

**River Protection Workgroup for the Animas River  
Meeting #8    January 30, 2012    5:30-8:30pm  
Silverton Town Hall, Silverton CO**

**MEETING SUMMARY**

What happened at this meeting?

- \* New handouts made available and discussed
- \* Review of previous meeting
- \* Review of Information Sheet updates (version 1/21/12)
- \* Review of Animas River tributary segments including Mineral and South Mineral Creek

\*\* Next meeting – Thursday, February 23, 2012, Silverton Town Hall, 5:30-8:30pm \*\*

The River Protection Workgroup for the Animas River conducted their eighth meeting on Monday, January 30, 2012. Approximately thirty (30) people were in attendance. Marsha Porter-Norton facilitated the meeting. The meeting began with introductions of the attendees. The agenda was explained and agreed upon by those present.

**Opening**

The facilitator reviewed the agenda and proposed outcomes, and it was agreed to. The RPW ground rules, process principles and framework were briefly reviewed as is done at each meeting. A brief review was heard of where the Animas group is at in the overall process. Consensus of the Values Statement has occurred, as well as a field trip and exploration of the segment from Baker's Bridge to Silverton. Brainstorming continues during this meeting with the ultimate question in the process being whether current protections are adequate to protect values. The process may conclude in June 2012 but can certainly go longer if needed.

**Recap of December 15<sup>th</sup>, 2011**

The group brainstormed, **with NO final decisions or recommendations being made**, a list of ideas for protecting the values in the Lower Animas – Baker's Bridge to Silverton segment:

- Ø State in-stream flow
- Ø Status Quo: current protections are adequate
- Ø Leaving it suitable for the WSR designation (it is "Preliminarily Suitable" now in the San Juan Public Lands Draft Land Management Plan)
- Ø Wild & Scenic River Status
- Ø Use County Land Use Codes, San Juan & La Plata
- Ø Designate the two WSAs adjacent as Wilderness Areas
- Ø Mineral withdrawal within the area between Wilderness Areas and private land

Ø Management scheme by the USFS such as the planning tool in the Plan  
Ø Design a special area (see the St. Vrain example in the Tool Kit) – the idea is to craft a tool that would likely require legislation that is unique to this area

It was clarified that the Animas River itself is not included in Wilderness.

Chris, from Mountain Studies Institute, discussed the economic impact of WSR designation on a community in Montana. Chris spoke with members of that community that were involved in designation and they said they'd be willing to field questions about the impact of WSR designation. If folks are interested in more information on this issue, go to the Mountain Studies Institute Web site: [www.mountainstudies.org](http://www.mountainstudies.org). Also, a handout from Chris is available in the packet at the sign-in table where members can share information.

### **San Juan County Commissioners**

Ernie Kuhlman was present, along with the other two San Juan County commissioners, Terry Rhoades and Pete McKay. According to Ernie, the Commissioners have spoken to many residents with differing interests related to the RPW for the Animas River discussion. As a regular attendee of the RPW Animas meetings, he has updated his fellow County Commissioners on the process, specifically the Lower Animas segment. These were their questions and concerns about the quarter-mile segment that would surround the Animas corridor if designated as Wild & Scenic:

- How would water rights be impacted?,
- What about the idea generated last time regarding a potential tool being a mineral withdrawal of this area and Upper Mineral Creek?
- Mining is in San Juan County by right.
- There are concerns about large numbers of rafters on the Upper Animas adding to the load on emergency services.
- Is there access to 3.7 miles down the canyon where Wild & Scenic is proposed?
- The railroad is the only access to the Upper Animas.
- Any tool needs to consider emergency planning with with the county.
- They assume that final recommendations of this group will be sent to the County Commissioners for their approval or lack thereof.

Marsha clarified that the output of this group is a report from a community discussion. The findings of the group may or may not involve any kind of federal legislation. The report will be sent to congressional delegations and all interested parties and will be available on the web site. WSR status is not predetermined, by any means. Steve stated that all congressional delegations ask for input from local governmental bodies before doing federal legislation.

Terry expressed concerns about the segment that was found to be preliminarily suitable just south of the Animas because it and the Mineral Creek area have a

lot of mineral potential. He said he is concerned that the county has lost a lot of money to mineral withdrawals already and he doesn't want to see that happen.

