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Mr. Keith Berger, Field Manager
BLM Royal Gorge Field Office
3028 E. Main Street
Cañon City, CO 81212
Via email: co_otr_comments@blm.gov

Re: Over the River Comments

Dear Mr. Berger:

Colorado Trout Unlimited (CTU) appreciates the opportunity to comment on the BLM's Draft Environmental Impact Statement (DEIS) and the proposed "Over the River" project. CTU has 10,000 members in 22 chapters statewide, and is dedicated to conserving, protecting, and restoring Colorado's coldwater habitats and their watersheds. We have significant concerns with the EIS and the proposed action – issues that we believe must be addressed before the BLM moves forward with a final agency action on "Over the River." Our concerns fall into three broad categories: environmental impacts and risks of the project; inadequacies in the analysis within the EIS; and consistency with BLM management plans and special area designations. These comments will deal with each of those in turn.

Environmental Impacts/Risks of the Project

CTU is concerned with the potential direct and indirect impacts of Over the River on the Arkansas River and its watershed. The largest issues of concern are (1) disturbance of land and vegetation along the river – and the associated increase in sedimentation in the river; (2) risk of fuel/chemical spills; (3) risks from catastrophic failure; and (4) the need for a "leave no trace" approach.

The proposed action would effectively create an industrial site along nearly six miles of the Arkansas River. The DEIS notes that 9100 anchor holes would be required for the installation of panels. In addition to the direct disturbance from the holes, movement of workers and construction equipment in building the Over the River infrastructure will disturb vegetation and soils. Best Management Practices (BMPs) are referenced in the DEIS and should certainly be required for construction – but we find it difficult to share BLM's optimism that these measures will negate the accumulated effects of 9100 bore holes and the associated land disturbances.

The project also creates an elevated risk for spills into the river. The DEIS notes that containment equipment will be required on site to address potential spills of hazardous materials used during installation such as gasoline, diesel, hydraulic fluid, and oil. While such containment measures may reduce spill risks, they do not eliminate them. Additionally, the project is expected to increase the concentration of visitors and vehicles in the area, which will increase the likelihood of vehicle accidents and associated spills (not to mention potential injury). Given the increased

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number of vehicles, the relatively winding nature of US 50 through the canyon, and the creation of a major installation designed to draw the eyes of passing vehicles toward the river and away from the road, it seems likely that the accident risks will increase. Between construction and visitation risks, it seems likely that water quality will be impacted. Indeed, the DEIS states that “with the duration and extent of proposed construction activities, the steep slopes involved, and the proximity to the Arkansas River, incidents and water quality impacts would still be likely to occur” – even with BMPs in place (DEIS 4-79).

Additionally, the project proposes to stage operations – involving storage of fuel, drill cuttings, waste grout, and sediments – at the Texas Creek construction staging area. While a stormwater management plan would certainly be designed to reduce the risks of stormwater reaching the pits and delivering contaminants to the stream, we note that the staging area is located in a FEMA-designated 100 year floodplain along Texas Creek Gulch. The DEIS clearly describes the potential impact: “Locating the CSA in this geomorphic position would greatly increase the risk of flood damages at the facility, and encourage uncontrolled discharges of fluids and materials from the site. Since the location is near the Arkansas River, there would also be greater likelihood of discharges and debris entering the river.” (DEIS 4-81). We question why the BLM would approve a project construction approach that creates such risk.

We are also concerned about the potential impacts should there be a catastrophic failure associated with the project. There are two dimensions of particular concern. First, while the DEIS speaks to the potential human safety risks associated with a panel collapse, it does not examine the risks such a failure would pose to aquatic and riparian habitats – nor does it describe how impacts from such a failure would be addressed. Like most of Colorado, the Arkansas River canyon periodically experiences high wind conditions which will put the panel design to a severe test – and given the history of how a similar installation fared in the face of wind at Rifle Gap this is more than a speculative concern. Similarly, severe thunderstorms and the potential associated movement of significant volumes of sediment could also pose risks to the installment and cause failure and impacts beyond the baseline expected. It seems prudent to plan and prepare for potential failure both in terms of human safety and environmental protection, and an adequate contingency plan – including bonding sufficient to deal with restoration from a catastrophic failure, not just anticipated baseline reclamation – should be in place before any activity is authorized.

