

River Protection Workgroup for the Animas River
Meeting #2, Thursday, July 28, 2011, 5:30 – 8:30 p.m.
Kendall Mountain Recreation Center

Meeting Summary

The River Protection Workgroup for the Animas River conducted their second meeting on Thursday, July 28th. Approximately 45 people were in attendance. Marsha Porter-Norton facilitated the meeting. The meeting began with introductions of attendees. The agenda was explained and agreed to (see meeting agenda below).

Because there were many new people and it was the second meeting, Marsha explained that the goal of this effort is to form a workgroup that will discuss values for the area of focus and determine recommendations about protection of those values. The outcome will be to release a comprehensive, collaborative report that will go to the San Juan Public Lands Center (USFS/BLM), elected officials, interested citizens, local, state and federal agencies, and non profits. It will also be available on the River Protection Workgroup Web site. The workgroup process will take 11 or 12 meetings, including a field trip and educational sessions. The group will discuss values and what they think are the best recommended tools for protection of those values.

Marsha emphasized again that anyone who has an interest is a stakeholder and has a seat at the table. The principles of this process are as follows:

- Tough on issues, not on people
- Find solutions that meet as many needs as possible
- Respect opinions, even if you do not agree
- Ask questions as needed
- Use accurate facts and information
- Lots of interaction – there may be consensus, collaboration, and negotiations
- Fair, open, transparent process
- Available tools and data

Marsha requested that attendees subscribe to the process principles and view them as tools to benefit the process. There are many different interests involved, and water is often a contentious issue. The group discussed the background of the process, how to work through the process, the significance of communication, and the importance of working through differences as they arise.

Marsha explained that this river segment is defined as Baker's Bridge and above (as defined in the USFS/BLM 2007 Draft Land Management Plan as being suitable for the Wild and Scenic River designation). Because a river segment is suitable does not mean it's Wild and Scenic – WSR status takes an act of Congress. A map at the meeting (and on the Web site) was produced by the Colorado Division of Water Resources and it showed the area of focus.

Marsha went on to say that the Wild and Scenic Rivers tool is just one tool among many river and stream protections. She encouraged everyone to read the 14-page “Tool Kit” that provides information on the various types of river/stream protections. Mark Stiles added that the USFS is required by federal law to look at streams and rivers in a watershed. Preliminary findings are in the USFS/BLM 2007 Draft Land Management Plan. This plan determined the Upper Animas River to be suitable for Wild and Scenic River status. The 1968 WSR Act was created to keep rivers/streams in a free-flowing state. There are different levels of WSR designation: 1) “wild” which is a pristine river with no roads; 2) “recreational” which means train and road access is acceptable; and 3) “scenic” is between those two levels. Congress ultimately designates a river as Wild and Scenic. The only one in Colorado is the Cache le Poudre. Wild and Scenic River protection covers a ¼ mile corridor from the middle of the stream to each side. If designated, no dams are allowed, no new highways will be built with federal funds, and water development is restricted.

There are other rules and regulations that also come into play. As far as pre-existing or potential hydro-electric, Mark Stiles said that permitting and pre-existing water rights are protected. Chuck Wanner added that the Federal Reserved Water Right that comes with WRS status would be junior to all existing rights as per Colorado water law. Bruce Whitehead noted that there are always issues in changing water rights and with future developments of water rights.

Mark Stiles explained that an ORV is an Outstanding Remarkable Value and that the 1968 WSR Act requires a free-flowing stream/river study to determine if there are one or more ORVs. ORVs include recreation, wildlife and scenery. The Upper Animas has class 5 and more whitewater, Mineral Creek has Chattanooga Iron Fins, and South River has a nesting of black swifts.

Marsha reminded the group that accurate facts are a process principle and said all questions are good ones. She added that the River Protection Workgroup process is not just about Wild and Scenic River status. The group is being asked to first assess what they care about (the values) and then to assess how those values should be protected. WSR is just one tool in the tool kit. She said WSR issues are very complex and an educational panel would be arranged at some point. This was done for the other groups that have already convened (Hermosa Creek, Upper San Juan and Vallecito Creek/Pine). This panel, made up of experts on river protection tools and Colorado Water laws, will address restrictions, how WSR affects business and agriculture, water quality, property rights, quantity requirements, etc.

Dan Randolph from the San Juan Citizens Alliance said the intent of the whole stakeholder process is not to focus on Wild and Scenic River. The intent is to discuss what values people care about (i.e., hydro electric, ranching, mining, recreation) and to decide which of the various tools should be recommended to protect those values. He said “Let’s not get too hung up on WSR but rather, what do you care about and what is the level of protection?”

