

GUNNISON COUNTY, COLORADO

BOARD OF COUNTY COMMISSIONERS
PHONE: (970) 641-0248
FAX: (970) 641-3061

MEMORANDUM

TO: Lou Entz, Chairperson
Colorado Water Conservation Board

FROM: Board of County Commissioners
County of Gunnison, Colorado

DATE: July 24, 2000

RE: Colorado Water Conservation Board Meeting, July 25, 2000

The Board of County Commissioners of Gunnison County is pleased that the Colorado Water Conservation Board will be meeting on Tuesday, July 25, at the Gunnison County Fairgrounds multipurpose building. We welcome you to Gunnison County. On the Board's agenda, from 10:30 a.m. to 12:30 p.m. are these listed topics:

- a. Gunnison/Uncompahgre Director's Report
- b. Gunnison Basin Plumbing Basics
- c. Aspinall Operations, Subordination Agreement, Flow Recommendations, NPS Black Canyon Reserved Right, Curecanti EIS
- d. Programmatic Biological Opinion Covering Gunnison Basin Projects
- e. In-Basin Water Demand Projections
- f. Water Quality Issues
- g. Local Instream Flow Priorities
- h. Right to Float

This memo presents the position the Board of County Commissioners has taken on a number of these issues; we have indicated the source of the position statement. One basic Gunnison County document to which you may want to refer is the "Gunnison County Position Statement: Protection And Development Of Water Resources In Gunnison County And The Gunnison River Basin" adopted September 25, 1990 (a copy of which is attached to this memo).



- 1. ASPINALL OPERATIONS, SUBORDINATION AGREEMENT, FLOW RECOMMENDATIONS, NPS BLACK CANYON RESERVED RIGHT, CURECANTI EIS.** The Board of County Commissioners recognizes and appreciates the federal government, with the support of the Colorado Water Conservation Board, has operated the Aspinall Unit to provide promised protection to our community against calls from senior downstream rights. We encourage the continuation of such operation.

On June 29, 1999 the Board offered to Mark Wondzell of the then Black Canyon of the Gunnison Monument, the following initial comments, based on County policies in the Gunnison County Position Statement dated September, 1990, on the National Park Service's proposal for quantifying the federal reserved water right for Gunnison River flow conditions in the Black Canyon of the Gunnison National Monument. For each County policy, the Board articulated the following issues that the Board respectfully requested by addressed. (Source: Correspondence from the Board to Mark Wondzell dated June 29, 1999, copy attached.)

It is the policy of Gunnison County to oppose water policies or planning which would place an undue burden on the Gunnison basin by providing water to meet out-of-basin demands. It also is the policy of Gunnison County to oppose water sales from Blue Mesa Reservoir which would adversely impact the present and future uses of water in the county, including the recreational use of the Curecanti National Recreational Area, the purposes of the Black Canyon of the Gunnison National Monument, and the Gunnison Gorge.

Further, any upstream sale or use of Aspinall Project yield must be for beneficial uses within the natural basin of the Gunnison River. With regard to the Aspinall Unit's rights, the Colorado River Water Conservation District has stated that it "always has maintained that the water rights were adjudicated by the River District for beneficial uses within the natural basin of the Gunnison River, that the assignment of those water rights by the River District to the United States obligates the United States to promote such in-basin uses and that contracting for deliveries of water outside the basin would be contrary to both the water right decrees and the water rights assignment." We agree.

Administration of the Aspinall Unit rights and the Black Canyon reserved rights as "co-equal" will have implications for other water rights both upstream and downstream from the Monument. What is the intent of the Park Service in proposing its priority to be "co-equal" with the Aspinall Unit?

How will this "co-equal" status effect the ability, if any, of the United States to market water appropriated under the Aspinall Unit water rights for transmountain diversion out of the Gunnison River basin?



What consideration is being given to the releases required on account of the Dallas Creek and Dolores Projects impacts on the endangered fish.

It is the policy of Gunnison County to encourage the identification of opportunities for a stable and diverse economic future for Gunnison County, and to support the protection and development of water resources for in-basin purposes which will realize those opportunities, and in a manner that is socially, environmentally and economically sound.

What will be the relationship between the Black Canyon reserved right and the 60,000 acre foot subordination?

What will be the relationship between the Black Canyon reserved right and the conditional rights of the Upper Gunnison River Water Conservancy District?

