

# DOLORES RIVER DIALOGUE

April 28, 2011

**Agenda:** The agenda was approved with no changes.

## **Status of DRD framework proposals**

**“A Way Forward”:** Peter Mueller and Mike Preston of the Legislative Committee of the Lower Dolores Working Group described how the LDWG came to be formed in response to the finding of preliminary Wild and Scenic River suitability for the Lower Dolores River by the San Juan Public Lands Office. The LDWG was formed in December 2008 and eventually decided to pursue National Conservation Area status for part of the Lower Dolores as an alternative to WSR designation. The Legislative Committee was created to work on the details of the NCA. Because there was disagreement on how best to deal with flows and flow-related issues, the committee decided to sponsor a review of all available science related to native-fish species on the Lower Dolores. That scientific inquiry was called “A Way Forward”. Three scientists/researchers were employed to conduct the review. They presented their preliminary findings to the Legislative Committee and an oversight panel on April 6 and 7. They are expected back in June to present their final findings. Mike said there is fairly strong agreement among both the ecological community and water interests that it is necessary to do something to aid native fish. Mike said there is a unique opportunity to address this issue because of the broad basis of consensus.

**Downstream Temperature Model:** Ann Oliver, DRD science coordinator, said this proposal was the first to be considered by the DRD Steering Committee (DRD-SC) and is something of a test case. Developed by Chester Anderson of BUGS Consulting, it was initially called the SLOWs proposal in reference to the Selective Level Outlet Works on the dam. However, it has shifted and evolved into an effort to understand how flows and temperatures out of the dam are related and how they relate to temperatures downstream. This could lead to methods of managing temperatures to aid native fish and discourage non-natives such as smallmouth bass. Chester’s report will be on the web site when it is complete and he will present his findings to the DRD more fully, probably at the next DRD meeting.

It was asked whether the study looked at effects of temperatures on trout. Ann said the model simply involves taking observed data and developing a relationship to flows and other variables such as air temperature. The tool can then be used to develop a hypothesis based on one’s management objective. The model could serve any temperature-related management goal.

David Graf of the Colorado Division of Wildlife said the DOW has researchers who have installed more thermographs on the river in hopes of validating the model over the next year or so.

**MVIC lease proposal:** MVIC President Randy Carver presented the Framework Proposal outline for the company’s proposal to lease up to 6,000 acre-feet of water to the Colorado Water Conservation Board to help satisfy the CWCB’s existing instream flow of 78 cfs on the Lower Dolores. Randy said the lease proposal is an opportunity MVIC could provide for the DRD to improve the downstream environment and an option for the company’s shareholders.

Facilitator Marsha Porter-Norton reported that the DRD-SC talked at length about the lease proposal at its April 5 meeting and agreed to bring the proposal to the DRD as information, for discussion. The SC did not reach full consensus to support the proposal at this time. Representatives of the Nature Conservancy, San Juan Citizens Alliance, Bureau of Reclamation and DOW gave their support, saying this was something they had sought for a long time, but some issues and concerns were raised. These were:

- Seeing a benefit. The DRD-SC said it would be important to have a monitoring effort.
- If we can't measure the effect, should we do it?
- Making sure nobody will be injured. It is not the DRD-SC's job to make the complex legal decisions, but this was raised as an issue.
- Is the water available? Don Schwindt of the Dolores Water Conservancy District board said he needed more information on this.
- If MVIC leases the water, can the company get it back or will there be pressure to continue putting the water downstream?
- How would the lease be administered? Would the Biology Committee or the CWCB do it? During which years would the water go downstream?

Marsha said MVIC did not have to bring this proposal to the DRD but chose to do so.

Mely Whiting of Trout Unlimited, one of the partners in this effort, said TU has been involved with McPhee and the Dolores River for a long time. TU has serious concerns about the fact that the existing instream flow of 78 cfs on the Lower Dolores is rarely met and there is not enough water in the fish pool to meet the needs of the trout fishery. TU is eager to work with native-fish interests and boaters to reach a common goal and a management strategy that works for everybody. TU sees the MVIC lease as a win-win situation, a partnership between conservation groups and irrigators through a free-market, non-regulatory approach. After 10 years the lease would end and MVIC would be free to get its water back. Mely said she cannot think of a better model and she hopes individual representatives of groups in the DRD would support this.

