Appendix U: Stakeholder Management Plan – Wild and Scenic Rivers

Introduction

The Upper Colorado River Wild and Scenic Stakeholder Group (or Stakeholder Group) was formed following completion of the Final Wild and Scenic River Eligibility Report for the Bureau of Land Management's (BLM) Kremmling Field Office (KFO) and the Colorado River Valley Field Office [CRVFO, formerly the Glenwood Springs Field Office (GSFO)]. The Stakeholder Group is comprised of 20 entities, including counties, water users and managers, environmental groups, and other entities. The Group was formed to offer alternative management for eligible segments of the Colorado River (Segments 4 and 5 in the KFO and Segments 6 and 7 in the CRVFO). Under the Stakeholder Group's Management Plan, a suitable designation for the four segments would be deferred, while being managed to balance permanent protection of the segment's outstandingly remarkable values (ORVs), certainty for the stakeholders, water project yield, and flexibility for water users. The Group's management plan uses long-term protection measures and voluntary cooperative measures of the Stakeholder Group to protect all the ORVs in the segments, while focusing on recreational fishing and recreational floatboating.

Alternative B of the DRMP/DEIS was divided into Alternative B1 and Alternative B2. Under Alternative B1, the KFO would find Colorado River Colorado River Segments 4 and 5, between the mouth of Gore Canyon and State Bridge (totaling approximately 20.62 miles) suitable for Congressional designation in the NWSRS. Under Alternative B2, the KFO would defer a determination of suitability, and would recommend adopting and implementing the Stakeholder Group's Management Plan, to protect the free-flowing nature, outstanding remarkable values (ORVs), and tentative classifications on the Colorado River segments. The Stakeholder Group's Management Plan is included in this appendix. Alternative B2 was selected for the Proposed RMP.

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STAKEHOLDER MANAGEMENT PLAN
Wild and Scenic Rivers

Introduction

In March 2007, the US Department of the Interior (DOI), Bureau of Land Management's (BLM) Kremmling Field Office (KFO) and the Colorado River Valley Field Office [CRVO, formerly the Glenwood Springs Field Office (GSFO)] completed the eligibility phase of a Wild and Scenic River (WSR) evaluation as part of the planning process for the combined DRMP/DEIS. During the identification phase, the BLM examined river and stream segments within the KFO and the CRVO boundaries in order to identify those segments that either pass through, or that are bordered by, BLM-managed public lands. Once identified, standard criteria were applied to determine the eligibility of each segment. The WSR Suitability Report describes the identification process followed, the eligibility and preliminary classification criteria used, and the determinations made during the eligibility phase of the WSR evaluation for both Field Offices. The Final WSR Suitability Report, published in March of 2007, is available, in its entirety, at: http://www.blm.gov/co/st/en/BLM_Programs/land_use_planning/rmp/kfo-gsfo/documents/rmp_revision_docs.html

In relation to WSRs, Alternative B of the DRMP/DEIS is divided into Alternative B1 and Alternative B2. Under Alternative B1, the KFO would find 2 segments (approximately 20.62 miles) of the Colorado River (Colorado River Segment 4 and Segment 5; between the mouth of Gore Canyon and State Bridge) suitable for Congressional designation in the National Wild and Scenic Rivers System (NWSRS. Under Alternative B2, the KFO would defer a determination of suitability, and would recommend adopting and implementing the Stakeholder Management Plan in order to protect the free-flowing nature, outstanding remarkable values (ORVs), and tentative classifications on the Colorado River segments. The Stakeholder Management Plan is included in this appendix.

Upper Colorado River
Wild and Scenic Stakeholder Group
Management Plan

Prepared on behalf of:

American Whitewater
Aurora Water
Blue Valley Ranch
Colorado River Outfitters Association
Colorado River Water Conservation District
Colorado Springs Utilities
Denver Water
Eagle County
Eagle Park Reservoir Company
Eagle River Water and Sanitation District
Grand County
Middle Park Water Conservancy District
Municipal Subdistrict, Northern Colorado Water Conservancy District
Northern Colorado Water Conservancy District
Northwest Colorado Council of Governments
Summit County
The Wilderness Society
Trout Unlimited
Upper Eagle Regional Water Authority
Vail Associates, Inc.

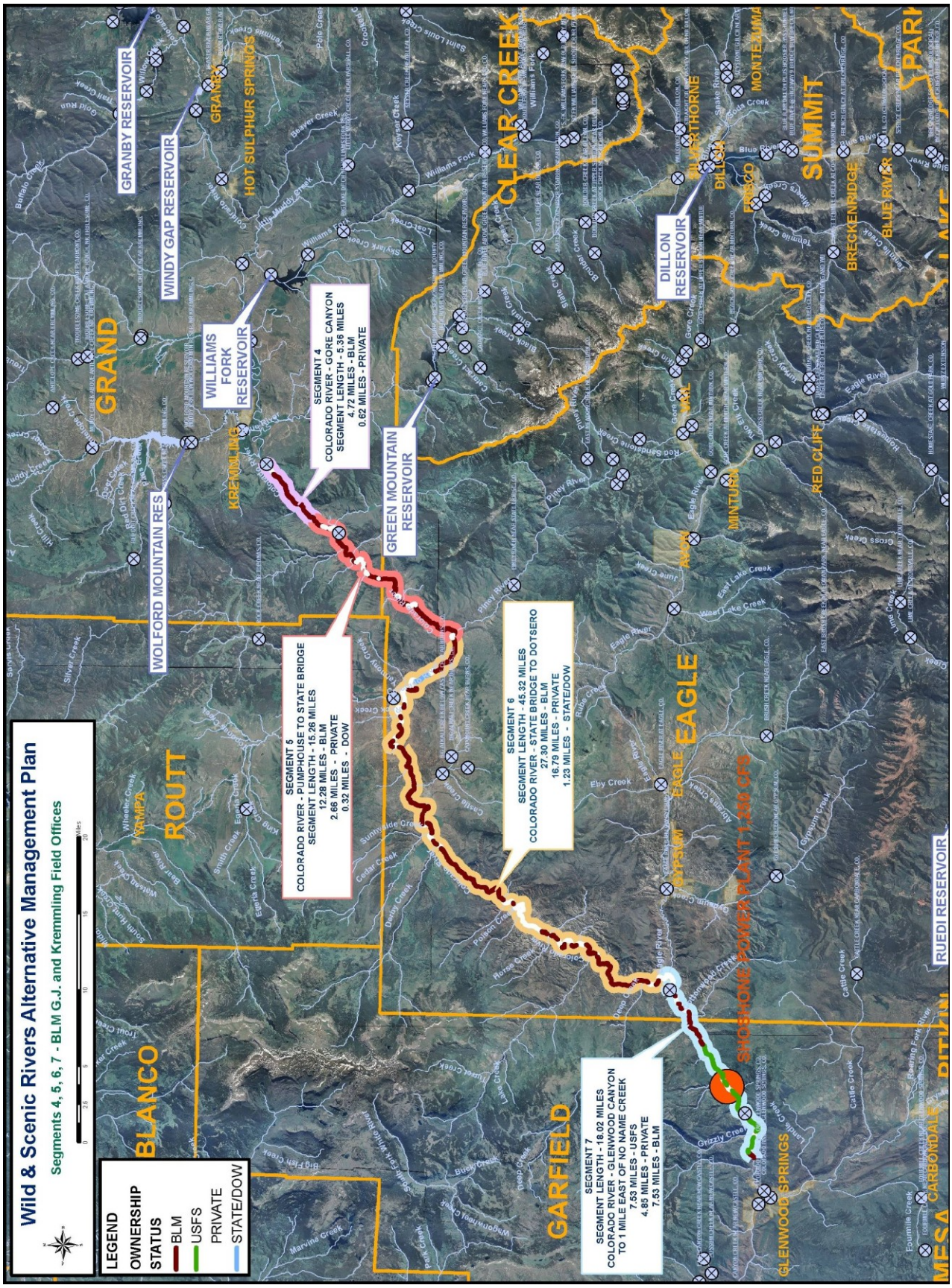
In consultation with:

Colorado Water Conservation Board
Colorado Division of Wildlife
U.S. Bureau of Reclamation

For submittal to:

U.S. Bureau of Land Management
U.S. Forest Service

February 2011


Wild & Scenic Rivers Alternative Management Plan
Segments 4, 5, 6, 7 - BLM G.J. and Kremmling Field Offices
LEGEND
OWNERSHIP STATUS
BLM
USFS
PRIVATE
STATE/DOW
SEGMENT 5
COLORADO RIVER - PUMPHOUSE TO STATE BRIDGE
SEGMENT LENGTH - 15.26 MILES
12.28 MILES - BLM
2.66 MILES - PRIVATE
0.32 MILES - DOW
SEGMENT 4
COLORADO RIVER - GORE CANYON
SEGMENT LENGTH - 5.36 MILES
4.72 MILES - BLM
0.62 MILES - PRIVATE
SEGMENT 6
SEGMENT LENGTH - 45.32 MILES
COLORADO RIVER - STATE BRIDGE TO DOTSERO
27.30 MILES - BLM
16.79 MILES - PRIVATE
1.23 MILES - STATE/DOW
SEGMENT 7
SEGMENT LENGTH - 18.02 MILES
COLORADO RIVER - GLENWOOD CANYON TO 1 MILE EAST OF NO NAME CREEK
7.53 MILES - USFS
4.85 MILES - PRIVATE
7.53 MILES - BLM
GRANBY RESERVOIR
WINDY GAP RESERVOIR
WILLIAMS FORK RESERVOIR
WOLFORD MOUNTAIN RES
GREEN MOUNTAIN RESERVOIR
DILLON RESERVOIR
RUEDI RESERVOIR
SHOSHONE POWER PLANT 1,250 CFS
GRAND
ROUTT
BLANCO
GARFIELD
EAGLE
CLEAR CREEK
SUMMIT
PARK
MESA
HOT SULPHUR SPRINGS
KREMMLING
GLENWOOD SPRINGS
CARBONDALE
GYPSUM
MINTURN
RED CLIFF
BRECKENRIDGE
BLUE RIVER
FRISCO
DILLON
SILVERTHORNE
MONTEZUMA
ASPEN
YAMPA

EXECUTIVE SUMMARY

The Upper Colorado River Wild and Scenic Stakeholder Group (Stakeholder Group or SG) represents a diverse range of interests who have worked together since 2008 to develop an Upper Colorado River Wild and Scenic Stakeholder Group Management Plan (SG Plan or Plan) to protect the outstandingly remarkable values (ORVs) identified in the U.S. Bureau of Land Management (BLM) and U.S. Forest Service (USFS) Eligibility Reports for Segments 4 through 7 of the Upper Colorado River. The SG Plan is being proposed to BLM and the USFS as a potential Wild and Scenic Rivers management alternative for the resource management plan revision process. The Stakeholder Group's intention for this collaborative Plan is to balance permanent protection of the ORVs, certainty for the stakeholders, water project yield, and flexibility for water users. A significant benefit of the SG Plan is that through the cooperative and voluntary efforts of interested water users, local governments, and other entities, the ORVs can be protected (and perhaps enhanced) in ways that coordinate with federal agency management.

The SG Plan will use identified Long-Term Protection Measures and voluntary Cooperative Measures of the Stakeholder Group to protect the ORVs. Examples of the protective measures include the appropriation of a Colorado Water Conservation Board (CWCB) Instream Flow (ISF) water right, delivery of water to senior water demands downstream of Segments 4 through 7, and water deliveries to the 15-Mile Reach in the Grand Valley pursuant to the Upper Colorado River Endangered Fish Recovery Program.

The SG Plan aims to protect all ORVs while focusing on recreational fishing (in Segments 4 through 6) and recreational floatboating (in Segments 4 through 7). The SG Plan uses two distinct tools – "ORV Indicators" (characterizing the range and quality of the ORVs) which will be used to gage whether the ORVs are being protected; and "Resource Guides" (reflecting ranges for factors such as flow, temperature and water quality) that will be used as a source of information among others to inform SG discussions under the Plan. Resource Guides are not intended to be used as a test for Plan success nor for use by permitting agencies or entities as the criterion for evaluating a project's effects on the ORVs. However, nothing in the Plan shall preclude or limit the use of any data regardless of whether such data has been used in the negotiation of the Resource Guides. The Resource Guides will not create binding requirements that water providers satisfy specific flow levels. The SG Plan's implementation procedures will provide a feedback loop to periodically confirm that the management measures under the SG Plan, in coordination with BLM's and USFS's other land management actions, are protective of all ORVs. The SG Plan contains mechanisms to address concerns related to impairment of or a significant risk of impairment to the ORVs.

The effective date of the SG Plan will commence upon issuance of records of decision by BLM and the USFS approving the Plan without material change as the Wild and Scenic Rivers management alternative for Segments 4 through 7 of the Upper Colorado River. A formal endorsement of the Plan by the Stakeholder Group shall be provided no later than April 30, 2011.[1] Prior to the effective date of the Plan, the stakeholders will carry out the tasks described in Attachment B.

For the first 3-to-5 years of implementation of the SG Plan, provisional ORV Indicators and Resource Guides will be used. During this period (provisional period), the Stakeholder Group will work to gather additional data, learn and refine what is needed for the protection of the ORVs, and develop final ORV Indicators and Resource Guides. The SG Plan includes a Monitoring Plan as well as requirements for periodic reporting to BLM and the USFS. The SG Plan also includes provisions addressing governance, representation, decision-making, funding, and agency coordination. It is anticipated that BLM and the USFS will be non-voting members of the Stakeholder Group. The Plan is contingent upon the agencies deferring but not precluding a suitability determination, and on resolution of the issues under Section III.C.2.c. of this Plan (Poison Pill).

Proponents of new projects that seek federal authorization, funding or assistance could choose to participate in the SG Plan. In such event, a new project proponent would: inform the SG of the proposed project in a timely manner to facilitate SG consideration and comment on the project; formally endorse the Plan and commit to participate in the Cooperative Measures procedures and funding provisions of the Plan; and demonstrate to the appropriate permitting/authorizing agency(ies) that project operations will not unreasonably diminish the ORVs or that operations will be subject to mitigation to avoid unreasonably diminishing the ORVs. The SG intends that permitting or authorizing agency(ies) will conduct their own independent assessment of a project's impacts to the ORVs, if any. Membership as a stakeholder is not intended to serve as project mitigation nor as a means to demonstrate that a project does not unreasonably diminish the ORVs (except as may be agreed between the project proponent and the SG).

[1] Aurora Water will initiate the endorsement process by April 30, 2011 but due to Aurora's procedural rules will not be able to obtain formal endorsement until June 2011.

TABLE OF CONTENTS

EXECUTIVE SUMMARY 3

DEFINITIONS 6

II. DESCRIPTION OF ORVs 10

III. ORV INDICATORS AND RESOURCE GUIDES 13

IV. MEASURES TO ENSURE PROTECTION OF ORVs 25

V. MONITORING PLAN 31

VI. GOVERNANCE 32

VII. NEW PROJECTS 42

VIII. FUNDING 44

IX. AGENCY COORDINATION 49

LIST OF ATTACHMENTS 51

Attachment A: Milestones and Mechanisms 52
Attachment B: Timeline and Task List 56
Attachment C: Existing Flow Conditions 61
Attachment D: Provisional Period Monitoring Plan 64

DEFINITIONS

A. "Effective date" of the Plan will commence upon issuance of records of decision by BLM and the USFS approving this Plan without material change as the management alternative for Segments 4 through 7 of the Upper Colorado River. A formal endorsement of the Plan by the Stakeholder Group shall be provided no later than April 30, 2011. Prior to the effective date of the Plan, the stakeholders will carry out the tasks described in Attachment B.

B. "Stakeholder" refers to an individual person or entity having membership status under the Plan pursuant to section VIII.B., whether or not such person or entity is a member of the Governance Committee.

C. "Stakeholder Group" is comprised of all stakeholders. The Stakeholder Group conducts its business and makes decisions through the SG Governance Committee. The terms "Stakeholder Group", "SG", "Governance Committee", and "GC" are used interchangeably throughout this document.

D. "Streamflow-influenced ORVs" refer to Outstandingly Remarkable Values which are influenced by streamflow and water quality, as defined in Part II of the Plan.

E. "ORV Indicators" mean the conditions that characterize the primary streamflow-influenced ORVs as they exist today. Provisional ORV Indicators are to be used by the Plan until such time as the final ORV Indicators are developed and approved pursuant to the criteria in the Plan.

