

**Piedra River Protection Workgroup
Meeting # 15 January 15, 2013
Ross Aragon Community Center, Pagosa Springs, Colo.**

What happened at this meeting?

1. Final river segment analysis completed.
2. Discussion of next steps.
3. Brainstorming and discussion of various proposals for protection.
4. Review of Colorado Roadless Map.
5. Multiple requests for more information and maps.
6. Documents requested outlining each consensus item agreed on and each proposal the group has suggested.

Website: ocs.fortlewis.edu/riverprotection

Next meeting:

Feb. 12, 5:30 p.m.

All meetings at Ross Aragon Community Center, Pagosa Springs, CO.

The group continued to assess the various rivers in the Piedra watershed to determine if listed values are adequately protected. Williams and East Fork segments were completed in December, so the group moved on to completing the final segment of the Middle Fork. A discussion of various proposals for protection followed.

Ivan, of the forest service, presented a map of the Colorado Roadless Area (CRA) as it relates to the Piedra Focus Area of the working group. Upper tier and lower tier categories of the CRA are referred to in a brief overview in the October minutes.

Facilitator Tami talked about some ideas the group has had to help protect the Piedra River, including, but not limited to, a leasing program to help augment low flows and a proposal to expand the Piedra Area. There has also been interest by the group to explore ways to help prevent the dewatering of streams within the watershed due in part to agricultural pressure.

Also it was indicated there are new and unused laws on the books in Colorado to help obtain this goal of improving stream flows through leases. For example working with irrigators and determining if unused water rights can be leased for downstream rather than the 'use it or lose it' requirement in water law generally speaking.

Minutes reviewed.

Questions from last meeting answered.

Bruce, of SWCD, corrected some misinformation recorded in the December minutes regarding instream flows. Don La Font 1 & 2 diversions pull a total of 10 cfs from the East Fork, not Squaw creek. And 10 cfs instream flow are designated for East Fork, not Williams creek.

It was noted that Williams creek has 14 cfs instream flow.

Who owns and operates the transmountain diversion at the headwaters of Williams Creek? What are its water rights?

Answer: They are privately owned by entities in the San Luis Valley. The last entity to own it was Navajo Development and they probably have sold some of the water. The diversion amount has been used for augmentation water to supplement the supply for wells and provide water for subdivisions in the Creede area.

Also, a part of that diversion water was considered for Red McCombs's proposed village at Wolf Creek.

The transmountain waterway is called the Williams Creek/Squaw Pass diversion and it is decreed for 10 cfs and was adjudicated in 1962. It has an appropriation date of 1937. It is thought that it is diverted every year. Tends to dry up by late June and may or may not impact downstream users.

Don La Font Ditches 1 & 2 pull from the East Fork and are owned by Colorado Parks and Wildlife. The #1 ditch has a decree of 4 cfs and the #2 ditch has a decree of 6 cfs. There was a period in the 1990s when the water rights were not used and have had intermittent use in the recent past.

CPW diverts the water into the basin, via exchange, to meet some of the irrigation demand that used to be met by private, high mountain lakes. Now those lakes are able to be kept more full.

The transmountain diversion to the San Luis Valley is pulled from Williams Creek and it is typically drawn in late spring and into summer and fall.

What impact does the transmountain diversion on Williams Creek have on instream flows?

Answer: It is based on water right priority and water supply.

Bruce explained that in simple terms the transmountain diversion is senior to the instream flows because it was created in 1962 and the rights date back to 1937. So the instream flows on Williams creek (14 cfs), decreed in 1978, are placed as a junior priority to the Williams Creek/Squaw Pass transmountain diversion (10 cfs).

Water supply at the headwaters can be a limiting factor in how much is diverted, and therefore what is drawn may be less than the amount decreed.

The group then turned to the work of determining if the values of the Middle Fork were adequately protected.

Middle Fork

Discussion on whether values are being protected

Water quality

Mike, of Colorado Parks and Wildlife (CPW), explained that the water quality and fishing health on the stretch just outside of the wilderness was not as high of quality as the portion in the wilderness. The grazing permittee in that area just put in a new fence system this summer to try and alter the grazing and keep the cows out of the bottom land along the river. The changes are expected to improve the situation. The river tends to braid due to the heavy flows in the Spring which does not contribute to ideal fishing conditions.

