

**RPW Regional Discussion
Steering Committee
April 20, 2015
LPEA Small Conference Room**

In attendance: Jimbo Buickerood, Steve Fearn, Chuck Wanner, Jeff Widen, John Taylor, John Whitney, Preston Groetzke, Matt Thorpe, Mark Lambert, Suzanne Sellers by phone, Marsha Porter Norton, facilitator and Tami Graham, recorder.

Observers: Mely Whiting, Mark Pearson, Sandy Young, Ty Churchwell, Sinjin Eberly.

Marsha welcomed the steering committee and reminded everyone that the small group has met four times. Marsha continued, saying she will be giving an overview of the *Agreement in Principle* and will seek comments from the steering committee during this meeting. She then reviewed the proposed outcomes and agenda for this meeting (see below).

Proposed outcomes:

- a) Discuss the *Agreement in Principle* (Draft 1) developed by the appointed small group
- b) Determine if there is general agreement on it
- c) Clarify information needs
- d) Develop specific next steps

Proposed agenda:

- 1) Introductions
- 2) Agreement on the agenda and outcomes, and a review of the ground rules
- 3) Observer comments
- 4) Discussion of the *Agreement in Principle*
- 5) Business Item: Opportunity to brief the CWCB in July at their board meeting
- 6) Observer comment
- 7) Setting next meeting(s)
- 8) Summarize and recap the meeting and steps & evaluation of the meeting: What worked? What didn't?

All agreed to the agenda and outcomes as proposed. Marsha reminded everyone that Bruce Whitehead was out of town and Darlene Marcus is still on sabbatical.

All present introduced themselves, including observers.

Observer Input

Ty congratulated the small workgroup for their work.

Review of *Agreement in Principle*

Marsha reviewed the *Agreement in Principle* working (Draft 1), noting that anything in purple still needs discussion.

Note: Below is a synopsis of the *Agreement in Principle* working Draft 1. For more detailed information, please see the complete document emailed out to the group.

Page 1 – Background, Major Interests and General Agreements to date

Page 2 – Hermosa Creek

- Becoming WSR in exchange for removal of suitability on other segments
- Agreement is contingent on the entire package

Page 3 – Alternative to WSR on the Piedra River

- Package worked out in Workgroup
- Creation of an SMA that includes designated Colorado Roadless Areas (CRA) adjacent to the Piedra Area
- Work needed on legislative language for no new major impoundments
Note: The small group also mentioned that in different segments in the basin, different language could be used for specific areas as to the definition of no new major impoundments.
- Mineral withdrawal on federal lands with agreement for 150' setback from water's edge as agreed to in Workgroup
- WSR suitability & eligibility status to be removed

Page 4 – Alternative to WSR on the Main Stem of the Animas

- WSR suitability removed in exchange for mineral withdrawal in the corridor and no new major impoundments – language needed for no new major impoundments
- Protection of existing water rights
- Important value is protection of the character of the canyon
- Elk Park and West Needles would become Wilderness – acts to protect scenic views, as well as natural and scenic values

Page 5 – Alternative to WSR on Mineral Creek

- Removal of WSR suitability in exchange for a package that includes:
 - No new major impoundments.
 - Protection of the Iron Fens and their catchment areas at Chattanooga using the tool of mineral withdrawal on federal lands and in consideration of the private property in the area specifically for Fen MIN011.
 - Language to be included regarding intention to study water source(s) for the Iron Fens.
 - Acknowledge and further understand the protections already in place as a result of the San Juan County Land Use Code and the USFS San Juan Skyway Management policies, standards and/or guidelines.

Marsha thanked Anthony Culpepper at MSI for creating maps, also noting that Anthony acknowledged that they are a 'bit rough and could be refined in the future.

Marsha also noted that the small group is seeking information from the USFS regarding existing rules or guidelines that are in place related to the area's location on the San Juan Skyway, as well as protections in place related to the San Juan County Land Use Code.