F. "Resource Guides" are flow, temperature and water quality ranges specified in Part III of this Plan to inform SG discussions under the Plan. "Provisional Resource Guides" are identified in Part III of this Plan, subject to the identified qualifications on their use and the procedures for their finalization described in the Plan.

G. "Cooperative Measures" are voluntary actions that will be explored and may be implemented to assist in protection of the ORVs pursuant to the process described in Section IV.B. of the Plan.

H. "Long-Term Protection Measures" refer to specific measures described in Part IV.A. of the Plan that are expected to result in ongoing protection of the ORVs, absent a Material Change in Circumstances. These are supported by the SG and will be pursued pursuant to the Milestones in Attachment A.

I. "Milestones" contain the requirements for implementation of the Long-Term Measures for protection of the ORVs. These are described in Part I of Attachment A to this Plan.

J. “Material Change in Circumstance” means a change in circumstance that undermines the value of one of the Long-Term Protection Measures under Section IV.A. of the SG Plan, including but not limited to the examples described in Part II of Attachment A.

K. “Significant risk of impairment to” an ORV is a determination made by affirmative vote of at least five Interest Groups that one or more of the ORVs is faced with an imminent risk of material diminishment due to circumstances under the control of the Plan. This may be cause for invoking the dispute resolution and potential Plan termination procedures in Section VI.J.4.

L. “Provisional period” refers to the first 3-to-5 years of Plan implementation commencing upon the effective date of the Plan. During this period, the SG will utilize provisional ORV Indicators and provisional Resource Guides, while working cooperatively to implement defined data collection and monitoring efforts and perform additional technical review. Final ORV Indicators and Resource Guides will be adopted prior to conclusion of the provisional period.

M. “Consensus”, “agreement”, “unanimous vote”, and “unanimous consent” of the SG or GC all refer to and require the affirmative vote of all Interest Groups. These terms are used interchangeably throughout this document.

N. “Poison Pill” means the potential withdrawal of the SG Plan under the conditions set forth in Section III.C.2.c. of the Plan.

O. A “water right” is a right to utilize a certain quantity of water based on the priority of a party’s appropriation of water for beneficial use. An “absolute water right” is a water right that has been put to actual use. A “conditional water right” is a right to perfect a water right with a certain priority upon the completion with reasonable diligence of the appropriation upon which such water right is based.

I. INTRODUCTION

This SG Plan has been developed to monitor and protect the ORVs identified in the BLM and USFS Eligibility Reports for Segments 4 through 7 of the Upper Colorado River.[2] It is intended to serve as a Wild and Scenic Rivers management alternative for the resource management plan revision process. A significant benefit of the SG Plan is that through the cooperative and voluntary efforts of interested water users, local governments, and other entities, the ORVs can be protected (and perhaps enhanced) in ways that coordinate with federal agency management.

Stakeholders have participated in the development of the SG Plan based on the premise that Cooperative Measures under the Plan are voluntary and cooperative. This SG Plan will be implemented in accordance with the following Guiding Principles:

Purpose of the Plan: The Stakeholder Group's intention for this collaborative Plan is to balance permanent protection of the ORVs, certainty for the stakeholders, water project yield, and flexibility for water users.

Cooperative Measures: The SG acknowledges that under the SG Plan, cooperative actions that would impair water providers' ability to meet their water supply commitments will not be undertaken.

Provisional Resource Guides: During the provisional period, the SG will work cooperatively to gather additional data, learn and refine what is needed for the protection of the ORVs, and develop a long-term Monitoring Plan to guide the protection of the ORVs. During the provisional period, the Resource Guides will be used as a source of information among others to inform SG discussions under the Plan. The Resource Guides are not intended to be used as a test for Plan success nor for use by permitting agencies or entities as the criterion for evaluating a project's effects on the ORVs. However, nothing in the Plan shall preclude or limit the use of any data regardless of whether such data has been used in the negotiation of the Resource Guides. The Resource Guides do not create any binding requirements that water providers satisfy specific flow levels. The SG will use the data and knowledge gained during the provisional period to develop final ORV Indicators, and Resource Guides that recognize long-term hydrologic variability, which may or may not resemble the provisional Resource Guides.

[2] The USFS is involved with BLM in the assessment of Wild and Scenic management along the Colorado River, and is the federal managing agency with respect to USFS Segments 1 and 2 (within BLM Segment 7) covering portions of the Upper Colorado River through Glenwood Canyon.

Resource Priorities: Under both the provisional period and subsequent to adoption of final Resource Guides and ORV Indicators, the SG acknowledges that the Cooperative Measures can have a limited ability to significantly influence the higher flow levels contemplated by the Resource Guides, particularly during low-flow periods. The SG is committed to work together to prioritize the use of Cooperative Measures among the various ORVs in a manner consistent with the intent of the SG Plan.

Project Permits: The SG acknowledges that the Municipal Subdistrict, Northern Colorado Water Conservancy District (Municipal Subdistrict) and Denver Water's continued participation in the SG Plan is contingent upon completion of all NEPA and related environmental permitting for the Municipal Subdistrict's Windy Gap Firming Project and Denver Water's Moffat Collection System Project (Projects), and upon Denver Water and the Subdistrict's election to proceed with the permitted Projects. The SG also acknowledges that the SG Plan is contingent upon the non-exercise of Paragraph III.C.2.c. of the SG Plan (Poison Pill). Prior to expiration of the period for exercise of the Poison Pill, members of the SG would continue to contribute annual funding to the SG Plan, but shall not be required to contribute endowment funding as anticipated pursuant to Section VIII.A. of the Plan.

Suitability Determination and Agency Coordination: The SG Plan is contingent upon the neutral deferral of a suitability determination under the Wild and Scenic Rivers Act by BLM/USFS. The SG Plan will not become effective or will terminate if either agency enters formal findings that Segments 4, 5, 6 or 7 of the Upper Colorado River are suitable or not suitable. The SG supports the position that BLM/USFS defer a determination of suitability until and unless there is a determination by the SG that the Plan should be terminated by BLM/USFS, and/or that it should no longer be used as a Wild and Scenic Rivers management alternative. The SG agrees to revisit this position on deferral at the end of the provisional period. If the Plan is determined to have failed, the BLM/USFS will be charged with considering a suitability determination. The SG encourages adoption by the BLM/USFS of a streamlined NEPA process that would, under such circumstances, allow the opportunity to provide comment and feedback to the agencies on the merits of suitability including comments expressing opposition to or support of a finding of suitability. The SG believes that interagency agreements/MOUs are important to the success of the Plan if suitability is deferred. The SG will work with BLM, USFS, and other federal agencies to encourage the adoption of appropriate MOUs that describe how the federal agencies' actions will relate to the SG Plan.

Elevation/Referral Process: The SG recommends including the BLM and USFS as non-voting members of the SG. As property managers, BLM and USFS are actually stakeholders in resource management issues and should be included when the elevation process triggers discussion among the SG (see Tier 3 process, Paragraph IV.C. of the Plan). Tier 3 includes the assessment of data

gathered, evaluation of the status of the resources, and exploration of voluntary cooperative efforts as described in the SG Plan; the BLM and USFS would participate in the SG discussions to provide resources and potential guidance on the issues and the data. As recognized in these Principles, the Plan will be successful as long as the SG is working together to protect the ORVs. After attempts at resolution have been explored by the SG, the SG will consider mediation or referral to a policy-level group within the SG in efforts to address unresolved material concerns. If, after all cooperative efforts have been explored and concerns remain that the ORVs are being impaired, the SG may by a 5/6 vote of the SG Interest Groups determine that the local process is no longer working and that the SG Plan should be terminated.

II. DESCRIPTION OF ORVs

A. Identification of ORVs.

The BLM and USFS Eligibility Reports identify the following ORVs that are the subject of this Plan:

Segment	Reach	ORVs	Preliminary Classification
Segment 4	Colorado River from top of Gore Canyon to the Pumphouse recreational site (5.36 miles)	Scenic (canyon, cliffs) Recreational (fishing - DOW Wild Trout waters; floatboating - Class V whitewater boating; scenic driving) Geological Wildlife (bald eagle nesting and winter habitat; river otter habitat) Historic (Moffat Rd.; early hydroelectric projects; WWII German POW camp)	Recreational

Segment 5	Colorado River from the Pumphouse Recreational Site down to State Bridge (15.26 miles)	Scenic (Little Gore Canyon & Red Gorge) Recreational (fishing - same as Segment 4; floatboating - Class II/III run; scenic driving) Geological Wildlife (same as above) Historic (early hydroelectric projects; early copper mining; Brass Balls Mine/Cable Rapids Cabin; State Bridge; historic Moffat Road) Paleontological (fossils).	Recreational
Segment 6	Colorado River from State Bridge to Dotsero (18.02 miles)	Scenic Recreational (fishing; floatboating; scenic driving) Wildlife (river otter habitat) Botanical (riparian plant communities)	Recreational
Segment 7	Colorado River from Dotsero to ½ mile east of No Name Creek/ Glenwood Canyon (15.78 miles)	Scenic Recreational (floatboating) Geological	Recreational
USFS Segment 1	Colorado River from National Forest boundary on the east end of Glenwood Canyon to the upstream end of the Shoshone Dam (4 miles)	(same as Segment 7 above)	Recreational
USFS Segment 2	Colorado River from the Shoshone power plant to the National Forest boundary on the west end of Glenwood Canyon (5 miles)	(same as Segment 7 above)	Recreational

B. Nature of and Factors Influencing ORVs.

This Plan aims to monitor and protect all ORVs while focusing on the primary streamflow-influenced ORVs identified in subsection (1) below. The SG Plan's implementation procedures provide a feedback loop to periodically assess and confirm that the management measures under the

Plan, in coordination with the BLM and USFS other land management actions, are protective of all ORVs.

1. The primary streamflow-influenced ORVs are:
    - Recreational Fishing
    - Recreational Floatboating
2. Other streamflow-influenced ORVs are:
    - Wildlife
    - Botanical
    - Scenic
3. Additional ORVs are:
    - Geological
    - Historical
    - Paleontological

C. <u>Context of ORVs - Existing Conditions</u>.

1. Existing Flow Conditions

Figure 1 (see Attachment C) shows the range of historical streamflows at the Colorado River near Kremmling stream gage (USGS #9058000) for the period 1983 – 2006. This period of record generally represents the level of flows in existence at the time that BLM and USFS identified the ORVs. The streamflows shown in Figure 1 will be used to inform discussions of the SG under Sections III and IV.

Figure 2 (see Attachment C) shows the range of historical streamflows at the Colorado River near Dotsero stream gage (USGS #9070500) for the period 1983 – 2006. This period of record generally represents the level of flows in existence at the time that BLM and USFS identified the ORVs. The streamflows shown in Figure 2 will be used to inform discussions of the SG under Sections III and IV.

Figure 3 (see Attachment C) compares the median annual flow at Kremmling for the periods 1904 – 1918 (pre-Moffat and C-BT systems) and 1962 – 1984 (pre-1984 Operating Rules for Green Mountain Reservoir and pre-Windy Gap) and 1985 – 2006 (post-Windy Gap).

2. Existing Temperature Conditions

At the 2010 Rulemaking on 5 CCR 1002-93, the State of Colorado determined that existing conditions for stream temperature in the reach of the Colorado River that comprises Segments 4 through 7 meet current Daily Maximum (DM) and Maximum Weekly Average Temperature (MWAT) stream temperature standards. See Provisional Period Monitoring Plan Exhibit 1 (Attachment D).

3. Existing Water Quality Conditions

In 2008, the State of Colorado determined that existing water quality conditions for the reach of the Colorado River that comprises Segments 4 through 7 meet current water quality standards for the protection of recreation and aquatic life. See Provisional Period Monitoring Plan Exhibit 1 (Attachment D).

III. ORV INDICATORS AND RESOURCE GUIDES

A. Definition and Use of ORV Indicators and Resource Guides.

This Plan aims at monitoring and protecting the ORVs using two distinct tools – "ORV Indicators" and "Resource Guides" – as follows:

1. ORV Indicators

In the first 3-to-5 years of implementation of this Plan, the Stakeholder Group will gather necessary data and develop specific indicators which will be used to gage whether the ORVs are being protected. These indicators are referred to in the Plan as "ORV Indicators." Failure to meet the criteria related to the provisional or final ORV Indicators would be cause for elevation and potential termination of this Plan pursuant to Section IV.C.-D. and VI.J.

2. Resource Guides

Streamflow-influenced ORVs may be affected by factors such as flows, temperature and water quality. This Plan establishes ranges for these factors, referred to as "Resource Guides," which are described in Part III of the Plan. Not all stakeholders endorse these Resource Guides or believe that the ranges they represent are necessary to support the ORVs. Nevertheless, the SG has negotiated the provisional Resource Guides as one source of information among others for informing SG discussions under the

Plan. The Resource Guides are not intended to be used as a test for Plan success, nor for use by permitting agencies or entities as the criterion for evaluating a project's effects on the ORVs. However, nothing in the Plan shall preclude or limit the use of any data regardless of whether such data has been used in the negotiation of the Resource Guides.[3]

B. Establishment of Provisional ORV Indicators.

Until such time as final ORV Indicators are developed, the Plan will use the following provisional ORV Indicators:

1. *RECREATIONAL FISHING* (Segments 4 through 6):

Recreational Fishing ORV Indicators for the Upper Colorado River from Gore Canyon to Red Dirt Creek.[4]

Type	Name	Current level (if available)
Fishery[5]	Quality Trout	24 fish over 14" per acre
Fishery[3]	Biomass	90 pounds/acre
Fishery[3]	Species Diversity (SD)	14 species of fish
Recreational Fishing[6]	Total Fishing Effort (TFE)	TBD
Recreational Fishing[4]	Catch/Unit Effort (CPUE)	TBD

The Stakeholder Group currently has insufficient information to describe the range and variability of the provisional recreational fishing ORV Indicators over time. The SG will monitor available information during the provisional period to evaluate, and revise if necessary, the provisional ORV

[3] For further information regarding Resource Guides and their use, see Section VII.B.3. of this Plan.

[4] Existing Colorado Division of Wildlife (CDOW) fishery data suggests that the quality of the recreational coldwater fishery in the reach of the Colorado River downstream of its confluence with Red Dirt Creek may not be as high as in the reach above. The provisional ORV Indicators will apply to that portion of Segment 6 upstream of the Colorado River's confluence with Red Dirt Creek. During the provisional period, the SG will gather data, as appropriate, and evaluate whether there is a need to develop specific ORV Indicators for the lower portion of Segment 6.

[5] Note: These Provisional ORV Indicators were developed using levels of Quality Trout, Biomass, and SD collected by Colorado Division of Wildlife (CDOW) personnel in 2008. Data collected by DCOW personnel in 2010 yielded 46 trout per acre 14" or larger, with a total biomass of 121 pounds per acre. The CDOW plans to collect additional fishery data within BLM Segment 5 every other year.

[6] Note: A creel census will be required to quantify TFE and CPUE. The current estimated annual cost of the creel census will be approximately $25,000. CDOW has no current plans to conduct a creel census within BLM Segments 4, 5, or 6 of the Colorado River; therefore, this cost, and supervision of the creel census, will likely be the responsibility of the Stakeholder Group.

Indicators above as described in the Monitoring Plan, Part V. During the provisional period, the SG will evaluate any instance where the individual ORV Indicator values for recreational fishing shown in Table III.B.1 are not met in a given year. In the event that subsequent data for such instances does not exhibit an improving trend toward meeting the provisional Indicator values in each subsequent year, the SG may invoke the SG elevation procedures in Section VI.J.4 of the Plan. It is recognized that the ORV Indicators for total fishing effort and catch/unit effort are not yet determined and that this is needed for a better understanding of the status of the recreational fishing ORV.

2. RECREATIONAL FLOATBOATING (Segments 4 through 7*):*

Narrative standard: Protect the existing range and quality of the outstanding floatboating opportunities.[7] This narrative standard does not imply mirroring any specific hydrology.

C. Establishment of Provisional Resource Guides.

Factors which may influence or affect the condition of the primary streamflow-influenced ORVs include flow levels, temperature, and water quality. Provisional Resource Guides[8] are established for each of these factors as part of this Plan. These guides are subject to the qualifications on their use described in Section III.A.2. and Section VII.B.3. of this Plan.

[7] The intent of the SG is to develop and incorporate objective criteria into the final recreational floatboating ORV Indicator.

