

**DOLORES RIVER DIALOGUE
STEERING COMMITTEE
May 3, 2011**

Present: Meghan Maloney, San Juan Citizens Alliance; and Don Schwindt, Dolores Water Conservancy District. **Contract staff:** Marsha Porter-Norton, facilitator; Ann Oliver, DRD science; and Gail Binkly, recorder. **Guests:** Nathan Fey and Jay Loschert, American Whitewater.

Agenda: The agenda was approved with no changes.

Visitor comment: Jay Loschert, who has been hired by SJCA and American Whitewater as a Dolores River stewardship assistant, said last week's full DRD meeting was his first and he was impressed with the caliber of people involved in the group. He thought the meeting went well.

Debrief of April 28, 2011, DRD meeting: Marsha noted that the goals document and chart of desired outcomes drew considerable comment at the full DRD meeting. She said a rafting column needs to be added to the chart.

Meghan said she thought it was a good meeting and she appreciated the plaques that were presented by the Dolores Public Lands Office to members of the Lower Dolores Working Group. Ann also said it was a good and substantive discussion.

Meghan said it's clear there are still concerns about the Framework Proposal process and the length of time it takes a proposal to go through the hoops. Marsha said if improvements need to be made to the process, they can be, but it needs to be remembered that the issues being considered are complex. Meghan agreed and said it is premature to express frustration with a process that is just getting the details worked out. She has no criticism of the process.

Don said the meeting went well. Regarding the MVIC proposal to lease 6,000 acre-feet to the Colorado Water Conservation Board for its instream-flow program, he said he chose to be very quiet about his concerns and believes he and the DRD-SC may have done some disservice to those concerns. He said he has a role to play as a representative of the DWCD and he tries to play that role appropriately and separate his "representative" voice from his personal opinions. Don said he felt a lot of pressure at the April 5 DRD-SC meeting to support the MVIC lease proposal.

Don said the two main issues he raised were: Is the water available (in a broad sense) and is sending more water down the river the real solution? He said examining that issue is what the DRD has been about and the DRD-SC may not have done the job of education that it had the potential to do before the full DRD.

Marsha said this is the first time a proposal with "charged energy" has come to the DRD-SC, as "A Way Forward" and the Downstream Temperature Model were already decided upon when they were presented to the SC. Marsha referred to a previous comment by Mely Whiting that MVIC did not really have to present the lease proposal to the DRD. Marsha said it might have been unwise for MVIC to take the proposal to the CWCB without going through local channels and the DRD is an important one, but it was true that MVIC did not have to come to the DRD.

Marsha said she was glad the company did, but MVIC's short timeline placed some pressure on the SC. It would have been good if the Hydrology Committee had had time to consider and comment on the lease proposal. She hopes to avoid having SC members feel pressured in the future.

Don asked whether the issue of the SC voting on a proposal is articulated in the Framework Proposal process. Marsha said Step 4 says the DRD-SC discusses the proposal, then gives a recommendation using consensus-based decision-making. The Framework Proposal process lists different options for recommendations. In this case the group chose C, "some other action", by deciding to take the proposal to the full DRD as information.

Don said he believes when the DRD-SC chose to take the lease proposal to the full DRD as information only, that precluded any next steps, and any vote by the full DRD on that proposal would have been wrong. Marsha agreed. She said if a different proposal is supported by the DRD-SC, then it might be appropriate to see if the full DRD supports it. MVIC may have wanted a vote that day, but Marsha did not feel a vote was appropriate because there wasn't consensus among the DRD-SC, plus it hasn't been decided who is the person from each organization who has voting rights on the DRD.

Don said he is very uncomfortable with moving to votes. He prefers an accurate assessment of issues raised. The DRD is set up so it can give a strong stamp of approval to a proposal, but that has to leave room for a minority of disapproval.

Meghan said she is not very comfortable with voting either. She said the SC has gone to the full DRD for approval of such actions as restructuring, and she thought the SC was trying to find a way to show broad-based support for these proposals. The problem is that the rules call for a super-majority vote but that has never been defined.

Don said in regards to the question of water availability, the MVIC lease proposal relies very heavily on the division engineer and the state engineer to show no damage to other water users. The lease is utilizing legislation that was patterned after substitute water supply plan legislation. Both legislative authorities were designed to allow short term and temporary changes to water uses be dealt with by the state's Division of Water Resources instead of the more lengthy and normal way of dealing with potential impacts to other water rights through the water court system. The problem with that proposed solution in this case is that a large portion of the water rights that may be negatively impacted by this proposed lease are created or described in contracts between parties, instead of in water court filings and decrees. Don's concern is that the proposal's reliance on Rege Leach of the DWR to decide that other water rights won't be damaged may be inadequate. Those contracts may be outside of the DWR's jurisdiction. That uncertainty with the proposal could have been part of the education that we should be trying to provide the full DRD.