Page 6 – South Mineral Creek “Protection Package”

This package mainly protects water rights, Black Swifts, Iron Fens and Iron Fen catchments, recreation, and private property:

- Retain WSR suitability
- No new major impoundments (specific legislative language needed)
- Respect existing water rights, taking into consideration all Workgroup agreements
- Iron Fens:
 - Pursue a mineral withdrawal on federal lands along with a policy of no surface disturbance for the Iron Fens and the Iron Fens’ catchment areas. The rough area is inclusive of the four Fens along South Mineral Creek, excluding private property, with a boundary drawn to protect the Fens and visual resources in roughly a two-mile stretch of South Mineral Creek Road.
 - The group has agreed to a conceptual map for the mineral withdrawal on federal lands and the policy of no surface disturbance as per the descriptions in the meeting notes and also via looking at maps provided by MSI.
- Black Swifts:
 - Reduce disturbance via a policy of no surface disturbance for Swifts’ habitat. Ask the USFS to submit an application to the CWCB for an ISF for protection of Swifts’ habitat.
- Include a mechanism to commission or give intent to study the water source(s) for the Iron Fens that could guide future protection.

Page 7 – Map of proposed protection areas for Iron Fens and their catchments

Note: GIS layers may not be exact.

Page 8 – Whitehead, West Needles and the Weminuche Contiguous WSAs and Grasshopper Creek

- Proposed Additions to the Weminuche Wilderness “Outstanding Waters”, a Mineral Withdrawal, and release of a WSA
 - The group agreed that West Needles would go from WSA status to Wilderness (the part not included in Hermosa Creek legislation); that Whitehead Gulch would go from WSA to Wilderness (with boundary work generally agreed to around access and private land); and the current Elk Park Colorado Roadless Area (CRA) would go into the Wilderness (with perhaps some boundary adjustment work around the railroad Right of Way).
 - The group agreed that the Weminuche Contiguous WSA would be released, and that in the area that encompasses the highest ridge, the tool of a mineral withdrawal on federal lands would be applied to protect scenic values (a rough map was drawn of this area). The release of the WSA was recommended as part of a Wilderness tradeoff package and because of adjacent patented mining claims. The group would like to further study protection of the Highland Mary Trail in terms of protection of visual resources.

- The group agreed not to include Tank or Grasshopper CRAs in the Wilderness and to pursue the status of “Outstanding Waters” on Grasshopper Creek. The application for this will go to the State of Colorado Water Quality Control Division. The entity(ies) that would submit the application would need to be determined.

Page 9

- Vallecito Creek/Pine River: both would remain suitable for WSR
- The West Fork of the San Juan would remain suitable for WSR as it is stated in the USFS Land Management Plan.
- The section above private land on the East Fork of the San Juan would remain suitable for WSR.
- Consider and discuss adding other conservation or other measures into the regional package after the bill is drafted. The group believes this is a viable idea but would like to first draft the RPW legislative package. They feel that in the future, additional measures may be added, but that is not the current focus of the discussions. They further articulated that adding the Good Sam bill may be considered, but it is a long-time national issue with known opponents and proponents. So, perhaps for that reason, it is not a good fit with this legislation.
- Remaining Items of Discussion as part of the Regional Package: Determine how to protect values and water rights on the East Fork of the San Juan River for the private property section and the section from private property almost down to Highway 160. Note: The group agreed that the stretch above private land would stay suitable for WSR. Options:
 - 1) Keep suitability on both stretches.
 - 2) Remove suitability on the private lands but keep on the public stretch.
 - 3) Remove suitability on the private stretch and the one near the highway, and consider adding it back in if this encounters opposition from Congressional Committees.
 - 4) Develop an alternative to suitability for both stretches: a) consider increasing the current ISF amount (after studying the hydrograph); b) no new major impoundments; c) a mineral withdrawal and d) take into account the conservation easement on the entirety of the private stretch.

Page 10-14

- Attachment A: Values Statements from each Workgroup
- Attachment B: Language that the Animas Workgroup agreed to related to water rights
- Attachment C: Beginning Language related to “No New Major Impoundments”

Marsha read the WSR Act language around this topic: "Section 16B of the WSRA defines free flowing as 'existing or flowing in a natural condition without impoundment, diversion, straightening, rip-rapping, or other modifications of the waterway.' The existence of low dams, small diversion works, or other minor structures does not automatically render a segment ineligible for designation."

Marsha asked the small group if she missed anything on the overview of the *Agreement in Principle* draft (6). There were no additions from the small group.