Tom Klema, a representative for commercial rafting, asked whether this type of lease has been done before. Don Magnuson, general manager of MVIC, said it would be the first time a 3-in-10-year lease has been exercised in the state, although the legislation to allow such leases has been in existence for years.

David Graf said the Biology Committee has had discussions about how best to use a 3-in-10-year lease, and the "AWF" contract scientists were asked to address this as well. He said the habitat curves show there could be gains in fish viability through additions of base-flow water. This additional water could provide a ramp-up to the temperature-suppression flow before the rafting flow comes into play, or for other purposes. He said the DOW sees a very direct correlation between fish biomass and quality with base flows.

Jim Fisher of the DWCD board said MVIC should have a say in when the 3-in-10 lease would be exercised and he would like clarification about that. Don said the lease provides for a consultation in the first part of April. If the water is physically not available, MVIC is not obligated to meet the lease.

Dolores County Commissioner Julie Kibel asked whether Groundhog Reservoir, the source of the leased water, would remain at a level suitable for fishing and boating. Don said there is a conservation pool that has to remain in place, and there are exchanges upstream of McPhee that must have a certain amount of water, and those will remain. He said if MVIC doesn't protect that pool, that would be an injury.

Meghan said as a Steering Committee member she thinks it is to MVIC's great credit that they have persisted with this idea.

Don Schwindt said the instream flow of 78 cfs on the Lower Dolores was one of the earliest filings in the state's ISF program, and the process utilized to determine the ISF amounts has changed since then. In today's world, driven by water availability, there would be a different flow decreed. He said the situation is a little more complicated than simply stating that because the CWCB has a minimum ISF of 78 cfs, that's the required flow and the justification for the addition to the pool. He said, because this was one of the very earliest ISF filings, the state didn't follow the same process used today. Don said the simple assertion that there is an ISF of 78 cfs does not prove the need for the water. It is more complex.

Randy said the beauty of the 3-in-10 lease is that it recognizes those concerns. MVIC can take that water back if the lease doesn't work. There will be monitoring. He thinks this offers a wonderful opportunity to see if 78 cfs is the right number.

Mely agreed. She said the other side of the coin is that the ISF is set as the minimum necessary to preserve the environment to a reasonable degree, not the optimum amount. She said there is always disagreement over how much water is needed. This proposal involves a willing lessor. The partners are not asking this group for money but are coming up with their own funding. Part of the test for the lease to be implemented is no injury to other water rights. She doesn't think it's the function of this group to really question people who believe the water is needed and take steps, including funding, to make that happen.

Peter Mueller agreed the situation is complicated and this will not be a cause-and-effect science-fair experiment. But 6,000 acre-feet is an increase to the fish pool of about 20 percent and that is a significant difference. The partners want to take advantage of that opportunity to see what 20 percent can do to benefit the habitat and see if that will help the native fish, which is becoming a priority in this community. This is an opportunity to do something good in a substantive way through a market-based solution. The DRD was founded to look for solutions to benefit the downstream environment.

### **New Sno-Tel site and improved forecasting**

Ken Curtis, DWCD hydrologist, said at present just four SnoTels are used to provide run-off and water-supply forecasts for the Dolores River Basin. There is a new SnoTel at Sharkstooth, but data from several more years of its operation will need to be analyzed before it will be fully utilized for forecasting.

Ken said a desire has been expressed to improve the local forecast. The official forecast is provided by the Natural Resources Conservation Service and the Colorado River Basin Forecast Center, and the regional forecast center has been looking for additional SnoTel sites. The CWCB offered \$15,000 toward the total cost of an additional site (approximately \$25,000) if the DRD

signed on by the end of last year. TU, SJCA, and American Whitewater have given contributions toward the new SnoTel and there are commitments from the Ute Mountain Ute Tribe, DOW, Bureau of Reclamation, MVIC and DWCD.

Ken said the ultimate decision about where to locate the new SnoTel will be made by the NRCS. Most SnoTels are above 10,000 feet. There was talk of locating this one at a lower elevation, but that would mean the data wouldn't extend very far into the season. The NRCS will choose a couple possible sites and look at them this summer and will probably install the SnoTel in 2012.

David Graf said data from lower elevations is critical for water management, particularly regarding native fish.

