes. The corrected version will be posted on the Web site.

General information and future meetings: Facilitator Marsha Porter-Norton explained that a document about Wild and Scenic River (“WSR”) recommendations contained in the San Juan Public Lands draft Resource Management Plan (“RMP”) was mailed to the Working Group members as background on one of many tools available, not as any indication that WSR status is a preferred tool.

Marsha said April will be the last “content” meeting with presentations supplying basic information about the Dolores River corridor. In July the group will begin to discuss tools, with a focus on these questions: What is the appropriate level of tools for the values that have been discussed? Are the current tools inadequate to protect the values of the valley, and is there data to show this? This discussion will come during the last two or three Working Group meetings. There will be two field trips in the summer months, and group members should give their input on what they would like to see. In October the group may need to decide whether one or two additional meetings are needed.

Archaeology, geology and scenery in the Lower Dolores River Valley

Archaeology: Vince MacMillan, field office archaeologist for the Bureau of Land Management (“BLM”) out of the Dolores Public Lands Office (“DPLO”), said the Lower Dolores River corridor contains significant archaeological resources dating back about 12,000 years. One large spear point found in the corridor dates from approximately 11,200 years ago. The Dolores River was a boundary for the northern San Juan Anasazi. The river valley includes many prehistoric rock shelters and rock-art panels. There are prehistoric cliff dwellings and quarries for stone tools. Some of the rock shelters were occupied only for brief periods at any given time, but were occupied intermittently over a span of 10,000 years and thus offer a record of 10,000 years of human activities. These shelters can be dramatically impacted by modern activities.

Also present in the valley are numerous historic Euro- and Native American sites, including historic ranches and uranium mines. The original camp where Pierre and Marie Curie obtained uranium samples is near Slick Rock. There are historic Native American sweat lodges and hogans left from the uranium-mining era.

The length of the Lower Dolores managed by the BLM is 91 miles. Approximately 3.6 percent of that area has been systematically surveyed for cultural resources. Eighty-five archaeological sites have been recorded within the one-half-mile corridor, many of which had their first and only documentation by Henry Toll more than 30 years ago when he did an unsystematic survey of the river corridor. The estimated total number of sites, based on the small survey, is 1,500.

When discussing cultural resources, the 1990 *Dolores River Corridor Management Plan* focused mainly on site stabilization and interpretation. It recommended a survey of 100 percent of the Wilderness Study Area from the Big Gypsum Valley down to the area managed by the Uncompahgre Field Office. However, no such survey has been completed because there has never been any money allocated for that purpose. Vince has put in a request for money every year, but funds have never materialized.

Primary concerns about the prehistoric and historic resources are impacts from hikers, boaters, motorized users, campers and others; and impacts from cattle-grazing. Cows tend to group inside rock shelters and will trample a looted hole, compacting layers and causing further damage. Vince said the cultural resources are definitely disappearing. At some sites, all the surface artifacts listed in site documents from 10 years ago have now vanished.

Geology: Vince said the geology in the Lower Dolores River corridor spans 100 million years. The rock layers range from Wingate sandstone at the bottom, dating from the Early Jurassic Period about 200 million years ago, to Dakota sandstone at the top, which is approximately 100 million years old. The Morrison formation, a green shale rock, contains both uranium resources and dinosaur fossils, so there is a conflict there.

Questions and answers: In response to questions, Vince said the archaeological survey was of the area within a half-mile of the middle of the river in either direction. It did not include tributaries. The archaeology compared to places outside the canyon is relatively minimal because the canyon is rugged. There are many more sites and cultural resources outside the corridor.

Most of the mining sites do not have much draw for the general public, but they do see some visitors. There is a lot of ATV activity in the area around Wedding Bowl Mountain, where much of the uranium-mining took place and where there are many mining roads. Some people go into the mines but probably shouldn't because of the danger of radiation exposure.

A Working Group member said he believes the mines are actually a strong draw for many. Vince said those sites are just becoming eligible to be listed in the National Register of Historic Places. Sites generally need to be at least 50 years old to be eligible.