Steering Committee Discussion of *Agreement in Principle* Draft (1)

Marsha asked for feedback from the Steering Committee:

- Suzanne Sellers reminded everyone that other WSR study groups in Colorado have used CWCB funds for studies, i.e., identifying water sources for the Iron Fens and suggested this as an option for the Steering Committee to think about. She said she can't promise that funds would be available, but it's something to consider perhaps either instead of or in addition to what would be stated in the legislative bill.
- Jimbo shared with the Steering Committee that he and the small group reviewed the latest draft of the most recent *Agreement in Principle*. In reviewing the document again over the weekend, he said he has some concerns as listed below:
 - In looking at South Mineral protections, Jimbo wondered how viable the whole package is. He understands that there is still a lot of detail to fill in, but if it was shipped off to Washington DC now with so many little pieces, he wonders if it would be viable as a package. He's not sure it's workable. He understands that ISF is a state tool and it would be different. In looking at maps and other pieces, he asked "will this work"? He continued by saying that if there was an SMA in the package, it could be defined more clearly. Without that, he wondered if the current package is going to be overly complicated as legislation.
 - WSAs – the water language needs to be addressed. His experience is that figuring out water language isn't easy. When it has come up before, as needing to be addressed or reviewed for possible protections, he feels there hasn't been much interest in taking it on. For him, this is a considerable piece to be resolved.
 - Jimbo continued by saying that, as Jeff and he pointed out previously, the conservation community has a high level of concern around language used for release of WSAs. He's wondering what the possible language would be in relation to congressional release of suitability.

Marsha asked for feedback on Jimbo's thoughts:

- Steve said we have a package that has basic agreement, but yes, we do need to figure out exact language. We're in the same "no-man's land" as we were in for the Hermosa (meaning there were points in that process too where there were unknown things that had to be worked out). The key is, if we have a community-driven package, that's the strength and yes, these details have to be worked out. He doesn't see the language piece as a deal-killer. He feels that we can get there.
- Chuck agreed with Steve's comments. He didn't understand how the language couldn't be figured out. WSA's could be appropriated.
- Jeff responded that we can designate the Wilderness areas by amending the previous law and gather details from there.
- John Whitney said we could use 1993 Headwaters Language.
- Marsha said that two of the areas of concern that Jimbo raised were areas that the

small group had already said needed further detailed discussion. She said that she remembered that release of WSR language was acknowledged in the small group an issue also needing further study. Revisiting South Mineral is a new concern (i.e., Jimbo's suggestion of adding an SMA).

- Ann asked if the specific area for a proposed mineral withdrawal on South Mineral had been specifically determined yet. Marsha directed the group to page 7 of the *Agreement in Principle* Draft 1, stating that there is a rough circular polygon around the iron fens that represents the catchments. Marsha said the group had a few ideas around this including following contour lines.
- Steve said we discussed how to make the mineral withdrawal around the catchment areas practical. It was proposed to use the South Mineral Creek Road as a starting point and then to look at 3,000 feet above the road on the north side and 1,000 feet above the south side of the road. This would be about 2.2 miles of protection for the catchment areas before Copper Gulch. This would not include private property and would be almost 2.2 miles of mineral withdrawal. On the south side, for the catchment area for the first Fen, it appears that we could add a box around that. The next catchment area has a conflict with a private claim. There is not a private property conflict with the Fens are on the north side. Steve continued by saying the small group also discussed empowering the USFS to come up with language to protect the Black Swifts as per restrictions on recreational access. No surface disturbance (related to recreation) and mineral withdrawal language are the other ways of protecting these values. There is a significant ISF on South Mineral Creek now, and adding other ISFs is being looked at for the Tributaries to protect the Black Swift Colonies (refer to the draft for details).
- Ann asked if it makes sense to have a polygon of boundaries including private property. She cautioned that we really don't know the catchment areas that supply the Iron Fens. She finds it interesting that some polygons include areas to the north and south of the Fens and some do not. She again cautioned the group to be careful not to make assumptions about catchment areas.
- Steve said yes, he agrees and are trying to include as much area as possible at the start. We may need more study. Possibly, some studies by the USFS or perhaps an amendment could be done later if catchment areas are found to be bigger than originally thought.
- Ann understands that we may need to move forward with the information we have now, but the catchment areas may be larger than we think.
- Mark Lambert said it makes sense to have a manageable boundary around things like catchment areas. He added that, anytime we (USFS) do a planning document and we know there will be changes, we can make amendments along the way. With legislation, he's not sure how to address this. We could put in language saying that as we find new information, protections would fall within a certain boundary. In terms of a manageable boundary, the USFS is usually dealing with real-time incursions, such as with mineral withdrawals, where you put the withdrawal area on a map and it's clearly defined.
- Ann asked: Under the Black Swifts language in the current *Agreement in Principle*

document, when mentioning NSO, were we meaning to manage recreation? Chuck thought we were speaking about both – managing recreation and a NSO related to minerals. Jeff wasn't sure about that. This needs clarification from the past small group meeting notes.

