

W&S MEMO

To: William Mills & Larry Sandoval, Bureau of Land Management (BLM) and Scott Fitzwilliams, U.S. Forest Service (USFS)
CC: Roy Smith & Kay Hopkins
From: W&S Stakeholder Group
Date: June 8, 2020
RE: Amended & Restated SG Plan

The Upper Colorado Wild and Scenic Stakeholder Group (SG) is pleased to present this Amended and Restated Upper Colorado River Wild and Scenic Stakeholder Group Management Plan (Amended and Restated SG Plan or “Plan”), approved by the SG on June 8, 2020. The effective date of the SG Plan commenced June 12, 2015, upon issuance of records of decision by BLM and USFS approving the Plan without material changes as the Wild and Scenic Rivers management alternative for Segments 4 through 7 of the Upper Colorado River.

On April 24, 2020, the SG provided the Final Draft Amended and Restated SG Plan to BLM and USFS for their review on its consistency with the parameters in the agencies’ prior approvals and for input on matters related to the clarity of the document. In a response, signed on May 15, 2020, the agencies confirmed that the refinements under the Final Draft Amended and Restated SG Plan are consistent with the original SG Plan and do not amount to material changes from the perspective of the commitment to assist in protecting and enhancing the outstanding remarkable values (ORVs) in Segments 4 through 7. The agencies also recommended certain clarifications to the language of the SG Plan and identified additional actions that could be incorporated into the Plan. The SG has considered those comments and made certain adjustments to the Plan. The attached revisions to this final Amended and Restated Plan reflect these changes.

Following is an explanation of our responses to the agencies’ comments:

- Clarification to footnotes: Footnotes 16, 17, 40, and 42 have been modified as follows to clarify that the Intercept Survey Protocol, Displacement Survey Protocol, CPW Fish Biosurvey Protocol, and Macroinvertebrate Sampling and Analysis Protocol can be modified upon consensus of the SG without requiring an amendment to the Amended and Restated SG Plan:

This protocol may be changed by SG consensus separate from, and without requiring amendment to, the Plan. The SG has formally voted to adopt and rely upon the protocol as part of the SG operations but may determine to adopt other means with similar level of effectiveness to accomplish the purposes of the protocol. The protocol can be found on the W&S website: www.upcowildandscenic.com.

- Clarification of the endowment fund as it relates to the “Poison Pill”: The agencies recommended replacing “subsequent to expiration of the Poison Pill” with an explanation of the events that must occur before the endowment fund starts. As the timing of the endowment fund is contingent on expiration of the negotiated Poison Pill provision, we believe retaining the current reference to the Poison Pill section (III.C.2.d) is the best way to capture what is required for endowment funding and the best way to assure internal consistency within the Plan. Under that provision, absent a stakeholder electing to trigger the Poison Pill Plan termination provision, contributions to the endowment fund would commence six months following resolution of litigation on final permits for the Moffat Collection System and Windy Gap FIRMING Projects accepted by the respective boards for Denver Water and the Municipal Subdistrict, Northern Colorado Water Conservancy District. Prior to that time, the SG will operate with annual membership dues, grant funding, state funding when available, and voluntary or in-kind contributions, as it has operated under the plan every year. It is possible that grants, state funding, and other contributions may supplement funding even following establishment of the endowment fund.

- Channel Maintenance Flow (CMF) commitment: The SG thinks that its commitment regarding CMF is sufficient and represents a delicate balance of the stakeholders’ respective interests on this issue. The commitment added by the SG in its April 24, 2020 Final Draft Amended and Restated Plan is to develop an observational monitoring plan to better understand the effects that peak flows have on channel maintenance functions processes in W&S Segments 4 through 6 throughout the life of the Plan. As the agencies are aware, this complex issue took the SG years to resolve and resulted in a long-term commitment to include consideration of CMFs in the Amended and Restated Plan by way of a CMF monitoring plan and a commitment to use voluntary Cooperative Measures, to the extent available, to help enhance the channel maintenance functions and processes. This CMF monitoring plan, when completed, will be included in the Long-Term Monitoring Plan, and will be implemented as soon as practical.

Six years ago (2014), the SG began exploring the complex issue of CMF. That process began by researching and defining the types of functions potentially influenced by flows greater than the SG’s flushing flow Resource Guide. Over 18 months ago, the SG began, in earnest, negotiating how and whether to incorporate CMFs into the Amended and Restated SG Plan. The SG will monitor actual flow events in Segments 4 through 6. It is anticipated that this may take multiple years due to potential infrequency of higher flow events. As stated in the Plan, the SG has agreed to monitor the effects that a given year’s peak flows have on accomplishing general channel maintenance functions of mobilizing and transporting bedload substrate and channel maintenance processes listed in the Plan. Moreover, the SG also commits to continue to explore opportunities to enhance flows through voluntary and cooperative measures when available.

