

River Protection Workgroup for the Animas River
Summary - Meeting #14, Thursday, September 13, 2012
Kendall Mt. Rec. Center
Time: 5:30 to 8:30 p.m.

Facilitator Marsha Porter-Norton started the meeting by stating that the Workgroup is now in the phase of talking about solutions and ideas for the future. At this meeting, we will focus on Mineral and South Mineral Creeks, she said. The metaphor of the inverted funnel was discussed, with the group now narrowing into possibilities after a lot of education, discussion of ideas, etc. The group discussed Mineral and South Mineral. The report was reiterated as the tangible outcome of the process. Marsha also reviewed the core principles of consensus and the ground rules.

Draft outline for table of contents for final report:

Marsha handed out a draft outline of what the table of contents of the final report might look like, which is based on the table of contents from the preceding three workgroup's final reports (see below.) Included was a statement of key themes from the workgroup and its goals. Marsha said she was not wed to the outline at all but just wanted to put something out there for consideration. She asked everyone to look at the statement about "Key Themes" and said this was intended to be used as a framework around the recommendations. Also included were ideas for the future, including where and how consensus was reached, and areas where consensus was not reached, with a narrative explaining the range of viewpoints. The Workgroup gave input on the draft table of contents.

John made a comment about durable protections language, stating that recreational uses on the Animas now are completely different from when he was a kid. Needs are going to change and he's concerned that if we lock into durable protections, it may limit future recreational uses. Marsha stated that long-term protections have been voiced as an interest of some of the stakeholders, as well as economic opportunities and water development, so that is why this wording was selected but of course, she said, it's in draft and up for discussion. Ann offered that the statement could include protecting recreational uses over time, without limiting future uses. She sees the word "durable" as protecting the opportunity for recreation itself. Steve feels that the word durable protects natural and recreational values that are already present, so maybe the language should be changed to state "...durable protections for natural and ecological values" vs. "...durable protections for recreational, and natural and ecological values." Bruce suggested the second half of the sentence could reflect that the word "recreation" be taken out just following "durable" and moved to the end of

the sentence ("while preserving recreational opportunities" would be at the end of the sentence). Ken suggested adding "multiple use recreation" vs. just "recreation." Chuck stated that things change and that he's not concerned with the word "durable", as there's no rule we make or law that is passed that can't be changed. The group will think about this sentence and will discuss it further at the next meeting.

Marsha will bring back another draft of the table of contents using everyone's input. She went on to say that the notion of a key theme can be taken out of the table of contents, if the group views it as too controversial. Marsha discussed some examples of group ideas for the future, including but not limited to: tools; local management ideas; a new or revised law or ordinance; utilization of existing community or regional groups to do follow-up; etc. This was intended to be a reminder of the kind of things that may be included in the report. Ann reminded the group that a combination of the above could be recommended by the group and she would like to see the list reflect this.

Brainstorm of underlying interests of the group:

The workgroup was asked if they would like to state their underlying interest. She said in groups like this some have self interest (such as a need to make a living) or enlightened interest (such as things that might be good for a community). She said both are fine but it's good to know, as recommendations are developed, what various people view as their interest. There isn't a "right" or "wrong" answer, she said. The group then brainstormed the list of interests in the room:

- 🍷 Water quality
- 🍷 Balance between uses, demand and preservation of values; balance in the ways the group finds solutions
- 🍷 Developing resources
- 🍷 Accommodation of each other's interests
- 🍷 Economic interests: recreation, mining, tourism
- 🍷 Maintaining the way things are now
- 🍷 Maintaining jobs and employment
- 🍷 Recognize our place in the greater scheme of things – we are the trustees of natural resources for the whole country
- 🍷 River in a natural, unimpeded state – free-flowing
- 🍷 Product development and sales
- 🍷 Historic structures and activities
- 🍷 Freedom to enjoy & access nature
- 🍷 Water availability
- 🍷 Public land resource

Mineral and South Mineral Creek Opportunities, Consensus Findings and Range of Opinions:

A flip chart on the wall showed the various ideas for the future that had been brainstormed in previous meetings around Mineral and South Mineral Creeks. The group discussed each one and where there was consensus on the idea, or a revision of the idea, it was noted. Also noted was a range of ideas where consensus was not reached. The list of opportunities was taken from the spreadsheet that had been discussed extensively in the past meetings, and for Mineral and South Mineral they were listed as:

- Further protection of water that feeds the fens (how?)
- Set up a Local Advisory Council
- How to balance mineral development with protection of natural values
- Establish a Research Natural Area
- Status quo specifically defined for this area
- Protect and improve water quality; affirm work being done
- Protect Black Swifts (ideas?)
- WSR – suitability or designation