- Jeff thought that when we say NSO in the *Agreement in Principle*, that it's related to minerals versus no surface disturbance.
- Chuck would like to see both in terms of protections for the Black Swifts.
- Ann asked why only two miles are included in the protection of the Iron Fens. Steve responded by saying this is because these are the areas where the Iron Fens are located. Just beyond this area is the Clear Creek Road and campground which bring complexities.
- Jeff said there would be ways to craft legislative language that gives flexibility for where final boundaries are. One example is in the Rocky Mountain National Park Wilderness bill. A provision was made for a mountain bike trail and the trail needed to be realigned. A corridor was established and the Parks Service did a study to find the best realignment. Once that was found, a standard set-back was defined around a new trail. We could look at a broader area for study and once that study was completed, if the area was further defined, it still would be included in the proposed area for protections.
- Jeff continued by asking Mark Lambert about recreation – if it would be useful to put in some directorial language. Mark said he made a note about this and would discuss it with his staff.
- Marsha said the small group did not see a global recreation tool in relation to the Black Swifts and Fens that would need to be included in the legislation.
- Mark asked about the policy of no surface disturbance for Swift habitat. He feels that would not be part of legislation but rather a policy issue.
- Steve responded that we wanted something stated in the Act that this is important and said the small group was not sure of the best way to handle this administratively. We would look to the USFS to help define it.
- It was asked what the area of protection was for the Black Swifts. Steve stated that there are 50 acres for the Bandora Creek colony and 60 acres for Porcupine Creek Colony.
- Chuck said he was thinking basically the same thing. He feels that an NSO and a no surface disturbance would both be used and that restrictions to recreation could be explored also.
- Ann pointed out the continued mention of ice climbing and that there are a lot of people in the wildlife world that research what constitutes disturbance for certain species. We could also do some studying on this. Theoretically, ice climbing wouldn't be a disturbance to the Black Swifts, but she's not sure on this. She asked if there was a lot of recreational use of the Black Swift areas.
- Mark Lambert said he couldn't answer this. He wasn't sure either, but there is more climbing lower in the valley.
- Jeff said Cataract Creek is not that popular for ice climbing. He said that some in the ice climbing community will get up in arms around closures. Jeff said this area isn't

really a popular rock climbing area.

- Chuck clarified that we are looking for protections that assume there will not be less recreation in the future but rather more. It's important to keep major disturbances to a minimum and the mineral withdrawal and no surface disturbance tools are a way to accomplish this.
- Steve said that for the Black Swifts, part of what was driving his thinking is that we know so little about them. As Chuck said, it's better to err on the side of being conservative until we know more about them.
- Preston asked if the birds were there year round. It was stated that no, they are there in the spring and summer. Marsha said that when they did the field trip there in the spring, they were gone.
- Chuck reminded everyone that the small group looked at the ORVs and tried to find ways to protect them. The Iron Fens and Black Swifts were part of those.

Marsha asked if there were any other general reactions to the *Agreement in Principle* as presented.

- John Taylor said that he has always wanted a group of local people to act as an oversight committee. He thinks that committee could be structured to provide ways to making changes to the way the USFS or BLM manages. That committee should also have the power to draft plans and to require the federal agency to respond specifically to each one, probably on an annual basis. He feels that could lead to some legislative or administrative changes. Marsha reminded John that this is listed on page 10 as an area still to discuss.
- Steve said that when we discussed that issue, he thought it would work in the Piedra but he's not sure it would work well on the upper Animas. A lot depends on how that group is made up, who is represented, etc. At this point, he feels that on these other areas he would like to rely on the land managers, though in the Piedra area it made sense to do a local group.
- Mark Lambert said that with local advisory councils, he tends to agree with where Steve is coming from. Where there are a lot of remaining issues and questions to deal with that legislation presents, they can be very helpful. The agency likes to have a body to consult with, to draw from, and to have extra folks on the ground to help do the work. In other areas, the group is trying to find work to do, so to speak, and it can become a challenge for the agency and group to find how to deal with issues that may remain. He thinks that initially a local advisory group could work well on the Piedra.
- John Taylor said he does not believe that any of us here know what the result of this legislation will be after the legislation happens. He sees that having on-the-ground input is important because there may be things that come up that we haven't thought of.
- John Whitney said he wanted to thank the small work group and feels like a lot of progress was made here. He feels we can work out the details.
- Jimbo wanted to rephrase his earlier comments regarding the pieces he mentioned that were of concern around the lack of definition or specificity on Wilderness language, suitability release, and no new major impoundments – there's just not language yet. They are principle. He's not comfortable saying "those are just language pieces and we'll get to those." When you take those in bulk, there's a lot of principle there.
- Steve said he agreed with that statement.

