

River Protection Workgroup for the Animas River
Meeting #11, Thursday, May 24, 2012, Kendall Mt. Rec. Center
Time: 5:30 to 8:30 p.m.

MEETING SUMMARY

What happened at this meeting?

- * New handouts made available and discussed
- * Discussion with D&SNGRR regarding Wild & Scenic
- * Discussion of NRA for Baker's Bridge to Silverton segment
- * Review list of values and current protections from previous meetings
- * Review of segment analysis sheet and pro/con discussion of potential protection tools for South Mineral
- * Update on Durango area informational meeting

Next meeting is Thursday, June 28th, 5:30-8:30 p.m., Kendall Mt. Rec. Center

The River Protection Workgroup for the Animas River conducted their eleventh meeting on Thursday, May 24, 2012. Approximately twenty (20) 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:

Marsha shared that she felt the Workgroup made good progress as the last meeting because everyone was listening and having a dialogue on protection tools proposed. Tonight, she said, the group is looking at additional values and proposed protections for Mineral and South Mineral segments, as well as making sure everyone understands the various protection tools. The facilitator explained that we're working in a reverse triangle model (a funnel) – starting broad and then narrowing down towards what might work, what doesn't work, etc., regarding various values and recommended ways to protect them. She said that right now, the spreadsheet showing the six segments; existing protections; values for that segment ; and ideas for the future; is being "worked" meaning no final decisions are being made. The process is to go through a discussion of tools by segment and then look at the big picture and where consensus or ideas might fall. The Workgroup is one year old, having commenced in June of 2011. Marsha said that it is anticipated that we'll likely need 3-4 more meetings, maybe more. The process from this point forward is to get clarity on whether there are any proposals that this Workgroup may want to put forth including consensus ones or ones that show a range of views. Other groups have formed drafting committee's and that is an option for this group. They don't have

authority to make any decisions but would rather bring back potential recommendations to the larger group.

D&SNGRR:

At the last meeting the group discussed the Baker's Bridge up to Silverton segment, including the recreational values, the potential for mining, rafting, the train's use of this stretch, etc. The Workgroup had suggested that the train send a representative to the meeting. Evan Buchanan from D&SNGRR was present to speak to the group at the beginning of this meeting. Evan has been involved with the train for 27 years. The pristine beauty of the canyon is very important to the railroad. It's a major piece of the value of the train. Evan stated that he's by no means an expert in Wild & Scenic. He said the train is the one with a right-of-way through the canyon. In looking at current protections, he feels the canyon is protected by them. The physical geographical barriers really limit access to the canyon so many new roads are unlikely, he said. He clarified that he's only speaking about Baker's Bridge to Silverton section. On behalf of the railroad, he said they feel the current protections are sufficient and they don't see any reason a Wild & Scenic designation is necessary. He went on to say that the main reason WSR is concerning to the train is the new layers of governmental oversight that come with it and a fear that these "layers" or mandates could stop or hinder their operations.

A question was asked about the need for protections against fire danger. He feels like the railroad is a careful steward to guard against wildfires and said a certain amount of fire is not a bad thing and has shared that with the forest service. The train has moved quite a bit of fire equipment into the canyon to address fire since this is a high danger season.

Dave Michaelson asked about mitigation from rock fall. The Army Corps of Engineers considers rock slides a financial emergency for Silverton and they are very responsive. Dave asked if WSR designation would impact the train's ability to clear rock fall. Evan wasn't sure but Steve stated that there might have to be additional consultations with federal agencies due to WSR. Matt Janowick with the Columbine District of the USFS clarified that any WSR designation would recognize "any valued existing rights", including the train. They would have the rights to operate as they have in the past. Steve felt there was some uncertainty about that and this was cited as a concern. John Taylor agreed that he felt current protections were adequate. Ann stated that the primary ORV in that reach is the railroad and that the filter of any review would be "how does it protect the railroad"? Ken Emory stated he feels that the more federal agencies involved, the more complicated things become. Pete McKay said the train, after the last slide, had to get 400 people out of the canyon. If there's a glitch, and they have to wait for any standard operating procedures that have to be followed, it could hurt the railroad.

Key concerns:

*Who would have new authorities to consult with if the river were designated as WSR?

* What additional processes or procedures would be required by the train in various situations related to their operations, and how much time would it take?

It was noted that the Workgroup needs clarification on these questions. Maybe Roy Smith could answer this question (he is the State of Colorado's BLM expert on WSR), Marsha inquired. Steve said he wasn't sure Roy could answer this question. This is a potential future scenario that we need to get input on, Marsha said, but she said to the group that this could be one of those things where the answers are not necessarily clear. Ty asked if the train could stay neutral if WSR was chosen. He also asked if the train saw WSR as a potential marketing tool and if there could be a possible benefit to San Juan County (the train markets Silverton now). Evan said he would look into that but said the train does a great job of marketing now. John stated that his biggest concern is the potential of involving more layers of bureaucracy.