The fencing improvements were done through a cost/labor share with the NRCS, forest service and permittee.

Excellent fishery

It has a nice cutthroat fishery, but they are not a pure strain. Good recreational fishing with a lot of plunge/pool conditions in the Wilderness. Rainbows and browns are in the stream below the wilderness and are stocked.

There is a natural fish barrier on Porphyry Creek, a tributary of the Middle Fork located within the Wilderness. Mike said that above the cliffs is a possible location for pure strain cutthroat in the future.

Irrigators begin to pull water at Boulder Park.

It was stated that the wilderness, remoteness and natural barriers are a form of protection for the Middle Fork. The area is remote and there is no trail system except up at the upper end, and not many people go there.

Biomass and logging

The forest service reported that there is one logging project in the area that has been approved but no one is working it yet. It targets mixed conifer and the thinning out of white fir. It has been harvested in the past. More for thinning, not for wide-diameter commercial logging.

Lynx habitat

Lynx are in the area, and it will remain to be seen how they react to the damage caused by the Piedra fire in summer 2012.

Instream flows

The Middle Fork holds 11 cfs of instream flow rights from the confluence of Porphyry Gulch to the confluence with the East Fork.

Small private inholding in the Palisade lakes area. It is 120 acres with 8-10 cabins that are used occasionally. It used to be a fish hatchery, now it is used by a number of families

for summer recreation and hunting. There is a forest service access via Palisade Lake road.

People making a living

Right to farm and ranch by the Hinsdale County commission was mentioned.

Private property

Limits public access.

Irrigation

It was asked whether the Middle Fork has any dewatering issues. Ray, of Hinsdale County, said it is possible. But the users of the two primary ditches there are careful to leave water in the stream. They have a philosophy of leaving water in the stream, but that could change in the future with different owners, so it is not a given. It was noted that the primary users do not want to see the river dry up.

The two ditches there are the TT&T ditch and the Bess Girl ditch and there are numerous stockholders.

Are there conditional water rights on the Middle Fork?

It was reported that above the highway, within the Piedra River system, there are two conditional, direct flow rights totaling 7 cfs. Some of those may belong to the forest service. It was not clear which segments of the Piedra River system those 7 cfs are located. It was to be looked into.

Ann added that there are zero conditional storage rights above highway 160.

That completes the segment by segment analyses of the Piedra River, East Fork, Middle Fork, Williams Creek and Weminuche Creek.

Next steps

Facilitator Tami Graham gave an overview of the process. It was an exercise of identifying values on each segment and then discussing one by one if those values are adequately protected. The process took six meetings to complete beginning in August.

The exercise is a method of getting to the question whether additional tools are needed to protect the values on any of the river segments. The group was reminded that they agreed to take a watershed approach in identifying areas that need protection or have adequate protection.

The other consensus was no new major impoundments on the Piedra, but whether that was for all of the rivers and streams within the Piedra watershed or just the main stem was not clear.

Also consensus has been established by the group to respect existing water rights and agriculture uses on the Piedra river system.

A document was to be drawn up identifying the consensus points of the group since the first meeting.

Tami presented options on ways moving forward. She asked if there were any more proposals relating to the Piedra. She encouraged the group to review the handout of other protection tools for land management that are available. There are very creative tools that other river working groups have used to protect values on local and national rivers.

Expand Piedra Area discussion

A proposal that has gained traction within the group is the concept of expanding the Piedra Area, a special management area along the Piedra River. The Piedra Area is a protected land base along the Piedra River that is managed by the forest service in a manner similar to rules associated with Wilderness Areas.

According to the preliminary proposal, in exchange for expanding the Piedra Area into adjacent Colorado Roadless Areas, the Piedra River's status as a "suitable" candidate for a Wild and Scenic river designation would be dropped by the forest service.

The "suitability" label given to a river by the forest service means it has the natural values and characteristics of a Wild and Scenic River. In most cases Congress must approve the highly protective Wild and Scenic designation through legislation. Suitability status means the forest service generally manages the Piedra to protect the natural values that qualify it as a potential Wild and Scenic river. However suitability does not come with a federally reserved water right, whereas a Wild and Scenic river typically does.

Steve, of SWCD, noted that the federally reserved water right associated with a Wild and Scenic river is a big issue and a concern for water right holders.