Finally, we urge the BLM to take a “leave no trace” approach to Over the River. While the DEIS describes strategies for refilling bore holes, it is unclear how long-lasting the landscape and visual effects of the construction will be even after reclamation. As we have often seen with reclamation from other industrial activities on BLM lands such as oil and gas development, long-lasting scars can remain in watersheds even after reclamation work is completed. If any of the action alternatives are adopted, the BLM should expect a reclamation standard that ensures that “what goes in must come out” – so that the remarkable landscape of the Arkansas River valley is not harmed in any lasting way.

Inadequacies in the EIS Analysis

As described above, one of our primary concerns is the potential cumulative effects of construction for Over the River, including the 9100 anchor holes and associated disturbances. The DEIS describes the potential impacts from bore holes and notes the measures that will be required to minimize sedimentation, concluding that “sediment input to the river would be considered a minor level impact on aquatic species and their habitat.” While this conclusion may

be reasonable for a limited number of bore holes in light of the proposed BMPs, our concern lies with the potential cumulative effects given the large scope of development under the proposed action. From an aquatic habitat standpoint, these cumulative impacts are the crux of the issue and deserve careful analysis. Yet the EIS offers only a brief three-paragraph statement as its assessment of these cumulative impacts – and really only addresses (lightly) the implications from the loss of overhead cover caused by reduced riparian vegetation and the potential for runoff from the panels during installation. (DEIS 4-314 & 315). The public relies upon the BLM’s NEPA analysis to allow for informed public involvement and agency decision-making, yet this key issue is given little more than lip service in the DEIS. A more thorough assessment of the cumulative effects of construction over 5.9 miles of river is needed.

The DEIS also includes a flawed analysis of the economic impacts of the project as it relates to recreational fishing. Anecdotal reports from area outfitters indicate that they expect significantly greater impacts than those described in the DEIS; the BLM should seek information from all licensed fishing guide operations in the project reaches in order to ground-truth its projections. In particular, however, we note that one of the underlying assumptions of BLM’s analysis is not reasonable:

Impacts to fishing outfitters and guide services were based on the number of anglers lost to the area during the two months of steel cable and fabric panel installation, the week of the blossoming, the exhibition period, and the first month of demobilization ... No anglers are assumed to be displaced during earlier periods of the installation or during later periods of the demobilization. (DEIS 4-115)

In making this assumption, the BLM assumes away all impacts on fishing use driven by the effects of construction activity on angler interest in fishing the river – from impacts on the ease of access (e.g., traffic delays associated with construction) to those based on the noise and visual disturbance construction creates in the environment within which anglers would fish. The reality is that such factors are very significant – indeed, among the most important attributes identified in past studies of angler preferences. For example, Bergersen et al.¹ conducted analysis of angler preferences and attitudes in Colorado, and found that poorer fishing conditions with higher setting quality were preferred over high quality fishing but lower setting quality. Indeed, the most important attributes of a fishing experience identified by anglers were fishing in areas away from busy traffic, with high scenic beauty, and with opportunities for solitude. Similar results were found from a subsequent Colorado Division of Wildlife market research project² – with absence of over-crowding and the aesthetics of the surrounding area rating among the most important factors in quality fishing experiences. Studies in Wyoming³ found similar importance for “setting-related” factors in angler preferences – including opportunities for being outdoors in settings offering solitude and opportunities for viewing wildlife. Given the great importance that anglers place on setting, it is not reasonable to conclude that construction activities creating more traffic, more noise, and disrupting wildlife will have no effect on angling use. The BLM must revisit this issue to ensure that its economic analysis is sound.

¹ Bergersen, Eric P., William J., McConnell, and Charles C. Harris. 1982. Estimating Demand for Colorado Sport Fisheries: A Survey of Angler Preferences and Attitudes. Available from Colorado Division of Wildlife.

² Galloway Vigil & Associates. 1986. Market Research Projects for the Colorado Division of Wildlife. Available from Colorado Division of Wildlife.

³ Wenzel, C.R. and W.A. Hubert. 1995. 1994 Wyoming Anglers Survey. Available from Wyoming Department of Fish and Game.