Marsha reminded the group of the process principles, especially in looking at solutions that meet a diversity of interests and gathering accurate facts and information, which may be difficult related to this particular discussion because there could be "various answers" to the two concerns listed above. In other words, the answer may not be clear cut. There is a range of opinions so far tonight, she noted. Kevin stated that he's against WSR because the railroad is. He wanted to remind everyone that the federal water right would have to be granted, and that he's leery of such federal designation because it would be out of our hands. He feels the group needs to honor the train's wishes. Kevin stated that he felt there was not a very good reception to Evan comments on the part of some in the room. Marsha again reminded the group that it's ok to disagree in the room. Steve stated that it was very helpful to have the train's input. Ken wants to find out how WSR would actually protect the railroad but he doesn't see that it would.

Ty stated that riding the train is considered a recreational activity in the forest – to ride the train and have a natural, pristine experience with a river that is relatively undeveloped. That is what would be protected, not just the train itself. If there was development allowed in the canyon, it would potentially impact that value, which could negatively impact the train. John Taylor's concern is that with new rangers or new supervisors in the USFS, there could be a change in philosophy. He feels that a local advisory group or council would help protect against those changes better than a WSR designation. Mike stated that some groups see WSR as a value and others don't. He asked how this would devalue the railroad or increase value in general?

Matt stated that the canyon is actually not protected now. A district ranger could offer up the land in the canyon as a land exchange at his discretion. It could be developed in the future. There is a risk. A potential threat is that it could degrade or devalue the scenic or ecological values of the canyon. Jimbo stated that there is no special protection by USFS now in the canyon. The idea he would like to see, he said, is to permanently protect the canyon. He felt it was curious that the train wouldn't want that surety of protection. It was stated that the train is a historical designated landmark. If any other federal agency wanted to threaten that, it would be a violation of the antiquities act. That needs to be included in the information sheet. Evan clarified that the train isn't opposed to Wild & Scenic but rather believes that the current protections in place are sufficient.

Ann wanted to hear from Evan what specific aspects of this reach were particularly valuable, leaving the WSR question aside. Evan stated that one of the main attractions is that it's historic – the wild west. The canyon as it currently exists is a big piece of the wild west. Also, Evan stated that the recreation piece is very important to the train. They offer packages to commercial rafting groups and other recreation packages. Wendy made a point of clarification that the train is the key ORV but there are two other ORV's (the agency doesn't actually prioritize ORV's). She stated that it would be good to bring in other commercial interests, i.e., rafters.

Chris asked if the train tracks could be sold to anyone, despite the historical registry designation. Evan said it could be sold because it's privately owned. Ken asked if the train would consider a National Recreation Area to protect certain segments. Evan said he's not worried about needing to additionally protect segments. It was asked if Tall Timber had been involved in this process. Marsha stated that outreach was done to them but it would be great if anyone could individually work on getting someone to the meeting. Steve stated that he felt it was pretty clear there would not be consensus on WSR designation. Steve asked if there were additional things the train might want the group to explore. Evan said composting toilets. Ray asked if the train could be a "working" train vs. just a tourist train. He said most of the "work extras" they do run are for entities that might need equipment (Tall Timber, Tacoma, etc.) and that there is potential for that in the future.

Marsha asked the group to remember the values statement they created, and that there were a lot of values other than the train to pay attention to. Chris stated that there was always a possibility that water could be taken from the river without a federal water rights protection. Several members said that was not true. Marsha reminded the group that they have reached consensus that there were to be no major river impoundments in this segment. She added that there are water rights that do pull water through the canyon. There is some

disagreement about the value of protections on the remaining water. (Note: a water rights discussion in more detail is scheduled for later this summer to clarify the water rights situation.)

Follow up from last meeting:

National Recreation Areas (NRAs)

Matt Janowiak stated that NRAs are established by specific acts of Congress. There is different emphasis on each one. All current NRAs are subject to mineral withdrawal but with that said, he's not aware of anything that would preclude or require mineral withdrawal. Many NRA center around big water projects (such as Blue Mesa Reservoir in Colorado). Legislation is specific to each one, kind of like ORVs in WSR. It's not a canned menu. Ken stated that you can write in whatever you want. It can be managed by BLM, FS, Army Corps, or cooperatively. He feels there are a lot of advantages. The key thing is that you can designate that there are no federal water rights. Ty asked if Ken would be in favor of that type of legislation. He said not necessarily – he's in favor of status-quo. He's concerned about things getting changed in Wa D.C., via lobbyist's influence, etc.

NRA was brought up as an alternative tool to WSR. Ray stated that we should keep economic benefits in mind, as well as recreational use. Pete wanted to reiterate what he heard at a prior meeting, regarding status quo, and that many of these areas would be maintained as suitable. He asked if Ken was ok with status-quo, meaning suitability stays as a management tool.

If the Forest Plan is finalized as it is now, the areas found to be "preliminarily suitable" would become "suitable". Steve stated that if there's WSR on any of the segments in the larger RPW process, the water community might like to see some trade-offs in terms of suitability on other segments. Steve said there are certain segments in the larger RPW process that the water community would like to see suitability removed from.

Howardsville site and hydrograph update:

Steve stated that the one storage water right that stills exists is the one in Howardsville, but now Ridges Basin has been built (AL-P). Is Howardsville something we're concerned about? Is that a problem for the group? Steve feels that there's no probability of that site being developed. Ann stated that an NRA or an NCA could be written to remove suitability. This needs clarified.