- Marsha asked Jimbo if his concerns prevented him from supporting the current *Agreement in Principle*, since part of today's goal was to assess if we have enough agreement to move forward.
- Jimbo said he's ok moving forward but that he cannot say he fully supports this package in total because of these remaining things that have to be worked out. He said he just wanted to be clear about his thoughts at this point.
- Marsha asked Preston if he had any thoughts for now. He said not right now.
- Marsha asked Matt if he had any thoughts. He said no, and reiterated John Whitney's comments that a lot of good work has been done.
- Chuck asked Matt who manages the Swifts. He said it's a collaborative effort between the USFS and Parks & Wildlife. Matt reiterated that there's so little known about them and there are so many things that they are trying to manage. Right now their focus is on the Sage Grouse. They would like to know a lot more about the Swifts.
- Mark Lambert said they do have direction in the Forest Plan about the Swifts. He will find out more about that language, how strong it is, and how it might play into the provisions discussed here.
- Preston asked if there were other areas where the Black Swifts exist. It was stated that they exist in Treasure Falls. Matt said there are 70 colonies in Colorado that are known. They are relatively scarce.
- Steve said that according to a paper he read, the largest Black Swift colony is on Box Canyon falls and an average colony has 2.5 pairs.

Observer Input:

- Mark Pearson –
Regarding the 1993 Wilderness Act, from a conservationist's perspective, you can avoid having a federally reserved water right by prohibiting new water resource facilities in headwaters. You can protect water that way. When West Needles was being designated, for quite a while, Cascade and Lime Creeks were included but they were obviously downstream of the big diversion on Cascade. So, the boundary got moved to the east side of Cascade Creek. Mark cited the Colorado Wilderness Act (below).

Public Law 103-77, Colorado Wilderness Act of 1993:

Section 8 (a) (3:) *As used in this section, the term "water resource facility" means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, transmission and other ancillary facilities, and other water diversion, storage, and carriage structures.*

Mark continued by saying that on the other side of West Needles on Molas Creek, Molas could be difficult because it's only a few hundred acres. He asked if it's worth the potential brain damage to add to Wilderness and suggested that if we really want to protect the canyon, maybe we should do a mineral withdrawal on that side of the canyon.

On the Piedra Area related to the Piedra Mainstem, another highlight from the 1993 act says there can't be any construction or expansion of water resource facility: irrigation and pumping facility, reservoirs, canals, hydropower, and many others (see cited CWA 1993

above). He said the act already restricts quite a bit and wondered how the Wilderness Act language would interact with no new major impoundments in the proposed language.

This also applies to the Animas along the Weminuche Wilderness. For practical purposes, you can't do a major impoundment here anyway. As such, he doesn't feel it's a new conservation measure to prohibit impoundments or mineral withdrawal there.

Continuing, Mark said he's not sure what would be accomplished by the release of the Weminuche Contiguous WSA, as managed by BLM, as it doesn't allow anything that impairs the character of Wilderness. He's not sure what the point is of releasing it if the goal is to allow mineral development. Mark finished by saying he's not a fan of the *Agreement in Principle*, and feels it doesn't provide enough for the conservation community to be in support of it.

- Sandy Young – Colorado Parks and Wildlife has a Non-Game Species Fund. She asked if there was a way to use those funds to study the Black Swifts. She asked if they were protected in other ways. No one was sure. Matt thinks they are a species of concern. Also, Sandy said she'd like to see more specifics to Hermosa WSR designation. On Deer Creek, there's an east and a west Deer Creek. She asked which one we were talking about. For her, there's a bit of a shadow for understanding suitability classification for the Hermosa. Sandy asked where we were at with going back to the Hermosa Workgroup. Marsha said that was a good question. The Steering Committee has it on their to-do list.
- Ty Chuchwell – He re-read the original values statement from the Animas Workgroup. He remembered the Workgroup saying they wouldn't do anything to inhibit the work of the stakeholders in cleaning up mines. Regarding the Bandora mine and the Black Swift colony, he wanted to acknowledge that those two areas are adjacent to each other. He hopes that, as we look to protect the Black Swifts, we don't inhibit the efforts of the Animas Stakeholders in their work to clean up the Bandora mine.
- Mely Whiting – She congratulated everyone on their hard work and sees a lot of work ahead. Mely said that Jimbo's points out having to work out the details in language was important. Also, things may or may not fly with the Congress. We need to start somewhere and this package provides a place to start. She has concerns with the language around major impoundments and how suitability might be removed. Also, she's not sure how removal of eligibility fits in and is concerned a bit around the timing of this. There are a number of provisions that are not legislative or part of a statutory scheme, such as ISFs and Outstanding Waters. It's important to come up with a mechanism for taking timing into consideration. We need to talk about these details. Regarding the last comment on Iron Fens (looking at drawing boundaries and adding ISF water rights), groundwater and surface water interaction is vital. Regarding the groundwater component, she asked how we protect groundwater. This is somewhat novel, especially as to how CWCB will