What will be the relationship between the Black Canyon reserved right and upstream water rights senior to November 13, 1957? For instance, what if there were a request to change use of a senior upstream agricultural right?

How will the Bureau of Reclamation time and control releases to meet flood control obligations and to mitigate other concerns?

It is the policy of Gunnison County to encourage the exercise of Federal reserved water rights in the Black Canyon of the Gunnison National Monument in a manner that would not adversely impact the present and future uses of water in the basin including the recreational use of Blue Mesa Reservoir. It is the policy of Gunnison County to encourage protection for economically important uses of water such as retaining or enhancing the productivity of agricultural lands and providing optimum stream flows and lake levels for fisheries and recreation within the County.

How will the "co-equal" rights be managed and administered? What needs will be considered? By whom? If management will require a periodic review process, when and how will it be conducted?

What is the anticipated impact of the Monument water right on the existing water-based recreation interests involving Blue Mesa Reservoir?

How will the proposed hydrograph be managed to preserve and enhance habitat for wildlife and, in particular, endangered fish species?

How will the proposed hydrograph benefit the Gold Medal Fishery in the Gunnison Gorge and mitigate the now severe whirling disease there.



It is the policy of Gunnison County to encourage and assist citizens to increase their knowledge of and participation in water resource decision making.

What will be the process for the public to be presented with, critique and comment on the proposal as it evolves? What, if any, NEPA considerations are applicable?

2. LOCAL INSTREAM FLOW PRIORITIES

It is the policy of the Board of County Commissioners that land use and other activities carried out in the County should not adversely affect the availability or suitability of water for present or future uses in the County and:

- "... to encourage protection for economically important uses of water such as retaining or enhancing the productivity of agricultural lands, meeting municipal and domestic needs, and providing optimum instream flows and lake levels for fisheries and recreation within the county..." (Emphasis added.)
- "... to encourage the use of proven traditional, and non-traditional and innovative solutions, both structural and non-structural, to protect, retain and enhance water resources in the basin ..."

(Source: Gunnison County Position Statement, 1990.)

On February 29, 2000 the Board wrote a letter to the Upper Gunnison River Water Conservancy District and local municipalities, copied to the Colorado Water Conservation Board, requesting consideration of possible instream flow designations not now existing on key stream segments in Gunnison County including, for example, the Gunnison River north of the City of Gunnison and along Tomichi Creek near the City of Gunnison.

(Source: Correspondence dated February 29, 2000, copy attached.)

3. WATER QUALITY ISSUES

The foundation of the Board's policies and decisions regarding water quality is that:

"The essence of Gunnison County's ability to survive and prosper historically has been, and will continue to be, its ability to have consistent, plentiful and clean water. Like many western communities, the county has experienced a series of economic cycles. Each time the cycle bottoms, the community assesses itself and its future. What has consistently emerged from these exercises has been the clear recognition that the area's natural environment is its most important asset.



The future of the County is directly dependent upon the community's ability to preserve and carefully build upon its natural resource assets. Its unique and fragile setting provides an environment that attracts recreationists and tourists, supports an excellent college and an historical and valuable agricultural industry.

If the natural environment is the heart of the economic and social well-being of Gunnison County, both now and in its future, water is its lifeblood.

(Source: Position Statement, September, 1990.)

It is the policy of the Board:

"... to encourage water quality classification of streams, lakes and reservoirs by the state which will have the effect of recognizing and protecting high quality waters in the county while not imposing an unreasonable economic burden on existing and future water users."

(Source: Position Statement, September, 1990.)

The Board has actively fostered coordination among local government entities and citizens in participation in rulemaking and hearings before the Water Quality Control Commission.

4. RIGHT TO FLOAT

The Board recognizes that floating access issues:

- involve provisions of the State Constitution
- implicate a number of Colorado statutes
- involve matters of statewide concern
- involve a substantial number of citizens
- significantly effect constitutional, statutory and property rights
- are pressing because the rafting industry is becoming more important to the recreational economy of Colorado
- are likely to reoccur.

(Source: Correspondence from Board of County Commissioners to Greg E. Walcher dated January 4, 2000, copy attached.)

The Board's policy has been:

"To encourage the development of water-based recreation programs which will return financial benefits to landowners who make their lands available for such activities.



To support voluntary improvements in public access to streams on private lands through a variety of methods such as, at their discretion, landowners' providing free or compensated access on their own lands, granting short term leases, granting easements, or entering into outright sales agreements with public entities.