[8] These provisional Resource Guides have been negotiated and are the result of compromise among the SG participants to inform SG discussions during the first 3-to-5 years of Plan implementation and may be replaced by final Guides that will be developed as a result of monitoring and data collection under the Plan.

1. *RECREATIONAL FISHING* (Segments 4 through 6):

a. Seasonal flows:

Season	Number of Days in Season	Month	Seasonal Fish Flow Range and Midpoint (cfs)
1	91	April	800-1000 900 midpoint
		May	
		June	
2	92	July	600-1000 800 midpoint
		August	
		September	
3	61	October	400-800 600 midpoint
		November	
4	122	December	400-600 500 midpoint
		January	
		February	
		March	

The provisional Resource Guides contained in the Table above represent the seasonal ranges of flow for the recreational fishing ORV. The SG will use the mid-point value as a reference flow and compare it to the 5-year rolling average under each season for purposes of discussion under the Plan.[9] Analysis of both historical and modeled future flow data shows that flow conditions in Segments 4, 5, and 6 can be expected to continue to be highly variable and that flow levels will sometimes lie above or below the ranges of the seasonal flow guides. While this could be addressed through the use of criteria addressing a specified frequency of meeting these guides, such implementation criteria has not been established for purposes of the Plan. The SG may develop such criteria in the future, but the Plan is designed to operate in the absence of such criteria.

b. Flushing flows: The SG has not achieved consensus on a definition or amount of a flushing flow in Segments 4, 5 and 6 but will continue to work toward consensus during the provisional period. For purposes of the provisional period,

[9] For the provisional period, the 5-year rolling average will include the data from the previous 4 years.

the SG has negotiated the following provisional Resource Guide for a periodic high flow[10]:

> A daily average flow of at least 2,000 cfs maintained for three consecutive days with a frequency of occurrence of once in two years on average.

During the provisional period, the SG will monitor substrate, stream flows and other conditions in Segments 4, 5 and 6 to evaluate the adequacy of this provisional Resource Guide. The SG acknowledges there are achievability issues regarding the frequency of occurrence of periodic high flows during the historical period and under modeled future stream flow conditions. Under these circumstances the SG will explore voluntary cooperative efforts to protect the fishing ORV.

c. Channel maintenance flows: During the provisional period, the SG agrees to study the extent to which channel maintenance flow guides will be incorporated in the Plan. Discussions during the provisional period may result in the decision that no channel maintenance flow guides will be included in the Plan.

2. *RECREATIONAL FLOATBOATING:*

The Stakeholder Group will develop final flow guides protective of the recreational floatboating ORV as soon as possible but in no event later than 3 years after approval of this Plan by BLM and USFS, absent extension of such time period by action of the Stakeholder Group. In the interim, this Plan adopts the following numeric and narrative criteria as provisional recreational floatboating flow guides. The numeric criteria describe the number of boatable days ("Usable Days") within the recreational floatboating season of April 1 to September 30, expressed as a range from minimum to median and maximum under each floatboating experience category and year type.

a. Segments 4 through 6

For purposes of this provisional flow guide for Segments 4, 5, and 6, flows between 700 cfs and 1300 cfs are presumed to provide a low water experience ("Green"); flows between

[10] The SG believes that this periodic high flow should mobilize substrate in riffle areas in segments 4 and 5, and also in segment 6 with consideration of tributary inflow.

1300 cfs and 4000 cfs are presumed to provide a standard experience ("Blue"); and flows above 4000 cfs are presumed to provide a high water experience ("Black"). Flows through Segments 4, 5, and 6 less than 700 cfs or more than 7400 cfs are not considered by some stakeholders in the Stakeholder Group to provide Usable Days under these provisional flow guides, and therefore are not counted.

The following chart reflects the water year type, total median Usable Days, and the range of Usable Days within each floatboating experience category that will serve as the provisional flow guides.

Number of Usable Days: Segments 4 through 6 [*minimum (median) maximum*]

	Total Usable Days	Green Opportunities 700 – 1300 cfs	Blue Opportunities 1300 – 4000 cfs	Black Opportunities 4000 – 7400 cfs
Wettest 25% Years	115 (161) 180	38 (74) 121	39 (72) 79	4 (22) 28
Wet Typical 25% Years	120 (153) 169	68 (108) 119	19 (57) 79	0 (0) 5
Dry Typical 25% Years	74 (115) 141	69 (106) 127	0 (14) 33	0 (0) 0
Driest 25% Years	62 (80) 96	53 (73) 87	0 (1) 25	0 (0) 0

Definition of Year Types: *[Hydrology Workgroup is completing this section – see Attachment B, paragraph 1.b.]*

Year Type	**Annual Kremmling Gage Flows**
Wettest 25% Year	
Wet Typical Year	
Dry Typical Year	
Driest 25% Year	

The numeric criteria shown in the above chart are based on simulated future streamflow conditions modeled by imposing future demands and system operations on past undepleted stream flow (simulated future flows) instead of existing streamflow conditions. It is recognized, based on an analysis of both historical and modeled future flow data, that flow conditions can be expected to continue to be highly variable and that flow levels will at times lie outside the ranges of

these guides. While this could be addressed through the use of criteria addressing a specified frequency of meeting these guides, such implementation criteria has not been established for purposes of the Plan. The SG may develop such criteria in the future, but the Plan is designed to operate in the absence of such criteria.

Some stakeholders (including those representing the floatboating recreation community) maintain that the use of simulated future flows for the provisional flow guides is not protective of the ORVs. The entire Stakeholder Group agrees to implement the Cooperative Measures process (considering available resources and protection of the other ORVs) in efforts to increase the number of Usable Days for each floatboating experience category, within each year type.

It is anticipated that stakeholders will bring their specific preferences and goals to the Cooperative Measures planning process and to the negotiation of final recreational floatboating flow guides. The use of simulated future flows as part of these provisional flow guides does not reflect agreement among the stakeholders whether simulated future flows or historical stream flows should be used to develop the final flow guides (even if Section III.C.2.c. of this Plan is not exercised). Nothing in these provisional flow guides implies agreement by the stakeholders on use of the Usable Day concept, floatboating experience categories, nor year types for purposes of development of final flow guides.

b. Segment 7

The following chart presents the year type, total Usable Days (i.e., the total number of days between April 1 and September 30 when the flow at the Dotsero gage is between 1,200 to 8,600 cfs), and the range of Usable Days within each floatboating experience category that will serve as the provisional Resource Guides for Segment 7.

Number of Usable Days: Segment 7 [*minimum (median) maximum*]

Year Type	Total Usable Days	Green Opportunities 1200/1250[11] - 1800 cfs	Blue Opportunities 1800 - 5500 cfs	Black Opportunities 5500-8600 cfs
Wettest 25% Years	120 (156) 169	33 (57) 83	49 (68) 77	21 (29) 42
Wet Typical 25% Years	126 (164) 172	44 (68) 102	39 (75) 110	1 (13) 33
Dry Typical 25% Years	138 (161) 178	75 (86) 121	40 (61) 91	0 (2) 11
Driest 25% Years	136 (159) 177	88 (126) 137	10 (32) 63	0 (0) 6

Definition of Year Types: *[Hydrology Workgroup is completing this section – see Attachment B, paragraph 1.b.]*

Year Type	**Annual Dotsero Gage Flows**
Wettest 25% Year	
Wet Typical Year	
Dry Typical Year	
Driest 25% Year	

It is recognized, based on an analysis of both historical and modeled future flow data, that flow conditions can be expected to continue to be highly variable and that flow levels will at times lie outside the ranges of these guides. While this could be addressed through the use of criteria addressing a specified frequency of meeting these guides, such implementation criteria has not been established for purposes of the Plan. The SG may develop such criteria in

[11] The stakeholders do not agree on the specific flow rate for the Green floatboating category; however, during the provisional period, the number of usable days in the Green floatboating category will be based on a flow rate of 1200 – 1800 cfs. The Stakeholder Group agrees that nothing in these provisional Resource Guides has any effect on the operation of the Shoshone Hydro Power Plant or the water rights for the Shoshone Hydro Power Plant. Moreover, nothing in this SG Plan shall be interpreted as a waiver of any party's position with respect to the appropriate flow rate for the Green floatboating category, or on any existing or future agreements regarding the operation of the Shoshone Hydro Power Plant and its associated water rights.

the future, but the Plan is designed to operate in the absence of such criteria.

c. Poison Pill. It is recognized that the SG does not currently have the information it needs to set final floatboating flow guides at this time and that the setting of those guides will be informed by information about the resource and water uses. The provisional floatboating flow guides, as set forth in Paragraph III.C.2. of the Plan, were negotiated using historical data and an assumed future hydrology. Some stakeholders have expressed serious concern with such an approach because they maintain that it will result in a reduction of usable floatboating days from what occurs under existing hydrology. However, these stakeholders have agreed to include the provisional floatboating flow guides in the Plan, subject to the negotiation of protective measures within the context of the permitting for the Windy Gap Firming Project and the Moffat Collection System Project ("Projects") that will address consistency of the Projects with the streamflow-influenced ORVs. If the outcome of those negotiations or final permitting precludes continued support of the Plan by any stakeholder (including a Project proponent), that stakeholder shall provide written notification of such position to the SG and the SG will withdraw the Plan from consideration by BLM and USFS as a locally supported Wild and Scenic management plan alternative. To clarify, the net effect of such withdrawal will be that the BLM and USFS will be left to determine the appropriate Wild and Scenic determinations and protective measures for Segments 4, 5, 6 and 7, if any, without taking into account the SG Plan alternative. Written notification to the SG by the objecting stakeholder must occur no later than six (6) months after the issuance of required permits for the Windy Gap Firming Project[12] and the Moffat System Improvement Project[13], at which time the SG will convene a

[12] The anticipated permits and approvals for the Windy Gap Firming Project are: a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers; special use permit or license, and revised amendatory carriage contract, from U.S. Bureau of Reclamation; 401 certification from the Colorado Water Quality Control Division; state fish and wildlife mitigation plan; and, without waiving any party's rights, Grand County 1041 and special use permit amendments, if such are required. The requirements of NEPA, FWCA and ESA would be addressed as part of the above federal permits.

[13] The anticipated permits for the Moffat System Improvement Project are: a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers; license amendment by FERC; Section (4) conditions and special use permit from the U.S. Forest Service; 401 certification from the Colorado Water Quality Control Division; and Boulder County 1041 permit, if one is required.

special meeting. Notification of Plan withdrawal to BLM and USFS must occur within 60 days after notification to the SG, unless a longer time period is agreed to by the SG.

The SG agrees that if, upon the deadlines set forth above, the Plan is not withdrawn: (1) protection measures established through negotiations or permitting provide the means for the Windy Gap Firming Project and the Moffat System Improvement Project to be operated in a manner consistent with protection of the ORVs; (2) the Projects will not be subject to the requirements of Part VII (New Projects); (3) the Projects will fall under IV.D.2. of the Plan; and (4) the Plan may not be withdrawn pursuant to the withdrawal provisions of this section III.C.2.c.

3. *WATER QUALITY* (Segments 4 through 7):

The Resource Guides for water quality are the Colorado Department of Public Health and Environment (CDPHE) water quality standards for cold water aquatic life and recreation uses for the portion of the stream segment that CDPHE has designated COUCUC03 (Mainstem of the Colorado River from the outlet of Granby Reservoir to the confluence with the Roaring Fork River) that is within Wild and Scenic Segments 4 through 7.[14]

4. *TEMPERATURE* (Segments 4 through 7):

The Resource Guides for temperature are the CDPHE stream temperature water quality standards for Daily Maximum (DM) and Maximum Weekly Average Temperature (MWAT) for the portion of the stream segment that CDPHE has designated COUCUC03 (Mainstem of the Colorado River from the outlet of Granby Reservoir to the confluence with the Roaring Fork River) that is within Wild and Scenic Segments 4 through 7.[15]

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[14] 40 C.F.R. 131.20 provides that each State must specify appropriate water uses to be achieved and protected. The classification of the waters must take into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agricultural, industrial, and other purposes including navigation. In no case shall a State adopt waste transport or waste assimilation as a designated use for any waters of the United States.

[15] 40 C.F.R. 131.20 provides that each State must specify appropriate water uses to be achieved and protected. The classification of the waters must take into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agricultural, industrial, and other purposes including navigation. In no case shall a State adopt waste transport or waste assimilation as a designated use for any waters of the United States.

D. Refinement of Provisional Resource Guides.

The provisional Resource Guides will be evaluated and may be adjusted as a result of defined data collection, monitoring efforts, and technical review as part of the 3-to-5 year study effort described in the Monitoring Plan in Part V. It is anticipated that information such as that developed in Phase 3 of the Grand County Stream Management Plan, CDOW studies to develop a proposed ISF, and estimations of future water availability by stakeholders, etc. will be used to help finalize these Resource Guides during this period.

At the end of the provisional period: (1) final Resource Guides will be adopted by unanimous consent; or (2) absent unanimous consent, the provisional guides would persist until such time as they are changed/finalized in the future by unanimous consent; or (3) if an Interest Group withdraws, the then existing guides would become permanently fixed for purposes of continuation of the Plan (pursuant to Section VI.K.).

E. Existing Water Rights.

The SG members recognize that existing water rights, including absolute and decreed conditional water rights in existence as of the date of adoption of the Plan (existing water rights), have been exercised or may be exercised in the Colorado River basin in the future at times when the river flows in Segments 4 through 7 are both inside and outside the flow guide ranges. The SG members agree that the flow guides herein have been negotiated as one source of information among others for informing SG discussions under the Plan, but the implementation of the Plan shall not affect the legal operation of water rights pursuant to state law. Nothing in the Plan shall be deemed or construed to create any obligation on any SG member to operate facilities or exercise water rights in any particular manner. However, nothing herein shall be interpreted to override the provisions of Section VII regarding the opt-in of new projects. Likewise nothing in the Plan shall be deemed or construed to preclude any SG member from participating in any water rights litigation.

F. Eagle River MOU Project.

The 1997 Eagle River MOU between the Cities of Aurora and Colorado Springs, the Colorado River Water Conservation District, the Vail Consortium consisting of the Eagle River Water and Sanitation District, Upper Eagle Regional Water Authority, and Vail Associates, Inc. ("Vail Consortium"), and Cyprus Climax Metals Co., provides for the development of the Eagle River MOU Joint Use Water Project (ERMOU

Project) as a phased joint-use project to provide water supply for East Slope and West Slope water users. The ERMOU Project has been cooperatively configured to avoid or minimize environmental concerns and will be constructed as an alternative to the federally permitted Homestake II Project. Successful implementation of the ERMOU Project is important to meet the current and future water needs of both East Slope and West Slope ERMOU parties.

The SG has discussed how to address the ERMOU Project in the SG Plan. Consistent with the intent of the SG to develop a Plan to balance the permanent protection of the ORVs, certainty for the stakeholders, water project yield, and flexibility for water users, the ERMOU Project is recognized in the SG Plan.

Aurora, Colorado Springs, the Eagle Park Reservoir Company, and the Vail Consortium support the SG Plan as the preferred management plan alternative and will continue to participate in good faith in the SG subject to the following:

1. The Guiding Principles shall continue to guide the development and implementation of the SG Plan;

2. The SG supports the neutral deferral of a suitability determination by the BLM and USFS in accordance with the Guiding Principles;

3. The modeling or other assumptions underlying the Segment 7 Resource guides or other implementing documents for the SG Plan will incorporate the depletions from the ERMOU Project, which will not exceed an annual average of 30,000 acre feet;

4. During the provisional period, the SG will continue to evaluate voluntary “cooperative measures” that could be implemented for Segment 7, and will consider in good faith how such cooperative measures are consistent with the ORV protection goals of the SG Plan; and

5. During the provisional period, the SG will continue to evaluate the effects of completion of the MOU Project within Segment 7, and will consider in good faith whether such effects advance the ORV protection goals of the SG Plan.

IV. MEASURES TO ENSURE PROTECTION OF ORVs

This Plan adopts the following tiered system for implementation of management measures for the protection of the ORVs.

Tier 1 Implementation of Long-Term Measures. These measures, described in Section IV.A. below, are supported by the Stakeholder Group and will be pursued pursuant to identified Milestones in Attachment A to this Plan.

Tier 2 Implementation of additional Cooperative Measures. These will complement the Tier 1 measures. These may serve to maintain or enhance the ORVs, assist in achieving provisional or final Resource Guides, and/or address a Material Change in Circumstances. Section IV.B. of this Plan mandates a specific process to ensure timely and periodic consideration of data pertaining to the ORV Indicators and Resource Guides and to assess the need and available opportunities for implementing additional measures.

