AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Correspondence; Wild and Scenic Designation of the

Action Requested:

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Please see the attached correspondence

Fiscal Impact:

Submitted by: Josh Ost **Submitter's Email Address:** jost@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ○ Required ◉ Not Required

Comments:

Reveiwed by: Discharge Date: Certificate of Insurance Required

Yes ○ No ○

County Manager Review:

Comments:
Discuss possible response to correspondence.

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 11/15/2017

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 5

Agenda Date: 11/21/2017

Revised April 2015

November 13, 2017

To: Gunnison County Manager, Matthew Birnie
Subject: Wild and Scenic designation for the Crystal River

Dear Matthew:

In late September, Chuck Ogilby and I met with Larry Darien to see if we could find an avenue to protecting the Crystal River from dams and diversions that would be mutually agreeable to all of us. After talking with Larry, we realized that the draft of the Congressional Act could be further revised to better address his concerns about private property and the possibility of government overreach. A copy of the revised draft Congressional Act is attached.

In this revision, which address his concerns with these issues, we have proposed an Act that would remove all private lands from regulation under the Wild and Scenic Rivers Act. This then allowed the previous draft Act to be considerably simplified. We believe these proposed changes do not compromise our three basic goals of no dams, no out of basin water diversions and preserving the river in a free flowing condition. This honors the wishes of participants in the Marble meeting last fall where they unanimously voted to protect the river from dams and diversions.

Although we feel we have addressed Larry Darien's concerns with these revisions, he does not. Specifically Larry objected to this sentence in the attached: "*As the Crystal River flows through private property, regulatory control, generated by designation of the Wild and Scenic Act, does not extend beyond the natural stream flow of the Crystal River and includes only the waters of the Crystal River*." We have not been able to find a common denominator that would both protect the river and satisfy his concerns.

If the Commissioners feel that pursuing a Wild and Scenic designation for the Crystal has merit with this revision of the draft Congressional Act, we ask that they recommend what the next step should be in obtaining Gunnison County support for moving forward. We are open to comments you may have to clarify the attached draft.

Respectfully,

Chuck Downey
Wild & Scenic citizens Committee

The ACT Of 2018

To amend the Wild and Scenic Rivers Act by designation of the Crystal River in Colorado as a component of the National Wild and Scenic Rivers System.

The Act shall allow no dams on the main stem of the Crystal River, no diversion of water out of the Crystal River Basin, and the protection of the free flowing nature of the Crystal River.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the "Crystal River Wild and Scenic River Addition Act of 2018."

SEC. 2. WILD AND SCENIC RIVER DESIGNATION.
Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1274(a) is amended by adding the following new paragraphs at the end:

CRYSTAL RIVER, COLORADO.—(A) Approximately 39 miles of both the north and south forks of the Crystal River, beginning at their headwaters and then downstream to a point immediately upstream of the Sweet Jessup headgate structures shall be administered by the Secretary of Agriculture as follows:

The Act shall limit the effects of designation to only these three features:

(1) no dams on the main stem of the Crystal River including both the North and South Forks,
(2) no diversion of water out of the Crystal River Basin and
(3) protection of the free flowing nature of the waters of the Crystal River.

As the Crystal River flows through private property, regulatory control, generated by designation of the Wild and Scenic Act, does not extend beyond the natural stream flow of the Crystal River and includes only the waters of the Crystal River.

To that end, development anywhere along the Crystal River shall not include dams or diversions in the North or South Fork nor the main stem of the Crystal River and shall not interfere with the free flowing nature of the waters of the Crystal River from its beginnings to the Sweet Jessup takeout facility.

Accordingly, the protections of this ACT in said System shall not result in any imposition of Federal control over land use of property adjacent to the Crystal River.

Inclusion of this amendment, the addition of the Crystal River to the Wild and Scenic River System Act, is intended to apply only these powers:

1. to prevent dams on the Crystal River
2. to prohibit diversions of the waters of the Crystal River out of the Crystal River basin.

No other features of the Act of 1968 shall apply.