Water quality came up and it was clarified that this group's role is not primarily around water quality, but it is something the group could make recommendations about. Ann wanted clarifications on what status-quo means. It means that current protections were adequate. Ann would like to look at the potential for depleted flows through this reach. Ann wanted clarification around

the Howardsville site. Suzanne Sellers from CWCB is working on a hydrograph. Marsha suggested we talk more about this when we get the hydrograph from Suzanne. Ann also clarified that status-quo means there is potential for future development in the corridor. Ray commented on the potential dam at Howardsville and that there were some significant geological concerns around a dam site there.

Marsha summarized interests that she had heard: A need for local control vs. an assurance that values are protected. There's a range of opinion about each of these. Jimbo suggests that this is not a linear progression. Some people might want local control but still want assurances. Chris stated that local control is not necessarily the easiest or less controlling.

Review of list of brainstormed protections for South Mineral Creek including any information needs:

South Mineral Creek

Marsha referred to the segment-by-segment analysis sheet, current protections in place, and workgroup defined values and ORVs as identified by the FS. Ideas for protections were discussed:

Status-quo (use existing management tools)

Pros: The potential for mineral development.

Cons:

Ray stated that status-quo means right now there's not much going on up there. Melissa stated that wildfire management may need to be significantly altered in the entire area due to beetle kills of trees. Steve stated that status-quo means the FS can alter their management if they need to. Ann asked if protecting the hydrology of the iron fens is a concern, and if so, what are the tools for protecting the fens. Matt stated there are current protections for them. They are managed as a fen system and they are groundwater fed. He said they are high-value and are managed as such. Steve asked about the black swift nesting areas, in terms of protections. They are part of the ORVs. Matt said the FS has standards and guidelines in place to protect them. John said that the fens are protected by Colorado law, in that it protects against degradation or depletion of ground water.

A discussion took place about whether status-quo means that suitability would remain. Steve said he's in favor of protecting the ORVs but not necessarily as associated with suitability as the tool. Wendy asked what the current management is for Iron Fens and Black Swift on South Mineral Creek, noting that in her mind, suitability is not a permanent protection of those values. Matt

Janowiak stated that the Black Swift is identified for protection now, as well as the Iron Fens.

Change to segment-by-segment analysis sheet under Protections in Place: Potential Special Management Resource Area – it was clarified that it is moving through congress right now. This needs to be removed from the Protections in Place category.

John Taylor suggested an additional tool for protection - a local advisory group.

Continue efforts to improve water quality

Animas River Stakeholders Group – supporting their work is something the group discussed previously. A comment was made to rely on the various other groups that are doing this work previously. South Mineral Creek has good water quality now. Mineral Creek water quality has improved significantly, via the work of the Stakeholders group. This group could endorse their work and support its continuation. Animas River Stakeholders did influence additional flows in the river, as a component of water quality. There was group consensus that this group supports the work of various groups working on water quality issues in this segment.

Wild & Scenic River

There are still water rights issues. There are water rights lawsuits pending in San Juan County and we need to see how they play out. Development for mining is an issue. This is a very short tributary. It was asked if there are any other segments in the WSR system that are this short. There may be less interest or no precedent for a stretch this short (7.41 miles). John said it is a mineralized area with potential and that is an identified value. Could it lock up mineral development? Recreational status does not come automatically with a withdrawal of minerals. Jean asked how much of that stretch is on private property. Dave said there are only a handful of claims – perhaps eight. Ken said recreational status is inappropriate because you don't see any rafters on South Mineral Creek. Wendy stated that the word "recreational" is a bit of a misnomer, as it doesn't mean that it's classified as that for recreation purposes – it's partly because there is a road up there. It was stated that there is a huge amount of camping in this area. Values need to be protected – both fens and the ecology of fens.

Flow protection tool for in-stream flows

There is an existing in-stream flow water right by CWCB to protect riparian areas. That flow only goes to the confluence of South Mineral and Mineral Creek. There was a question about beavers and beaver dams and their impact. There is no control on beavers that the group is aware of but it was jokingly stated that they need to get a water right if there going to continue. It's a Division of Parks & Wildlife issue.

New idea for protection

Research Natural Area or Botanical area for the Black Swift and the fens.
Discussion to be continued at the next meeting on this idea.

Update on informational meeting with stakeholders downstream:

An informational meeting will be held in Durango on June 18th. All members of this group are welcome to attend. Everyone will be given the Values Statement, the Information Sheet, and the Segment-by-Segment Analysis Sheet. La Plata County commissioners are very interested in being there. PSAs will be put in the newspapers.

The idea of whether to take a break over the summer was discussed. Ken said it was tough to make meetings in the summer but the group decided to stay the course. It was suggested that the group look at conference call options if folks can't make individual meetings.

The group asked if the January, February and April meeting minutes were ok. Given that everyone hadn't reviewed them in a long time, it was decided the Workgroup will discuss and approve all minutes from these meetings at the next meeting.

Next meetings are June 28th and July 26th, 2012