Artifacts are disappearing at both major and minor sites, both close to and far from roads. ATVs and four-wheel-drive vehicles have made remote places more accessible. There has been a dramatic increase in recreational use in the Lower Dolores corridor and along some of the tributaries in the last 15 years. Sites along the river are certainly impacted by rafting activity. They were identified in the 1990 management plan and some signs were erected to educate the public about the fragility of the resources.

Vince explained how an archaeological site is defined. In general, an actual site represents a pattern in prehistoric behavior rather than a single incident. If somebody dropped a pot and left sherds, that's not something that will be recommended for management in perpetuity, but an area that has a hearth, rock art and shards indicates a full pattern of different behaviors and would be considered valuable.

The sites within the river corridor possess a significant and different value from sites such as those at Mesa Verde because rock shelters are rare. These sites were occupied over long time periods – dozens and dozens of generations and by hunter/gatherers, not farmers. They offer 10,000 years' worth of phenomenal environmental and archaeological data.

Oil and gas development is not much of a threat to cultural resources in the corridor. At Bull Canyon, a tributary of the Lower Dolores, there is a significant site and it was protected by being designated for No Surface Occupancy. Oil and gas development can be a concern, however, because of its impact to the viewshed. And uranium-mining is a different matter, with a different level of management and different laws that govern the activity.

The BLM consults with 26 different tribes about the archaeological sites and their significance to Native American religious concerns.

Vince said one of the biggest tools to help deter vandalism and destruction of archaeological and historical sites is education. The interpretive panels definitely help. Funding is needed to survey and find sites that are being damaged. There have been discussions about having site stewards at river put-ins to advise boaters how to protect the resources – for example, telling them they should not build a fire inside a rock shelter.

Scenery and WSR findings: Steve Beverlin, DPLO manager, gave a PowerPoint presentation showing the scenery in the corridor. He also presented a summary of the WSR findings in the 2007 draft San Juan Public Lands RMP

and of the process by which a river or stream segment may gain WSR status. In 1975, a total of 194 river miles of the Dolores River from McPhee to the Colorado-Utah border, with a few spots excluded, was identified for study for possible WSR designation.

There are three categories of WSR, based on the type and degree of human development associated with the stream and stream corridor:

- **Recreational.** This type is most impacted by human activity. It is readily accessible by roads or railroads and may have had some impoundment or diversion in the past.
- **Scenic.** This type has had no impoundments. It is largely primitive and undeveloped. Nearby roads generally cross it and do not run parallel to it.
- **Wild.** This is the most natural WSR. There are no dams or impoundments. The water is unpolluted and the shoreline is primitive. Generally there are only trails in the corridor, not roads.

The 1968 *Wild and Scenic Rivers Act* contains no authority to control the use of privately owned land that may lie in the corridor. Landowners can use their land just as they did before the designation.

Livestock-grazing and historic buildings can occur in all three categories of WSR. Under the “scenic” and “recreational” categories, most activities are allowed. The “scenic” category even allows stores within the corridor. “Wild” rivers, however, can have no timber-cutting, stores, roads or bridges that cross them, roads that parallel them, or even low dams or diversions. Non-motorized trails are allowed. Motorized trails are allowed in the “recreational” category and may be allowed, depending on their visibility, for the “scenic” and “wild” rivers.

Water must meet state standards for water quality to qualify for WSR status.

Federal agencies, when writing a management plan or plan revision, must conduct an inventory of the streams within their management-area boundaries to see if any are eligible for WSR designation. Eligible streams are those that are free-flowing and possess one or more Outstandingly Remarkable Values (“ORVs”). An ORV is a unique, rare or exemplary feature that is significant at a comparative regional or national scale. After the agency has assessed which streams are eligible, it may go a step further and analyze their suitability. This involves deciding whether WSR designation is a viable management approach for a stream segment, taking into consideration many factors such as potential management conflicts, prior existing rights, and the availability of alternatives for protecting the ORVs. The San Juan Public Lands Center (“SJPLC”) did a suitability analysis for its 2007 draft plan revision.

The 1976 *Dolores River Wild and Scenic River Study Report* found many outstandingly remarkable values (ORVs) in the mainstem from McPhee to

Bedrock (105 miles). The report said the construction of McPhee would enhance most of the wild and scenic values of the river.