To encourage the development of systems to manage fishing and rafting access to streams and address such issues as trespassing, collection of fees, litter, damage to property including livestock, and maintenance and improvements of access facilities.

To encourage the development of recreation facilities in the county including campgrounds, picnic areas, trails, stream access, etc., which allow a variety of recreational experiences.

To actively cooperate with other entities in regional and national marketing of recreation opportunities in the county.

To support improvement and protection of water-based recreation and access on public lands.

(Source: Gunnison County Position Statement, September, 1990.)

In November, 1999, the Board met with and requested Senator Chlouber and Representative C. Miller to consider crafting legislation to address the issues and they agreed to do so. The Board also offered to host a statewide forum to assist in that effort. The Board was then informed of the ongoing efforts of the State Department of Natural Resources, through the "River Surface Recreation Forum," to address the issues; the Forum asked the Senator and Representatives to hold off drafting or introducing any bills while the Forum continued its efforts. The Board agreed in the hope that this course of action would lead to an acceptable legislative initiative. (Source: Correspondence from Board to Hon. Ken Chlouber and Hon. Carl Miller, dated January 4, 2000. Copy attached.) The Board has hosted two public meetings, including a June, 2000 meeting among the Board, Forum and public in Gunnison County:

- To continue to provide all interested parties an opportunity to meet each other and to discuss with each other ways to avoid, and to resolve, local conflicts regarding floating access
- To provide a briefing on the current statewide efforts to avoid disputes
- To begin to identify local problem issues and areas
- To begin to identify local solutions



- To begin to identify local volunteer helpers and facilitators.

(Source: Public notice, dated May 26, 2000, copy attached.)

The Board is a participant in the River Surface Recreation Forum and remains ready to become involved in efforts to explore possible legislative solutions.


Fred Field, Chairperson


Marlene Zanetell


Jim Starr



It is the policy of Gunnison County to encourage the identification of opportunities for a stable and diverse economic

INTERDEPENDENCE OF ECONOMIC DEVELOPMENT AND ENVIRONMENTAL PROTECTION IN GUNNISON COUNTY'S FUTURE:

It is upon these realities, and within the following policies, that Gunnison County establishes its position on water resources protection and development.

If the natural environment is the heart of the economic and social well-being of Gunnison County, both now and in its future, water is its lifeblood.

The future of the county is directly dependent upon the community's ability to preserve and carefully build upon its natural resource assets. Its unique and fragile setting provides an environment that attracts recreationists and tourists, supports an excellent college and an historical and valuable agricultural industry.

The essence of Gunnison County's ability to survive and prosper historically has been, and will continue to be, its ability to have consistent, plentiful and clean water. Like many western communities, the county has experienced a series of economic cycles. Each time the cycle bottoms, the community assesses itself and its future. What has consistently emerged from these exercises has been the clear recognition that the area's natural environment is its most important asset.

INTRODUCTION:

**GUNNISON COUNTY POSITION STATEMENT
PROTECTION AND DEVELOPMENT OF WATER RESOURCES
IN GUNNISON COUNTY AND THE GUNNISON RIVER BASIN**

future for Gunnison County, and to support the protection and development of water resources for in-basin purposes which will realize those opportunities, and in a manner that is socially, environmentally and economically sound.

It is further the policy of Gunnison County:

- * To encourage the development of water-based recreation programs which will return financial benefits to landowners who make their lands available for such activities.

- * To support voluntary improvements in public access to streams on private lands through a variety of methods such as, at their discretion, landowners' providing free or compensated access on their own lands, granting short term leases, granting easements, or entering into outright sales agreements with public entities.

- * To encourage the development of systems to manage fishing and rafting access to streams and address such issues as trespassing, collection of fees, litter, damage to property including livestock, and maintenance and improvements of access facilities.

- * To encourage the development of recreation facilities in the county including campgrounds, picnic areas, trails, stream access, etc. which allow a variety of recreational experiences.

- * To actively cooperate with other entities in regional and national marketing of recreation opportunities in the county.

- * To support improvement and protection of water-based recreation and access on public lands.

PROTECTION OF WATER RESOURCES:

It is the policy of Gunnison County that land use and other activities carried out within the County should not adversely affect the availability or suitability of water for present or future uses in the county.

It is further the policy of Gunnison County:

- * To encourage protection for economically important uses of water such as retaining or enhancing the productivity of agricultural lands, meeting municipal and domestic needs, and providing optimum instream flows and lake levels for fisheries and recreation within the county.