Tier 3 SG Elevation Process. This Plan incorporates an elevation and evaluation process by the Stakeholder Group for purposes of addressing unresolved concerns of SG members material to implementation of the Plan or the status of the ORVs. That elevation process is summarized in Section IV.C. below.

Tier 4 Termination of Plan. The Plan provides that the SG may terminate this Plan in accordance with Section VI.J.4. subsequent to completion of the dispute resolution procedures specified in that section.

A. **Tier 1** Long-Term Protection Measures.

These are measures that are expected to provide significant protection of the ORVs, unless a Material Change in Circumstances occurs.

The long-term protective measures are summarized below. The long-term protective measures will be pursued in accordance with the Milestones in Attachment A.

1. *Appropriation of CWCB instream flow right*: The Stakeholder Group has expressed support for a CWCB ISF water right or water rights for base flows in the subject stream segments. An ISF water right can protect stream flows between two points on a stream from future water rights appropriations in accordance with the State's

prior appropriation system. ISF water rights are held exclusively by the CWCB for minimum stream flows to preserve the natural environment to a reasonable degree, and are adjudicated and administered within the State's water right priority system.

2. *Delivery of water to a downstream demand*: Water released from storage or otherwise made available from upstream sources can be delivered to downstream demands. Such deliveries can be "shepherded" (i.e., protected) through the subject stream segments. A primary example is the release of water from Green Mountain Reservoir pursuant to the 1984 Green Mountain Reservoir Operating Policy for delivery to irrigation demands in the Grand Valley near Grand Junction.

3. *Existing senior water rights*: The Shoshone and Cameo groups of senior water rights generally control the administrative call within the Colorado River Basin. These water rights are located downstream of the subject stream reaches; therefore, an administrative call during dry or average conditions by these water rights can curtail diversions from upstream junior water rights or require the release of water from storage to replace those junior diversions. This administrative call generally results in stream flow through the subject stream segments in amounts greater than would exist in the absence of the administrative call.

4. *Upper Colorado River Endangered Species Program*: This is an existing mechanism by which water is released or bypassed from upstream reservoirs for the benefit of the endangered fish species in the Grand Valley on a temporary basis. The water deliveries are protected through the subject stream segments downstream through the 15-Mile Reach of the Colorado River. During peak runoff, bypasses from upstream reservoirs can provide peak flushing flows through the subject stream segments. During dry periods in late summer or early fall, releases from upstream storage to supplement low flows in the 15-Mile Reach can significantly supplement flows in the subject stream segments.

<u>Material Change in Circumstances</u>: The Plan includes mechanisms to address a Material Change in Circumstances that could impact the effectiveness of these long-term measures in protecting the ORVs. These are included as part of the detailed Milestones in Part II of Attachment A to this Plan.

B. **Tier 2** Cooperative Measures.

As a complement to the Long-Term Protection Measures, the following voluntary Cooperative Measures strategies will be implemented under the terms of this Plan.

1. The Stakeholder Group commits to rigorously explore potential Cooperative Measures that would achieve provisional or final ORV Indicators and/or Resource Guides pursuant to the procedures specified in this Section.

2. Cooperative Measures will take into account the nature of the hydrologic year (i.e., dry, average or wet) as defined pursuant to Part II of this Plan. SG discussions shall also be informed by and take into consideration other factors, including external conditions such as those related to any extended drought, fire, climate change, or other conditions outside the control of the Plan.

3. The Stakeholder Group or a subcommittee appointed by the SG will meet quarterly, or more frequently as determined necessary, to assure a timely and periodic assessment of the need for, focus of, and available opportunities for implementation of these Cooperative Measures. A record will be kept of the concepts discussed at these meetings. Progress in implementing Cooperative Measures shall be an agenda item on the meetings of the Stakeholder Group.

4. It is recognized that the availability of certain Cooperative Measures will be opportunistic in nature, and that certain measures may be implemented without full coordination of the Stakeholder Group. In that event, they shall be reported on at the next ensuing meeting of the Stakeholder Group or its subcommittee.

5. Cooperative Measures will respect the priority system and the operations of water right holders, and will take into account impacts of implementation of the Cooperative Measures on other segments of the Colorado River and its tributaries. It is understood that under the SG Plan, Cooperative Measures that would impair water providers' ability to meet their water supply commitments will not be undertaken, in accordance with the Guiding Principles.

6. It is recognized that it may not be possible to implement Cooperative Measures in every year.

7. Possible Cooperative Measures may include but are not necessarily limited to:

a. *Acquisition of water rights for ISF purposes*.

The CWCB could enter into an agreement with a water user under which it would acquire water, water rights or an interest in water to use to preserve or improve the natural environment to a reasonable degree through the reaches of the river subject to this Plan. The CWCB could explore the potential for securing instream flows for large seasonal or flushing flows under its acquisition authority. Depending on the conditions of the agreement, such acquisition could result in long-term protection of flows in higher amounts than the new ISF appropriation made under Section IV.A.1. The SG and the CWCB are continuing to explore options for protection of flows pursuant to such voluntary arrangements. Because attempting to decree an ISF water right for higher flows could slow down the new ISF water right appropriation process pursuant to Section IV.A.1., the protection of higher flows could be achieved via a water acquisition implemented through a separate water right decree.

b. *Strategic timing of reservoir releases to meet winter storage elevations*.

Several major reservoirs upstream of the stream segments have winter season storage target levels that require the release of previously stored water in anticipation of spring runoff. The coordinated timing/scheduling of late summer and early fall reservoir releases to meet annual reservoir target elevations can help to satisfy late season flow demands. Such measures would take into account needs and effects during other seasons.

c. *Storage and subsequent release of historical consumptive use and return flows*.

The Stakeholder Group will not encourage the dry-up of agricultural land. However, as development occurs in the area, some agricultural land and associated water rights will be taken out of production. On an “if and when/excess capacity” basis, the historical

consumptive use and, in some cases, the historical return flow of the water rights can be placed into storage in upstream reservoirs for later release for a variety of purposes (both consumptive and non-consumptive). The timing of such releases may benefit the ORVs. Potential examples of such arrangements include the Red Top Valley Ditch, the Vail Ditch, and the Moser/Water Trust transaction.

d. *Use of Windy Gap system*.

Depending on the hydrology, operations, agreements, and other circumstances, the Municipal Subdistrict may be able to allow the use of excess capacity in the Windy Gap system for the diversion and storage of water for the benefit of the ORVs. For example, favorable circumstances existed in 2008 through 2010 which allowed Grand County to reimburse the Municipal Subdistrict for the pumping costs to pump as much as 5,000 acre feet of Windy Gap water into Granby Reservoir. Pursuant to contract, the Windy Gap water was then released downstream between August and October for consumptive uses in the Grand Valley, benefitting in-channel resources enroute.

e. *Spring peak enhancement*.

Spring flushing flows could be enhanced through the coordinated bypass of reservoir inflow during the spring runoff. Close coordination and cooperation with the State Engineer's Office to protect the annual fill of reservoirs would help to implement this strategy.

f. *Cooperative flow management*.

Voluntary flow management programs provide a water management tool that can be used for maintaining and enhancing flow-related values within a given stream reach, while meeting downstream demands such as those for the endangered fish species, through the collaborative operation of water facilities and other cooperative efforts.

g. *Water Rights Acquisition.*

The SG could explore opportunities to acquire water rights for the purpose of maintaining and enhancing flow-related values in Segments 4 through 7, provided any acquisition is on a willing seller/willing buyer basis and the SG agrees to not encourage dry-up of agricultural lands.

C. **Tier 3** Stakeholder Group Elevation Process.

Any stakeholder may elevate an issue to the Stakeholder Group for purposes of addressing unresolved concerns material to implementation of the Plan or to the status of the ORVs. Prior to elevation, that concern shall be summarized in writing, together with an explanation of any "competing views" on the issue and the efforts to date to resolve the matter. Data pertinent to the Stakeholder Group's deliberations shall be summarized or compiled. Elevation shall be triggered by submitting a written request, accompanied by the above materials, for the Stakeholder Group to convene a meeting (or add an agenda item to a previously set meeting). The Stakeholder Group shall address such issue in accordance with its Governance protocols in Part VI.

D. **Tier 4** Plan Termination.

1. The SG may terminate this Plan pursuant to Section VI.J. following completion of the non-binding dispute resolution procedures specified in that section. Formal notification of such termination will be provided to BLM and USFS which details the issues, relevant data, and steps undertaken in efforts to address the concerns which led to termination of the Plan.

2. It is the intent of this Plan that termination of the Plan or any modification of the Plan by BLM and/or USFS would not by itself constitute grounds for reopening of federal authorizations or funding for new projects predating BLM and USFS approval of this Plan, or for reopening of federal authorizations or funding for other projects that include and are in compliance with terms, conditions or mitigation measures protective of the ORVs independent from the operation of the Plan.

V. MONITORING PLAN

A. Monitoring Plan.

The purpose of this Monitoring Plan is to establish a protocol to monitor ORV Indicators and Resource Guides to assist in implementation of the SG Plan. The Provisional Period Monitoring Plan is provided in Attachment D. Data and information generated from this Provisional Period Monitoring Plan will be used in the following manner:

1. *Provisional Period Monitoring Plan*: During the 3-to-5 year provisional period, participants will collect and analyze data specified in the Monitoring Plan to monitor, evaluate, and revise if necessary the provisional ORV Indicators and Resource Guides to assist in implementation of the SG Plan. Data gathered during the provisional period will also help characterize existing conditions for many parameters.

2. *Long-Term Monitoring Plan*: The SG will use the results from the Provisional Period Monitoring Plan to develop final ORV Indicators and Resource Guides. The Provisional Period Monitoring Plan will be revised, if necessary, to prescribe monitoring measures for the ORV Indicators and Resource Guides under the Long-Term Monitoring Plan to assist in implementation of the Plan.

3. *Reporting*: The Stakeholder Group will gather the data prescribed in the Monitoring Plan and prepare an annual Monitoring Report for the Stakeholder Group (including the BLM and the USFS).

4. *Funding*: Funding needed for the Monitoring Plan, including data gathering and analysis, will be provided through the Stakeholder Group's funding mechanisms provided in Part VIII.

B. Provisional Monitoring Parameters.

ORV INDICATORS	ORV RESOURCE GUIDES
Recreational Fishing:	**Recreational Fishing**:
- Quality Trout	- Flow guides
- Biomass	- Flushing Flow
- Species Diversity	
- Total Fishing Effort	
- Catch/Unit Effort	**Recreational Floatboating**:
	- Usable Days
Recreational Floatboating:	
- Narrative during provisional period	**Water Quality:**
	- CDPHE existing water quality standards for cold water aquatic life and recreation uses
	Temperature:
	- CDPHE existing water quality standards for temperature

VI. GOVERNANCE

During the provisional period, the stakeholders will develop either (a) a comprehensive Memorandum of Understanding among the participating stakeholders (or other form of agreement); (b) a formal legal entity (e.g., corporation, joint venture, partnership, etc.); or (c) both, that will govern the overall administration of the Plan.

A. Governance Committee. The SG will conduct its business and make decisions through the SG Governance Committee (GC).

B. Non-Delegable Responsibilities. It is recognized that the signatories to this Plan may have statutory or other organizationally established responsibilities that cannot be delegated. This cooperative Plan is not intended to abrogate any signatory's non-delegable responsibilities.

C. Purposes of the GC. The purposes of the GC include, but are not necessarily limited to, the following:

1. Implement the Plan.
2. Make management decisions under the Plan.
3. Conduct annual reporting to the BLM and USFS.
4. Finalize ORV Indicators and Resource Guides.
5. Make financial decisions.
6. Establish rules and bylaws.
7. Hold meetings open to the public.
8. Seek funding.

9. Coordinate with other entities gathering data, studies, information, or conducting cooperative efforts.
10. Elect officers.
11. Establish committees.
12. Approve budgets and expenses.
13. Conduct monitoring and research efforts.
14. Review ORV Indicators and Resource Guides.
15. Evaluate protection of ORVs in accordance with the Plan.
16. Coordinate with water users to recommend and learn about cooperative efforts to include in annual report.
17. Recommend and fund efforts to protect and enhance ORVs.
18. Evaluate whether Material Changes in Circumstances exist as defined under the Plan and recommend strategies to address Material Changes in Circumstances.
19. Discuss new projects and new members.
20. Amend the Plan, as necessary, pursuant to procedures under the Plan.
21. Pursue agreements with state and federal entities to further goals of the Plan.

D. Representation. The GC should reflect a fair representation of different interests and expertise.

1. Voting Committee Members. There shall be a total of six Interest Groups consisting of three GC members from each Interest Group. The Interest Groups[16] shall consist of the following:

    a. West Slope Water Conservancy/Conservation Districts and Landowners/Water Users.
    b. Local Government.
    c. Trans-Mountain Diverters.
    d. Conservation/Environmental/Fishing.
    e. Recreational Floatboating.
    f. State Interests (e.g., CWCB, CDOW, and State or Division Engineer).

2. Ex Officio members. The SG requests that BLM and USFS personnel serve as *ex officio* non-voting members of the GC.
3. Charter/Protocol. Each Interest Group will establish a "charter/protocol" that sets forth the process and procedure for inclusion in the Interest Group and for the selection of its representatives. The protocols for Interest Groups 1.d and 1.e

[16] It is anticipated that the Eagle River entities (Vail Associates, Inc., Upper Eagle Regional Water Authority, Eagle River Water and Sanitation District, and Eagle Park Reservoir Company) will be included within Interest Group category 1.a or 1.b above.

above shall include a procedure for designating the representative to the Review Committee for those two Interest Groups pursuant to Section VI.J.4.b.

4. Alternates. For each primary representative chosen, an alternate will also be designated to cover the contingency that the primary representative may not be available. In the absence of the primary representative, the alternate will have full GC Voting Committee member status.
5. Terms. For initial appointments, each Interest Group will appoint one GC member to a one-year term, the second to a two-year term, and the third to a three-year term. Subsequent terms for each appointment will be for full three-year terms.
6. Replacement. A GC member or alternate may be replaced by the respective Interest Group in accordance with its charter/protocol.
7. Indemnity – TBD prior to effective date of Plan.
8. Officers. The GC will appoint a Chair and Vice-Chair, who shall serve in the Chair's absence, for the purpose of organizing and supervising meetings. The GC shall appoint a Secretary, who need not be a member of the GC, to prepare minutes and to maintain the official records for the GC. Officers shall serve one-year terms. Officers that are members of the GC shall have full voting rights.

E. <u>Meetings of the GC</u>.

1. *Annual Meeting*. The GC shall have an annual meeting that shall occur in March each year, or as otherwise determined by the GC. The agenda for the annual meeting shall include election of officers, a review of the bylaws, and reports on the status of the SG's annual activities and finances. Written notice of the annual meeting stating the place, day and time of the meeting, along with the meeting agenda, shall be delivered to GC members not less than 14 nor more than 60 days before the date of the annual meeting.

2. *Regular Meetings*. Regular meetings of the GC shall occur at least quarterly, unless otherwise determined by the members. The day, time, and location of the next regular meeting shall be scheduled before the end of the current regular meeting, whenever possible. Written notice of the next regular meeting stating the place, day, and time of the meeting, along with the meeting agenda, shall be delivered to GC members not less than 14 nor more than 30 days before the date of any meeting.

3. *Special Meetings*. Special meetings shall be called as soon as practicable by the Chair upon the request of five or more GC members; provided, however, that if the purpose for calling the

special meeting is to determine whether impairment or a significant risk of impairment exists to the ORVs then (a) the special meeting may be called upon the request of any one GC member, and (b) shall be held no later than 15 days from the initial GC member request. The special meeting request will provide a suggested date, time, and place of meeting, along with a proposed agenda of items to be discussed. Members shall be notified at least four days prior to a special meeting.

4. *Meeting Notice*.

   a. Written notice stating the place, day and time of the meeting along with the meeting agenda shall be delivered either personally, by mail, or by e-mail, at the direction of the Chair, to each GC member (and alternates). Written notice shall be delivered personally or by e-mail for any special meetings that are called.

   b. Notice must be delivered on or before established deadlines contained herein for annual, regular, or special meetings. If mailed, such notice shall be deemed to be delivered as to any GC member (or alternate) after being deposited in the United States mail, addressed to the GC member at its address as it appears on in the records for the GC, with postage thereon prepaid. If e-mailed, such notice shall be deemed delivered as to any GC member (or alternate) on the day of such e-mail transmission. Such electronic transmission may be corroborated by a printout showing the electronic address from which transmitted, the electronic address to which transmitted, the date, and the time of such transmission.

