



COLORADO

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March 25, 2019

United States Forest Service
Grand Mesa, Uncompahgre and Gunnison National Forests
Attn: Plan Revision Team
2250 South Main Street
Delta, CO 81416

RE: Grand Mesa, Uncompahgre and Gunnison National Forests - Draft Wild & Scenic River Eligibility Evaluation

Dear Forest Plan Revision Team,

The Mesa County Board of County Commissioners ("Board") appreciates the opportunity to comment on the Draft Wild & Scenic River ("WSR") Eligibility Evaluation ("Evaluation") for the Grand Mesa, Uncompahgre and Gunnison ("GMUG") National Forests Plan Revision ("Plan"). While we understand this evaluation is only in the "eligibility" stage, we urge you to consider the below comments regarding our concerns as the evaluation of these stream sections progress.

- I. As mentioned in our letter regarding the GMUG Wilderness Evaluation, the Board supports sensible, multiple use of public lands and resources. A determination of eligibility for a stream segment obligates the Forest Service to manage that area to preserve the Outstandingly Remarkable Values ("ORVs") that were identified for that stream segment. All segments in Mesa County are proposed for "Wild" classification, which is reserved for areas "free of impoundments and generally inaccessible except by trail."¹ Therefore, we anticipate that Forest Service management for these areas would prioritize the preservation of existing conditions which will create an unnecessary regulatory burden and de facto restriction of use to Mesa County citizens and property owners.

The Draft WSR Evaluation states, "A suitability study is not required as part of the 2012 Planning Rule and would only be undertaken in certain circumstances." However, the identified stream sections, if found to meet the eligibility criteria will be "managed under the appropriate wild, scenic, or recreational river management area". Mesa County is concerned that much like Wilderness Study Areas, these newly designated management areas are likely to remain in limbo for years with no final decision.

- II. The supporting materials do not indicate that the Forest Service has evaluated the availability of unappropriated water in each of the proposed segments. Many of the identified ORVs rely upon the continued presence of free-flowing water in the stream.

As an example, GV-3 Kelso Creek has been determined as potentially eligible based solely on the Fish ORV (i.e. the presence of a genetically-pure population of native cutthroat trout). However, we have been advised that Kelso Creek is fully appropriated by existing irrigation diversion rights, with no instream flow guaranteed, and calls have been placed on junior water

users in both 2018 and 2017², indicating that water availability is insufficient in some years to meet existing demand³. Therefore, the Forest Service cannot dependably manage this stream segment to preserve the fish population, since the rights of existing water users would pre-empt such management. Since the Forest Service does not have the authority to manage this segment sufficiently to preserve the identified ORV, the ORV should not be considered valid. Any other determination represents an overreach of the Forest Service's authority.

A similar examination of available water and existing water appropriations should be completed for all segments prior to making final Eligibility determinations. Upon the completion of such water rights examination, any ORVs that depend on water availability should only be considered valid if existing in-stream flows have been appropriated and are sufficient to support the preservation of that ORV in perpetuity.

- III. The Fish ORV identified for the three stream segments within Mesa County (GV-1, GV-2, GV-3) have identified the presence of a ninety-percent (90%) genetically pure Greenback Cutthroat Trout ("GBCT") population; the GBCT is currently listed as threatened under the Endangered Species Act ("ESA"). Adding additional burdensome and duplicative regulation in the form of WSR restrictions to a species that is already listed as threatened is unnecessary.