* To protect water resources for the purpose of maintaining the high quality of the water-dependent environment in the county.

* To encourage the protection and enhancement of riparian habitat because of the value of such habitat for benefiting water quality on-site and downstream.

* To encourage increased water use efficiency and the adoption of water saving measures by domestic water providers and users.

* To encourage the use of proven traditional, and non-traditional and innovative solutions, both structural and non-structural, to protect, retain and enhance water resources in the basin.

REGULATION OF WATER RESOURCES DEVELOPMENT:

It is the policy of Gunnison County to fully exercise its authority to insure that the net effect of development, management, and utilization of water resources is not to generate significant adverse environmental, social or economic impacts to the county.

It is further the policy of the County:

* To insure that water resource development will not cause a significantly adverse net effect to the existing quality and diversity of natural ecosystems within the county, including terrestrial and aquatic organisms and their habitats.

* To insure that water resource development will not cause a significantly adverse net effect to water quality, air quality, or soils and geologic conditions in the county.

* To insure that water resource development will not cause a significantly adverse net effect to areas of historical, archeological, geological, or ecological importance in the county.

* To insure that the citizens of Gunnison County will not experience a reduction in quality or availability of housing or public services and facilities as a result of water resource development in the county.

* To minimize conflicts and to regulate water resource development on the basis of impact of such development on other land uses.

* To insure that water resource development will not cause a significantly adverse net effect to any segment of the local economy or on opportunities to expand such segments of the economy in the future.

* To insure that any water resource development will not create an undue financial burden on residents of the county.

* To encourage development which will optimize existing water supply systems and wastewater facilities.

* To require that water supply systems and wastewater treatment facilities be designed, constructed, and maintained so as to permit efficient and economic provision of public services.

* To insure that Federal and state permit requirements for water resource management and development projects are finalized prior to, or in tandem with, local permits being issued.

PUBLIC INVOLVEMENT:

It is the policy of Gunnison County to encourage and assist citizens to increase their knowledge of and participation in water resource issues.

It is further the policy of Gunnison County:

* To encourage coordination among local citizens organizations which have an interest in water resource issues.

* To support public education concerning the state-wide economic and environmental value of preserving the water resources of the county for use within the Gunnison basin.

* To support public education concerning increased water use efficiency.

* To establish a repository for information concerning water resource development and protection issues and to act as a clearinghouse for such information.

LOCAL GOVERNMENT ISSUES:

To support coordination and definition of roles and responsibilities among local government entities including local

municipalities and the Upper Gunnison River Water Conservancy District concerning water resource issues.

REGIONAL GOVERNMENT ISSUES:

It is the policy of Gunnison County to work cooperatively with governmental entities on a regional basis on common issues related to water.

It is further the policy of Gunnison County:

* To support cooperation among headwaters counties and other entities which share mutual interests concerning the future development of water resources in Colorado.

* To work cooperatively with West Slope water districts on state and local water issues of mutual concern and benefit.

* To support cooperation among public entities throughout the Gunnison basin to ensure that the basin's water resources are used in an economically and environmentally sound manner.

STATE GOVERNMENT ISSUES:

It is the policy of Gunnison County to participate in all forums affecting the provision of water to meet out-of-basin needs or which would interfere with the ability of the county's citizens to determine the manner and extent to which the county's water resources should be used to meet its own present and future goals.

It is further the policy of Gunnison County:

* To oppose new legislation and amendments to existing Colorado law which would in any way weaken the county's ability to regulate water resource development.

* To oppose any "basin-of-origin" or "compensatory storage" legislation which would in any way weaken county regulatory powers.

* To oppose any state water policies or planning which would place an undue burden on the Gunnison basin to provide water to meet out-of-basin needs.

* To encourage state rule making or legislation which will place the entire burden for mitigating water quality impacts resulting from the diversion or

impoundment of water resources upon the developer of such resources.

* To encourage water quality classification of streams, lakes, and reservoirs by the state which will have the effect of recognizing and protecting high quality waters in the county while not imposing an unreasonable economic burden on existing and future water users.

FEDERAL GOVERNMENT ISSUES:

It is the policy of Gunnison County to monitor and, when appropriate, participate in all federal legislation, regulations, policies or plans which could affect the Gunnison basin's ability to provide water necessary to meet Gunnison County's present and future needs.