5. *Open Meetings and Public Participation.*

   a. All annual, regular, and special meetings of the GC shall be open to the public. The GC shall maintain an agenda item during each regular or special meeting devoted to written and oral public comment.

   b. Reasonable public notice of the time and place designated for all annual, regular, and special meetings shall be posted in public locations approved by the GC. At a minimum, public notice for regular and special meetings will be posted at approved locations in Grand, Summit, Eagle, and Garfield Counties and via an e-mail distribution list to interested

stakeholders. The GC may also provide public notice for meetings using an approved internet website and/or postings in widely distributed newspapers (e.g., Denver Post, Summit Daily News, etc.). Such notices shall remain posted through the date of the meeting, and shall be changed in the event that the time or place of such regular meetings is changed.

6. *Meeting Location.*

   a. Regular and special meetings shall be held at a time and in a place to be designated by the GC. Meetings will generally be held in Grand, Summit, Eagle, or Garfield Counties. Meeting rooms shall have reasonable teleconferencing capability to meet the participation needs of any GC member.

   b. The GC may approve meetings to be held in other locations, as circumstances warrant, provided that adequate notice is provided to GC members and the public.

7. *Meeting Agenda*.

   a. Agenda Formulation. Agenda items for annual or regular meetings should be submitted to the Chair within a reasonable time prior to the next scheduled meeting.

   b. Amendment of Agenda. The agenda for any meeting may be amended the day of the meeting by the GC through the voting procedures set forth below.

8. *Telephonic/Electronic Participation*. GC members may participate in and hold a meeting by means of conference telephone, video teleconference, webinar, or similar communications equipment. Participation in such a meeting by the methods described above shall constitute attendance and presence in person at such meeting.

F. <u>Quorum Required</u>.

1. All business of the SG shall be conducted at meetings of the GC at which a quorum is present.

2. A quorum consists of at least 12 of the 18 GC members reflecting at least 5 of the 6 Interest Groups.

3. No proxies are allowed.

4. If a quorum is not present at any meeting, the GC members shall continue the meeting to a date and time certain not later than 15 days from the original meeting.

G. SG Decisions Made by Consensus.

1. The preference and goal of the SG is that the GC make consensus decisions based on give and take among members, with each participant:

   a. listening carefully to the views of others;
   b. attempting to verbalize the needs of an Interest Group with which they might disagree; and
   c. proposing solutions and decisions that accommodate all or most of the Interest Groups.

H. Voting.

1. The unanimous consent of all Interest Groups present at a meeting is required for the approval of any measure considered by the GC, except as provided in Paragraph VI.J.4., below. Unanimous consent is the general rule and will be required for, among other things, any amendment to the Plan and any changes to the ORV Indicators and Resource Guides.

2. Each Interest Group receives one vote on each measure.

3. Within the respective Interest Groups, the affirmative vote of those representatives attending the meeting, as set forth in the Table below, is required to approve/disapprove any measure.

VOTING WITHIN INTEREST GROUPS	
Number of Interest Group GC Members Present at Meeting	Affirmative Votes required to pass Measure within Interest Group
3	2 of 3
2	2 of 2
1	1

4. No GC vote can commit the rights, authorities, resources, finances, or operations of any SG member without that member's approval.

5. Votes of the GC shall be recorded by the Secretary in the minutes of the SG, regardless of whether the measure is approved.

Dissenting votes within individual Interest Groups shall be noted in the minutes.

I. Failure to Reach Consensus.

1. Any Interest Group may request that a dissenting Interest Group provide a written summary regarding the disputed issue within 10 days. The written summary shall set forth the issue, explain the competing views, and identify options that may be available to resolve the disagreement.

2. At the request of any Interest Group following provision of a written summary, the GC shall revisit the issue and the specific proposal at the next GC meeting.

3. After the actions in paragraphs VI.I.1. and VI.I.2. are undertaken, and upon the request of any Interest Group, the GC may by unanimous vote determine that the unresolved concern should be addressed in accordance with the provisions of paragraph VI.J.4. below. In evaluating the matter, the GC shall seek and take into consideration the views of the appropriate federal agency(ies) (BLM and/or USFS) through their participation as non-voting members of the SG. The SG deliberations shall also be informed by and take into consideration other relevant factors, including external conditions such as those related to any extended drought, fire, climate change, or other conditions outside the control of the Plan.

4. A written summary on measures that fail to achieve consensus after the actions in paragraphs VI.I.1. and VI.I.2. are undertaken shall be included in the SG's annual report to BLM and USFS. The written summary may include majority and minority reports.

J. GC Consideration of Long-Term Protection Measures, ORV Impairment, Significant Risk of Impairment, and Matters Referred by Consensus.

1. Failure to meet a Milestone.

a. If the CWCB does not file a water court application by the anticipated date in Attachment A, and such failure to file occurs prior to the effective date of the Plan, the stakeholders will follow the procedures in Section 1.G of Attachment B. If the failure to file a water court application should occur after the effective date of the Plan, the GC will discuss the cause of the delay and request that the CWCB file an application for the recommended instream flow as

soon as possible within the next calendar year. In addition, the GC will determine whether the delay in filing an application will result in a material diminution in the amount of water available in priority to the anticipated CWCB instream flow. If it is determined by unanimous consent that a material diminution will exist, the GC will then determine the appropriate management activities to implement to reasonably mitigate the decrease in water available in priority to the instream flow. If the GC is unable to reach consensus on how to address the diminution through management activities, the GC will follow the procedures in Paragraph VI.J.4(4) below.

b. If a final decree for a CWCB instream flow is not entered by the date anticipated in Attachment A, and assuming the Plan is effective,[17] the GC will discuss the cause of the delay. The GC will determine whether the delay causes any material adverse impact to the purpose of the Long-Term Protection Measures. If, by unanimous consent, the GC determines that a material adverse impact is found, the GC will determine the appropriate management activities to reasonably mitigate the material adverse impact. If the GC is unable to reach consensus on how to mitigate the material adverse impact, the GC will follow the Governance procedures in Paragraph VI.J.4(4) below.

2. Material Change in Circumstance.

Any member of the GC may assert a Material Change in Circumstance, as defined in the Definitions Section, in the implementation of one of the Long-Term Protection Measures by submitting a written request for the GC to convene a meeting (or add an agenda item to a previously set meeting) pursuant to the procedures in Section IV.C. of the Plan. The GC will determine whether a Material Change in Circumstances exists. If the GC determines by unanimous consent that a Material Change in Circumstance exists, it will then decide how to address the material change. If the GC is unable to reach consensus on how to address the material change, the GC will follow the procedures in Paragraph VI.J.4(4) below.

[17] The Task List in Attachment B describes the stakeholder response in the event of failure to meet this Milestone prior to the effective date of the Plan.

3. Significant Risk of Impairment.

If, during any meeting called in part for the purpose of determining whether a significant risk of impairment exists (as contemplated in the Definitions Section and Section IV.C. of the Plan), the GC cannot reach unanimous consensus on a determination of that matter, the GC shall immediately follow the procedures set forth in paragraph VI.J.4, below.

4. Procedures for Mediation.

The following actions shall be taken by the GC upon (1) the vote of at least five Interest Groups that there is a significant risk of impairment to an ORV; (2) the data affirmatively demonstrating that an ORV has been impaired by virtue of an ORV Indicator not being met pursuant to the criteria established in the SG Plan, absent a vote of at least five Interest Groups that further action is not warranted at that time; (3) a unanimous consensus decision of the GC made following the procedures contemplated by paragraph VI.I.3, above; or (4) the failure of the GC to reach consensus on how to address a missed Milestone or a Material Change in Circumstance:

a. Absent a unanimous vote to skip mediation, the issue will be referred to a mediator to facilitate consideration of non-binding options toward resolution for a period of 45 days to further efforts to reach consensus on the disputed issue.

b. Within 30 days of the termination of the mediation process (or a unanimous vote to skip the mediation process), the disputed issue will be referred to a Review Committee. The Review Committee will consist of: a member of the Board of Directors of the Colorado River Water Conservation District, a member of the Board of Directors of either NCWCD or DWB, the Director of the Colorado Department of Natural Resources, and a member of the Board of Directors of a conservation or recreation Interest Group member. The Review Committee shall meet to consider the disputed issue and shall provide non-binding guidance to the GC within 15 days of the date of referral.

c. Subsequent to the Review Committee's guidance to the GC, and upon the request of any Interest Group, the GC may terminate the SG's Plan upon the affirmative vote of at least five Interest Groups. Any such GC vote regarding

termination of the SG Plan shall occur no later than 90 days following the meeting referred to in paragraph VI.J.4.b., above. Should the Plan not terminate, the underlying causes for the vote shall be made an agenda item for the next regular or special called meeting, at which time appropriate follow-up actions shall be determined.

d. The GC may agree to shorten or lengthen the timeframes provided above by consensus, upon the good faith request of any GC member. An example of a good faith request may be to allow additional time for the internal study or technical/scientific review of an alleged significant risk or to shorten the applicable timeframes when reasonable evidence exists of an existing or imminent substantial risk to an ORV.

K. Withdrawal from the Plan.

Each stakeholder reserves its right to withdraw from participation in the Plan at any time.

1. Withdrawal Procedure: Before withdrawing from the Plan, a stakeholder or Interest Group shall provide written notice to the Governance Committee, at which time the Committee shall call a special meeting for the purposes of discussing the reasons for withdrawal and potential alternatives.

2. Effect:

a. Withdrawal from the Plan by one Interest Group or individual stakeholder(s) does not terminate the Plan. However, subsequent to any withdrawal, the remaining SG may choose to take action to terminate the Plan.

b. Withdrawal of an Interest Group from the Plan will result in the automatic adoption of the ORV Indicators and Resource Guides in effect at the time of the Interest Group's withdrawal as permanent for purposes of the Plan, unless otherwise agreed to by the withdrawing Interest Group.

c. Following the withdrawal of one Interest Group, Section VI.F.2. of the Plan shall automatically be revised to read as follows: "A quorum consists of at least 10 of the 15 GC members, reflecting all 5 of the Interest Groups." The voting requirements under the Plan shall stay the same.

d. Withdrawal of more than one Interest Group will terminate the Plan.

L. Reimbursement of Funds.

In the event of withdrawal by a single Interest Group or individual stakeholder (the Withdrawer), the Withdrawer shall not be entitled to a refund of any annual dues that support the Plan activities and shall make any contributions required to be paid to the Plan for costs which have been obligated prior to the effective date of the withdrawal. The Withdrawer will be reimbursed for monies then remaining out of the original monies contributed to an Endowment Fund (except as otherwise provided by the terms of any contract or permit), but with no consideration for accrued interest associated with such contribution to the Endowment Fund. The remaining Interest Groups shall amend the Plan as necessary to reflect changes in the cost and revenue allocations.

In the event the Plan is terminated in accordance with Sections K.2.a. and K.2.d., any unexpended and uncommitted funds shall be distributed proportionately to those Interest Groups remaining in the Plan at the time of termination based on each party's percentage share of the original contribution.

VII. NEW PROJECTS

A. This section applies to new projects or facilities that require federal authorization, funding, or assistance (regardless of whether any water rights to be exercised by the new project pre-date the Plan), including changes to existing projects undergoing federal permitting or requesting federal funding or other federal assistance.

B. Proponents of new projects may choose to include ("opt-in") the project in the Plan as provided below.

To opt-in a new project, the proponent shall:

1. Inform the SG of the proposed project and provide pertinent information in a timely manner sufficient to allow the SG to provide written comments on the proposed project within any applicable public comment period. The SG will review the proposed project and will consider the impact of the proposed project on the ORVs in Segments 4 through 7 with consideration of the provisions of VII.B.2. and VII.B.3., below. The SG will provide timely SG

comments and recommendations thereon to the permitting agencies upon unanimous consent of the SG. Individual stakeholders may submit separate comments on an opt-in project's impacts to ORVs in Segments 4 through 7 provided they have first attempted to develop consensus comments and recommendations inclusive of their views as a member of the SG. However, this requirement shall not apply to the State.

2. Formally endorse the Plan and commit to participate in the Cooperative Measures procedures in Section IV.B. and the Funding provisions in Part VIII; and

3. Formally commit to meet either subparagraph a. or b. below:

    a. Demonstrate that project operations will not unreasonably diminish the ORVs; or

    b. Demonstrate that project operations will be subject to mitigation to avoid unreasonably diminishing the ORVs.

Satisfaction of the criteria set forth in paragraph VII.B.3., above, shall be determined by the permitting or authorizing agency(ies) through the agencies' standard approval procedures. The Resource Guides are not intended to be used by agencies or entities as the criterion for evaluating a project's effects on the ORVs, regardless of whether the project has or has not opted-in to the Plan. If a SG member uses or promotes the guides for evaluating project effects or as permitting criterion during current or future project permitting, any Interest Group may terminate the Plan following consultation with the full SG. This requirement does not preclude individual stakeholders from submitting comments regarding compliance with State regulatory standards applicable to aspects of a project separate from the ORVs. Moreover, nothing herein shall be interpreted to preclude or limit the use of any data regardless of whether such data has been used in the negotiation of the Resource Guides.

The SG intends that permitting agencies will conduct their own independent assessment of a project's impacts to the ORVs, if any. Membership as a stakeholder is not intended to be used as criterion for determining whether a project proponent has addressed potential ORV impacts, if any, of a proposed project; nor shall it be used as a component of any demonstration that project operations will not unreasonably diminish the ORVs (except as may otherwise be agreed between the project proponent and the SG).

After permit issuance, the SG will not oppose or administratively or judicially challenge an opted-in new project on the basis of project impacts to ORVs in Segments 4 through 7, and any individual stakeholder seeking to do so shall be required to withdraw from participation in the SG Plan prior to taking such action. An opt-in project proponent seeking to challenge a permit decision or permit conditions related to project impacts to ORVs in Segments 4 through 7 shall likewise be required to withdraw from participation in the SG Plan prior to taking such action. Subsequent participation in the SG Plan by the withdrawing stakeholder shall require unanimous approval of the SG. It is the SG's intent that withdrawal of a stakeholder from the Plan pursuant to this paragraph shall not trigger reconsideration of any prior agency determinations with regard to that stakeholder's own project effects on ORVs unless participation in the Plan is a condition of that project's permit. The exercise of State or local government statutorily mandated review or approval authorities with respect to a proposed opt-in project shall not constitute an opposition or challenge warranting that entity's withdrawal from participation in the SG Plan pursuant to this paragraph. Nothing in the Plan shall be deemed or construed to preclude any SG member from participating in any water rights litigation.

C. Additional Incentives for Opt-in

The SG will consider further incentives for a project proponent to opt-in to the Plan on a case-by-case basis.

VIII. FUNDING

A. Endowment Fund.

1. *Creation of an Endowment Fund*. Within three years after the effective date of the Plan, the SG will seek to create an endowment fund of at least $1.5 million, which will also be called the corpus. It is the goal of the SG that each member shall make a financial contribution to the endowment fund, in an amount that takes into consideration each member's financial ability to contribute. Awards or grants from governmental and private entities can be accepted as part of a member's contribution to the endowment fund. The endowment fund shall be created and expended consistent with the requirements to qualify and maintain status as a 501(c)(3) entity. The SG's intent is to preserve the corpus to be used for protecting and enhancing ORVs, rather than for administrative and routine operation costs, which will be funded by other mechanisms described below.

2. *Trustee Appointment*. Within three years after the effective date of the Plan, the GC will appoint a trustee for the endowment fund. The trustee shall have all the necessary powers within the law to invest, maintain and manage the endowment fund. These powers shall include accepting donations, applying for grants, bequests, loans, or undertaking other financial transactions to maintain or enhance the endowment fund. Powers also include contracting with banks or other depositories for the funds and lawfully depositing and withdrawing money from the fund. In addition, the trustee shall be responsible for ensuring that all distributions are in accordance with the restrictions placed on endowment contributions.

   a. The GC shall adopt a Statement of Investment Policy and Objectives (Statement) in order to establish a clear understanding on the part of the GC and the trustee of the investment objectives and guidelines for the endowment fund. The Statement will also provide the GC a basis for evaluation of the trustee's performance.

   b. The Statement might provide that the primary investment goal is the preservation of the principal after taking into account inflation. A secondary objective could be to earn the highest possible rate of return consistent with prudent standards for preservation of capital.