Mike Preston said, once a SnoTel is purchased and installed, it doesn't require more money, but stream gauges take operation and maintenance. Mike said it costs about \$17,000 a year to operate the Slickrock stream gauge. In subsequent years the enthusiasm about that gauge has dwindled. Mike said the DWCD is still paying about 80 percent of the cost of that O & M, although the SJCA, American Whitewater and the Dolores River Festival have made contributions. The DWCD board didn't intend to pick up that much of the cost. The DWCD signed the contract this year and paid the bill but does not plan to do so in the coming year if the district is still expected to bear most of the costs. Mike said contributions are needed if everybody wants the Slickrock gauge to continue operating. The Slickrock gauge offers good information but it does not directly affect the operation of McPhee. It offers a benefit to rafting and the downstream environment. In answer to a question, Mike said the Bureau of Reclamation does not contribute but could be asked.

Tom said the fishery and whitewater boating are bona fide obligations of the Dolores Project, so it seems the BOR should be involved.

In answer to a question, Ken discussed how the forecast is developed and gets translated into the reservoir filling. The regional forecast center and NRCS begin serious forecasting in January. The average annual runoff into the Dolores is 350,000 acre-feet, and the bulk of the runoff comes from the snowpack. March 1 is generally the time of peak snow. This year it peaked about March 28. April 1 is when the forecast becomes fairly accurate. Ken said the DWCD is waiting for the May 1 update, but chances are that this year will be in the low-spill scenario. The May 1 forecast is usually very accurate but if temperatures stay very cold into July, there might not be enough run-off for a spill. The historic peak is about May 20. It's a timing game. Ken said the Spill Committee decided that because this should be a small spill, it will be focused on the period between May 20 and Memorial Day weekend. It will probably start at about 800 cfs. Ken said 200 cfs a day is the ramp-down.

Tom said American Whitewater did a study two years ago on varying flows. 800 cfs is considered the lowest raftable flow. However, he said when the flow is 800 cfs at the dam it's not 800 cfs at Snaggletooth. A little more water might have to be released to make it 800 at Snaggletooth; this would help with safety. Tom said the study talked about other boatable flows and suggested that lower levels provide raftable flows for some craft. He said he would like to see the reservoir managed on the down side of the spill to experiment with other raftable flows, such as 600 cfs. Tom said that flow allows access to Slickrock Canyon and Powder Gorge. He suggested holding it at 600 for a day or two, then trying 400 cfs. At that level, boaters could probably still get down

Slickrock and Ponderosa Gorge with kayaks and certain craft. At 200 cfs Slickrock would not be runnable, but some other places might be. Tom said there is an opportunity for a commercial whitewater boating economy in this river, but predictability of flows is a huge issue. He would like to see that explored.

Ken said the Spill Committee has talked about this. There will be plateaus at 600 cfs and at 400 cfs, primarily to get boaters off the river safely. He said MVIC's and DWCD's water rights must be respected, however.

Ann asked if the goal is to peak on Memorial Day weekend. Ken said no. This will be a fairly flexible spill. 800 cfs will probably be the highest flow, but it could go to 1,000 for a couple of days, depending on Mother Nature.

David Graf said he appreciates the rafting community discussing ideas beyond 800 cfs. A lot of these flows are complementary to doing longitudinal monitoring. Ramping down more slowly gives small native fishes a chance to get back to the main stem if they have been in eddies.

Mike Preston said the importance of carryover storage was demonstrated this year. There was 25,000 acre-feet more in the reservoir than the year previous. Had this been a very dry winter, that carryover would have allowed the district to meet obligations to irrigators. Now, the 25,000 acre-feet carried over will likely provide the spill. He said the district will remain conservative about carryover storage.

Tom said being less conservative with reservoir operations would greatly improve predictability of rafting. He said there seems to be a presumption that the whole economy of Southwest Colorado is going to fail if the reservoir doesn't fill. This is hard for him to understand. He said this conservatism has cost opportunities for whitewater rafting. He said if there is harm to farmers, maybe a mechanism could be developed to make up that financial loss to the irrigators.

Marsha said this is the kind of idea that could become a Framework Proposal. It needs to go through the process.

Ken said the Spill Committee is open to people and the important meetings are in March, April and May.

**Plaques:** Shauna Jensen and Connie Clementson of the Dolores Public Lands Office presented thank-you plaques to some members of the LDWG who had not yet received them.

**Information:** Tom said in 2008 CSU did a study on non-consumptive uses of rivers and suggested it might be of interest to the group. Marsha said she will send it out by e-mail.

