

DRAFT NOTES

SUMMARY

This meeting focused on articulating values the stakeholder group believes need be protected on the Wild & Scenic-eligible stream segments in the Dominguez-Escalante National Conservation Area (NCA) and recommending management approaches to these stream segments.

The group unanimously recommended that all segments be found “not suitable” for Wild & Scenic status because of the potential impacts on private property rights, the feeling that most of the Outstandingly Remarkable Values (ORV’s) identified for the segments are already protected by other means, and questions about whether several stream segments are even eligible. The group also unanimously agreed that cultural ORV’s need additional attention, including measures such as enhanced recording, increasing the presence of site stewards, and refraining from publicly identifying sites.

The group’s final recommendation letter will be circulated, edited and approved via email according to the following timetable:

- First draft out 4/18.
- Participants respond by 4/20.
- Second draft out by 4/25.
- Participants provide permission to list their names or send an electronic version of their signature by 4/27.
- Letter provided to BLM by 4/29.

DETAILS

Introduction

The meeting opened with participant introductions and a review of the meeting expectations and agenda.

Follow-up from April 5 meeting

Several questions from the April 5 meeting, which focused on Escalante and Cottonwood Creeks, were addressed by Bureau of Land Management (BLM) and Colorado Division of Wildlife (DOW) staff.

Ownership criteria

On a question regarding clarification regarding differences between the Uncompahgre Field Office and the Grand Junction Field Offices on what ownership criteria make a stream eligible for Wild & Scenic status, Andy Windsor of the Grand Junction Field Office said that his office continues to follow criteria that stream segments touched by BLM land on one side are eligible and are identified as federal ownership on the eligibility report, but had not received any clarification regarding an overall BLM policy.

It was noted that the stakeholder group could make a comment about what the overall criteria should be.

Peregrine falcons

In answer to a question about whether there was more recent data than the 2009 data on peregrine falcons in the Wild & Scenic eligibility report for Escalante Creek, Ryan Swygman of DOW said he didn't think there was any more recent data, commenting that the species had fallen in priority for monitoring when it was de-listed.

Area of Critical Environmental Concern (ACEC), Segment 1 of Escalante Creek

Andy Windsor provided a map of the ACEC on Segment 1 of Escalante Creek; the ACEC includes most of the segment. He noted that:

- The ACEC purposes cited recreation around the potholes and rare plant communities, including monkey flower and Mancos columbine.
- The ACEC was included in the last BLM management plan for the area, and will be under reconsideration during the planning process for the Dominguez-Escalante National Conservation Area.

State Wildlife Areas Exempt from Wild & Scenic?

In answer to this question, Andy Windsor responded in the affirmative.

River Otter

In answer to a question about whether or not river otter are really present on Escalante Creek, segment 2, Ryan Swygman said that there were no confirmed sightings, but that otter habitat could have been listed as an Outstandingly Remarkable Value (ORV) for the segment because it is adjacent to the Gunnison River, where they have been sighted.

Historic Bighorn Presence

In answer to a question about what evidence existed to support a historic bighorn sheep presence along Escalante Creek (pre-reintroduction), Ryan Swygman said there was nothing confirming their presence along Escalante Creek specifically, but remains had been found in the 1960's and 1970's (pre-reintroduction) in Glade Park and Montrose County.

Water Rights above Cottonwood Creek

It was noted that no contact had been made with water rights holders above Cottonwood Creek; it was noted that Hank Davis was one water rights holder.

Railroad Land Ownership Status

The answer to whether the land used by the railroad along the Gunnison is owned fee-simple or is a right-of-way remained unresolved; it may be a mix of both. In answer to a question about whether the answer would make a difference to the group's letter to BLM, comments were made that if BLM didn't own the property, it couldn't control it for management purposes and the percentage of private property along the segment may make it ineligible for Wild & Scenic status. Other comments made, citing conversation

with an attorney for the railroad and others, noted that even if the railroad doesn't own the land, the railroad still controls it.

Segment Review & Discussion of Recommendations

For each of the Wild & Scenic eligible segments in the Dominguez-Escalante National Conservation Area, the group addressed the following questions:

- What is important to protect?
- What protections are already in place?
- What management measures does the group recommend?
 - Wild & Scenic Suitability? Why or why not?
 - Other management recommendations.
- What level of community support or opposition does the group anticipate to their proposed management approach?