Pete wanted to make sure that the Durango & Silverton Narrow Gauge Railroad was weighing in on the conversation. There was a question raised about the flexibility of a WSR corridor width – could the ¼ mile width be shrunken down a bit? If so, it might allow commissioners to feel more willing to support Wild & Scenic.

Mark clarified that there is NO proposal for Wild & Scenic right now. Rather, there is only a determination that the segments are suitable. The WSR Act does require a ½ mile area from the middle of the stream both ways. However, there is some flexibility in how that is configured. The paramount thing to consider, he said, is what are the ORV's that you're trying to protect? The corridor design and management is focused on that. As per the USFS Draft Plan, recreation and history, including the train, are recognized as significant ORVs.

Casey stated that he's been a commercial river outfitter for 30 years. He's never seen a river rescue where taxation on EMS has been an issue, as most river rescues need to be handled on-site with the individuals present in the Upper Animas. This is because of the extreme nature of the rafting from a technical perspective. Either rafters self-rescue or the person cannot be rescued because there has been a fatality. Ernie then stated that the county pays for autopsies and that is a direct impact on the county because they pay the coroner's salary.

Ray said it's extremely difficult to get a metal mine permit in Colorado. Current review and permitting requirements are pretty stringent. He said this difficulty in getting a mine permit is perceived by some as a protection tool already in place on the Animas. He reiterated that mining is an important value in San Juan County.

Ernie stated that he understands that mining is needed in San Juan County and so is recreation. He said he wants to stay open to options. He asked about whether mineral withdrawal is allowed on WSRs. It was noted that there is nothing stated in the 1968 WSR bill about mineral withdrawal. He said his understanding is that new mining claims would be encumbered by a WSR designation.

Sandy asked why citizens would want to give the federal government any control (not already given) over water rights.

A concern was stated that a new mining claim, even though it might be allowed, might not be worth as much if it butts up against an area that is designated Wild & Scenic.

John Taylor felt that this group could design a tool that would protect the Animas River canyon, the train and mining. Bruce commented that ORVs are already identified. Mark said yes, in the Draft Land Management Plan, but this group has the ability to define their own values (which they have done) and that Congress would look at the work of this group in designing a potential bill.

Mark clarified that mineral withdrawal on segments classified as "wild" is automatic under the Act. The segments of the Animas we're looking at are classified as "recreational", so mineral withdrawal would not occur under the Act on these segments of the Animas.

### **Information sheet updates**

Hard copies of the latest sheet (version 1/21/12) were not available at the meeting due to a glitch in communication (the latest version was emailed out to the group prior to the meeting). Ann went over the new information in the latest version. Marsha stated that if folks wanted to wait to give consensus until they see the latest version, the group could certainly do that at the next meeting. All agreed that would be best.

### **Updates**

Ann went through all the changes made since last time. Everyone was asked to look at the changes on the email version that went out as "Tracked Changes" so all new information is easy to see. The information added includes:

- More information on current protections in place for land and water and what the tools do (and disallow)
- Beginning on page 6, the tools are organized into county, federal and state level protections
- Federal: Added that there are federal laws to protect heritage resources and wildlife
- Paragraphs added for the: Clear Air Act; Clean Water Act; Environmental Justice Executive Order to protect minority and low income populations; Federal Land Policy and Protection Act (set up by the BLM); and the General Mining Law of 1872
- The question came up about "what is wilderness"? That language was added from the Wilderness Act, Ann noted. The Wilderness Study Areas or "WSAs" were delineated from the Wilderness
- State level protections: Water Quality; Air Quality; Noise Level Protections; and Colorado Water Rights Protections. A suggestion was to add in permitting processes for mining.
- Suggestion: Add the Multiple Use Act of 1955.
- Scenic Overlook – need to make sure it's in the right place (Dave will send to Ann)
- San Juan County is the only county in Colorado that has mining as a "use by right."

- To be added to Information Sheet: Proposed Electra RNA (Research Natural Area) which is 2,450 acres adjacent to the river on the west side between Cascade Creek and Glacier Creek – this will be added to the map
- FERC licenses need to be listed on the Information Sheet
- Pg. 3 – Economics: Ken asked that motorized and non-motorized recreation be added – it’s listed as a value under recreation but not under economics

Marsha suggested a change to the language in the Initial Information Sheet based on an email exchange she had with Kevin. The suggestion is to change the wording on the first page from “Area of Focus” to “Area Initially Being Discussed.” This is to ensure that the Information Sheet does not give the impression that the protections are automatically being designed for the entire watershed.