It is further the policy of Gunnison County:

* To encourage the United States to fulfill its previous commitments to provide stream access and other measures to mitigate for the construction of the Aspinall Unit of the Colorado River Storage Project.

* To support water language in proposed wilderness or wild and scenic river legislation which will provide environmental protection for the wilderness or wild and scenic river to be designated, which will require that the water right be administered and enforced in Colorado Water Court, and which will not impair present and future uses of water in the basin.

* To oppose legislation which would create a Federal water right but not require such right to be adjudicated in Colorado Water Court.

* To encourage the exercise of Federal reserved water rights in the Black Canyon of the Gunnison National Monument in a manner that would not adversely impact the present and future uses of water in the basin including the recreational use of Blue Mesa Reservoir.

* To encourage water and hydroelectric power operations of the Aspinall unit of the CRSP which would not adversely impact the present and future uses of water in the basin, the recreational use of the Curecanti National Recreation Area, the purposes of the Black Canyon of the Gunnison National Monument, and the Gunnison Gorge.


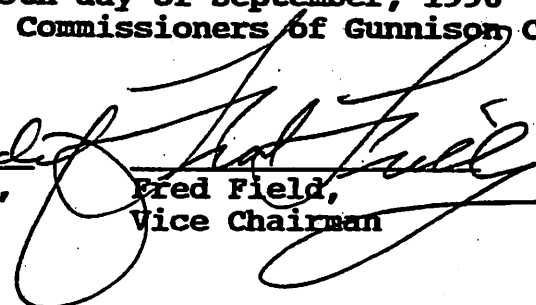
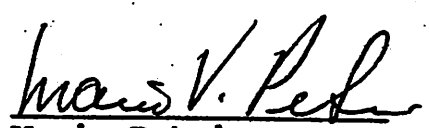
* To oppose water sales from Blue Mesa Reservoir which would adversely impact the present and future uses of water in the county, including the recreational use of the Curecanti National Recreational Area, the purposes of the Black Canyon of the Gunnison National Monument, and the Gunnison Gorge.

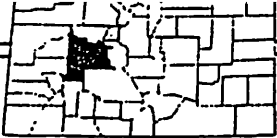
* To support the recovery of endangered fish species in the Upper Colorado River Basin in a manner that does not place an unreasonable burden upon the present and future water users in the basin.

COUNTY PARTICIPATION IN OTHER WATER MANAGEMENT AND DEVELOPMENT ACTIVITIES:

It is the policy of Gunnison County to encourage and participate in the development of an in-basin water resource protection and development planning process that will insure that the economic, social and environmental goals of the County are furthered.

Adopted, this 25th day of September, 1990
By the Board of Commissioners of Gunnison County, Colorado

		
David Leinsdorf, Chairman	Fred Field, Vice Chairman	Mario Petri Commissioner



BOARD OF COUNTY COMMISSIONERS
PHONE: (970) 641-0248
FAX: (970) 641-3061

June 29, 1999

*Copy to BOCC
w/ list of CCS*

Mark Wondzell
Black Canyon of the Gunnison Monument
2465 South Townsend Avenue
Montrose, CO 81401

RE: Proposed Settlement/Federal Reserved Water Right Quantification

Dear Mr. Wondzell:

The essence of Gunnison County's ability to survive and prosper historically has been, and will continue to be, its ability to have consistent, plentiful and clean water. Like many western communities, the County has experienced a series of economic cycles. In each cycle the community has assessed itself and its future. What has consistently emerged has been the clear recognition that the area's natural environment is its most important asset. The future of the County is directly dependent upon the community's ability to preserve and carefully build upon its natural resource assets. Its unique and fragile setting provides an environment that attracts recreationists and tourists, supports an excellent college and an historical and valuable agricultural industry. If the natural environment is the heart of the economic and social well-being of Gunnison County, both now and in its future, water is its lifeblood. It is upon these realities, and upon adopted policies of the County, that Gunnison County offers its initial comments on the National Park Service's proposal for quantifying the federal reserved water right for Gunnison River flow conditions in the Black Canyon of the Gunnison National Monument. For each County policy, we have articulated issues that we respectfully request you to address.

It is the policy of Gunnison County to oppose water policies or planning which would place an undue burden on the Gunnison basin by providing water to meet out-of-basin demands. It also is the policy of Gunnison County to oppose water sales from Blue Mesa Reservoir which would adversely impact the present and future uses of water in the county, including the recreational use of the Curecanti National Recreational Area, the purposes of the Black Canyon of the Gunnison National Monument, and the Gunnison Gorge.