Gunnison River Segments 1 & 3

General issues with the segment

The question was raised about whether the level of rip-rap and other modifications really left the segments eligible for Wild & Scenic status. There was significant agreement in the room that the segment may not be eligible, but one comment that Wild & Scenic status may offer an opportunity to make a designation that could be helpful in protecting the river. It was pointed out that the classification of the segments is "recreational," which allows for a greater degree of development along the banks than "wild" and "scenic" classifications within the Wild & Scenic Rivers Act.

What is important to protect?

The group listed the following uses and attributes:

- Prospecting: it was noted that it was halted when the Wild & Scenic eligibility determination was made, and that Katie Stevens would have discretion over whether to allow it within the National Conservation Area.
- Agriculture: all agricultural activities, including orchards, crops, and grazing.
- Livestock transit.
- Utility corridor
- Camping
- Boating
- Horseback riding
- Hunting
- Water rights
- Potential water rights
- Historic and cultural ORV's
- Private property access
- Roads up on the rim (existing legal access)
- Private property:
 - Dick Miller reported that lawyers he had consulted told him that with Wild & Scenic suitability:
 - BLM would control both sides of the river to the high water mark even if one side is private land.

- There was potential for a voluntary or involuntary scenic easement.
- BLM would control the airspace.
- Even if BLM officials don't want to have these impacts, if another group thinks BLM isn't following the law, they can sue.
 - There are current lawsuits to limit grazing near Wild & Scenic rivers.
- Another comment was made that Army Corps of Engineers jurisdiction needs to be kept out of tributary streams.

Existing Protections

The group noted the following existing protections:

- The NCA
- The following conditions that regulate river flows:
 - Downstream water right held by Redlands Water & Power Company + flows necessary to operate the Redlands fish passage.
 - Aspinall Unit operations to provide necessary flows for endangered fish.
 - Aspinall Unit flows to mitigate impacts of Dallas Creek and Dolores impoundments.
 - Upstream Black Canyon National Park water right, guaranteeing minimum flows of 300 cubic feet/ second.
- The Wilderness and Wilderness Study Area (slightly bigger than the designated Wilderness) that touch the banks. It was noted that there is a bill in Congress to de-list Wilderness Study Areas, but it hasn't yet been acted on.

Recommendations

Wild & Scenic Suitability

The group unanimously agreed to recommend that the segments be found "not suitable" for Wild & Scenic status for the following reasons:

- Negative private property impacts.
- Negative water rights impacts.
- The ORV's for the segment are already protected by the adjacent designated Wilderness and the conditions listed above that regulate the river's flows.
- A suitability finding would hurt the historic and cultural ORV's for the segment by increasing visitation.

Other Tools

A proposal was made to recommend that BLM use whatever tools will protect the values listed as important, given that BLM knows the tools better than the stakeholders do. Others responded that BLM could be missing some tools, and in other cases, their interpretation is fuzzy, so the group should make more detailed recommendations.

The other points were made and found support and no opposition:

- No more layers of regulation are needed.
- Agriculture is the major value that needs to be protected in the corridor:
 - Cattle have been there over 100 years; management has enabled the ORV's to persist.

A proposal was made that the county limit development and septic tanks on Mancos shale soils to reduce selenium loading to the river. However, members of the group responded that development and septic tanks contribute less selenium than agriculture, and they didn't want to create a "slippery slope" making regulating agriculture more likely. The person who proposed the idea agreed to leave this suggestion out of the letter.

Another proposal to enhance protections of historical and cultural sites was unanimously accepted by the group:

- Conducting accurate and proper recording to preserve scientific data.
- Inviting site stewards to monitor the sites and report problems to BLM (once it was clarified that volunteers would not do any enforcement themselves; it was noted that outfitters are currently the only ones doing this).
- Enforce protections.
- Refrain from publicly identifying sites.

Community Support/ Opposition

The group did not anticipate opposition to the proposed management approach. Dick Miller reported that Steve Smith of the Wilderness Society had told him he thought the Wilderness and NCA would protect them enough. One person noted that Trout Unlimited may oppose, given that their representative had been in favor of Wild & Scenic suitability for segments that seemed clearly unsuitable to others.

Rose Creek and Big and Little Dominguez Creeks, Segments 1 and 2

What is important to protect?

In regards to the "scenic" ORV, the group noted that the scenic values along these segments were not very different from other canyons.