He asked the question: What do we want to achieve by expanding the Piedra Area?

Brainstorming session

Jimbo, of San Juan Citizens Alliance, brought up a previously suggested idea to increase minimum instream flow standards on the Piedra and its tributaries in order to improve river and riparian health. He noted that was a topic the group had a lot of discussion on and was worth revisiting. He added that there seemed to be a sentiment among the group to do more than just protect the fish, but also to protect the riparian habitats along the stream depended on by different species.

Mely, of TU, emphasized the importance of having the list of consensus points made by the group in order to more effectively move forward with the discussions of additional protections.

Looking ahead, she asked the question of how the group could accomplish items there was consensus on through the legislative process. Do all the consensus items get tacked on to a bill? She is concerned that taking too focused of an approach on one idea may diminish the other things that the group wants to accomplish.

It was pointed out as well that different proposals have different jurisdictions, including state and federal laws in addition to county, city and Southern Ute laws. The comment was made that topics which did not have consensus deserved further discussion as well.

State Water Supply Initiative

The question came up regarding whether the group consensus of no major impoundments was for just the Piedra main stem or for the whole watershed, including for the East Fork, Middle Fork, Williams Creek and Weminuche Creek.

Bruce, of SWCD, wanted clarification on what the consensus for no major impoundments was specifically. The state of Colorado has identified potential storage sites within the basin.

The Statewide Water Supply Initiative (SWASI) has identified four potential dam sites within the Piedra Watershed: First Box on the Piedra, two reservoirs on Weminuche Creek, and one at Gordon Creek, a Piedra tributary.

This was to be looked into.

Ideas/Concerns discussion

It was mentioned that topics rising to the top seemed to be the Piedra Area expansion, impoundment issues, dewatering of streams, and instream flows. More discussion is needed on whether the group agrees that ISF levels are adequate on the main stem and other tributaries.

Streams that go below ISF levels, or dry up due to irrigation demand, such as on the East Fork, are a concern that has been discussed and was mentioned again. Revisiting ideas to solve the problem, including leasing water from another source to augment stream sections that tend to dry up, should be explored more as well.

It was suggested that lists be created of management/research opportunities suggested by the group and of the areas of consensus the group has agreed on.

Once there is a framework of what is agreed on, there can be a more specific discussion on each item to determine if there are solutions to identified problems.

It was suggested that a map of specific SWASI sites on the Piedra would also be a good visual tool for group members.

It was mentioned that just because dam sites have been identified by the Colorado Water Conservation Board, it does not mean that any storage water rights have been decreed. It was thought that no water rights have been decreed for the four storage sites identified by SWASI.

R2Cross methodology discussion

It was suggested that the methodology of how instream flows are established also should be explored further. During the August meeting there was disagreement on whether the methodology for determining minimum instream flows, known as R2Cross, was adequate. The method is accepted by the CWCB and the forest service and was put into place in the 1970s. But critics of R2Cross argue that it doesn't take into consideration the importance of flushing flows and lacks modern ecological science.

Jimbo suggested looking at different methods for determining minimum instream flows because low flows on some streams have been identified as a problem.

Ivan, of the forest service, explained that R2Cross methodology is based more on fish biology. Since R2Cross implementation, more aspects of river health have been studied, including focusing on the structure of a river, river hydrology, fluvial geomorphology, importance of pools and ripples, and sediment movements, among others. The field has become much more specialized.

Maintaining and mimicking historic natural stream conditions is more of a focus now, he said, and that method is used on the San Juan River and Colorado below the dams there.

Steve wondered how practical or effective it would be to use a different methodology for determining instream flows. From the standpoint of this groups' goals he suggested recommending the adjustment of instream flows on certain segments to levels that are appropriate.

Chuck, of TU, added that applying modern river ecology to R2Cross could help to find answers to the issue of low flows and help to better protect fish and riparian health.

A group member mentioned that there are improved methods for determining ideal stream levels/conditions but they are more expensive. It was stated that enacting more advanced methods for ISF may be beyond the scope of the working group, but recommendations for increasing ISF under the current system may be an option.

Ivan, of the forest service, remarked that certain conditions could be put on potential impoundments as well. For example, if an impoundment is allowed a condition could be that it is operated in such a manner that it provides channel maintenance flows and mimics a natural hydrograph.