When asked if these segments will ever meet water quality requirements, Kay Zillich, with the San Juan Public Lands Center, replied “yes.” The USFS states in its 2007 Draft Plan that these segments are suitable for Wild and Scenic because there is a plan in place to meet water quality standards. There was some disagreement on this point with some saying that these segments already have good water quality. The group agreed that this should be a future agenda item. The Animas River Stakeholders also needs to present an overview of what they’re doing and discuss the status of water quality in these segments.

Marsha reminded the group that this was only the second meeting of the Workgroup and that these complex issues will be discussed over time. She asked the Workgroup to be patient because there is a phased process being used. First, everyone gets clear on information needs by reading the Information Sheet. Next, the Workgroup will eventually draft a values statement and make recommendations about how to protect those values. She said the final report may include a range of views and/or consensus. Mark Stiles noted that the final decision about suitability for Wild and Scenic River status for these segments will be made when the 2007 Draft Land Management Plan is completed.

State Representative J. Paul Brown asked if this group is a Forest Service group. Marsha responded that this group represents a community-driven process and is not driven by or funded by the Forest Service or BLM. Bruce Whitehead said the Forest Service has agreed to look at the reports coming out of all five RPW Workgroups as part of the public planning process. J. Paul Brown asked if there would be more comment after the USFS makes their Plan final. Mark Stiles responded that the comment period has been completed, with over 18,000 comments received during the formal comment period. Steve Fearn added that the RPW is funded by the Southwestern Water Conservation District, the Colorado Water Conservation Board, the San Juan Citizens Alliance, The Wilderness Society, Southern Ute Tribe and Trout Unlimited. Ann Oliver further clarified that Wild and Scenic is just a question on the table and that no forgone conclusions have been made. The RPWG is supposed to determine if we need to do something and what that something might be. The group might find out that we do not need to do anything. It is all very open at this point. Marsha said we do know that there is a lot of interest based on attendance at this meeting.

There was a question about water quality and if there had been any water quality studies completed. Marsha responded that water quality is a value, and we do not want to duplicate what other groups are doing, she said. Peter Butler, Animas River Stakeholders Group, stated that the ARSG was established in 1994 to address water quality issues on the upper Animas. These issues include how much of mineral loading is natural and how much is mining induced. Site-specific standards were set and the WQCD adopted the plan. Peter added that there were no standards when mining started. The WQCD looks at standards every five years and adjustments are made – it’s a very complex system. Marsha will put a link to the ARSG website on the RPWG website. Everyone agreed that we need to address the ARSG accomplishments and information.

After a break, the group began to set ground rules. Marsha stated that at a previous meeting, a concern was raised about people bringing weapons to the meeting. She asked the River Protection Workgroup Steering Committee about this because the issue has

never come up before. The RPW Steering Committee decided that this shouldn't be a ground rule (meaning that weapons be banned) because some law enforcement personnel wear a gun as part of their uniform. Others may carry concealed weapons and the RPW really doesn't want to oversee this issue. Everyone was asked to be respectful.

Marsha then asked the Workgroup to establish ground rules for each meeting. Ground rules determined by the group included:

- Only one person talks at a time
- No side conversations
- Turn off cell phones
- This group is issue-focused, not people-focused
- If you need to catch up from a missed meeting or missed portion of a meeting, please be responsible to catch yourself up. You are welcome to call, email, look on the RPWG website, or arrive 10 minutes early to the next meeting to talk to Marsha, but please do not take time out of the meeting to catch up. Marsha also agreed to do a special overview session for folks who may have missed sessions during the summer. She will also email out her phone number and is happy to talk to anyone to help them get up to speed.

The Workgroup then reviewed the Initial Information Sheet in detail. It was determined by the Workgroup that there are several omissions in the Values section of the plan including "black swift" (bird), "iron fen" (bog), forest health (beetle kill), grazing and logging. Ann Oliver, who is putting the Information Sheet together, will include these important values in her next revision which will be draft #3.

The Workgroup then had a discussion about Land and Water Protections currently in place which were all detailed in the Information Sheet (see below).

Roadless Area: Portions of the East Animas (16,864 acres), Weminuche Adjacent (38,410 acres), and all of the West Needles (4,497 acres) 2006 Inventoried Roadless Areas fall within the Area of Focus. The 2001 Roadless Area Conservation Rule prohibits road construction and timber harvest, with limited exceptions, in Inventoried Roadless Areas. The 2001 rule is currently in litigation with different courts issuing conflicting decisions. It seems likely that some version of a roadless rule – although it is not clear which one (the Colorado Rule or the Federal Rule) – will be in place in the future, restricting road construction and timber harvest.