The group noted that the same values listed for the Gunnison River segments would apply to these segments as well. In addition, they noted and emphasized the following:

- Water rights.
- Recreational and cultural ORV's: it was noted that these can come into conflict. Some in the group said the cultural ORV's were more important, others disagreed with making that a blanket statement, and the group settled on recommending site specific management to manage conflicts between these values.
- Trail rights (including for livestock transit).
- Grazing.
- Ability to maintain ponds, fencing and other grazing infrastructure.

Existing Protections

The group listed the following existing protections:

- Wilderness (allows grazing)
- In-stream Flow rights applied for by the Colorado Water Conservation Board.
- Primitive nature of roads.
- Existing management practices.

- Geology protects itself.

Recommendations

Wild & Scenic Suitability

The group unanimously agreed to recommend that the segments be found “not suitable” for Wild & Scenic status because of the same potential impacts to water and grazing rights listed for the Gunnison River and because:

- All the ORV’s except for the cultural ORV are already protected by designated Wilderness and existing management.
- A Wild & Scenic suitability finding would hurt, rather than protect, the cultural ORV.
- A suitability finding would slow down BLM management decisions because of consultation requirements that would come into play.

Other Tools

The group unanimously recommended the same tools to protect the cultural ORV as recommended for the Gunnison, with additional comments that the BLM could improve signs and provide additional protections on a site-specific basis (for example, placing rocks near rock art as a barrier to prevent cattle from rubbing on them).

Community Support

The group anticipated community support for this approach because of the existing designated Wilderness.

Cottonwood and Escalante Creek, segments 1 and 2

What’s different about these segments than the others?

Due to the late hour of the meeting at this point, the discussion was focused on what features of these creeks were different than the others. The group made the following comments:

- There are existing maintained, well-used roads.
- There are elaborate trails for livestock movement.
- Escalante Creek: less than 50% BLM-owned, so it shouldn’t be eligible, let alone suitable, for Wild & Scenic status. It would be hard to manage isolated pieces.

Uses and Values to protect

Specifically on this issue, the group noted the importance of:

- Access for maintenance of powerlines.
- Wildlife ORV’s should come out, because they are not supported by recent evidence.

Recommendations

Wild & Scenic Suitability

The group unanimously agreed to recommend that the segments be found “not suitable” for Wild & Scenic status because:

- The high level of private ownership, with attendant impacts on private property rights and feasibility of management.
- Stream alternations (for diversions) along Escalante Creek should make it ineligible.

- ORV's are already protected by the ACEC and In-stream Flow rights.

Additional Tools

The group declined to make a recommendation on maintaining the ACEC as an alternative to Wild & Scenic suitability, and comments were made that the NCA would protect the area more appropriately than the ACEC.

Community Support

The group said they expected the same degree of community support for their proposed approach to managing these segments as the other segments already discussed.

Additional Comments

Facilitator Callie Hendrickson gave the group the opportunity to make additional comments to ensure that all relevant input was captured. The following points were made:

- People are concerned about reduced local control and accountability if segments are found "suitable" for Wild & Scenic status.
- Agricultural operations protect wildlife and provide scenery – protecting agriculture and private property rights are important.
 - Delta County has a Master Plan applying to unincorporated areas of the county that requires any change in land use away from residential or agriculture to have a specific development plan that is reviewed and approved by county authorities.
- BLM should expand landowner interactions.
- Accounting for BLM ownership of stream segments: it should be 50% when BLM owns only one bank.
- People have concerns about the cost of redundant layers of management.

In answer to a question by co-facilitator Hannah Holm about whether the group remained comfortable with their management recommendations in the case that land ownership around the stream corridors were to change to people with different management philosophies, members of the group responded that contemplating ownership changes didn't change their feelings about appropriate management.

Approach and Timetable for Completing Recommendation Letter

The group agreed to review, edit and sign the letter to BLM according to the following timetable:

- Hannah said she could complete notes 4/14 (*actually completing 4/18*)
- First draft of letter will be out 4/18
- Participants will respond by 4/20
- Second draft of letter will be out 4/25
- Participants will provide either permission to list their names or send an electronic signature by 4/27
- Letter will be provided to BLM by 4/29

Hannah noted that she would collect the emails of participants in the last couple of meetings into a single distribution list, so they could have dialog on proposed edits by using "reply all" to respond to messages.

In answer to a question about when the BLM's decision would be public, Andy Windsor noted that the BLM's draft suitability finding would be released with the draft Resource Management Plan for the NCA, which was predicted to be out in early 2013.