Further, we would like to clarify that the Forest Service appears to be referring not to GBCT (*Oncorhynchus clarkii stomias*), but actually to green lineage Colorado River Cutthroat Trout (*Oncorhynchus clarkii pleuriticus*) ("GL-CRCT"). Recent genetic work⁴ and phenotypic analysis⁵ have confirmed GBCT as the native cutthroat trout species of the South Platte basin, and has further confirmed that the GL-CRCT is a distinct subspecies historically confined to the Colorado, Gunnison and Dolores Basins. It is our understanding that the U.S. Fish and Wildlife Service ("USFWS") currently manages all native Colorado cutthroat trout populations as "threatened". At this time, until additional genetic research can be finalized, current recovery efforts are focused on replicating the native South Platte Basin GBCT in hatcheries and re-establishing those historic populations⁶. If the USFWS reconsiders the status of the GL-CRCT and its inclusion in the ESA protections in a future listing decision, Mesa County wants to clarify that it is our understanding that the South Platte GBCT is not present in this location.

While GL-CRCT is widespread throughout the streams of the GMUG, it is not abundant⁷. In fact, the WSR review notes derived from internal Forest Service meetings specifically cite the existence of "conservation populations of CRCT" on other stream segments, but states that these populations "do not meet the threshold of an ORV". Segments where CRCT are present but were not deemed sufficient to support an ORV include the North Fork of Tabeguache, as well as Elk Creek and Deep Creek in other regions of the Forest Planning Area. It is not clear why the fish population in the Escalante Creek segments justifies an ORV determination, when other populations in nearby streams do not.

2 Colorado Department of Natural Resources, CWCB/DWR. Decision Support Systems, Structure Call Analysis. Available at <https://dnrweb.state.co.us/cdss/AdministrativeCalls/StructureCalls>. Accessed March 2019.

3 Capesus, J.P., and Stephens, V. C., 2009, Regional Regression Equations for Estimation of Natural Streamflow Statistics in Colorado: U. S. Geological Survey Scientific Investigations Report 2009-5136, 32 p.

4 Metcalf et al. 2012. Historical stocking data and 19th century DNA reveal human-induced changes to native diversity and distribution of cutthroat trout. *Molecular Ecology* 21:5194-5207.

5 Bestgen, K. R., K. B. Rogers, and R. Granger. 2013. Phenotype predicts genotype for lineages of native cutthroat trout in the Southern Rocky Mountains. Final Report to U. S. Fish and Wildlife Service, Colorado Field Office, Denver Federal Center (MS 65412), Denver, CO. Larval Fish Laboratory Contribution 177.

6 U.S. Fish and Wildlife Service, 2016. Western Native Trout Status Report, 2016 – Greenback Cutthroat Trout.

7 Hirsch, C.L., S.E. Albeke, and T.P. Neslwer. 2005. Range-Wide Status of Colorado River Cutthroat Trout (*Oncorhynchus clarkii pleuriticus*). USDA Forest Service, Glenwood Springs, CO.

8 Young, M.K. 2008. Colorado River Cutthroat Trout (*Oncorhynchus clarkii pleuriticus*): a technical conservation assessment. [Online]. USDA Forest Service, Rocky Mountain Region. Available: <http://www.fs.fed.us/r2/projects/scp/assessments/coloradorivercutthroattrout.pdf>.

Therefore, the Board objects to the determination of an ORV for Fish in the Escalante Creek segments (GV-1, GV-2, GV-3) on two separate grounds. One, protections for the resource already exist, since the fish is listed under the ESA and the species and its habitats are additionally protected by the Forest Service through Forest Plan guidelines. Two, there is inconsistent application of the Fish standard, where conservation populations of native cutthroat trout are judged to constitute an ORV in this drainage but not in other nearby drainages.

Mesa County has acted in good faith through various memoranda of understanding and as a cooperating agency partner in land use planning with the United States Forest Service and other agencies regarding the long-term protection and special management of areas worthy of unique management. The Board intends to continue to coordinate cooperatively, but it does not support the identified stream segments being considered for a Wild and Scenic River designation.

Thank you for your consideration of the above comments concerning this very important matter.

Sincerely,



Rose Pugliese, Chair
Board of County Commissioners



Scott McInnis
Commissioner



John Justman
Commissioner

cc: Frank Whidden, County Administrator
Patrick Coleman, County Attorney
Peter Baier, Administrator of Operations/ Public Works