A consensus-based decision will be determined next time as to whether or not to approve the updated Information Sheet.

### **Watershed Condition Framework handout**

A new handout, “Watershed Condition Framework”, was discussed. The complete document can be found at <http://www.fs.fed.us/publications/watershed/>. This document is the result of an internal process by the USFS to determine where they put funding for watershed improvements. It’s an informational document only, not a protection tool, Mark said. A ranking process was done looking at various qualities. There was a request for a short definition of terms in the document. Ann told the group that this is being provided because a question had come up earlier as to whether there was any document that rated the “health” or condition of the entire watershed. This document comes the closest, Ann said.

### **South Mineral Creek Review**

(Please refer to the Information Sheet for much more detail on current protections and other relevant information for this segment)

#### Protections currently in place:

- Mix of USFS-owned land (94%) with some mining claims and private land
- Flows through inventoried roadless area
- Has instream flow held by CWCB
- Proposed Special Management Area from Clear Lake Road west
- Preliminarily suitable for WSR
- All state, county and federal protections in place
- Black Swifts (birds) are a “species of concern”
- Stream standards are set by Water Quality & Control Commission

#### Values:

- Known mineralized area
- Ice Lakes – hiking

- Grazing
- Fishing
- Widely used
- All season usage
- Biological and geological classroom
- Easily accessible to Silverton
- Possible heli-skiing
- Firewood collection
- Wildlife – Black Swift
- Unusual wetlands
- Hunting
- Migration route for animals not usually migrating, i.e. Lynx
- Mining
- Hard rock 100 race
- Backpacking
- Ice climbing
- 4-wheeling
- Good fishery and high water quality

### **Mineral Creek Review**

(Please refer to the Information Sheet for much more detail on current protections and other relevant information for this segment)

#### Protections currently in place:

- Passes through USFS-owned land (85%) and private land
- Much of it is in scenic byway
- Colorado instream flows on main stem and two tributaries
- A portion of Middle-Fork of Mineral Creek (Ophir Creek) is inventoried roadless – includes most of Mount Molly
- Is in scenic view corridor overlay district of San Juan County
- A portion of the lower section is in the town/county mutual interest zone
- Needs cooperative approval to move forward with development or projects
- In 1996 Act, some historic structures are protected
- A short portion (maybe a mile) is in Silverton Special Recreation Management Area of BLM
- State Game laws – this should be considered a protection in place, it was noted by Drayton

#### Values:

- Mining
- Backcountry skiing
- History
- Motorized and non-motorized
- Chattanooga Fen
- Scenic
- Hunting

- Potential fish barrier for South Mineral
- Zinc loading has been cut in half – goal is to allow fish to be able to survive below the confluence to the Animas
- Mineral Creek corridor is historic right-of-way for train

Protections brainstormed for both South Mineral and Mineral Creek (the group agreed to develop this list for both after the above discussion):

- Status quo – use existing management tools in place
- Continue efforts to improve water quality
- Removal of barriers to improvement of Water Quality Act, i.e. Good Samaritan Act
- Wild & Scenic River
- Status quo could include Wild & Scenic protections in plan, if plan finalized, or could remove or lessen those protections
- Flow protection tool for instream flows
- Need for permanence in protections
- Level of flexibility to meet future needs
- Further increased flows that protect consumptive use of flows in streams
- Protect hydrology of fens
- Animas River Stakeholders - continue work (all work has been done above Chattanooga to date) – numerous ARS projects have positively impacted water quality in Mineral Creek
- Tool to prevent trans-basin diversion

The next meeting will have a series of exercises to help us move forward following the great brainstorming of this meeting, Marsha said.

### **Minutes from past 3 meetings**

No comments. Sandy clarified her comment about the Tacoma Power Plant at the December meeting, stating that she was interested in what the implications were for the Tacoma Power Plant if WSR was enacted. Other than this clarification, minutes were approved from the past three meetings.

### **Next meeting**

February 23, 2012, Silverton Town Hall, 5:30-8:30

(Meeting recorder: Tami Graham)