

## **Lower Dolores Working Group Meeting 16**

**July 26, 2010**  
**Draft - 3 pages**

**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 Working Group.

**Report to the Dolores Public Lands Office:** Facilitator Marsha Porter-Norton said the group's report to the Dolores Public Lands Office (DPLO) was submitted on July 1. The report provides information for the DPLO to use in its environmental assessment for updating the management plan for the Lower Dolores River corridor. Steve Beverlin, DPLO manager, thanked the group, saying the report was impressive and provided a great basis for the EA. He hopes to begin that process this fall.

**Public comment:** none.

**Legislative document and future steps:** Legislation was identified by the LDWG in March as the preferred alternative to Wild and Scenic River (WSR) designation for the Lower Dolores. Since then, the Legislative Committee has met 13 times to work on the principles of that legislation.

Amber Kelley, chair of the Legislative Committee, noted that at the May 17 meeting of the full LDWG, most of the questions and concerns regarding legislation were about the water-related portions of the document; for the remainder, there seemed to be general support. The Legislative Committee is willing to continue working on the unresolved issues and taking input from constituencies. She said a scenario has been proposed under which the committee would continue working on its own and meet with the full LDWG periodically, as needed.

Don Schwindt, member of the board of the Dolores Water Conservancy District (DWCD), said under the "Boundary" and "Intent" sections of the legislative document, he would like to address the fact that the Dolores River is under consideration for WSR designation from McPhee Dam to the Colorado state line. He would like it acknowledged that that is a significant concern to many water-users and water districts because WSR designation would bring a federal reserved water right. Even though this would be a very junior water right, Don said it still carries weight.

Amber said the committee has discussed this extensively and would like to make the legislation and the special area encompass the river to the confluence with the San Miguel River. She said it's possible this effort will come together with another, similar effort being conducted to the north through the BLM's Grand Junction Field Office.

Amber reviewed the remainder of the legislative document. She said a particular concern has been how to protect and enhance native-fish viability. The LDWG is not in agreement on how best to do that, and the Legislative Committee would like to continue working on this issue during the time remaining before the start of the next Congress, which is about six months. Amber said that is a reasonable time in which to have a scientific inquiry about the native fish.

Mike Preston, DWCD manager and a member of the Legislative Committee, further explained the proposal for the committee to continue working. He said that despite the diversity of views on the committee, the members had strong consensus to address the native-fish issue, both because of the ecological value of the fish and because of the loss of control that would ensue if

they were listed under the Endangered Species Act and the Dolores River were designated as critical habitat.

However, he noted there was great concern expressed by some on the LDWG about prioritizing native fish in the legislation, so the committee considered other approaches. They decided a good option was to work through the Dolores River Dialogue (DRD) framework to sponsor a scientific inquiry into the status of native fish on the Lower Dolores and different alternatives for helping them. The inquiry would involve key parties such as the Colorado Division of Wildlife (DOW), Bureau of Reclamation (BOR) and water entities, and other stakeholders. The Legislative Committee would contract with scientific experts to review available literature on native fish. The goal would be to find “do-able” alternatives in the context of available hydrology.

Dale Smith, representing anglers, suggested it would be advisable to involve the U.S. Fish and Wildlife Service in the process because the federal agencies have the ultimate authority over endangered species and could potentially reject the findings of the scientists. He said it is important to be sure that the inquiry meets the standards of federal biologists. Mike said the BOR and the BLM/Forest Service are already involved in this process; Dale said it is specifically the FWS that decides whether to designate a species as endangered. Cole Crocker-Bedford agreed that it is essential to have the FWS involved now. Mike said a proactive approach with a diverse coalition is the best protection against an endangered-species listing. He hopes the inquiry will produce a synthesis of available biological science that is meshed with the available hydrology. The whole premise of the DRD is to coordinate those two elements.

Marsha said the Legislative Committee is seeking a list of do-able alternatives, some of which would fit into the legislation, and others that might involve actions outside the legislation.