approach this.

Chuck responded that there is agreement to pursue both State tools. The timing is good for Outstanding Waters. He clarified that for the Iron Fens, we are not looking at an ISF for their protection – it's more for the Black Swifts. Between county land use planning, surface occupancy, and mineral withdrawal, he feels we will be able to protect them.

Steve said that all these areas have ISFs to protect the Swifts because they are on the creek. Will those be sufficient in the future? This is what we need to determine in terms of surface water.

Regarding protections of the Black Swifts, Steve said the basic assumption is that we would adopt the Forest Plan as it is a defined plan. If there's a reason to deviate from that, we can discuss it at that time. Chuck concurred with this.

Marsha reminded everyone that the Workgroup agreed that we do not fully understand the water sources – both surface and ground – that feed the Iron Fens.

- Singin Eberly, American Rivers
The work and overall efforts to develop the *Agreement in Principle* are appreciated.

Ideas

Marsha summarized the following ideas that emerged from the meeting:

- State tools for protections of Iron Fens – some funding source may be available as per suggestions from Suzanne Sellers and Sandy Youth
- Need clarity on specifically where the tools of “no surface occupancy” and “no surface disturbance” are being recommended
- Need further clarification on catchment areas and how to define them
- Work on mineral withdrawal boundary on South Mineral
- Legislative language from other efforts regarding how to adjust boundaries after studies are done (if needed)
- Continue to explore the protections for the Black Swifts related to recreation
- Further discussion on Advisory Councils – where it makes sense and where it doesn't

Jimbo clarified that, according to the USFS plan, the Swifts have been found to be a Sensitive Wildlife Species on both USFS and BLM land.

Information Needs

Marsha summarized some of the information needs that emerged from the meeting:

- Recreational impacts on Black Swifts
- Available funds for studies

Things that still need to be worked out

Marsha summarized some of the areas where more detail is needed:

- Language regarding release of suitability

- Note: The Rio Grande had suitability released – the only river in Colorado to do so (Jeff
- Language regarding no new major impoundments (this is an area where the small group already started to do some work and that work is reflected in the draft 1 and also the Piedra Workgroup came up with language on this)
Language regarding water in WSAs
- Review remaining discussion items in *Agreement in Principle* draft 1

Marsha asked if the group had enough agreement to discuss next steps:

- Ann said she liked what she heard discussed today and would love to see the group go further in working out the details of the language and fleshing out the agreement in more detail.
- Chuck said as far as TU is concerned, they are supportive of the *Agreement in Principle* as it reads now. The details need to be discussed but there is agreement so far.
- Steve said that the SWCD is fine with where things are at this point in time. There are some details to work out and agreements to come to on the East Fork. Once we have that framework tightened up a little more, we can move forward toward drafting legislation in the context of figuring out how to make it work in principle.
- Jimbo said SJCA's point of view is that different language has different weight. For example, how you define a protection for the Swifts is one thing but some of these other things have even greater weight in terms of the overall proposal. They are of enough significance and importance to really think about. He has brought up the fact that language has been needed to be further defined several times in the past.
- John Taylor firmly believes that we really don't know how this is going to play out if it comes to pass. We don't know what the affectation will be and still believes that some kind of local oversight committee should be involved. In order to overcome FACA, he would like to see legislation that leaves room for local input. He feels we're pretty close on our agreements package.
- Preston agreed with John Taylor's comments. For some reason, the USFS is sometimes reluctant to work with locals. He understands that the USFS gets in a bind because they don't know what's happening on the ground.
- Steve thinks that what John and Preston are talking about is reflected in the current *Agreement in Principle*.
- Jeff feels we've made great progress and that we're close to having full agreement. Can we all live with this is the basic question. He feels that Jimbo has made good points about the types of language we will use regarding Wilderness additions and release of suitability. He thought we could amend the previous act (Colorado Wilderness Act 1993), but it turns out that may not work. It should work for Elk Park and Whitehead Gulch, depending on the boundary relative to the river. In terms of West Needles contiguous, he feels Mark brought up a good point – we need to look at what we're trying to achieve and protect. If there's consternation, let's not call it Wilderness, but have comparable protections. On the Weminuche Contiguous, it's smaller than he would have preferred but overall, he's pretty good with the agreements now.
- Matt said that since he's more of an advisory person, he doesn't see any pitfalls from a wildlife perspective. There are technical issues that can be worked out – for buffers, as an example.
- Mark Lambert echoed Matt's comments. He does see some things that need to be cleaned