✓ **Iron Fens: Groundwater**

The group brainstormed this topic. There was agreement on two recommendations:

- *Exploring a County Code Amendment that would consider the protection of ground water in development applications on private lands (the idea would be that the fens would need to be considered in the development application process.) (Action step: Find out what is in place now.)*
- *Further define the source of the groundwater through commissioning a study. This study could also include mapping the fens that are most unique (note: we later learned that MSI has mapped the fens.)*

Discussion:

- ✘ The Iron Fens are fed by ground water and direct flows.
- ✘ Any mineral development would have to take into account the protection of those water sources.
- ✘ Consensus was reached to explore a county land-use code amendment regarding ground water protections on private land.
- ✘ Courtney suggested having a study commissioned that would show areas where ground water protection is needed because the counties do not know this. She said that the funding would need to be secured as counties generally do not have money to pay for this study, which could be costly to do it right.

- ❏ Matt said the Iron Fens are locatable but the ground water feeding them can be more complicated and it's not necessarily easy to understand the hydrology.
- ❏ John reminded the group that the Div. of Mining & Reclamation has a responsibility to protect ground water.
- ❏ What about in-stream flows? Steve said that some flows do have some protections via in-stream flows already in this area.
- ❏ Some questioned what adequate flows are in terms of the amount. How do we define this? Some in-stream flows may be adequate for trout, for example, but not for the black swifts.
- ❏ The amount of in-stream flows are defined by the Colorado Water Conservation Board and the benchmark is the amount needed to protect the natural environment.
- ❏ Chuck said his concern was any interruption in the water sources to the fens by development.
- ❏ John feels that we need additional information in order to get clarity on whether or not we need additional in-stream flows, including what the in-stream flows are now, if any, on Mineral and South Mineral.
- ❏ A question was asked about the state of the Fens now. Matt said we have seen some losses due to development. The FS monitors the Fens closely.

✓ **Iron Fens - Surface Water**

A potential goal was noted as being: *Protect the source(s) of the surface water that feed the Iron Fens.* There was no consensus on a recommendation but these ideas were noted:

- a) In-stream flow
- b) Prevent surface water interruption
- c) Study what level of water is needed and get a baseline

The group realized they cannot develop a solid recommendation because there is not enough information on the amount of water needed, so this could be an area of future inquiry.

✓ **Black Swifts**

After discussion, there was agreement as follows:

- *Consider exploring an in-stream flow as a potential tool to protect the habitat for the Black Swifts. The segment would end at the bottom of the waterfall. (The group felt more information was needed here and wanted to guard against unintended consequences. More research would need to be done on this if it were to be worked on.) (Note: ISF is a state tool and you can find out more by reading about it on the Web site or in the Tool Kit handout given*

at the meetings. A presentation on ISF was given by Linda Bassi from the Colorado Water Conservation Board in 2011.)

- *Explore seasonal closure of the waterfall to protect habitat.*
- *Ask the USFS to do a study to find out what the impacts of human activity are and what specific times are the most sensitive.*

Discussion and comments:

- The Black Swifts rely on misty water from waterfalls to nest.
- What is the impact of humans in their area, if any? Do recreational activities, such as ice climbing, affect these birds (i.e., due to the scents of humans or some other factor)?
- Could we protect their water source through an ISF? ISF is usually a tool used for protection of fish habitat but maybe could be used for birds.
- There are already tools to protect the Black Swift (see memo from Mark Stiles) but the primary issue is: Is there adequate water supply?
- Steve said he wondered about the possibility of having the USFS ask CWCB to secure the water supply using ISF above the waterfalls. By making the in-stream flow stop at the bottom of the waterfall, it wouldn't prevent downstream water development.
- Ty asked what the methodology would be to determine the flows needed.
- Steve stated that this would be figured out as part of the ISF application. Marsha reminded everyone that a presentation on ISF had occurred last year by Linda Bassi, with the CWCB.
- A question was asked about how an endangered species status (for the Swifts) would affect water right seniority.
- A comment was made that using ISF would be a way to protect the Black Swifts from getting on the endangered species list. Once they are on the federal Endangered Species List, there are top-down approaches to protection. ISF is a state tool and is voluntary.
- John Taylor stated that sometimes waterfalls move naturally, so that would have to be taken into account.
- Ray had a suggestion to circulate water below the falls and move it back up above the waterfalls.
- Wendy said she would like to explore the idea of doing recreational planning around access including a better seasonal understanding of the birds. Also, perhaps education amongst climbers could be done regarding their impact on the Black Swifts. Also, maybe restricting hours of operation at adjacent mines could be a tool.
- Wendy also asked how species become sensitive management indicator species and then how this plays out in USFS management objectives.
- Wendy also asked how we protect the geology of waterfalls. The FS has no ability to protect waterfalls on private land; however some tools could be used to protect the geology of the waterfalls.