Wilderness: The Animas River drainage above Baker's Bridge includes 68,745 acres of the Weminuche Wilderness. Four BLM Wilderness Study Areas, Handies Peak (1,061 acres), Weminuche Contiguous (1,619 acres), Whitehead Gulch (1,764 acres) and West Needles Contiguous (958 ac.), totaling 5,402 acres all fall entirely within the drainage. WSAs are managed to protect their wilderness character until Congress designates them as Wilderness Areas or releases them for multiple use.

Scenic, Historic and Backcountry Byways: Portions of the San Juan Skyway and the Alpine Loop National Backcountry Byway pass through the Area of Focus. Consistent

with the USFS National Scenic Byway Program goals, managers “guide the appropriate physical development of these travel corridors and their associated facilities, direct the conservation of unique and valued attributes surrounding the planning area, and provide leadership for byway management that supports efforts to benefit these routes” (*San Juan Public Lands 2007 Draft Land Management Plan*, page 174).

National Recreation and Scenic Trails, and National Historic Trails: Portions of the Continental Divide National Scenic Trail and the Colorado Trail pass through the area. These are federally recognized trails that are “recognized through establishment reports and management plans for their scenic, historic, interpretive, and recreation values.” (*San Juan Public Lands 2007 Draft Land Management Plan*, page 176). The National Recreation and Scenic Trails Standards and Guidelines direct that “other resource activities should be designed in order to meet scenic quality objectives”. The trails are currently managed under guidance provided by the 1980 Continental Divide National Scenic Trail Comprehensive Plan, the 1998 USFS Decision Notice, Colorado Trail Management Direction and Route Selection EA, Region 2, the USFS Master Plan for the Colorado Trail, and the FSM 2300, Chapter 2353, National Scenic and Historic Trails (*San Juan Public Lands 2007 Draft Land Management Plan*, page 177).

Special Recreation Management Area: The Silverton Special Recreation Management Area or “SRMA” (186,252 acres) lies partly within the area. In 1981, the BLM designated the American Flats/Silverton-Lower Lake Fork Special Recreation Management Area (SRMA) to protect the important recreational values. This administrative designation recognized the area as both a highly-valued recreation resource and an area requiring enhanced management for the protection of these recreation-related resources, including a notable number of unique and nationally significant historic mining sites. The original SRMA, together with the Alpine Loop Scenic Byway, are now known and managed as the Alpine Triangle SRMA. The BLM developed a recreation area management plan (RAMP) for the Project Area in 1986, the Alpine Triangle Cultural Resource Management Plan (CRMP) in 1994, and the Scenic Byway Corridor Management Plan in 1996. These plans identified goals for the BLM recreation program in the Project Area and the supporting management actions necessary to achieve those goals and protect the intrinsic natural and heritage qualities of the area. For more information go to:
[http://www.blm.gov/pgdata/etc/medialib/blm/co/field_offices/columbine_field_office/alpine_triangle.Par.84435.File.dat/EA_Final_081610_with%20appendices.pdf]

USFS and BLM management (current and proposed under the Draft Plan):

Public Lands Management in the Animas River Drainage above Baker's Bridge

Under current management, the areas of USFS public land within the Area of Focus are allocated to large areas of: MA1W which means: "Natural Processes Dominate: Designated Wilderness Study Areas and Piedra Area" (Weminuche Wilderness surrounding the Animas River east of HWY 550, upstream of Cascade Creek and downstream of Molas Creek) and MA3 "Natural Landscape with Limited Management" (area northwest of HWY 550 between Cascade Creek and Silverton). Smaller areas are allocated to: MA1 "Natural Processes Dominate" (roadless area within Weminuche Wilderness), MA4 "High Use Recreation Emphasis" (linear areas near HWY 550 and along Mineral Creek and South Fork Mineral Creek), and MA5 "Active Management" (Missionary Ridge and portions of Cascade Creek drainage, and an area between Lime Creek and HWY 550. The BLM public lands are all managed as MA2 "Special Areas and Unique Landscapes."

Under the *San Juan Public Lands Center's - 2007 Draft Land Management Plan* some changes to allocations under these management areas would occur. The USFS lands between Cascade Creek, HWY 550, West Lime Creek and South Fork Mineral Creek would change from MA3 "Natural Landscape with Limited Management" to M1 "Natural Processes Dominate." The Elbert Creek drainage would change from M4 "High Use Recreation Emphasis" to M5 "Active Management." The USFS lands north of Middle Fork Mineral Creek and east of Mineral Creek would change from largely M4 "High Use Recreation Emphasis" to M2 "Special Areas and Unique Landscapes." The corridors of BLM lands along Cement Creek and the Animas River upstream of Silverton would change from M2 "Special Areas and Unique Landscapes" to M4 "High Use Recreation Emphasis." There is one area (1,428ac) of the Weminuche Adjacent Inventoried Roadless Area recommended for wilderness in the DLMP. If the plan is approved, this area will be managed to maintain its wilderness characteristics until Congress designates it as Wilderness or releases it for multiple-use management (*San Juan Public Lands 2007 Draft Land Management Plan, page 171*).