3. *Endowment Fund Spending*. The GC may allocate funds to projects or other associated efforts which, in its view, will further the preservation, protection, or enhancement of the ORVs. If a primary goal of the investment is to preserve the principal, the GC may decide to have a goal to limit the spending, to the extent it can, to just the interest earned. The GC may instruct the trustee to contract with any receiving entity for the completion of projects or other associated efforts, including requirements for escrows, inspection, bonding, collateral, or other guarantees of project or associated effort completion. Such efforts may require the Trust to hire staff, purchase or rent facilities, equipment, or other property, and contract for goods and services necessary to further its purposes.

   Purpose of Endowment Fund. The purpose of the endowment fund is to provide supplemental resources to protect and enhance the ORVs in the Colorado River between Kremmling and the confluence of No Name Creek also known as BLM Segments 4

through 7. Funding is limited to the ORVs identified in those respective segments described in Part II of this Plan.

4. *Specific Limitations on Use of Endowment Funds*. In addition to the general restrictions on the use of funds described below, the following specific limitations will apply to the use of the endowment funds.

   a. *Protection of Corpus*. The GC shall at all times endeavor to maintain the corpus of the endowment. However, it is recognized that opportunities may arise where the benefits of using some portion of the corpus significantly outweigh its diminishment. Specifically, where the opportunity exists to match in-kind or financial contributions on a one-to-one or greater basis for a project or program meeting the allocation guidelines, the GC shall be empowered to authorize expenditure of no more than 15% of the corpus during any fiscal year. Such expenditure shall require the unanimous consent of all Interest Groups. Any funds expended under this provision shall be credited towards the endowment contribution requirements.

   b. *Administrative Costs*. No more than 15% of expenditures within any calendar year shall be used for administrative costs. This limitation does not apply to non-discretionary expenses such as responding to IRS audits or litigation, financing, repairs or reimbursements caused by accident, unanticipated damage and acts of God.

   c. *Not for Operations and Maintenance*. The GC shall generally restrict its expenditures to projects and associated efforts that further the protection and enhancement of the ORVs within BLM Segments 4 through 7. Generally, expenditures should not be made for ongoing operations and maintenance of such projects.

B. Funding Assessment. In addition to other funding sources, the Plan will establish and rely on memberships to help fund administrative and operating costs and associated efforts under the Plan. The GC shall maintain a list, updated at least annually, of such members. The GC shall issue to every participating member of the Plan a letter of membership that will evidence that member's participation in the Plan. Membership participation shall be open to any person, natural or corporate, upon contribution to the endowment fund and payment of appropriate assessments so long as the participant "opts in" in accordance with Part VII of this Plan.

1. *Classes of Membership*. Members of the Plan will be issued a letter of membership based on the member's classification as determined by the GC. Each member shall be included in only one of the following classes, which conform to the Interest Groups and have equal voting rights:

   a. West Slope Water Conservancy/Conservation Districts and Landowners/Water Users.
   b. Local Government.
   c. Trans-Mountain Diverters.
   d. Conservation/Environmental/Fishing.
   e. Recreational Floatboating.
   f. State Interests (e.g., CWCB, CDOW, and State or Division Engineer).

2. *Assessments*. Annual assessments will be levied to each Interest Group in amounts sufficient in total to meet the administrative and operating costs and any debt service requirements as identified by the GC. The first year after the effective date of the Plan, the SG anticipates an assessment of $10,000 levied to each Interest Group. Assessments are expected to vary in accordance with actual costs, and will be established by the GC on an annual basis.[18]

   Nonpayment of annual assessments shall be cause (with ameliorating circumstances being taken into account) for an Interest Group to lose its voting privileges during the period of non-payment.

3. *In-kind contributions*. In-kind contributions from stakeholders may be accepted as part of a member's contribution to the annual assessment.

4. *Unspent funds*. At the end of each fiscal year, unspent operating funds in excess of $50,000 may be re-allocated to the Endowment Fund, as determined by the GC.

C. Funding from Grants. The SG will actively seek grants from federal, state, local and private entities to fund projects and efforts that enhance and protect the ORVs. The use of funds from these grants will comply with underlying specifications and requirements of those grants.

[18] Assessments to governmental entities would be subject to annual appropriation.

D. Leverage of Funding with BLM. In addition to the funding described above in Sections VIII.A.-C., the SG will cooperate and coordinate with the BLM to leverage funds through the BLM's Challenge Cost Share program, the BLM's Recreation Resource Management program, and other similar types of BLM programs to be used on specific projects that protect and enhance the ORVs.

E. State of Colorado Wild and Scenic Rivers Fund. In addition to the funding described above in Sections VIII.A.-D., the SG will request funds from the Wild and Scenic Rivers Fund created as part of Senate Bill 09-125, codified in C.R.S. § 37-60-122.3. The request for funds will be made in accordance with the underlying legislation and the criteria/guidelines for these funds called the *Terms and Conditions Developed by the Colorado Water Conservation Board for the Allocation of Funds from the Wild and Scenic Alternatives Fund*, approved at the CWCB meeting January 26-27, 2010.

F. General Limitations on Use of Funds.

1. *GC Control*. The GC shall control all use of the funds, and all restrictions herein apply to the GC.

2. *Effect on ORVs*. Grants, loans or other disbursements shall be made only for protection, preservation, or enhancement of the ORVs within BLM Segments 4 through 7.

3. *No Political Spending*. No funds shall be used for any political purpose, including but not limited to contribution to political parties or causes, contributions to or promotion of candidates for public office, publication or contribution to flyers, brochures or other printed materials supporting issues or candidates, lobbying, or contributing to materials to be used for lobbying.

4. *No Opposition to Water Development*. No funds shall be used to directly challenge or oppose water development or water operations.

5. *Consideration of All ORVs*. When considering funding a project, the GC shall weigh the harms and benefits to all ORVs. Funds shall not be used for a project that would unduly harm one ORV to benefit another.

6. *Public Meetings*. The GC shall grant funding only in meetings open to the public. Notice of public meetings will be provided in accordance with Section VI.E. of this Plan.

7. *Public Benefit*. The GC shall grant funding only for projects and associated efforts that are accessible to and/or benefit the public. No funds shall create improvements on private property that would significantly enhance the value of the property unless the property is leased to a public entity and the improvement serves the public purpose of that entity.

G. Distribution of Assets Upon Dissolution. Upon dissolution or final liquidation of the [SG entity], all of its assets remaining after payment or provision for all its liabilities shall be paid over or transferred to a corporation or governmental entity established to fulfill the same purposes (in whole or in part) for which [the SG entity] was established. If no such entity is created for that purpose, the assets may be distributed or conveyed to one or more governmental units within the meaning of Section 170 (b)(1)(A)(v) of the Internal Revenue Code or to the Colorado Division of Wildlife for the benefit of wildlife habitat within or without the State of Colorado, or if such a transfer is not possible or practical, the assets may be distributed to and among one or more exempt organizations described in Section 501(c)(3) of the Internal Revenue Code for exclusively public purposes. The organizations or governmental units to receive such property, and their respective shares and interests, shall be determined by the GC. Any such assets not disposed of shall be disposed of by the appropriate court of the county in which the principal office of the [entity] is then located exclusively for such purposes or to such organization or organizations as said court shall determine are organized and operated exclusively for exempt purposes.

IX. AGENCY COORDINATION

A. Coordination with BLM and the USFS.

1. Coordination between BLM, USFS, and the SG is important to the successful implementation of the SG Plan. The SG proposes that BLM and the USFS become non-voting members of the SG's Governance Committee and fully participate in the Committee's activities.

2. The Governance Committee will provide an annual report to BLM and USFS summarizing efforts and activities related to implementation of the Plan including, but not limited to, status and results of monitoring efforts, status of ORV Indicators, Cooperative Measures, funding, and other pertinent information.

3. The Governance Committee recommends that the BLM and USFS provide notification to the GC of any federal activity that may affect Segments 4 through 7 of the Colorado River.

4. The Governance Committee will notify BLM and the USFS within 30 days if monitoring indicates that an ORV Indicator has not been met.

B. Interagency Coordination.

1. Coordination with and the cooperation of other federal agencies whose decisions may affect the ORVs is important. The SG proposes the development of an MOU between BLM and the USFS and other federal agencies, including but not limited to the U.S. Army Corps of Engineers, the Bureau of Reclamation, the U.S. Fish and Wildlife Service, and the Federal Energy Regulatory Commission, which describes how their actions will relate to the SG Plan.

2. Elements of the MOU should include, but not be limited to, acknowledgment of the SG Plan as the management alternative adopted by BLM and the USFS for Segments 4 through 7 of the Colorado River; data sharing; notification of federal agency activity that may affect these segments; recognition that the Resource Guides are to be used solely for purposes internal to operation of the Plan; and appropriate coordination and consultation procedures.

LIST OF ATTACHMENTS

Attachment A: Milestones for Implementation of Tier 1 Long-Term Protection Measures and Mechanisms for addressing Changed Circumstances

Attachment B: Time Line and Task List

Attachment C: Existing Flow Conditions

Attachment D: Provisional Period Monitoring Plan

Attachment A

Milestones for Implementation of Tier 1 Long-Term Protection Measures, and Mechanisms for Addressing Changed Circumstances in Long-Term Protection Measures

I. Milestones for Implementation of Tier 1 Long-Term Protection Measures.

A. *Measure 1*: Appropriation of a CWCB Instream Flow(s). Refer to section IV.A.1. of the Plan.

1. The SG will make a written recommendation for appropriation of instream flow(s) to the CWCB on or prior to April 15, 2011. The SG's recommendation will include results of the most recent data collection available.

2. CWCB will declare its intent to appropriate ISF(s) prior to May 31, 2011, which initiates the notice and comment procedure under Rule 5 of the Rules Concerning the Colorado Instream Flow and Natural Lake Level Program. The SG will participate in the process to support an ISF appropriation(s) that is(are) consistent with the SG's recommendation to the CWCB.

3. CWCB will file a water court application to adjudicate an instream flow(s), on or prior to December 31, 2011. This date will set the administrative priority of the instream flow with respect to junior water rights.

4. Entry of a final decree for CWCB's instream flow(s) should occur prior to December 31, 2015. Individual participants in the SG will consider participating in the CWCB ISF adjudication process in support of the CWCB's application.

B. *Measure 2*: Delivery of water to downstream demands. Refer to section IV.A.2. of the Plan.

1. This is an existing feature of Colorado's stream administration and operations on the Colorado River that delivers previously stored water through the subject stream segments to downstream demands. No milestones are necessary to implement this existing long-term protection measure.

C. *Measure 3*: Existing water rights administration. Refer to section IV.A.3. of the Plan.

1. This is an existing feature of Colorado's stream administration and operations on the Colorado River that operates to curtail diversions (or require the replacement of such diversions) from upstream junior water users to provide water through the subject stream segments for delivery to downstream senior water rights. No milestones are necessary to implement this existing long-term protection measure.

D. *Measure 4*: Delivery of water to the 15-Mile Reach in the Grand Valley pursuant to the Upper Colorado River Recovery Program. Refer to section IV.A.4. of the Plan.

1. This is an existing mechanism by which water is delivered from upstream reservoirs for the benefit of the endangered fish species in the Grand Valley on a temporary basis. The water deliveries are protected through the subject stream segments downstream through the 15-Mile Reach of the Colorado River. The SG recognizes that negotiations are currently proceeding in a separate forum to develop alternative sources of supply for the water users' portion (10,825 acre feet) of water delivered to the endangered fish. The water users' portion has historically averaged (1998 – 2008) approximately 9.1% of the total amount of water delivered to the fish, and 12.8% of the water delivered to the fish from sources above Kremmling (Table A.1.). The SG recognizes that a portion of the water users' obligation likely will cease to be delivered from points above Kremmling, and instead will be made from sources of water downstream of Segments 4 through 7. Significant releases of water to the endangered fish can be expected to continue to be made from Green Mountain Reservoir pursuant to the Recovery Program and the operation of the Green Mountain Reservoir Rule Curve established in the Orchard Mesa Check Decree, Case No. 91CW247, Water Division 5. No milestones are necessary to implement this existing long-term protection measure.

II. <u>Mechanisms for Addressing Changed Circumstances in Long-Term Protection Measures</u>

A. Examples of Changed Circumstances that Trigger Action of the SG.

1. *Measure 1*: Examples of a Material Change in Circumstances include, but are not limited to: the CWCB's appropriation of an ISF that is not consistent with the SG's recommendation to the CWCB;

a significant new water right appropriation upstream of or within the subject stream reaches that is senior to the CWCB's anticipated ISF(s); the CWCB's determination to abandon its instream flow water right or to allow the inundation of part of the instream flow right; or an administrative or judicial reduction of the instream flow right.

2. *Measure 2*: Examples of a Material Change in Circumstances include, but are not limited to, a change in the operating procedures by which previously stored water is released from Green Mountain Reservoir under the 1984 Operating Policy and the terms of the Orchard Mesa Check Decree, Case No. 91CW247, Water Division 5.

3. *Measure 3*: Examples of a Material Change in Circumstances include, but are not limited to, a reduction, elimination, or other significant change from historical practice in the operation of the administrative call of the Shoshone Power Right, except for (1) the changes from historical practice expressly set forth in the Agreement Concerning Reduction of Shoshone Call between Xcel Energy and the Denver Water Board, which has a term from January 1, 2007 to February 28, 2032 (2007 Shoshone Agreement); and (2) any longer period of relaxation pursuant to paragraph 5 of the 2007 Shoshone Agreement agreed to between the Denver Water Board and the Colorado River Water Conservation District. Other examples of a Material Change in Circumstance would be an abandonment, material reduction, or material change in the manner of operation of the Cameo group of water rights.

4. *Measure 4*: As discussed above, the SG expects a non-material change in the methods by which water will be delivered to the endangered fish in the 15-Mile Reach. Examples of a Material Change in Circumstances related to implementation of Measure 4 include, but are not limited to: (A) the currently-proposed 5,412.5 acre-feet of Granby Reservoir releases are no longer provided; (B) the first enlargement of Wolford Mountain Reservoir (decreed in Case No. 95CW281, Water Division No. 5, is no longer available for release for delivery to the 15-Mile Reach for endangered fish species purposes; or (C) the mechanism for the release of Historic Users Pool "Surplus" water as provided in the Orchard Mesa Check Decree, Case No. 91CW247, Water Division 5 is no longer available.

TABLE A.1.
ANNUAL SUMMARY OF HISTORICAL RECOVERY PROGRAM RELEASES (Acre Feet)

	RESERVOIR RELEASES TO 15 MILE REACH (Acre Feet)												
	FISH POOL RELEASES					DISCRETIONARY RELEASES							
Year	Green Mtn HUP Surplus	Ruedi Fish Pools	Wolford Water Users	Wolford USFWS Pool	Williams Fk Reservoir Water Users	Green Mtn Reservoir	Wolford Mtn Reservoir	Dillon Reservoir	Williams Fk Reservoir	Granby Reservoir	Willow Ck Reservoir	TOTAL	
1998	31,736	20,803	0	6,000	0	0	5,516	0	0	0	0	64,055	
1999	35,564	20,418	0	4,939	0	0	0	11,479	1,825	26,914	3,382	104,521	
2000	47,187	19,064	5,409	6,000	3,858	0	0	0	0	0	0	81,518	
2001	34,657	21,345	5,413	3,078	5,369	0	0	0	0	0	0	69,862	
2002	0	10,975	0	300	3,757	0	0	0	0	0	0	15,032	
2003	47,526	20,434	0	286	3,757	0	0	0	0	0	0	72,003	
2004	119	15,981	0	0	2,678	0	0	0	0	0	0	18,778	
2005	31,200	17,163	1,000	0	3,814	0	0	0	0	0	0	53,177	
2006	25,358	19,680	5,413	5,233	5,412	0	0	0	0	0	0	61,096	
2007	32,745	14,273	4,339	0	2,394	0	2,500	0	0	0	0	56,251	
2008	61,433	20,423	5,413	3,189	5,367	0	1,829	0	0	0	0	97,654	
Mean (98 - 08)	31,593	18,233	2,453	2,639	3,310	0	895	1,044	166	2,447	307	63,086	
Water Users (98 - 08)			2,453		3,310							5,763	9.1%

IF HISTORICAL DISCRETIONARY RELEASES ARE CONSIDERED AND ASSUMED TO CONTINUE

Historical Releases above Kremmling													
Total Releases	31,593	N/A	2,453	2,639	3,310	0	895	1,044	166	2,447	307	44,853	
Water Users Portion			2,453		3,310							5,763	12.8%
Estimated Future Releases above Kremmling													
Total Releases	31,593	N/A	0	2,639	0	0	895	1,044	166	7,859	307	44,502	
Water Users Portion										5,412		5,412	12.2%
											REDUCTION IN TOTAL DELIVERIES ABOVE KREMMLING =	351	0.8%

IF HISTORICAL DISCRETIONARY RELEASES ARE ASSUMED TO NOT CONTINUE

Historical Releases above Kremmling													
Total Releases	31,593	N/A	2,453	2,639	3,310	0	0	0	0	0	0	39,995	
Water Users Portion			2,453		3,310							5,763	14.4%
Estimated Future Releases above Kremmling													
Total Releases	31,593	N/A	0	2,639	0	0	0	0	0	5,412	0	39,644	
Water Users Portion										5,412		5,412	13.7%
											REDUCTION IN TOTAL DELIVERIES ABOVE KREMMLING =	351	0.9%

Attachment B

Timeline and Task List

1. Period Prior to Submittal of an Endorsed Plan.

   A. SG to come to resolution on amount of recommended ISF by April 15 or come to alternative resolution on how the CWCB process will proceed prior to endorsement of Plan.