- Bruce stated that he believes the draft FS plan addresses some of these issues.
- Matt said a conclusion the group could reach is to state in their report that there is a desire to put in place seasonal recreational closures for the Black Swifts. The FS could also be asked to do a study to find out what the impacts of human activity are and what specific times are the most sensitive.
- Marsha suggested that the group read the email from Mark Stiles regarding what protections would be in place if the draft plan is adopted. Mark was thanked for sending that to everyone as it was helpful and detailed.
- Darlene asked everyone to watch for unintended consequences of an ISF. Make sure we know who would be impacted by this tool.
- The group agreed to the language stated above with a note that this tool is being explored.

✓ **Set up a Local Advisory Council**

Discussion:

- John T. stated that he could see a local group set up to make recommendations to and advise the USFS about how to protect values. It would be a long-term commitment for members. The most important component would be local control.
- Ken asked how long terms would be, and how would representation of interests be handled. Ken said it is important to have balance. He said he serves on the RAC representing motorized interests and he doesn't feel the RAC is balanced. It is too heavily weighed against motorized interests so for him, fair and balanced representation is important.
- Steve suggested that this could be recommended without getting into the details of what it would look like. He said the Hermosa Creek Workgroup talked about this for a long time, debating an appointed group or a more informal group.
- Marsha said there is a group member who has an idea to present that somewhat relates to this recommendation. This person will be here next time to share his concept.
- Ty asked what the jurisdiction would be, given there is also a RAC that covers some of the lands near Silverton (a RAC is a BLM Resource Advisory Council).
- Steve suggested that it would be the area of focus and said the San Juan Mountains Association (SJMA) could be a convener.
- Ken said that group, in his view, is anti-motorized so he could not support them being involved in convening the Council. Wendy asked how the work of this workgroup would get reflected in the directives of the advisory group.

- Steve stated that the process should be open, not controlled by any one group, and reflective of the changing values of individuals or communities.
- Ray stated that local control can sometimes be more controlling than federal control.

No recommendations were made on this idea at this time. The group will hear next time from someone who has a related idea for protections.

Balancing mineral development with natural values. How?

Discussion:

- ✚ John stated that there is no other industry involved in the localeconomy that is more regulated than mining. The basic laws governing mining development have not changed. If the economy goes "south", the environment is right behind it. They are not mutually exclusive. He feels existing regulations are adequate to protect water quality and degradation.
- ✚ Ken asked if there was anything that the status quo approach is not taking care of in relation to mining.
- ✚ Ty voiced a concern about potential mining on public lands. A tool that could be employed is mineral withdrawal on patented claims on public lands.
- ✚ Ann said she has a concern about visual impacts, water quality and land degradation issues regarding mining on public lands.
- ✚ Bruce stated that he would like to have the group recognize private claims and that access to those claims are a right.
- ✚ Sandy stated that mines are not necessarily ugly, as viewed by the public, and that when she takes people on horseback rides in the area, they enjoy the mining history.
- ✚ Steve suggested that there may be some special areas of interest where scenic vistas are identified and protected on private lands.
- ✚ Courtney asked Matt if there were visual standards that the USFS adheres to. He said yes. The USFS and BLM do have a fair amount of discretion in terms of how mining is done, and this group could have input into that by stating specific ideas in their final report.

There was no agreement in this area but the above ideas were listed as ways to try to balance mineral development with natural values.

The next meeting is scheduled for October 25th. We will finish up the opportunities discussion on Mineral and South Mineral Creek and then do a similar exercise for another segment. The meeting was adjourned at 8:31 p.m.

**RPW for the Animas River
REPORT
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*DRAFT 1 (9/13/12)***

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-Information Sheet	
-Map	
-Key Information from presentations / learning	
Values Statement	X
Highlights of Segment Analysis (6 segments)	X
Key Theme in the Workgroup	X
<i>**Balancing economic opportunity and the potential for water development with durable protections for recreational, and natural and ecological values</i>	
Ideas for the Future: By Segment and By Area of Focus (?)	X
- Consensus reached (with rationale)	
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Next Steps	X
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A - Information Sheet	
B - Links to all handouts and minutes	
C - List of questions generated about WSR w/answers where possible	

EXAMPLES of Group Ideas for Report (report gives rationale):

- Something the community/region can do on its own or through existing groups
- A policy change – local, state, or federal
- A new or revised law, ordinance, rule or guideline – local, state or federal
- Ideas for local management (USFS, BLM, County, CWP, any other managing entity)
- Status quo is protecting the values adequately
- Recommend use of a certain “tool” for water or watershed protection, either existing or newly-created, or suite of tools
- Other
- Other
- Other
- Other