Further, any upstream sale or use of Aspinall Project yield must be for beneficial uses within the natural basin of the Gunnison River. With regard to the Aspinall Unit's rights, the Colorado River Water Conservation District has stated that it "always has maintained that the water rights were adjudicated by the River District for beneficial uses within the natural basin of the Gunnison River, that the assignment of those water rights by the River District to the United States obligates the United States to promote such in-basin uses and that contracting for deliveries of water outside the basin would be contrary to both the water right decrees and the water rights assignment." We agree.

Administration of the Aspinall Unit rights and the Black Canyon reserved rights as "co-equal" will have implications for other water rights both upstream and downstream from the Monument. What is the intent of the Park Service in proposing its priority to be "co-equal" with the Aspinall Unit?

How will this "co-equal" status effect the ability, if any, of the United States to market water appropriated under the Aspinall Unit water rights for transmountain diversion out of the Gunnison River basin?

What consideration is being given to the releases required on account of the Dallas Creek and Dolores Projects impacts on the endangered fish.

It is the policy of Gunnison County to encourage the identification of opportunities for a stable and diverse economic future for Gunnison County, and to support the protection and development of water resources for in-basin purposes which will realize those opportunities, and in a manner that is socially, environmentally and economically sound.

What will be the relationship between the Black Canyon reserved right and the 60,000 acre foot subordination?

What will be the relationship between the Black Canyon reserved right and the conditional rights of the Upper Gunnison River Water Conservancy District?

What will be the relationship between the Black Canyon reserved right and upstream water rights senior to November 13, 1957? For instance, what if there were a request to change use of a senior upstream agricultural right?

How will the Bureau of Reclamation time and control releases to meet flood control obligations and to mitigate other concerns?

It is the policy of Gunnison County to encourage the exercise of Federal reserved water rights in the Black Canyon of the Gunnison National Monument in a manner that would not adversely impact the present and future uses of water in the basin including the recreational use of Blue Mesa Reservoir. It is the policy of

Gunnison County to encourage protection for economically important uses of water such as retaining or enhancing the productivity of agricultural lands and providing optimum stream flows and lake levels for fisheries and recreation within the County.

How will the "co-equal" rights be managed and administered? What needs will be considered? By whom? If management will require a periodic review process, when and how will it be conducted?

What is the anticipated impact of the Monument water right on the existing water-based recreation interests involving Blue Mesa Reservoir?

How will the proposed hydrograph be managed to preserve and enhance habitat for wildlife and, in particular, endangered fish species?

How will the proposed hydrograph benefit the Gold Medal Fishery in the Gunnison Gorge and mitigate the now severe whirling disease there.

It is the policy of Gunnison County to encourage and assist citizens to increase their knowledge of and participation in water resource decision making.

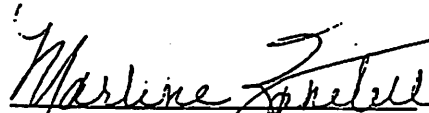
What will be the process for the public to be presented with, critique and comment on the proposal as it evolves? What, if any, NEPA considerations are applicable?


Thank you for the opportunity to comment on this phase of the settlement proposal. We look forward to your responses and commit to remain a participant throughout the process.

Sincerely,

Board of County Commissioners, Gunnison County


Fred Field, Chairperson


Marlene Zanetell


Jim Starr



February 29, 2000

Board of Directors
Upper Gunnison River Water Conservancy District
275 S. Spruce Street
Gunnison, CO 81230

Dear Friends:

Over 25 years ago Colorado law provided for the state (Colorado Water Conservation Board) to establish and hold water rights for minimum in-stream flows to "preserve the environment to a reasonable degree". Only the state can appropriate and hold these in-stream flow rights, on behalf of the people of Colorado. In the early '80's the County facilitated the local public process whereby the CWCB established such rights/flows for many segments of the creeks and streams in Gunnison County, and others have since been attained here. Over time, the state has obtained in-stream flow rights covering over 8,000 miles of rivers and tributaries throughout Colorado. Still, some important stream segments in our county have not been addressed.