- up in terms of getting into the details and feels we can follow the templates or we can create new ones (echoing Steve's comments). As long as the agency can understand what the group needs, he thinks the USFS can get with it.
- Suzanne is pleased with what she can see on paper, though she couldn't hear the meeting very well on the speakerphone.
 - Jeff said the issue of the release language for suitability is more of an uncharted waters area. He said that he thinks has only been done once – not just in Colorado. He thinks the Rio Grande language is ok but we need to research it more.
 - Steve said that, conceptually, he agreed with Jeff. Let's see what's functional. It's really a framework. These are things we figure out as we go down the road in this process.

Marsha said that what worked on the Hermosa was that there was agreement on some broad things and then they got more detailed. The intention of the *Agreement in Principle* is that it is a living document, a framework. By the time it gets done, there could be much more detail in the document.

Marsha asked where the group would like to go from here:

- Chuck suggested that we have one or two more small group meetings to work out more details about information needed and then perhaps one more large group meeting to get feedback.
- Jeff agreed and would like to have language on suitability release to review which he agreed to research. We need a topo for Wilderness additions and language related to Wilderness water and no new major impoundments. Jeff also volunteered to help on the Wilderness water issue and a topo for Wilderness additions.
- Steve asked for suggestions or thoughts on South Mineral and how it might work better. He wants to put something together that the USFS can administer. Steve asked how we should frame the protection of the Black Swifts that accommodates how to protect them in the future.
- John Taylor asked Jimbo if he had language clarification that he would suggest.
- Jimbo said he would ask someone else to do that – he's been asking for this for some time. He's happy to look at some of this that someone else drafts but is not going to be the person to do the work.

Marsha asked if there was a miscommunication about what had occurred in the small group, saying she thought we were clear that we were flagging the language on the WSAs, the release language, and water language, but didn't think there was an expectation for drafts to be available today. She said that if she missed it, that they were supposed to be drafted today, she was sorry.

Discussion:

- Jimbo said he didn't think there was any supposition that we would have drafts of all the language at this time. It became obvious to him when rereading the *Agreement in Principle* Draft 1 over the weekend that the language pieces are a big part of this, and he's been pointing out its importance all along the way.
- Ann said it sounds like that in moving forward we need to clarify whose job it is to bring that language forward. She thinks it's reasonable for everyone to bring language forward

- that would help everyone feel comfortable with the package.
- Steve sees that the language is the next step in implementing this. We have to go step-by-step. It is important and we need to take pieces as we can do them. It's a logical progression to look at language now.
 - Jimbo feels language is important to do next. He still doesn't know what the language looks like because it is not drafted yet. He said he doesn't want to get painted into a corner down the road if he cannot agree to the big picture issues that still have to be worked out.
 - Jeff said he's hearing Jimbo say that, upon digesting the information from the last meetings, Jimbo was reminded of some concerns over language that had some major impact, and that Jimbo feels he needs to see language before he can have final agreement. Jimbo agreed that was correct. Jeff said a deal is not a deal until it's a final deal for everyone. So, until we have a final agreement, none of us are agreeing until we sign on the proverbial dotted line.
 - Chuck said we've agreed to the things we've agreed to. It's important that we all proceed with some optimism and good faith. He wants to see us move forward and if at some point we don't agree, that's fair.
 - John Taylor said he didn't understand the points that Jimbo was making and that it was easier for him to see his thoughts in writing. Meeting summary notes will be distributed.
 - Jimbo said Jeff did a good job of stating what his (Jimbo's) perspective is. He said he's happy to speak with John Taylor more off-line about this.

