

## Wild and Scenic River Eligibility Report public comments review

On June 27, Dave Blackstun, Jim McBrayer, and Jeremy Casterson met to review the public comments received on the Draft Wild and Scenic River Eligibility Report. Public comments were received from John Spezia, Vermillion Ranch, Moffat County, Colorado State Land Board, and The Wilderness Society.

The issues below constitute the major comments received by the BLM. Other, more minor points were also addressed by the team, but details are not provided in this report. Please contact the BLM if you have questions on how the other specific comments were addressed by BLM. In addition to the comments below regarding *eligibility* of these river segments, many comments address the *suitability* of these segments (including land ownership, accessibility, need for special protection, and impact on existing uses, including water rights). These comments are being considered by the BLM during the suitability process.

### Public comments on eligibility of Vermillion Creek:

Moffat County, Vermillion Ranch, and State Land Board commented that due to senior water rights on Talamantes Creek, a major tributary of Vermillion Creek, Vermillion Creek is not free flowing or in natural condition. The BLM reviewed the hydrographs from two gaging stations on Vermillion Creek to assess the character of the stream. The hydrographs clearly show that the character of Vermillion Creek is composed of high spring runoffs and flash flood events in late summer and autumn. These characteristics of the creek are not shown to be affected by diverted water. The diversions are apparent in the hydrographs, but show up as low flows only for brief periods of time as opposed to being evident throughout the season. Therefore, the BLM determined that these water rights and diversions do not substantially affect the free flowing nature of Vermillion Creek. There was also a comment that Vermillion Creek is ephemeral. After looking at the hydrograph, it is apparent that the creek does have predictable flows for more than two weeks a year, which meets the definition of an intermittent or perennial stream. Vermillion Creek is not ephemeral, therefore remains eligible.

Vermillion Ranch and State Land Board commented that a significant portion of the Outstandingly Remarkable Values (ORVs) identified in this stream segment are on State Land, making it ineligible. However, when evaluating the eligibility of a segment, the Wild and Scenic Rivers Manual 8351 states that besides being free-flowing and possessing at least one ORV, *no other factors are to be considered* (section .31A, emphasis added). (LSFO also required that the stretch is predominantly BLM owned. Of the 3.9 river miles in this section, 2.9 miles are owned by the BLM). Therefore, because the cultural and scenic values on the State Land portion contribute to the overall segment, and because these values also exist on BLM land, the segment remains eligible.

The Wilderness Society (TWS) commented that the stream segments of Vermillion Creek above and below the segment identified as eligible by the BLM should also be eligible. However, the BLM determined that these segments do not possess ORVs. ORVs identified by TWS (scenic, fish, recreation, wildlife, geologic, and ecological) are not regionally significant above or below the eligible segment.

Public comments on eligibility of Beaver Creek:

Moffat County and Vermillion Ranch commented that the segment does not possess the Fish Population ORV because the Colorado River Cutthroat Trout that exist in this stream were introduced from another location in the region. While this is true, the Wild and Scenic Rivers Manual 8351 states that the river is eligible if it is a top producer of *resident* fish species. Although the individual Cutthroat Trout currently in Beaver Creek are not indigenous to that particular creek, they are residents. In addition, the Manual states that the stream must provide “exceptionally high quality habitat for fish species indigenous to the region” (section .31C4b, emphasis added). The fish are indigenous to the region, therefore Beaver Creek remains eligible.

Public comments on eligibility of the Yampa River:

The Wilderness Society commented that all segments of the Yampa should be eligible for Wild and Scenic River designation, regardless of land ownership. Despite any perceived conflicts in the BLM Manual, LSFO has interpreted the Manual as giving the BLM the discretion to defer determining eligibility of segments that are not predominantly BLM owned. Since major segments of the Yampa are privately owned, the BLM will still not evaluate these segments for eligibility.

TWS commented that the portion of the Yampa around Signal Butte should be found eligible. This segment *was* determined to be eligible. As shown on the map in the Draft Report, the segment of the Yampa from Milk Creek to the *west end* of the Duffy Tunnel is eligible. That includes the Signal Butte area and all BLM up to the private land boundary.

TWS commented that the stretch of the Yampa that runs through Juniper Canyon should be made eligible. However, the BLM determined that this segment is not free flowing due to the Maybell Ditch Diversion Dam.

Public comments on eligibility of the Little Snake River:

TWS commented that the lower segment of the Little Snake River should be made eligible because of scenic, recreational, wildlife, and ecological ORVs. BLM determined that these values do not meet the criteria in the Manual because they are not regionally significant. Therefore, the Little Snake River will remain ineligible.

Changes to be made to the Draft Report:

BLM will ask that the RMP contractor make the following changes to the Draft Wild and Scenic River Eligibility Report:

1. Page 14, Lines 9 through 16: Add that the State Land parcel within the eligible segment of Vermillion Creek is not open to the public.
2. Page 18, Lines 26 and 27: Change the sentence to read: “Decisions in the RMP simply identify segments that are suitable for inclusion in the system and provide for management on BLM-managed lands to preserve the values that made them eligible.”
3. After a GIS analysis of land ownership, it became apparent that Segment 2 of the Yampa River (Williams Fork to Milk Creek) is not predominantly owned by the BLM. Of the total

length of 9.7 river miles, 4.3 miles are BLM-owned and 5.4 miles are privately owned. This is inconsistent with the approach of only making eligibility determinations on segments predominantly owned by the BLM. Therefore, the BLM will change this segment to exclude the private land. The revised segment will start at T. 5N, R. 92W, Section 9, River Mile #126 (the current BLM/private land boundary) and run until the Milk Creek area (where eligible Segment 3 begins). The segment, as amended, is now predominantly BLM-owned. It will remain eligible, with a tentative classification of Recreational.