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SLIDES: The BLM and Colorado DNR MOU: A Water-Based Partnership

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The BLM and Colorado DNR MOU: A Water-Based Partnership

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BLM Colorado
lead for:
• Water Rights
• Instream Flow Protection
• Wild & Scenic Rivers

Colorado River in McInnis Canyons National Conservation Area
Disclaimer

The views and opinions in this presentation do not necessarily reflect the position of the Bureau of Land Management, U.S. Department of the Interior, or Colorado Department of Natural Resources.
What do we often see in federal-state water interactions?

- Disputes over federal land management authorities versus state water allocation authorities, sometimes resulting in legal battles
- Lack of understanding of federal and state authorities – we stay within our own “universes”
- Ongoing “turf” battles
- Miscommunication and mistrust, amplified by media coverage
- Not remembering that the public wants both healthy federal lands and a reliable water supply
What do we often see in federal-state water interactions?

- Non-productive interactions often come to a head when federal agencies seek flow protection on federal lands:
  - Large volumes of water
  - Claims for federal water rights
  - Feds believe aquatic environment at risk
  - Water users believe future growth and reliable water supplies at risk
How was the MOU initiated?

BLM and DNR staff saw potential conflicts and opportunities:

- BLM and DNR had already cooperated on instream flow protection on many streams
- DNR was eager to demonstrate that its flow protection program could work for federal purposes
- BLM was embarking upon multiple land use plan revisions
- BLM was required by law to conduct Wild and Scenic Rivers analysis on many of the major rivers in Western Colorado

West Creek near Gateway, CO
What principles drive the MOU?

**Shared values and objectives:**

- Prior appropriation system is critical to Colorado economy and way of life.
- Federal lands and streams are critical to Colorado economy and way of life.
- State authorities and federal authorities are both legitimate. Both must be exercised to support the Colorado economy and way of life.
- Water use and water-dependent values can coexist if federal and state authorities used correctly.
What principles drive the MOU?

**Proactive Communication:**

- We acknowledge that potential for conflict is built into federal-state water issues.
- We recognize that conflict often occurs solely because of insufficient communication and misunderstanding.
- We will communicate even when it is difficult and even when philosophical differences occur.
- We will not make decisions only by looking within our spheres of authority – we will take a broader perspective.

Coyote Wash in Dolores River Wilderness Study Area, CO
What principles drive the MOU?

Use both federal and state authority:

- We will innovate and stretch to make state and federal authorities flexible and effective.
- Having total federal control or total state control over water-dependent values doesn’t always deliver the best results to our constituents. We will pursue blended approaches to deliver the best results.
- We will assist our constituents in how to make the best of use of federal and state authorities.

Little Cimarron River near Cimarron, CO
Commitments Made Under The MOU

- Explore innovative ways to allow for continued use of water facilities
- For new water facilities, initiate early coordination on permitting
- Use BLM planning process to avoid conflicts
- Achieve instream flow protection on high priority reaches, even where substantial water use occurs
- Collaborate with stakeholders to maintain water-dependent values while still allowing water usage
What has made the MOU actually work?

- Constant engagement of new state and federal players
- More outreach than feds are accustomed to – time with water user community
- More outreach than state is accustomed to – time with public in federal processes
- Educated and alert staff who flag potential conflicts early
- Relentless pragmatism; getting past “that’s not possible”
- Celebrate big wins and train wrecks avoided
What successes have been encouraged by the MOU?

Instream Flow Protection on BLM Streams - Tabeguache Creek near Naturita, CO
Instream Flow Protection on Major Rivers

San Miguel River near Uravan
Habitat For Three Sensitive Fish Species
Instream Flow Protection For Wilderness

Dominguez Canyon Wilderness Area near Grand Junction, CO
More Certainty For Water Users

- Potential flow-related impacts of new facilities can be proactively addressed – e.g. Windy Gap Firming Project; Moffat Tunnel Firming Project
- Water users are better engaged in Wild and Scenic Rivers analysis and decisions; they now know the terminology and process
- Impacts on water uses are more fully discussed during BLM planning decisions – fewer surprises in plans

Diversion facility on Grape Creek near Canon City, CO
Upper Colorado River Wild & Scenic Stakeholder Group

- Comprised of water users, land owners, recreationists local governments, recreation and environmental groups
- Funded by stakeholders and by CO Water Conservation Board
- Created alternative management plan to support river-related values
- Implements studies, monitoring, and cooperative measures to maintain flows for river values
- BLM made decision to rely upon stakeholder plan during land use planning process
Better BLM Decisions and Management

- Stakeholders continuously bring new water and land management ideas to the table.
- Stakeholders bring resources to the table for stream management.
- BLM gets early heads up on emerging issues.
- BLM decisions are less likely to be protested and appealed. DNR is very good at reaching out to stakeholders and proposing solutions.
- Better buy-in on BLM decisions, especially for Wild and Scenic Rivers.

Deep Creek near Glenwood Springs
Photo Courtesy of John Fielder
Where does this type of federal-state partnership work the best?

- Where no federal reserved water rights exist, which includes a large percentage of BLM lands.
- Where federal land is intermixed with extensive private lands.
- Where claiming a federal water right might impede stakeholder support for protecting important streams or landscapes.
- Where there is a desire to implement stakeholder-driven solutions, as opposed to relying exclusively on federal or state regulatory authority.
My philosophy in implementing the MOU:

*Given to me by a wise BLM manager*

Don’t focus on who will have control. Don’t focus on differences in philosophy. Don’t focus on who will get credit or blame. Focus on what the solution will look like on the ground and who will be implementing the solution. If most people think that the solution looks right on the ground and they can live with the solution, then it’s the right solution.