Marsha said anyone who wants to take an action, whether MVIC's proposal or seeing how native fish can be brought to the table, needs to build support among many different partners. The DRD is one place to build support, but much of that will happen outside the DRD. However, she thinks some people believed they have to obtain the support of the whole DRD to do anything. She said this is not always possible because, for one thing, not every single entity on the DRD is fully engaged in every proposal. DRD is a place to vet things and to red-flag or "green-flag"

issues. The DRD is about education, and through the process it will give support to proposals or not. Maybe it's not so important for a proposal's proponents to know whether the proposal has a certain percent of the votes on the DRD, but to garner support in many areas.

Meghan said education is the reason the Framework Proposal process was developed. Of necessity, the process is a bit slow. The Framework Proposal process is never going to provide 100 percent certainty about every question, and actions shouldn't be held back until that 100 percent certainty is obtained, because it never will be.

Don asked whether the SC can do a better job of debriefing the DRD. It would be useful to figure out how to better provide that education instead of just relying on Marsha's summation of concerns raised at the SC meeting.

Meghan said she believes the DRD-SC did that with the Downstream Temperature Model. She said if proposal proponents have an external timeline they need to meet, maybe they need to get their proposal to the SC earlier.

Marsha said in retrospect it seems like the MVIC lease proposal wasn't a DRD proposal but a proposal that was brought to the DRD. She said MVIC's timeline negated most of Step 3 (education) and put the DRD under pressure. She said the DRD-SC needs to clarify whether something is a DRD proposal that the proponents want to take through the process, knowing that will take time, or something being presented to the SC as information and for a couple of vetting sessions.

Don said even "A Way Forward" isn't really a DRD proposal. It was pitched as, "We're doing this and letting you know."

Ann said she doesn't like making a distinction between DRD proposals and other proposals. She thinks the DRD needs to give the guidelines up front and say a proposal is more likely to succeed if it has more partners and gets full vetting by the committees.

Marsha said Ann's point was good. DRD is a process and distinguishing whether something is a DRD proposal or not may not make sense. Marsha said maybe she could do a better job discussing the process with the proponent and emphasizing Step 3.

Don said he found it difficult to articulate all his concerns. He didn't know how to best do that. He asked whether Marsha should be expected to do that before the full DRD, or whether there should be time for each SC member to articulate his or her feelings.

Marsha said overall she thinks the process is working well and she is proud of the SC and DRD. She said the DRD doesn't have all the answers and there are things that could have been done differently, but the issues are complex. She said it was commendable for MVIC to come to the DRD for feedback, but that's because the DRD has built up some political credibility.

Don said to him the issues he's raising are legitimate or he wouldn't be raising them. He is willing to share his thoughts more fully and he trusts people, democracy and education.

Ann said she appreciated him articulating his concerns at the last DRD-SC meeting. Such specificity is the basis for problem-solving and she thinks the DRD is a place where that could happen.

Goals document and Framework Proposal toolkit: Marsha noted that there was a suggestion at the DRD meeting that the SC generate proposals. Meghan said she has strong feelings about having the SC be a project proponent because she thinks it takes away from the process of hearing other proposals. It doesn't mean SC members shouldn't be proponents individually, but she is concerned about the DRD-SC being the driver of proposals.

Marsha said there needs to be a good discussion of this issue with everybody here.

Marsha said there wasn't much comment from the full DRD about the goals document except for Mely's comment about too many criteria. Marsha said she will flesh out the part about what constitutes a successful proposal to clarify that there is not a new set of onerous criteria.

Don made a suggestion to add language on Page 8 of the goals under Available Tools, No. 4, reflecting Marsha's statement to the effect that this is not a Bible but a place for further discussion. Don said significant word-smithing still remains to be done.

Regarding the Desired Outcomes chart/worksheet, Nathan was brought into the discussion. Marsha said Ann had pointed out that these are flow hypotheses, not targets. Marsha said it was a good recommendation to have the recreation column added.

Don suggested moving the "hydrologic constraints" column to the far left so it is in the first column and to add information from the Correlation Report regarding different-sized spills and how often they are expected to occur. He said the worksheet should distinguish between pool contractual obligations and rafting contractual obligations, and regarding the flow hypotheses, which ones are directed at the pool vs. spill management. Then there could be a column that explained recent operations regarding the spill and a column with rafters' (new) expected proposals and another column meshing them, and a similar set of columns for pool management as well.

Don suggested expanding this to deal with each of those issues in order to make the worksheet more of an educational tool.

Nathan said he liked Don's ideas and suggested adding the range from the original Project documents as they relate to recreational flows and then describing the flow-management hypotheses. Don said he is not sure how that would fit in the boxes but that sort of information needs to be communicated in this document.