The 2007 draft RMP found a total of 140.97 miles of the Dolores to be eligible for WSR consideration (compared to 535 miles of streams eligible in the entire San Juan Public Lands). The eligible segments were:

McPhee to Bedrock	109.02 miles
McIntyre Canyon	5.82
Summit Canyon	12.15
Bull Canyon	6.38
Coyote Wash	7.60

Under the suitability analysis done for the 2007 draft plan, McIntyre and Bull canyons were judged not to qualify, while the other three segments were found suitable.

Steve said the Forest Service/BLM can choose when to forward suitable streams for legislative consideration. The most common way that rivers are designated is through an act of Congress; however, the governor of the state in question can recommend WSR status for a river to the Secretary of the Interior, who can grant it.

Steve said WSR designation would not remove the road and easement currently running along the Lower Dolores, owned by Dolores and San Miguel counties. All the studies for WSR eligibility and suitability were done with existing access in place.

There was uncertainty among the Working Group about the status of the San Miguel County portion of the road. Upon request of the BLM and Division of Wildlife, San Miguel County has stopped maintaining its portion. However, there was uncertainty over whether it has been vacated. Some members said they would find out.

Steve said the route from the Snaggletooth rapid north is listed on some of the agencies' mountain-bike brochures as a trail.

Discussion of issues, concerns, and opportunities: One person asked what would be the benefit of WSR status. The area is already preserved and is not damaged, and people are using it for many purposes.

Steve said it is becoming difficult to maintain the resources as they are because more and more people are using the corridor. The question is, do we need another mechanism to maintain what we have?

He also said the SJPLC's draft RMP says that, should the Dolores River Dialogue group make substantial progress in identifying and securing needed protections of the river's ORVs, its recommendations could be used to supplement or replace the preliminary finding of WSR suitability.

There was much discussion about how WSR status might affect water rights. Designation of a WSR by Congress generally carries with it a federal reserved water right. Some believe that WSR designation via the second method (by the Secretary of the Interior) could bypass the need for a federal reserved water right because it would be an administrative action rather than legislative, but that is up for discussion.

Chuck Wanner of the San Juan Citizens Alliance said it is theoretically possible to have a WSR without a federal reserved water right. The designation creates an instream-flow right but not necessarily a federal reserved water right.

A discussion ensued about the effects a federal reserved water right might have on conditional water rights. However, it was decided that it is too early in the process to become embroiled in these technicalities. At some point the different tools will be laid out and the pros and cons of each will be analyzed. That will be the time for delving into the details.

Specific issues, concerns and opportunities identified by the Working Group were:

Issues and concerns:

- How much water is needed to protect the ORVs?
- Places like the Lower Dolores are getting rarer and rarer. WSR status can prevent other federal entities from doing something to damage the area, and it won't stop people from grazing cows there.
- WSR designation would bring attention to the corridor and draw more people.
- Population density is growing in the West. People are going to come regardless. The threat is greater from doing nothing than from protecting it now. Future generations can relax the protections if they so decide, but they can't put back the resource if it has been degraded.
- Private landowners could be affected by WSR designation. In the Dolores River corridor the land is almost all federally owned, but the WSR Act contains language relating to possible condemnation of private land for scenic or access easements. The 1976 report about the Dolores called for such easements and for county zoning to preclude nearby development on private lands, which would mean there would be no value to gifting an easement. Maybe WSR status has too many negatives and another type of protection would be preferable.
- All uses can happen under WSR (grazing, recreation, etc.), so why do we need it?

- What are the impacts of WSR designation on other water rights, including conditional rights, and on other water-users?

Opportunities:

- Save the area for future generations and protect it from impacts from federal agency decisions.
- Look at WSR status without a federal reserved right. (Is this possible?)
- Craft WSR language to address concerns.
- Invite speakers (e.g., Roy Smith from the BLM) to talk to the Working Group about WSRs and the legalities of federal reserved water rights and instream flows.
- Review the language in the WSR Act and 1976 *Dolores River Wild and Scenic River Study Report* relating to private property.

Next meeting: The next meeting will be Monday, April 20, at the Lewis-Arriola Community Center, with dinner at 5:30 and the meeting at 6. Then the Working Group will take a break until July. Marsha will e-mail the Working Group members a beginning list of tools, plus a glossary of terms that will be used in future discussions.