- Potential funding shortfalls: The agencies have asked how the stakeholders will address “a substantial shortfall in funding, specifically addressing how key functions in the SG plan would be maintained.” The SG reorganized section VIII of the Plan to acknowledge that the State of Colorado Wild & Scenic Rivers Fund is one of several other sources of funding the SG may seek in the future, and that the primary sources of funding are intended to be the Endowment and Funding Assessments. The SG Plan currently offers flexibility in determining priorities based on a variety of circumstances that may arise during the life of the Plan, including funding shortfalls. Among other things, section VIII of the Plan recognizes the important role of in-kind contributions, including grants, and the voluntary Cooperative Measures contributed by SGs that foster protection and enhancement of the ORVs without the contribution of actual dollars. Even prior to the emergence of COVID-19 this year, the SG’s Finance Committee had begun considering commitments under the plan and priorities to protect the ORVs in the event of financial shortcomings. The SG has identified the need to reduce the costs of overhead and administration as the SG transitions to, and begins to implement, the final Plan.

This Amended and Restated SG Plan incorporates refinements to the text, including the removal of language associated with a “provisional period,” and finalizes the ORV Indicators and Resource Guides. The provisional period was a five-year period in which the 2012 version of the plan was implemented with the purpose of refining certain criteria while operating pursuant to the governance protocols of the Plan.

During the provisional period, the SG:

- Developed final Resource Guides and ORV Indicators by unanimous consent (6/6) of Interest Groups.
- Executed an MOU among SG members for the provisional period of the Plan. A long-term MOU or legal entity will be entered into subsequent to sunset of the Poison Pill.
- Developed protocols for each Interest Group that outline their respective procedures for selection of representatives, designation of alternates, and appointment of members.
- Began monitoring under the provisional period monitoring plan, which included gathering data collected by others, gathering SG-funded data such as recreation and angler surveys, and evaluating data for finalizing Resource Guides and ORV Indicators. Prepared annual monitoring reports.
- Produced annual reports summarizing the accomplishments for the SG during the year.
- Conducted a flushing flow study.
- Studied and discussed the extent to which channel maintenance flows would be incorporated into the SG Plan.
- Implemented Tier 1 Long-Term Protection Measures (per Section IV.A) and met the Milestones in Attachment A of the 2012 version of the SG Plan. This included the

appropriation and adjudication of CWCB instream flows for the Wild and Scenic segments consistent with the SG's recommendations.

- Explored and implemented voluntary Cooperative Measures when available per the Cooperative Measures process (per Section IV.B of the Plan) and held quarterly meetings to assess the need for, focus of, and availability of Cooperative Measures.
- Held regular quarterly SG meetings along with an annual March meeting and various special meetings.

The following tasks within the SG Plan are to be completed after its submission to your agencies:

- Fill in the values in the Percentage Value Table for the Floatboating ORV Indicator pursuant to the approved procedure and requisite data protocols specified in Section III.B.2 of the Plan.
- Fill in the values in the Quality Trout & Biomass and CPUE Tables for the Recreational Fishing ORV Indicators pursuant to the approved procedure and requisite data protocols specified in Section III.B.1 of the Plan.
- Develop a Channel Maintenance Flow (CMF) monitoring plan. The SG has committed to develop a CMF monitoring plan within one year of the SG's formal adoption of the Amended and Restated SG Plan.
- Establish an Endowment Fund. As set forth in the SG Plan, the creation of the Endowment Fund and appointment of a Trustee will occur after the SG gets past the Poison Pill clause. The SG has taken initial steps toward the formation of the Endowment Fund. The SG created a Finance Committee to explore avenues for the creation of the Endowment Fund. This committee held a series of conversations with other similar groups operating endowment funds and delivered reports to the SG at each SG meeting. These efforts are ongoing to ensure the SG is prepared to create the Endowment Fund once past the Poison Pill clause.

Finally, the Amended and Restated SG Plan updates the list of entities participating as stakeholders in the SG. New stakeholders include:

- | | |
|-----------------------------------|---|
| ▪ American Rivers | ▪ Upper Colorado Private Boaters Association |
| ▪ Colorado Whitewater Association | ▪ Upper Colorado Commercial Boaters Association |
| ▪ Confluence Casting | ▪ Yust Ranch |
| ▪ Conservation Colorado | |
| ▪ Eagle River Watershed Council | |

Stakeholders no longer participating in the Plan, who were identified in the 2012 version, are:

- | | |
|-------------------|--------------------------|
| ▪ Trout Unlimited | ▪ The Wilderness Society |
|-------------------|--------------------------|

We proudly present this Amended and Restated SG Plan and look forward to continued coordination with the federal agencies.