   B. SG to finalize language for definition of year-types for inclusion in Plan based on conceptual agreement to use Colorado Basin River Forecast Center forecasts of undepleted flow to predict the year type prior to the recreation season for informing the upcoming year's discussion about Cooperative Measures, and to use measured/depleted flows at the end of the wild and scenic year for evaluation of post-recreation season comparison to the boating Resource Guides.

   C. SG to consider whether to include more detailed description of simulated future flows.

   D. Prior to endorsement on April 30th, 2011, the SG intends that any contact with press about this Plan should be handled through Rob Buirgy, Project Manager; or the BLM/USFS.

2. Period Following Submittal of an Endorsed Plan until Effective Date (i.e., before BLM/USFS approve the Plan as the alternative in the ROD).

   A. Decisions made in this period are all by unanimous consensus of all stakeholders, continuing the current process of negotiation and compromise.

   B. Provide formal SG Endorsement of Plan to BLM/USFS no later than April 30, 2011.[19]

   C. Begin monitoring:
      (1) Gather data collected by others (e.g., CDOW fish biomass).
      (2) SG fund and gather data (e.g., conduct creel surveys, recreation surveys) if SG unanimously agrees to funding of such efforts.
      (3) Evaluate monitoring data compared to provisional Resource Guides and provisional ORV Indicators.
      (4) Prepare Annual Monitoring Report.

[19] Aurora Water will initiate the endorsement process by April 30, 2011 but due to Aurora's procedural rules will not be able to obtain formal endorsement until June 2011.

D. No SG Plan funding assessments (Section VIII.B.2.) to be levied during this period.[20]

E. Stakeholders will engage in a good faith effort toward reaching agreement on final Resource Guides and ORV Indicators; outline studies and data collection to be done in the provisional period. By unanimous consensus among all stakeholders, ORV Indicators and Resource Guides could be finalized during this period and would become effective upon the effective date of the Plan.

F. Explore Cooperative Measures in accordance with the process set forth in the Plan.

G. Conduct discussions and make written recommendation to CWCB for the base flow in-stream flow pursuant to C.R.S. §37-92-102 in accordance with Section IV.A.1. of the Plan.

If the CWCB does not file a water court application by the anticipated date in Attachment A, and the Plan has not become effective, the stakeholders will discuss the cause of the delay and request that the CWCB file an application for the recommended instream flow as soon as possible within the next calendar year. In addition, the stakeholders will determine whether the delay in filing an application will result in a material diminution in the amount of water available in priority to the anticipated CWCB instream flow. If it is determined by unanimous consent of all stakeholders that a material diminution will exist, the stakeholders may decide to implement management activities to reasonably mitigate the decrease in water available in priority to the instream flow.

If a final decree for a CWCB instream flow is not entered by the date anticipated in Attachment A, and the Plan has not become effective, the stakeholders will discuss the cause of the delay. The stakeholders will determine whether the delay causes any material adverse impact to the purpose of the Long-Term Protection Measures. If it is determined by unanimous consent of all stakeholders that a material adverse impact exists, the stakeholders may decide to implement management activities to reasonably mitigate the material adverse impact.

[20] Prior to expiration of the period for exercise of the Poison Pill, members of the SG would continue to contribute annual funding to the SG Plan, but shall not be required to contribute endowment funding under the Plan. The Homestake Partners will also only contribute annual (not endowment) funding to the SG Plan unless or until the ERMOU Project is “opted in” as a new project.

H. Continue discussions on commitments to the Plan on behalf of the Windy Gap Firming Enterprise, Northern Water and Denver Water pursuant to Section III.C.2.c. of the Plan (Poison Pill).

I. Hold full SG meetings (quarterly or semi annually) and prepare annual report/update; make any changes/refinements to the Plan agreed upon by all stakeholders.

J. Develop MOU among SG members for provisional period of Plan. A long-term MOU or legal entity would be entered into subsequent to sunset of the Poison Pill.

K. Begin discussions and review relevant data to determine the extent to which channel maintenance flows may be incorporated into the Plan.

L. By unanimous consensus of all stakeholders, other tasks can be performed as needed.

3. <u>BLM/USFS Adoption of Plan without Material Changes – Plan becomes Effective</u>

A. Provisional Period: First 3-to-5 years of Plan Implementation

(1) Within 3 years or sooner, develop final Resource Guides and ORV Indicators by unanimous consent (6/6) of Interest Groups.

(2) Execute MOU among SG members for provisional period of Plan. A long-term MOU or legal entity would be entered into subsequent to sunset of the Poison Pill. Develop long-term MOU.

(3) Interest Groups develop protocol for selection of representatives and procedure for inclusion, and designate alternates and appoint members.

(4) GC appoints Chair, Vice Chair and Secretary.

(5) Within 3 years after Plan is effective, create an endowment fund and appoint trustee (per Section VIII.A. of the Plan).

(6) Begin Provisional Period Monitoring Plan (per Section V and Attachment D of Plan):

a. Gather data collected by others (e.g., CDOW fish biomass).
b. SG fund and gather data (e.g., conduct creel surveys, recreation surveys).

c. Evaluate monitoring data compared to provisional Resource Guides and provisional ORV Indicators.
d. Prepare Annual Monitoring Report.

(7) Study the extent to which channel maintenance flows may be incorporated into the Plan.

(8) Resolve Project permit issues; notify BLM/USFS if Plan is withdrawn or has continued support, and modify Plan to confirm that Projects fall under Reopener Clause of Plan (Section IV.D.2.).

(9) Implement Tier 1 Long-Term Measures (per Section IV.A. and Attachment A of the Plan).

(10) Implement voluntary Tier 2 Cooperative Measures process (per Section IV.B. of the Plan) and hold quarterly meetings (or more frequently, as determined necessary) to assess need for, focus of, and availability of Cooperative Measures (per Section IV.B.3.).

(11) Hold SG meetings (annual, regular, and special) (per Section VI.E.).

(12) Perform other tasks determined by unanimous consensus of the SG.

B. At End of Provisional Period

Implement SG Plan, including, but not limited to:

(1) Revise Plan for final Resource Guides (potentially including implementation criteria) and ORV Indicators.

(2) Go through Mediation protocol if final Resource Guides, Indicators and potential implementation criteria are not unanimously agreed upon.

(3) Revisit recommendation to defer a determination of suitability per the Guiding Principle.

(4) Using results from the provisional period monitoring, develop and implement Long-Term Monitoring Plan (per Section V.A.2.).

(5) Execute long-term MOU among stakeholders or legal entity.

(6) Continue Tier 1 Long-Term Measures.

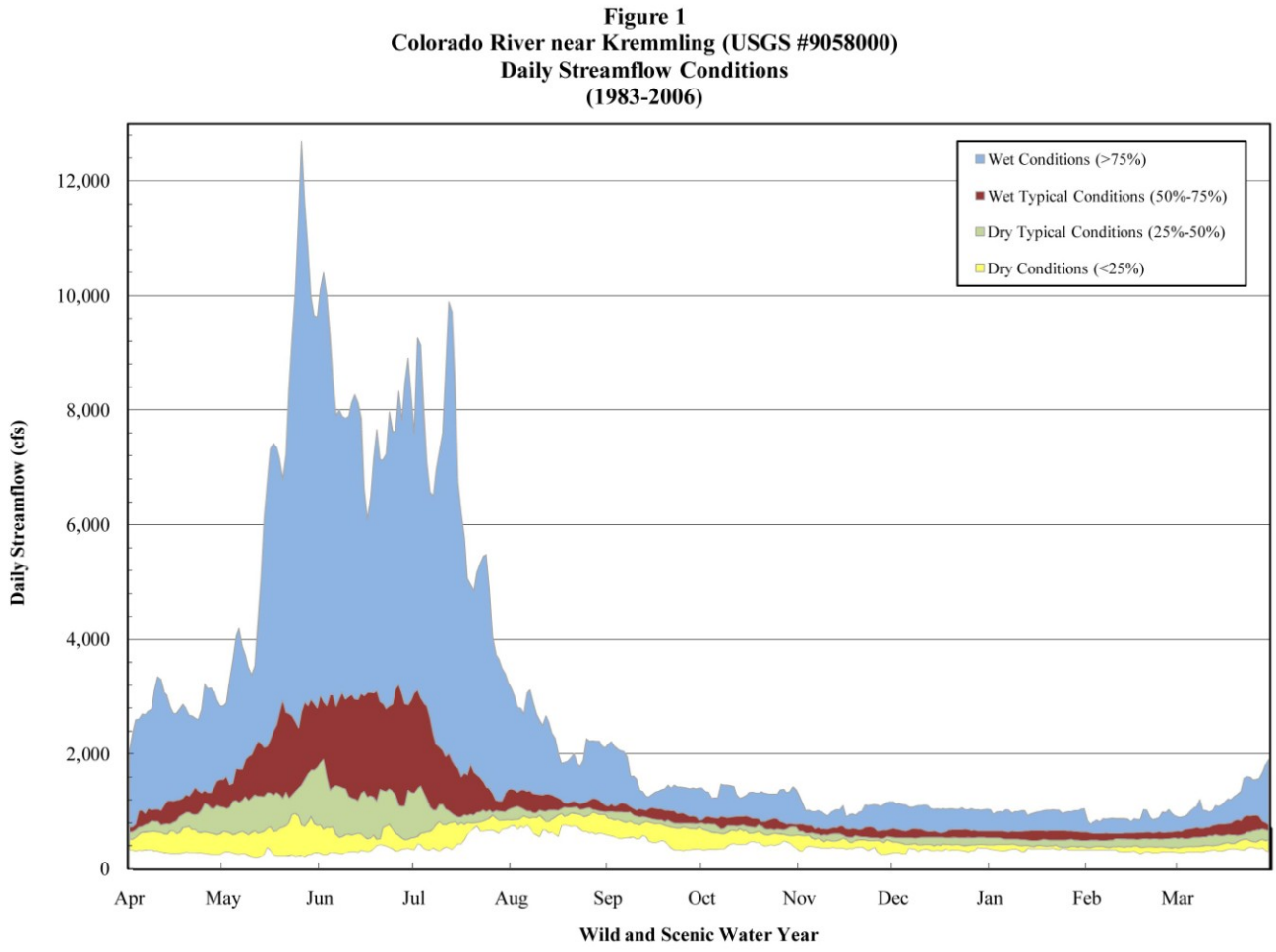
(7) Continue with voluntary Tier 2 Cooperative Measures process.

(8) Continue holding SG meetings (annual, regular, and special).

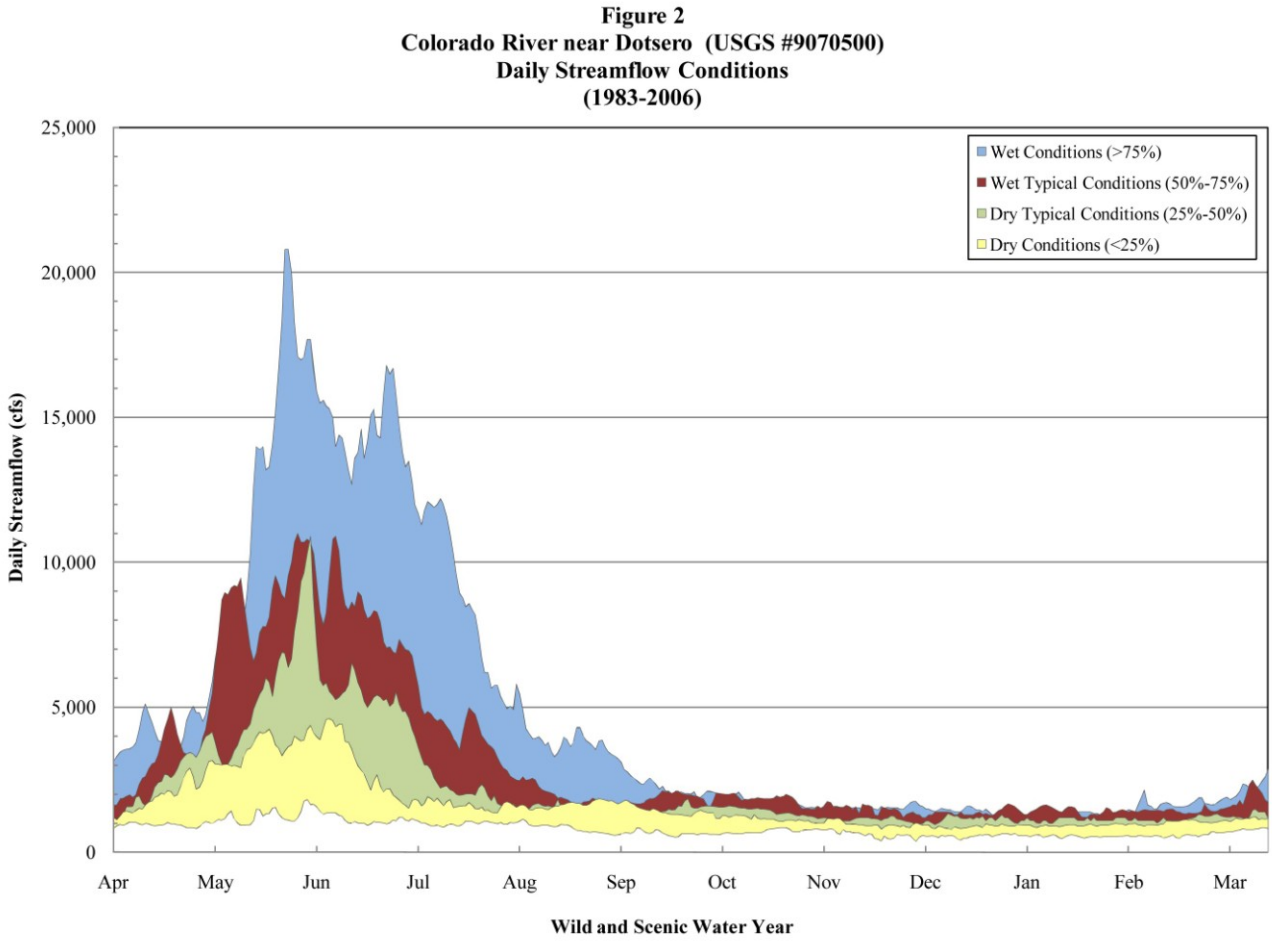
(9) Perform other tasks determined by unanimous consensus of the SG.