### **Review of goals document**

Marsha presented a document developed by the DRD-SC on the DRD's purpose, function, projects/activities, success measurements and toolkit for framework proposals. She reviewed the document and asked for feedback.

In regard to the Hydrology Committee activities described on Page 3, Ken explained that the HC is trying to give everybody an equal set of information about key documents in the operation of

McPhee. David Graf and John Porter presented and explained the Hydrology Report that is on the web site. The committee is working through the EA that created the fish pool and will be studying the EIS from the Dolores Project. There are many other contracts still to be studied.

Ann said regarding the Science Committee, she will be finalizing the Opportunities Report and hopes to have that ready by the June meeting. She said the 319 watershed study, whose purpose is to develop a plan examining pollutants and potential and existing water-quality issues below McPhee, is to be concluded in 2011. The plan is due to the Colorado Nonpoint Source Program by April 2012. Chester Anderson is conducting the study and has a draft outline. Ann said Chester is also working on the Downstream Temperature Model and other proposals. She said the DRD has also secured a \$50,000 native-fish grant but there is no scope of work yet, pending the outcome of "A Way Forward".

Marsha reviewed the rest of the document, then discussed the proposed worksheet, which she emphasized is very much in process. She said the SC did not have time to work through all the boxes but this is a worksheet that can be used to discuss and formulate ideas. Mike said this information came from the Opportunities Report and existing science. He said to remember that the "constraints" boxes need to be filled in as well.

Mely acknowledged the SC's work in developing the document. She said the Desired Outcomes handout is the crux of everything and requires considerable thought. Mely said it is important for the entire DRD to give thorough feedback at some future meeting.

Meghan said the goal was for the SC to have a more finalized version for this meeting, but there was not time. It is not at the stage of being final to be considered. Marsha said input can be taken beyond today. Marsha said the worksheet is being offered as a toolkit for the group.

Ann said there are some inherent conflicts in the desired outcomes, so these are not settled management objectives. The worksheet is a way to get to the desired outcomes stated on Page 8, but the worksheet should not be set in stone. It will be continuously refined. These are not goals but potential management objectives. She said the question, "What do we want to try to do?" is different than, "How do we get there?"

Don Schwindt said he was alarmed by Mely's statement that this is the crux. He said the hydrologic constraints are set by Mother Nature, and some of the flow targets could seriously conflict with what Mother Nature provides. This worksheet may not be the format that will be most usable. The SC is still trying to resolve some of these issues. The specificity of the blank boxes (constraints) needs to match that of the specificity of the other boxes.

Mely agreed. She said the entire table, with everything filled out, will give the picture of what managers are up against. She said she was confused by Ann's statement that these are not goals. Ann said there are a lot of entities that have different goals. They have to agree on the goal before you can test a hypothesis.

Mely asked whether one of the goals is to get to the point where this is something everybody is comfortable with and it can be a working document, understanding that it is adaptive management.

Marsha said the worksheet is a tool for fleshing out ideas, but it isn't in itself is a goal. The intention is to manage and guide a process by which do-able alternatives can be presented that will match the purpose statement. The term being used is "flow hypotheses". Maybe just one of these will draw some consensus.

Don Schwindt said this has been tried in the past with the Correlation Report, to show how many years out of 10, for example, you could expect a certain kind of spill. This toolkit is to help bring the right sideboards to the proposals so sensible proposals driven by reality can be made.

Shauna said the desired outcomes are vague, e.g., "cottonwood seedling establishment". Where? How often? Most of these are very general and could use some expansion.

Matt Clark of TU said there is somewhat of a conflict between the goals of the group, so the document makes things very general. The group has goals, but the Framework Proposals are the way to meet the goals and make them actually happen.

Marsha said the DRD-SC wants to ensure a fair, open and transparent process to talk about ideas. Within this particular group there are three factors to be considered:

- Obligations to rafters
- Trout
- The new concern of native fish

There are some things that must be knitted together to make a proposal work. It's difficult for this group to say that one particular topic is our goal. The goal is to run a process to find something that will work for as many people as possible. Some things outside of this group are setting goals for it.

Mike said being prepared for when an opportunity presents itself is also critical. How do you know when you have an opportunity? And if an opportunity presents itself, you have to know what you want to do. Forecasting can indicate when there is an opportunity. Then there needs to be a road for how to use the spill, as well as a way to monitor.