We understand that no state in-stream flow rights have been established in some key stream segments in Gunnison County – including, for example, the Gunnison River north of the City of Gunnison and along Tomichi Creek near the City. Others may be identified. It only seems sensible to work with the Colorado Water Conservation Board program to establish minimum in-stream flow rights where available and appropriate. These rights, when established, are junior in priority to existing rights to divert (for agriculture, municipal, domestic, industrial purposes, etc.) which are already duly appropriated and thus senior in time. They do help to assure that at least some water would flow in a stream, if over time further water claims/diversions occur. They could potentially put more lawful rights in place in our watershed, which would further reduce unappropriated water available, if any, should any trans-mountain project be proposed in the future. Further, to sustain the aquatic resources – the fishery – as well as scenic and recreational tourism, this matter is of importance.

The County is willing to dedicate our support to the Upper Gunnison River District in this matter, which is very important to our future.

Please let us know your general views on proceeding in this matter. If you share this concern, we suggest our staffs meet to discuss collaboration and how we could proceed together in cooperation with the CWCB and other appropriate entities.

Sincerely,



John DeVore
County Manager,
on behalf of and at the direction of the Board of County Commissioners

enclosure

cc: Dan Merriman
Mayor and Councilpersons,
City of Gunnison,
Town of Crested Butte,
Town of Mt. Crested Butte.

Colorado's Instream Flow Program was created in 1973 with the passage of Senate Bill 97. It recognized that water could be "beneficially used" within the stream bed and banks for the purpose of preserving the natural environment to a reasonable degree. Prior to this time, the law did not recognize instream use as a "beneficial use".

The Colorado Water Conservation Board (CWCB) is vested with the authority to appropriate waters of natural streams and lakes in amounts that are determined to be necessary to preserve the natural environment to a reasonable degree.

The CWCB requests recommendations for instream flows or for minimum lake levels from:

- The Colorado Division of Wildlife
 - The Colorado Division of Parks and Outdoor Recreation
 - Agencies of the U.S. Department of Agriculture and the U.S. Department of Interior
-

The recommending agency provides information to the CWCB regarding the natural environment on each stream recommended for an instream flow appropriation. Traditionally, the presence of a cold water fishery has been used to characterize the natural environment and the recommended amounts of water are based on preserving the existing fishery.

The CWCB presently holds instream flow water rights on over 7900 miles of stream, and minimum lake level decrees on 485 natural lakes in the state.

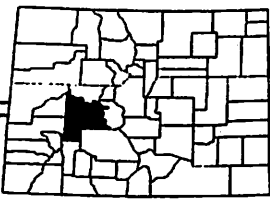
The CWCB protects these water rights by participating in Water Court proceedings.



In addition to filing for new water rights, the CWCB also has the ability to acquire water, water rights, or interests in water from private individuals or governmental entities to provide the flows necessary to preserve the natural environment to a reasonable degree.

This approach has been used to provide for instream flows in the following cases:

- ☞ The City of Boulder has donated senior water rights to the CWCB to maintain instream flows in Boulder Creek.
 - ☞ The Nature Conservancy has donated senior water rights to the CWCB to protect instream flows in Boulder Creek and the Gunnison River through the Black Canyon National Monument.
 - ☞ The U.S. Bureau of Reclamation, in cooperation with the CWCB and the U.S. Fish and Wildlife Service has agreed to release water from Ruedi Reservoir to provide flows for Endangered Fish in the Colorado River near Grand Junction.
 - ☞ Several other water rights transactions are being investigated to provide protection for Endangered Fish in the Yampa River Basin.
-



GUNNISON COUNTY, COLORADO

BOARD OF COUNTY COMMISSIONERS

PHONE: (970) 641-0248

FAX: (970) 641-3061

January 4, 2000

Greg E. Walcher
Executive Director
Department of Natural Resources
1313 Sherman Street, Room 718
Denver, CO 80203

RE: Floating Access Issues; Possible Legislation; DNR River Recreation Forum

Dear Mr. Walcher:

The Board of County Commissioners of Gunnison County thanks you for your time, personal attention and conduct of the River Surface Recreation Forum regarding the floating access issues. We had initiated a process to have representatives of the affected stakeholders gather in an attempt to formulate compromise legislation which would resolve the current conflict in the laws. Senator Chlouber and Representative Miller had agreed to carry the legislation if the process was successful.

As you know, existing statutory law and case law present significant ambiguities and conflicts. The access issues:

- involve provisions of the State Constitution
- implicate a number of Colorado Statutes
- involve matters of statewide concern
- involve a substantial number of citizens
- significantly effect constitutional, statutory and property rights
- are pressing because the rafting industry is becoming more important to the recreational economy of Colorado
- are likely to reoccur.