Marsha said what she hears is that the agreement is good right now but it's incomplete. Final agreement is contingent on some of these things being worked out. Marsha asked if there was enough optimism and good faith to have another meeting:

- Steve said that what he was hoping to find out from the Steering Committee today was whether or not there was anything in the *Agreement in Principle* where the small group was headed down the wrong road.
- Preston said no, it seems the small group has done a good job. He suggested that the small group, as part of the process, continue discussing some of these other things, like language, as addressed by Jimbo.
- Jimbo said he sees this as a weigh-point along the way, and is in agreement with Steve's comments.

Marsha asked Jimbo if he was ok with the way the current *Agreement in Principle* is characterized:

- Jimbo said yes, and he feels that the language piece is very important to Steve as well. Steve concurred, and said he knows there is some hammering out to be done. Jimbo is fine with proceeding. He's not sure if he's optimistic but is definitely willing to move forward.

Marsha asked if all were ok with the proposal for the small group to meet again for 1-2 meetings and then a follow-up with the Steering Committee convening again. All agreed.

- Jeff reiterated that he will pull out the language from the WSR release of the Rio Grande bill and his organization will look at that as well as Wilderness water language. Jeff will

- pull the Piedra Area water resource facilities language.
- Chuck is sure there is language for release of smaller segments of rivers that were otherwise designated.

Steve suggested that we keep the same team in place, coordination wise, for the process and that Marsha be the distributor for materials. All agreed.

- John Taylor suggested that Marsha might be able to find information from the Audubon Society on the Black Swifts.

The next meeting for the full Steering Committee was set for June 18th, 12-3:30 p.m. Location TBD.

The small group will find two meeting dates between now and then.

CWCB meeting in July

Suzanne reported that the CWCB is holding a meeting on July 15-16 in Ignacio. She suggested that the RPW Steering Committee might want to consider giving an update to the CWCB at that point.

- Chuck suggested that we should not decide until after our next couple of meetings.
- Steve suggested that we should give them an update but decide in June if we're at a place where we give a full update or just say we're still in progress and give less detail.
- Jimbo asked if there was a cut-off date for getting on the agenda.
- Suzanne said mid-June would be the general cut-off date.
- After our June 18th meeting, the Steering Committee will have a better idea of where we're at.
- Suzanne will get with Marsha to find out what should be included in her May CWCB board report.

Observer Comments

Sandy Young –

- She was surprised that Jimbo wasn't taking on the impoundment language draft, and suggested that Steve should write it, if not Jimbo.
- Steve responded that we have a first draft of South Mineral Creek language and maybe on Mineral Creek. For the Piedra and Animas, we need to make sure that there are no unintended consequences in the language. We need to be careful about how it's framed, and need to discuss it further with the SWCD board and staff. He wants to make sure there's no interference with rafting or kayaking but yet wants to be able to do more minor impoundments.
- Jimbo said that if Steve would take the first stab at this with more specifics, it might be more productive. Steve concurred.

Ty Churchwell –

- Ty made reference to page 8 of the *Agreement in Principle* draft 1, where it talks about the WSAs in Silverton. He suggested that, on Whitehead Gulch, the small group reach out to Darlene Marcus in terms of access to the claim. There is a claim holder there who has communicated to her so we need to make sure we are hearing any concerns.
- Steve said that what has been spoken about is a carve-out so that whoever administers it

can do a relocation as needed. In addition, the small group looked at knocking off the nose of Deer Park Creek and putting the boundary south of Deer Park Creek but with some language to protect the character of the corridor while avoiding water issues. The bulk of Whitehead would become Wilderness. The BLM doesn't want to administer Wilderness, so perhaps it could be transferred to the USFS. Steve also said that, from a philosophical standpoint, the small group focus has been on Workgroup recommendations. He feels this is a compromise for those who wanted no new Wilderness and others that wanted more Wilderness.

Marsha said that at some point we will do some mapped out scenarios so folks have a better idea of what we're talking about.

Mark Pearson –

- David Robbins drafted the Rio Grande language. His sense is that David pushed it through as a water attorney. He continued to say that the San Luis Valley has always banded together around water. It's a unique circumstance over there and, as such, it may or may not be the right model to follow.

Marsha summed up by saying that the group would like to continue the conversation and have more detail come forward. Full agreement by some will be determined by this further detail. She continued by saying that she heard there is a lot of support for the work of the small group. She said it is helpful in these processes to know as you're going down the track if milestones have been met while maybe they are not final agreements, they are agreements along the way. She said going forward that being very clear about these milestones is important.

The meeting was adjourned at 3:43 p.m.