Steve remarked that impoundment and instream flows are two separate water issues, and questioned whether tying flows to future impoundments was the way to go.

Bruce mentioned that part of the reason river managers can mimic a natural hydrograph is because they have water storage and a dam where they can control and time releases. That is not the case on the Piedra.

Wendy, of San Juan Citizens Alliance, pointed out different approaches being discussed for improving instream flows. In the context of instream flows, the group can consider a recommendation to increase them. Or, does the group study new methodology for calculating instream flows. She said they are two separate approaches and the group needs a better understanding of R2Cross methodology versus more modern methods available today.

Bruce believes that in determining appropriate instream flows the CWCB works to establish flows that mimic the hydrograph and have done so on the San Miguel. R2Cross was not the only science used in the study. A part of the recommendation could be to look at newer methodologies for determining instream flows.

Bruce pointed out that simply increasing instream flows does not create new water. Limiting new impoundments and limiting growth and development is what reduces the threat to the current flows.

Mely said that if there is agreement on language that there are not going to be new impoundments, the result will be a more natural hydrograph if Mother Nature cooperates.

Recommendations

Bruce advised that the recommendations of the group might be more of a package of ideas such as expanding the Piedra Area, removal of Wild and Scenic suitability, protecting flows, and - if there is total consensus - no new impoundments.

Chuck added that it might have to be two packages, one addressing the state issues of instream flows and dams, and the other addressing federal issues of the Piedra Area and Wild and Scenic suitability status.

Jimbo referred to the 1993 Colorado Wilderness Bill that established the Piedra Area. He said it would be helpful for the group to know what is and isn't allowed in the Piedra

Area, including fire suppression, new roads and trails, chainsaw use, weed management, beetle control and recreation.

A map showing the different levels of various roadless areas would also be useful.

Piedra area expansion discussion continues

Chuck related to the group an overview of the proposal. Basically, in exchange for giving up wild and scenic suitability - with agreement that there will be no major impoundments - the recommendation is to expand the Piedra Area into adjacent Colorado roadless areas that border it now.

It is a good idea, he said, because people are used to the management regime for the Piedra Area and expanding the footprint of it is more practical than creating another land-management concept. He added that absorbing the adjacent roadless areas does not restrict access more than is restricted currently. The uses would still be available.

Kevin, of the forest service, said the specific restrictions of CRAs and those of the Piedra Area may or may not match up and there could be additional restrictions. Another question raised was how many clients an outfitter could have in a roadless area versus the Piedra Area. Regardless, it was noted that some decisions come down to forest service officials.

Regarding the no major impoundments part of the proposal, Chuck said his thinking was that there are three or four dam sites but he believes there are no conditional storage rights so taking them off the SWASI list should be relatively simple.

It was reported that the O'Neal Park/Gordon Creek water storage site on the SWASI list had expired and the Weminuche reservoir storage site on the list had a conditional storage right but it was abandoned through a court action.

Roadless map reviewed

The group referred to the forest service map that highlights the Colorado Roadless Areas (CRA) that are adjacent to the Piedra Area. The proposal is to expand the Piedra Area into these areas.

On the west side of the Piedra Area there are two larger tracts of CRA; on the northwest side, four smaller tracts. On the western side of the Piedra Area there is a larger CRA and on the southern border there is a larger tract as well. There is also a small section of CRA bordering the Piedra Area along the main stem at First Fork.

Steve wanted information on what impact expanding the Piedra Area would have on future logging and forest thinning projects.

Bruce wondered whether the CRA areas proposed for expansion of the Piedra Area meet the criteria set for the Piedra Area. He said there may be a reason those areas were excluded from the Piedra Area, so that would need to be found out.

Ivan said legislation can be structured to allow different uses in special management areas such as the Piedra Area.

It was noted that the Piedra Area was established as an alternative to Wilderness, which it was targeted for at some earlier point. The group wondered why the boundary of the Piedra Area was drawn the way it is and what some of the history behind its creation.

John Whitney of Sen. Bennet's office explained the Piedra Area was chosen over Wilderness status in the 1993 Colorado Wilderness Act because of water language in the original bill. Congress initially used boilerplate headwater language, but it was found to not be applicable to the Piedra Area region because it is technically not in the headwaters. The Piedra Area is midstream, so rather than try and renegotiate the headwater language they designated it the Piedra Area, which has similar protections to Wilderness. Land management is more flexible in the Piedra Area than in Wilderness areas.