Overall, the issues are urgent and require a definitive response. On any given day, the County Sheriff may be called to a scene and asked to make significant decisions about who to cite without firm, consistent statutory guidance; this is very problematic.

May we ask that the Forum be informed of the urgency of a legislative resolution to these issues because of law enforcement problems that already exist in ours and other counties.

If appropriate, may we ask that the process and progress of the Forum be shared with the Board from time to time?

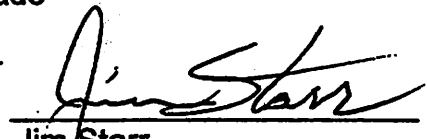
Thank you.

Truly yours,

Board of County Commissioners, Gunnison County, Colorado

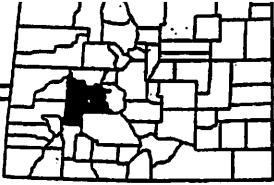

Fred Field, Chairperson


Marlene Zanetti


Jim Starr

cc: Ken Chlouber
Carl Miller
Ken Salazar
CCI





BOARD OF COUNTY COMMISSIONERS
PHONE: (970) 641-0248
FAX: (970) 641-3061

January 4, 2000

Honorable Ken Chlouber
Assistant Majority Leader
Senate of the State of Colorado
220 West Eighth
Leadville, CO 80461

Honorable Carl Miller
State Representative
111 West 3rd Street
Leadville, CO 80461

RE: Floating Access Issues; Possible Legislation; DNR River Recreation Forum

Gentlemen:

We thank you for your time and personal attention to the floating access issues and for your willingness to explore possible legislative solutions.

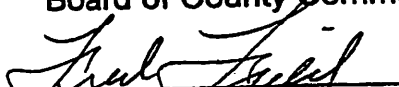
We understand that the State Department of Natural Resources under Greg Walcher currently is conducting a River Surface Recreation Forum with a wide spectrum of interested parties regarding floating access issues. We also understand that he and the Forum have asked you to hold off drafting or introducing any bill while the Forum continues its efforts. This will permit the Forum and its participants to focus their efforts. We agree that this course of action should be pursued and hope that it will lead to an acceptable legislative initiative.

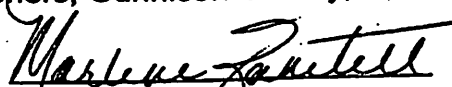
The floating access issues present significant and current concern. The Board of County Commissioners of Gunnison County will monitor the issue and remains ready to become formally involved.

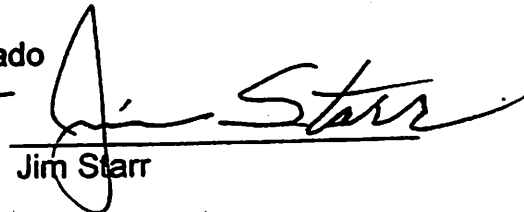
Thank you again.

Truly yours,

Board of County Commissioners, Gunnison County, Colorado


Fred Field, Chairperson


Marlene Zanetti


Jim Starr

cc: Greg Walcher



Gunnison County

C O L O R A D O

DAVID BAUMGARTEN • COUNTY ATTORNEY

May 26, 2000

The Board of County Commissioners of Gunnison County will host a follow-up public meeting regarding private lands/river floating access on Wednesday, June 7, at 5:00 p.m. in the Commissioners Room at the Gunnison County Courthouse.

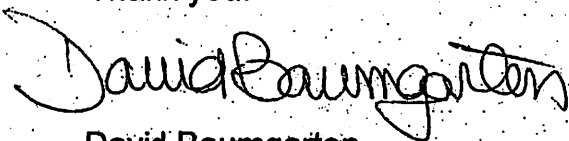
Members of the Colorado Department of Natural Resources "River Surface Recreation Forum" will be participants.

The main purposes of the meeting will be:

- To continue to provide all interested parties an opportunity to meet each other and to discuss with each other ways to avoid, and to resolve, local conflicts regarding floating access.
- To provide a briefing on the current statewide efforts to avoid disputes.
- To begin to identify local problem issues and areas.
- To begin to identify potential local solutions.
- To begin to identify local volunteer helpers and facilitators.

You are cordially invited to attend and to participate.

Thank you.



David Baumgarten
Gunnison County Attorney