Marsha said this information would help show that while there are hypotheses, not all are doable. There are hydrologic constraints and contractual obligations. She said filling out the worksheet will take considerable time. Don suggested creating a subcommittee that would work on the chart through an iterative process.

Ann liked the idea of the subcommittee and suggested they should work on one or two rows to start out. She said on the second page under "Native Fish", the same proposal is suggested

under “Successful spawning” and “Reduce non-natives”. The hypothesis is to release early water, when it’s available for a spill, to keep temperatures down. She said Vern came to the Science Committee in March to ask whether there should be early water. Nobody can work through all the intricacies of that question at the speed with which Vern and Ken need to make that decision every year. But every year the same question arises, so Ann suggested creating a small working group to delve into this and develop a decision tree/criteria to suggest the answer to that question annually, based on the conditions.

Don suggested that as part of this effort, it’s also critical to institutionalize the “fish clock stopping within a spill” deal that was agreed upon when management changed from the flow scenario to the pool-release scenario. Ann’s idea might force that to be dealt with, but he thinks it would be better to proactively solve that problem. That deal outlined when that clock was going to stop. Don said Vern and Ken, as the managers, know when the fish clock stops. It is answered on a year-to-year basis, but what if they are gone? No one else knows, so this needs to be institutionalized.

Marsha suggested that the group figure out who is on the subcommittee and then, they can see what they want to work on first as they are the proposal developers. The subcommittee can talk about how and how and if to address this issue in their proposal. Nathan, Vern, Ken, David, Ann and Peter were suggested for the subcommittee. Ann will set up the subcommittee and Nathan will help with scheduling.

Ann clarified that the subcommittee is to identify and educate regarding science, hydrology and contracts around the question of early flows, and also to prepare a draft institutionalization of when does the clock stop, and then to develop a set of draft criteria to answer the question: Do we want early flows?

Nathan asked if the subcommittee is under the SC, because he is not on the SC. Don said he likes it being an SC-created subcommittee that answers back to the SC. If Nathan is willing to serve on a subcommittee that is fine.

Web-site upgrade: Meghan said it would be helpful to hear people’s comments about the web site, but really two or three people need to sit down and organize it while looking at it. Marsha said she will talk to Matt Clark of TU because he raised the subject. Meghan and Ann are willing to help. Then Marsha will go back to Bill Ball at Fort Lewis College to see how much the changes would cost. Ann said the site just needs reorganization and better flow, not a huge revamp.

Science Committee: Ann said she hopes to have the Opportunities Report revision ready by the June Science Committee meeting.

Funding and SWCD grant: Marsha said the SWCD grant application is due around May 15. The DRD will be asking for \$15,000, about \$1,500 of which is for the new Sno-Tel. She suggested talking about this further when more DRD-SC members are present.

Meghan said following her presentation about DRD sustainability and opportunity for memberships at the DRD meeting, one man came to her with questions and suggestions. He said when he makes a contribution, he wants to know how the money is managed. He asked about the authority through which the DRD manages its money and whether it is a 501(c)3.

Meghan said she had no answers. She said this information needs to be up front in the contribution form. She also asked how people will receive recognition of their sponsorship.

Marsha said the DRD is not a 501(c)3 and she would not recommend becoming one because of the complexities involved, the need for a new structure and an executive director, and the number of 501(c)3s already in existence competing for money. DWCD is the fiscal agent for the DRD. There is a restricted account at the DWCD and a DRD budget. It is tracked quarterly.

There was discussion of what would happen if someone wanted to give money to the DRD for a specific purpose. Marsha said at present it goes into the general fund. She said the budget can be attached to these meeting minutes and people can be recognized for their contributions on the web site. She suggested putting on the sponsorship form that the DWCD is the fiscal agent and directing people to where on the web site they can find more information. She recommended making it clear that their contributions are not tax-deductible.

There was discussion of what would happen if someone gave money for a specific purpose. Marsha said it can be handled separately as is done for CWCB grants. There is a general fund and then there can be "companies" that are separate, such as the native-fish grant.

Nathan asked if there is an opportunity to run a major deduction through the SJCA or another non-profit to make it tax-deductible. Meghan said she would have to check with her board but she believed that could be done through the SJCA..

Marsha will write the SWCD grant and send it out to SC members.

Visitor comment: Jay said he likes where things are going and is excited to be part of the subcommittee process.

Next meeting: The next meeting cannot take place on June 6 as it normally would because of the meeting with the native-fish oversight panel. The next meeting date will be decided later.

Meeting summaries: The March meeting summary was approved with some corrections to the list of attendees. The April summary was approved with a change to the spelling of Denis Reich.