We also note that the BLM's analysis seems to make some questionable assumptions in regards to impacts of Alternative 4. For example, the report anticipates a dramatically reduced level of visitation under Alternative 4 because "the small size of the Project would substantially decrease the overall interest in viewing the artwork, making it more of a curiosity than a grand scale art event" (DEIS Appendix C – p. 45). Data or case studies supporting this assumption are not provided, yet the assumption dramatically influences the anticipated visitation levels and associated economic impacts. The DEIS also suggests that the installation-related impacts on fishing of Alternative 4 "would be intensified under this accelerated schedule, as described for Alternative 1d" (DEIS 4-282) - apparently without considering the fact that the shorter one-year time frame in Alternative 4 stems from a 75% reduction in the length of reach over which installation will take place – in contrast with 1d in which installation over nearly 6 miles would be compressed into a one-year period.

Consistency with Management Plans and Special Designations

A significant portion of the project area in the proposed action alternatives (except for Alternative 4) occurs within an Area of Critical Environmental Concern (ACEC). Under the Federal Land Policy and Management Act, the BLM is directed to "give priority to the designation and protection of areas of critical environmental concern." BLM regulations state that plans "shall include the general management practices and uses, including mitigating measures, identified to protect designated ACEC" (43 CFR 1610.7-2). While multiple uses are allowed within ACEC, in light of agency direction the BLM must define mitigation measures to protect the values for which an ACEC is designated and demonstrate, through environmental documentation, that those values will not be adversely impacted by the proposed action. In the case of the Arkansas Canyonlands ACEC, it was designated "to protect, enhance, and interpret the significant scenic, historic, and archaeological values, the threatened and endangered peregrine falcon, key raptor habitat area, bighorn sheep habitat, and important fisheries." Prior to approving an action alternative, the BLM must ensure that the proposed action will not harm these values.

Unfortunately, the DEIS indicates that there will indeed be harm to the values for which the Arkansas Canyonlands ACEC was established. The DEIS states that Over the River would have "moderate to significant" impacts on bighorn sheep, including long-term impacts (DEIS 4-3). Raptors would face moderate to significant impacts as well (DEIS 4-19, 4-20). Peregrine falcon specifically would also face moderate to significant impacts (DEIS 4-55). As described earlier in these comments, we are concerned about the impacts of sedimentation and potential spills on the Arkansas River's "important fisheries." How does the BLM reconcile the impacts disclosed in its DEIS with its responsibility to protect the values for which the Arkansas Canyonlands ACEC was established?

In addition to the need to protect ACEC, the BLM's Resource Management Plan for this area also outlines guidance that is relevant to the concerns identified with Over the River. In terms of lands along the Arkansas River, the plan directs that:

- Stream fisheries on BLM surface lands are maintained;
- Improvements in condition and stability are accomplished through riparian, wildlife, forestry, grazing, and recreation programs where the potential exists;
- Fishery habitat in the Arkansas River is managed to maintain and enhance habitat values; and
- Conflicts with other uses (e.g., livestock grazing, mineral development, etc.) **will be resolved in favor of fisheries.** [emphasis added]

In light of this direction, it seems clear that impacts to fisheries/aquatic habitat must be fully mitigated for Over the River to be approved. It is not clear that this standard has been met; further work is needed before the BLM moves to a final EIS and record of decision.

Similarly, direction in the Resource Management Plan also states that “management practices and prescriptions will favor maintaining or enhancing the natural setting” [emphasis added]. The DEIS does not make it clear how the proposed action is consistent with this Resource Management Plan direction.

We would add, as a final note, that if these issues are resolved and one of the action alternatives is approved, the BLM should work with local outfitters and nonprofit partners to develop public information opportunities to educate visitors about the natural environment of the Arkansas River that underlies the proposed exhibition. As described in the DEIS, the proposed information stations along Highway 50 would provide “information about the project, current traffic conditions, viewing rules and guidelines, emergency services in the corridor, and other area attractions.” Notably absent from this description is information or education regarding the river environment. If remaining concerns are resolved and Over the River moves forward, the BLM should address this glaring omission in the public information effort associated with the project, and ensure that the visitation generated by Over the River leads to a more educated public that can be a greater asset for long-term conservation and management of the Arkansas River corridor.

In summary, CTU sees significant remaining issues with the proposed Over the River project in terms of its impacts and risks posed to aquatic habitat, inadequacies in the environmental analysis that has been presented, and in ensuring consistency with management direction under the Resource Management Plan and in the Arkansas Canyonlands ACEC. CTU firmly believes that these issues must be fully addressed before BLM moves forward with any authorization for the proposal. We appreciate this opportunity to comment.

Sincerely,

David Nickum