Meghan Maloney, Julie Kibel, Tony Littlejohn, and Doug Stowe said they supported the approach. Don said he would like details on the steps that the Native Fish inquiry would entail. Marsha said the Legislative Committee will be discussing its work plan at its next meeting and as details emerge, the LDWG will be kept informed.

Mike said the Grand Junction Field Office has put together a stakeholder group regarding the WSR suitability of the Dolores from Rock Creek to the state line. That group has said it would like to look at the river as a whole in regards to its WSR suitability. They want to leave in place the 1978 National Park Service suitability finding until a process/dialogue occurs. They are setting a deadline of July 2014 for the discussion.

Mike said the Grand Junction group’s work parallels a similar discussion about Segment 3 of the Colorado River, which is in the McInnis Canyons National Conservation Area. Suitability is still on the table there, and that group has set the same date for a regional discussion. It has been suggested that the CWCB might convene such a process.

**The group continued to review the legislative document.** Issues and concerns noted include:

- There is a concern regarding having the process involve the whole river.
- Who are the federal agencies? Make sure they’re involved.
- Marry science and hydrology.
- Can you manage for these three things (native fish, trout and rafting)?
- The process for the scientific inquiry and Legislative Committee’s efforts is critical.

- There are many variables.
- Impartiality is needed.
- Transparency is critical.
- There is some discomfort about not knowing where this is going.
- At regular intervals the progress should be vetted with the larger group.

Don also said there is a need to clarify in the “Wilderness” section that no federal reserved water right will be created as part of the legislation in connection with the wilderness area.

Tony Littlejohn said the term “small diversion dam” in the “Water” section should be defined. Nathan Fey of American Whitewater agreed and said he was concerned about the potential cumulative impacts of multiple small dams. He suggested having a listing of small projects to be allowed, rather than a blanket statement that allows for unlimited projects.

Mike Preston said the concern is for people with existing water rights who are diverting water. If the course of the river changed in certain places, that could render inoperable their diversion for their decreed water right. They want flexibility so they can use their decreed water right in the future. Mike said he does not anticipate a number of filings for new facilities. Nathan said the language should reflect the fact that it is intended to protect existing water rights and/or to compensate for changed circumstances. Amber said she will try to clarify that.

Bill Kees of American Whitewater said he would like to see stronger language under the bullet point about improving forecasting to reflect that the goal is to improve spill management.

Marsha reviewed the list of issues that had been raised in the meeting related to the entire legislative document presented by the Legislative Committee. She asked if there was support -- knowing some concerns exist and knowing that specifics are being worked out -- for the Legislative Committee to continue meeting; for the Legislative Committee to oversee the Native Fish inquiry; and for the LDWG to remain involved at key points. The LDWG supported this concept. She noted that the majority of the document has consensus (with some changes made at this meeting) and that the remaining work is to get agreement on the water section. She noted that there may be times the Legislative Committee will need to have a one/one briefing with a key constituency(ies) such as the one done with the rafters. More information on how work will proceed will be sent out to the LDWG as the next steps are decided. LDWG members should feel free to e-mail Marsha, Amber or anyone else on the Legislative Committee with comments and concerns. She also thanked everyone for their hard and continued work.

**Big Gypsum Monitoring Site Report:** Ann Oliver, who co-wrote the report, explained that it was prepared for the DRD and tries to summarize the science related to flows and native fish on the Lower Dolores. She noted the report does not make recommendations but offers options as reported in DRD meetings and by the LDWG. This version was finished at this date to meet a deadline and was not reviewed. So, a revised version will be presented this fall, and Ann would like people’s comments and concerns. The report is available on the DRD web site. Cole said he had learned a great deal from the Big Gypsum study and recommended that others read it.

**Next meetings:** Dale Smith said he was disappointed that some representatives of government agencies were not present and said a target date is needed for the next LDWG meeting so people can put it on their schedules. A target date of Monday, Nov. 15, was set. There will be a picnic Sept. 20 from 5 to 7 p.m. at Bradfield Bridge for the LDWG to celebrate the completion of the report to the DPLO.