A copy of the 1993 Wilderness Bill was requested

Getting creative, it was also suggested that perhaps the CRAs adjacent to the Piedra Area become a separate special management area apart from the Piedra Area.

Piedra Extra-Special Area? someone quipped.

The key is getting the right language in the legislation. Expanding the Piedra Area into the CRA is the more simple solution, Chuck added.

Reservoir sites reviewed

SWASI sites include one on the Piedra main stem at First Box, two on Weminuche and one on Gordon Creek, a small tributary of the Piedra.

Ivan said there is a conditional forest service water right on Gordon Creek for an engineered wetland that resulted from a swap. The agency is in the process of perfecting it to an absolute right. That water right was thought to be 10 cfs and is not associated with a reservoir.

The SWASI site for Gordon creek reservoir had a conditional storage water right but it was abandoned in a court action. It was stated that the SWASI sites still exist but the water rights that go with them are not there.

Discussion

Jimbo asked Ray, of Hinsdale county, if the TT&C and Bess Girl diversions return into the Middle Fork. Ray said the majority of it returns below the confluence with the East Fork, but above the bridge. A little drains back into the Middle Fork, but for the most part it all goes into the Piedra after the confluence with the East and the Middle Fork before the bridge.

Ray added that diversion water pulled from the west side of the East Fork flows into the Middle Fork.

The group said that information is needed before the meetings so they can study and be better prepared. More established consensus is needed from group on which direction to move forward on.

Consensus item

The group agree to move forward on discussion of the Piedra Area expansion idea, no major impoundments discussion, and removal of suitability discussion.

The agreement does not preclude any other ideas that may come up and allows for wiggle room so as to not box the group in on set ideas.

Closing comments

Wendy, of San Juan Citizen's Alliance, said that part of the discussion is looking at the broader watershed. She feels the area is very special and that the Piedra is a good candidate for a Wild and Scenic River. She would like to see it designated as such and believes discussion of a Wild and Scenic river designation is warranted. In the spirit of the process, an effort should be made toward exploring that opportunity in a manner that is agreeable to all the players.

Group members expressed gratitude at the cooperative and civil nature of the discussion despite differing opinions. Establishing smaller drafting committees to tackle issues was also discussed as a strategy moving forward. More specifics on each plan are needed so that group members have an outline of the proposals to refer to at the meetings.

The new draft forest plan also should be reviewed in regards to various proposals made by the group. How do group proposals/ideas match up with plans that are in the draft forest plan?

For example there is a motorized trail and an old stock drive within or near the boundaries being considered for expansion of the Piedra Area.

Ann said there needs to be some additional outreach to working group members and other interested parties to pass on information and progress of the group.

Meeting adjourned at 8:10 p.m.

Next meeting is Feb. 12

Questions and materials requested.

1. What are the conditional water rights within the Piedra watershed?
2. Is the group consensus for no major impoundments just for the Piedra Main stem or does it include the East Fork, Williams Creek, Weminuche Creek and Middle Fork?
3. What are the restrictions in the Piedra Area? And how does that compare to the restrictions in Colorado Roadless Areas?
4. Is there a difference in how many clients an outfitter can guide between the Colorado Roadless Areas and the Piedra Area?
5. Do the CRAs adjacent to the Piedra Area qualify for inclusion into the Piedra Area?
6. What is the history behind the creation of the Piedra Area and why were the boundaries drawn where they are?
7. How do the working group's various proposals match up with management goals within the National Forest draft management plan?

Information requested

1. A document identifying the consensus items agreed to by the group since the first meeting.

2. A document outlining proposals, ideas and research opportunities put forth by the group.
3. A map that shows the locations of reservoirs identified by the State Water Supply Initiative, and also where the conditional water rights are located.
4. A map that shows the different levels of roadless areas within the Focus Area.
5. A copy of the 1993 Colorado Wilderness Bill was requested.

Visit the River Protection Working group website for documents, meeting minutes, maps and more information.

ocs.fortlewis.edu/riverprotection

(Find the Piedra Workgroup on the left buttons.)