Attachment C

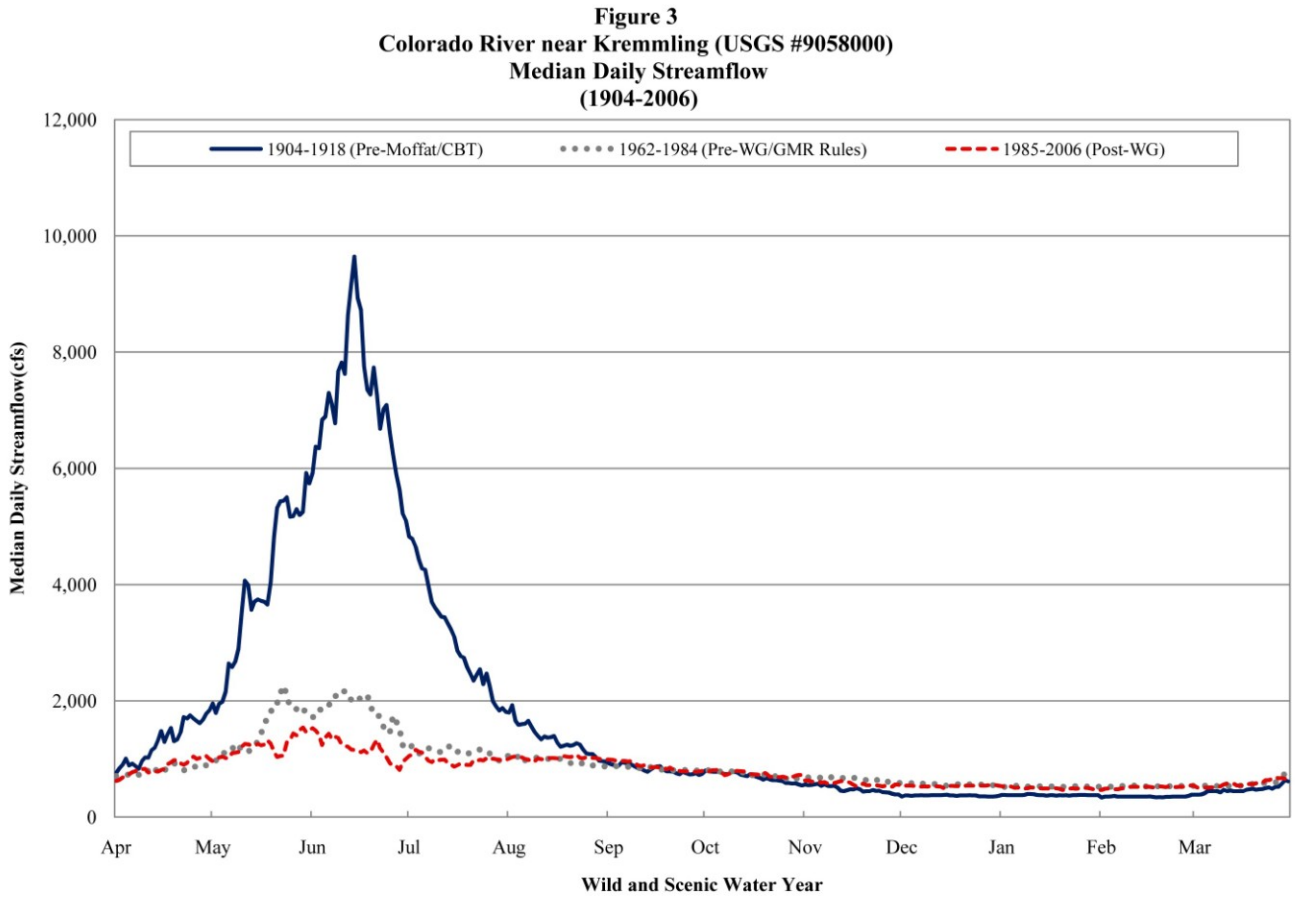
Existing Flow Conditions: Colorado River near Kremmling



Existing Flow Conditions: Colorado River near Dotsero



Existing Flow Conditions: Colorado River near Kremmling – 1904 to 2006



Note: Colorado River near Kremmling streamflow data is not available from 1919 to 1961 and 1971.

Attachment D

Provisional Period Monitoring Plan

ORV INDICATORS

Recreational Fishing – *Quality Trout* = 24 fish over 14" per acre. Note: Current levels of Quality Trout, Biomass, and Species Diversity were collected by CDOW personnel in 2008.[21] The CDOW plans to collect additional fishery data within BLM Segment 5 every other year.

Sample site selection:
Sample collection:
- Where
- Who
- Frequency

Sample analysis:
Data management outliers, housing:
Data analysis:
Funding:

Recreational Fishing – *Biomass* = 2008 data collected by CDOW showed 90 lbs. per acre.[22]

Sample site selection:
Sample collection:
- Where
- Who
- Frequency

Sample analysis:
Data management outliers, housing:
Data analysis:
Funding:

Recreational Fishing – *Species Diversity* = 14 species of fish.

Sample site selection:
Sample collection:
- Where
- Who
- Frequency

Sample analysis:
Data management outliers, housing:

[21] CDOW data collected in 2010 showed 46 fish over 14" per acre.

[22] CDOW data collected in 2010 showed 121 lbs. per acre.

Data analysis:
Funding:

Recreational Fishing – *Trout Fishing Effort* = N/A. Note: A creel census will be required to quantify Total Fishing Effort and Catch/Unit Effort. The current estimated annual cost of the creel census will be approximately $25,000. CDOW has no current plans to conduct a creel census within BLM Segments 4, 5, or 6 of the Colorado River; therefore, this cost, and supervision of the creel census, will likely be the responsibility of the Stakeholder Group.

Sample site selection:
Sample collection:
Where
Who
Frequency
Sample analysis:
Data management outliers, housing:
Data analysis:
Funding:

Recreational Fishing – *Catch/Unit Effort* = N/A.

Sample site selection:
Sample collection:
Where
Who
Frequency
Sample analysis:
Data management outliers, housing:
Data analysis:
Funding:

Recreational Floatboating

Sample site selection: During the Provisional Period the Stakeholder Group has defined a narrative Recreational Floatboating ORV indicator.
Sample collection:
Where
Who
Frequency
Sample analysis:
Data management outliers, housing:
Data analysis:
Funding:

ORV RESOURCE GUIDES

Recreational Fishing – *Flow Guides* = (Insert Provisional Flow Guide Table when final).

Sample site selection: The Stakeholder Group has identified the USGS stream flow gage at Kremmling as the appropriate flow measuring device to monitor the Fishing Resource Guides for Segments 4, 5 and 6.
Sample collection:
Where: USGS gage 09058000 Colorado River near Kremmling.
Who: USGS.
Frequency: per USGS.
Sample analysis: USGS or Not Applicable.
Data management outliers, housing: USGS.
Data analysis: The Stakeholder Group will use USGS flow data to compare with the Resource Guide 5-year running average review described in Section III.C.1.
Funding:

Water Quality

Sample site selection: Utilize the Colorado Water Quality Control Division (WQCD) Triennial Review Process for compliance with water quality standards protective of aquatic life and recreational uses.[23]
Sample collection: No new water quality sampling is proposed for this effort. The WQCD utilizes most sources of data made available to them to make their assessment of water quality. Typically this assessment is based on the most recent 5 to 8 years of data.
Where
Who
Frequency
Sample analysis: Not applicable.
Data management: The WQCD's template for summarizing water quality conditions is descriptive and adequate for the Stakeholder Group's purposes. This document is available to the general public. The 2013 WQCD assessment should be compared with the previous assessment done in 2008.
Data analysis: If degradation of water quality is reported by the WQCD the reported exceedances of water quality standards may be evaluated by the

[23] 40 C.F.R. 131.20 provides that each State must specify appropriate water uses to be achieved and protected. The classification of the waters must take into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agricultural, industrial, and other purposes including navigation. In no case shall a State adopt waste transport or waste assimilation as a designated use for any waters of the United States.

Stakeholder Group. For purposes of the Monitoring Report, the Stakeholder Group should report:

- Was the exceedance for a standard protective of aquatic life or recreation use?
- Were the data indicating exceedance of standards collected from the reach of interest to the SG?

Existing Conditions: Existing Conditions for water quality are characterized by the WQCD 4-10-08 summary of Upper Colorado River Segment 03 developed for the Triennial Review of WQCC Regulation #33 (See Exhibit 1).
Funding:

Temperature

Sample site selection: During the Provisional Period, temperature monitoring[24] will be conducted on the mainstem of the Colorado River through the use of temperature loggers located at:

- Colorado River at Dotsero (SG site).
- Colorado River at State Bridge (SG site); a logger is also placed at this location about 5 meters above the river for ambient air temperature.
- Colorado River at Pumphouse (BLM site WS-CO-002).
- Colorado River at Hwy 9 Bridge (DWB site WS-CO-004).

Sample collection: Tidbit or HOBO loggers, deployed in the stream current and protected in PVC pipe with holes.

Where: Detailed descriptions of locations including photos are recorded. *(see TU example, would be included as attachment to these monitoring protocols.)*

Who: Deployment and collection of data loggers has been done by staff from the River District, NWCCOG and TU.

Frequency: Deploy temperature loggers after peak runoff, approximately late July, and maintain through early fall. Temperature loggers are set to record at 15-minute intervals.

Sample analysis: Down load data from logger directly to Excel spreadsheets.
Data management: Currently the River District is holding this data.
Data analysis: Spreadsheet is developed that allows for computation of MWAT and DM statistic. Daily air temperature and streamflows should be plotted with MWAT and DM for data records that approach or exceed these standards for assessment of the role of these two parameters on stream temperature.
Existing Conditions: Existing temperature conditions for the Colorado River from Kremmling to Glenwood Springs were evaluated as part of the WQCC

[24] 40 C.F.R. 131.20 provides that each State must specify appropriate water uses to be achieved and protected. The classification of the waters must take into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agricultural, industrial, and other purposes including navigation. In no case shall a State adopt waste transport or waste assimilation as a designated use for any waters of the United States.

Rulemaking for Regulation #93 (303d list) in 2009. Based on available representative data, no exceedances of stream temperature standards were found for this portion of the river.
Funding:

Recreational Floatboating – *Usable Days* = (Insert Provisional Usable Days Table when final)

Sample site selection: The Stakeholder Group has identified the USGS stream flow gage at Kremmling as the appropriate flow measuring device to monitor Recreational Floatboating Resource Guides for Segments 4, 5 and 6, and the USGS gage at Dotsero for Segment 7.
Sample collection: USGS
Where: USGS gage 09058000 Colorado River near Kremmling (Segments 4, 5 and 6); USGS gage 09070500 Colorado River near Dotsero (Segment 7).
Who: USGS
Frequency: per USGS
Sample analysis: NA.
Data management outliers, housing: USGS.
Data analysis: The Stakeholder Group will analyze data for comparison with the provisional Resource Guide.
Funding:

Exhibit 1 to Provisional Period Monitoring Plan

Upper Colorado River Basin Regulation No. 33 Triennial Rulemaking Rationale 4-10-08

Segment WBID: *COUCUC03*

Segment Description: 3. Mainstem of the Colorado River from the outlet of Lake Granby to the confluence of the Roaring Fork River.

Designation: Reviewable

Classifications: Aquatic Life Cold 1
Recreation ~~1a~~ E
Water Supply
Agriculture

Stream Length: 134.4 miles

Proposed Changes 2008: Basin-wide changes: Delete f. coli standards, change As(ac)=50(Trec) to As(ac)=340, add As(ch)=0.02(Trec), and add a temperature standard of cold stream tier II. Add a sculpin-based zinc standard.

Water Quality Data – COUCUC03

	Colorado River blw Lake Granby		
Parameter	**TVS**	**NCWCD/RW/ USGS/WQCD** All Sites 2001-2007	**n**
pH, s.u.	6.5-9.0	7.86-8.53	349
D.O., mg/L	6	7.95	317
Hardness*, mg/L	NA	109.6	339
E. coli, #/100 mL	126	3	120
As-D**, µg/L	0.02	**0.36**	106
Cd-D, µg/L	0.45	0.00	221
Cu-D, µg/L	9.68	1.30	247
Fe-D, µg/L	300	171	215
Fe-Trec, µg/L	1000	215	189
Pb-D, µg/L	2.78	0.00	156
Mn-D, µg/L	50.0	**60.1**	209
Se-D, µg/L	4.60	0.13	167
Ag-D, µg/L	0.09	0.00	80
Zn-D, µg/L	128.4	6.7	192
U-D**, µg/L	30	1.00	44
NH_3, mg/L	TVS	0.030	199
NO_5, mg/L	10	0.023	139
SO_4, mg/L	250	54.6	187

* Hardness measured as $CaCO_3$ mg/L

** Standard is Trec

Rationale for Changes 2008: The deletion of f. coli, and changes to recreation nomenclature, arsenic standards, TVS cadmium standards, and TVS zinc standards are basin-wide changes that correspond with decisions made by the Commission in the June 2005 Basic Standards Rulemaking Hearing (31.44). The Commission changed the recreation use nomenclature so that Recreation 1a waters are now Recreation E (31.44 G.). A sculpin-based zinc standard was added because CDOW records indicate that mottled sculpin are present in this segment and hardness drops below 113 mg/l (31.44 J.). Temperature standards were added to correspond with decisions made by the Commission in the January 2007 Rulemaking Hearing (31.45). Colorado Division of Wildlife (CDOW) records indicate that cold stream tier II fish are present in this segment. Temperature data from the most recent 7 years from all available stations in the segment were compared to the fish-based temperature standards to assess the attainability of those standards (see tables below). Sufficient temperature data (minimum 3 evenly spaced samples per day) were not available to assess attainment of the MWAT, so only the attainability of the DM standard was assessed.
This assessment indicates that the cold stream tier II DM standards are attainable.

Aquatic Life: CDOW records indicate brown and rainbow trout; northern pike; roundtail chub; mountain whitefish; speckled and longnose dace; mottled sculpin; and bluehead, flannelmouth, longnose, mountain, and white suckers are present in the mainstem Colorado.

Recreation: This segment is intensively used for rafting and kayaking.

Water Supply: The Town of Hot Sulphur Springs diverts water from the Colorado River for its municipal water supply. Hot Sulphur Springs Resort draws from an alluvial well.

Agriculture: Livestock operations have been and continue to be active in the Upper Colorado River basin, although fewer such operations remain as ranchland is converted to urban land use. Crops in the upper basin are limited to irrigated and non-irrigated hay. Farther downriver alfalfa, and spring and winter wheat are cultivated.

Point Sources: Domestic wastewater treatment facilities operated by the Town of Hot Sulphur Springs, Ouray Ranch, Colorado Division of Wildlife (Windy Gap Reservoir Visitor's Center), and the Colorado Department of Transportation (Grizzly Creek and Hanging Lake Rest Areas and Bair Ranch) discharge to this segment. The Town of Hot Sulphur Springs also operates a water treatment plant that discharges filter backwash. Rayners Trailer Court discharges to alluvial groundwater. Glenwood Hot Springs, Rock Gardens Campground, Pitkin Iron Corporation (Redstone well), and Shorefox Subdivision also discharge to this segment.

Water Quality: Water quality data were collected in this segment by WQCD, USGS, Northern Colorado Water Conservancy District, and River Watch (RW). WQCD collected samples at Colorado River near Dotsero (WQCD #46), Colorado River upstream of Roaring Fork River (WQCD #12100), Colorado River upstream of State Bridge at Highway 131 (WQCD #12103), Colorado River below Granby Reservoir at Highway 34 (WQCD #12105), and North Fork Colorado River at Highway 34 (WQCD #12106). USGS collected samples at Colorado River below Lake Granby, CO (USGS # 9019000), Colorado River near Granby, CO (USGS # 9019500), Colorado River at Windy Gap, near Granby, CO (USGS # 9034250), Colorado River near Kremmling, CO (USGS # 9058000), Colorado River near Dotsero, CO (USGS # 9070500), Colorado River above Glenwood Springs, CO (USGS # 9071750), Colorado River at Bond, CO (USGS # 395306106415601). Northern Colorado Water Conservancy District collected samples at the Colorado River above Fraser River Confluence (CR-WGU). River Watch collected samples at Colorado River at Hot Sulphur Springs (RW #203), Colorado River at Windy Gap (RW #543), and Colorado River at Pedestrian Bridge (RW #46).

Exceedances: In Colorado River below Granby Reservoir at Highway 34 (WQCD #12105) there was an exceedance of the acute dissolved cadmium, dissolved copper and dissolved zinc standards, North Fork Colorado River at Highway 34 (WQCD #12106) there was an exceedance of the acute dissolved copper standard, Colorado River below Lake Granby, CO (USGS # 9019000) there was an exceedance of the chronic dissolved zinc sculpin standard and chronic total recoverable arsenic standard, Colorado River at Windy Gap, near Granby, CO (USGS # 9034250) there was an exceedance of the maximum pH standard, chronic dissolved manganese standard, and chronic total recoverable arsenic standard, at the Colorado River near Kremmling, CO (USGS # 9058000) there was an exceedance of the chronic dissolved manganese standard and chronic total recoverable arsenic standard, and in Colorado River above Fraser River Confluence (CR-WGU) there was an exceedance of the chronic dissolved manganese standard.