Silverton BLM lands provide for motorized use on designated roads and trails only. The USFS and BLM will be commencing travel management planning for various portions of the Area within the next five years.

In-Stream Flows and Minimum Lake Levels: An in-stream flow is an in-channel appropriation of non-consumptive water between two specific points and is appropriated by the Colorado Water Conservation Board (CWCB) for the purpose of protecting the natural environment to a reasonable degree. A Minimum Lake Level is a non-consumptive, in-lake use of water made exclusively by the CWCB for minimum levels in

natural lakes in order to preserve or improve the natural environment to a reasonable degree. Both in-stream flow and natural lake level rights are administered within the State of Colorado's water right priority system.

In-Stream Flows in the Animas River Drainage above Baker's Bridge:

Stream Name	Case Number	Amounts in cfs (Dates)	Appropriation Date
MAGGIE GULCH	05CW051	2.5 (5/1-10/31) 1.5 (11/1-4/30)	1/25/2005
MINERAL CREEK	04CW040	15 (5/1-10/31)	7/13/1954*
MINNIE GULCH	83CW087	1 (1/1-12/31)	5/5/1983
MINNIE GULCH	05CW052	.7 (5/1-10-31)	1/25/2005
SOUTH FORK MINERAL CREEK	84CW272	18 (1/1-12/31)	7/13/1984
ANIMAS RIVER	10CW086	21 (5/1-10/31) 9 (11/1-4/30)	1/26/2010**
ANIMAS RIVER	10CW087	12.2 (5/1-10/31) 6.1 (11/1-4/30)	1/26/2010**

* Donated water

**Pending cases

Minimum Lake Levels: There are 20 minimum lake levels established in the Area of Focus.

Lake Name	Case Number	Level (in Acre-feet)	Appropriation Date
Boyce Lake	W1776-77	47	1/19/1977
Clear Lake	W1775-77	1480	1/19/1977
Crystal Lake	W1774-77	78	1/19/1977
Denver Lake	W1773-77	1	1/19/1977
Eldorado Lake, Big	W1772-77	250	1/19/1977

Eldorado Lake, Little	W1771-77	27	1/19/1977 (chart continues on next pp.)
Fuller Lake	W1770-77	200	1/19/1977
Highland Mary Lake, Big	W1769-77	2370	1/19/1977
Highland Mary Lake, Little	W1768-77	170	1/19/1977
Ice Lake	W1778-77	580	3/9/1977
Island Lake	W1779-77	32	3/9/1977
Molas Lake, Big	W1541-76	200	11/30/1976
Molas Lake, Little	W1783-77	91	3/9/1977
Pear Lake	W1667-77	630	1/1/1977
Porphyry Basin #1	W1766-77	4	1/19/1977
Porphyry Basin #2	W1767-77	1	1/19/1977
Potato Lake	W1765-77	670	1/19/1977
Ruby Lake	W1785-77	110	3/9/1977
Webb Lake	W1509-76	72	5/12/1976
White Dome Lake	W1787-77	64	3/9/1977

The next meeting will be Thursday, August 25, 5:30 p.m. at the Kendall Mountain Recreation Center in Silverton. The agenda will include a discussion of values – human, social, economic and ecological.

The meeting was adjourned at 8:30 p.m.

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Proposed Outcomes:

- To continue to orient new stakeholders to the River Protection Workgroup for the Animas River
- To review the *Initial Information Sheet* as important baseline information
- To begin to discuss what members value about the upper Animas River

Agenda

- I) Introductions
- II) Meeting Opening: Outcomes and Agenda
- III) Brief Review of the RPW Process Model, Goal/Purpose of the Workgroup, Definition of Consensus and Principles
- IV) Group Defines Working Ground Rules
- V) Detailed Review of the *Initial Information Sheet* for the Animas River (see Draft 2 being emailed early the week of 7/25): Q&A and Any Additional Information Needs
- VI) Beginning Discussion of Values (if time)
- VII) Next Meeting(s) and Schedule

NOTE: The Web site for the River Protection Workgroup is:

<http://ocs.fortlewis.edu/riverprotection>