Ann said the worksheet should keep changing. This is a good place to capture the hypotheses that come out of "A Way Forward". She said an earlier goals document was vetted with the Science and Hydrology committees and some of their comments are not fully reflected here, so she needs to note that.

Nathan Fey of American Whitewater said they did a flow evaluation last year to see how compatible the flow targets are with recreational needs. Nathan said the challenge for the recreational community has been how to describe recreational needs, because they haven't been defined. He said they have explored two options: an individual collection of recreational-flow targets, or a narrative of how these ecological flows provide for recreational needs.

Don Schwindt said both of those columns would be useful additions. He said the contractual obligations of the spill to the boaters have not been that specific.

Julie Kibel said she likes it when something can be backed up with scientific investigation. There has to be some flexibility and this allows for that. She likes the specificity and thanked the SC for its work.

Marsha said this can be made part of the minutes of the SC as a Word document and people could follow its development through "Track Changes". People can also send her a Track Changes document with their recommendations and she will disperse that to the SC. She envisions this document will be discussed at every DRD meeting.

Mely said she had noticed that more details had been added on the implementation side. Marsha said on Page 4, "Principles of Success" were added, but the steps for Framework Proposals have not changed. Mely said the principles create more criteria for a project proponent's success and expressed concern that this was becoming onerous. Mely also said she has always wanted to see the DRD do more to generate ideas for proposals, not merely hear them. Under "Do-Able Alternatives" on Page 2, where it states, "At least two proposals will make it through the process," she would suggest saying the SC will either forward **OR GENERATE** at least two proposals.

Meghan said from her perspective the SC is not done discussing the ways its success will be measured. The original language regarding two proposals was to ensure that something happened in 2011. Then the SC asked, "Do we mean **only** two?" So the language became broader. The SC is a place to generate ideas; David and Don have already had some. Meghan said it was important to Chuck Wanner, formerly of the SJCA, that the SC not be a "God committee" to say yes or no to proposals but to put them through a rigorous process. She said she wrestles with whether it's appropriate for the SC to take on proposals itself. She said that discussion probably is not finished.

Mely said it seems if the DRD-SC is not a God committee and not making decisions, there should be no conflict with generating ideas. Meghan said the SC will come up with ideas, but pursuing them through the process is different. Marsha said she doesn't think it has to be either/or. She thinks the requirement for two proposals per year will be met this year. Mely said she wants to be sure there are indeed two proposals a year and if none come forth, the SC should generate them.

Marsha said maybe the list on Page 4 of "Principles for Success" needs a better preamble to make it less intimidating. She said she will get this out on e-mail, and reminded people to send her their "Track Changes" on the document. She can put those into the minutes.

**Status of LDWG recommendations:** A question was asked about the status of the other recommendations from the LDWG. Marsha said they were reported to the DPLO last July in relation to the corridor-plan revision. Mike said the Leg Comm is working through the legislative principles and has made good headway. Most difficult were the flows and fish, so the Leg Comm set aside the legislative principles to pursue "AWF". He said there are separate tracks: the San Juan Public Lands Center's corridor-management plan, the legislation, and what's becoming an adaptive-management effort.

Shauna said the LDWG contributed to updating the corridor-management plan but the DPLO decided to wait for the results of "AWF" before finishing the corridor plan. Connie agreed and



said the DPLO is waiting to hear what comes from the legislative group. She said if, as a result of the legislation, a new management plan is developed for the area, it seems like wasted energy to update the plan now.

Amber Kelly of SJCA said the DRD needs to make sure the LDWG knows their feedback was valuable and was not lost. Julie said the community relied on the LDWG to be their voice and is patiently waiting. The word about the progress and status of efforts needs to get out. Marsha said she can draft a communication to the LDWG and it can be edited.

David said the entire effort could come undone without a good-faith effort on everyone's part. The water and fish piece is very important to the entire undertaking. Amber said there is no final agreement until the Leg Comm figures out the water part.

### **DRD sustainability**

Meghan said the two-year budget for the DRD is about \$58,000. Approximately \$35,000 of that is already funded. MVIC, the DWCD, SJCA and TNC have agreed to partner and share some costs. However, there is about \$2,819 left over. Meghan said that is not much to raise, but it provides an opportunity for individual memberships. Marsha has created a form for donations; they could be \$5 or \$500 – everything is helpful. Meghan will share this form with folks who are interested in contributing to the DRD. They will receive recognition for their assistance. Donations would help underscore the community process we have here.