

Meeting Summary
Piedra River Protection Workgroup
Meeting # 19, June 11, 2013
Ross Aragon Community Center, Pagosa Springs, CO

What happened at this meeting?

1. Review and feedback on the drafting committee's work to date.
2. Review and feedback of the draft of the final report for the Piedra RPW
3. Overview of the process for the regional discussion.
4. Discussion of next steps

NEXT MEETING: Monday, July 22nd, 2013

Website: ocs.fortlewis.edu/riverprotection

Meeting opening: Facilitator Tami Graham reviewed the agenda. She said this is the last of the five river workgroups still in progress. The Animas workgroup concluded several weeks ago. Once the Piedra process has wrapped up its findings, a regional discussion will begin.

April 16, 2013 meeting summary: The summary was approved with the following changes:

- On page 4 under "Drafting committee", there was a sentence that stated, "If deemed prudent the group can then begin to craft legislation. . ." It was clarified that the group will not actually *craft* the legislation, so that sentence should be changed to read that the group will "make an outline of elements to be included in the legislation".
- In the same section, the word "recommendations" is to be avoided, so the statement, "The group has decided to form a subcommittee to try and draft recommendations" should be replaced with, "The group has decided to form a subcommittee to look at agreements from the group and consolidate those into a package".
- On Page 3, under "Piedra Area restrictions", it was stated that Preston and Troy might have some concerns about the statement in the second paragraph, which reads in part: "The group has agreed motorized use and routes should be allowed to continue in areas where the PA may expand into." John T. also said there are several trails suitable for bicycles and there is no need for them to go into the Weminuche roadless area. Tami clarified that the FS has their own process for creating travel management plans. They recently completed a travel management plan and have stated that they would be very hesitant to change that plan at this point.
- On Page 3, under the same heading, instead of "from Sand Bench to Trail Ranch" it should read "from Sand Bench to Trail *Ridge*".
- On Page 2 under "mineral withdrawal", a correction is needed in the sentence, "It was stated that there is a mineral withdrawal (ban) on the main stem of the Piedra River, including a 1/4 mile stretch alongside both banks". It was noted that there is not such a ban, but there could be a withdrawal on the Piedra Area itself, so the sentence should say, "within the Piedra Area."
- At the top of page 4, it states, "Cindy, a Hinsdale county commissioner, said the county objects to additional Wilderness Areas". This should be corrected to reflect that others in addition to Cindy had issues with that idea and there was not consensus on that point.

Review of Drafting Committee's work to date: Tami said the committee met three times in May, and thanked them for their hard work. The workgroup reviewed the Drafting Committee's work so far. The following comments were made:

On a one-page statement of "areas of consensus" for the DC, concern was expressed about the statement, "The northern boundary of the main stem identified as 100 yards above the bridge, where private property ends." One group member said there is a corner of private property that crosses the Piedra River at the bridge or just above it. **It was agreed this needs to be researched.**

It was suggested that simply removing the statement "where private property ends" from the sentence would be a good idea. **That was agreed to.** It was also **stated and agreed** that instead of saying "no major impoundments on the mainstem..." it should say "no *new* major impoundments".

Tami said also noted that under "#3. Mineral withdrawal on federal lands", it should say "saleable" rather than "sealable".

The workgroup also agreed that where a statement reads, "Prohibition would not affect ability of water users to do needed upgrades to their diversion systems, provided that safe passage for boating is maintained", the wording should say, "safe passage for boating *and fisheries*".

Tami said, as per the discussions of the workgroup as a whole, the DC had discussed either expanding the existing Piedra Area or creating a Special Management Area. The focus at the DC's last two meetings was largely on a possible SMA.

It was asked whether the DC has reached consensus in favor of an SMA. Tami said it is better to say there is a consensus to explore the possibility. It was stated that the DC believes an SMA might be better for preserving and furthering current uses than an expansion of the Piedra Area and that it would provide more flexibility, because SMA legislation can be crafted to suit the individual area.

A comment was made that, looking at the values statement, it appears there is already balance in the Piedra River watershed, so adding anything isn't really necessary. Bruce Whitehead of the Southwestern Water Conservation District said water-users have concerns about continuing to have the Forest Service manage the Piedra as a Wild and Scenic River, which is what is done under WSR suitability. This can lead to restrictions on water uses, water rights, and permits. That is why the DC believes a change in the status quo might be beneficial. If the Piedra were removed from consideration for WSR status, the issue wouldn't have to be re-examined every 15 years. That might be reason to explore this as a trade-off.

It was asked who would oversee the SMA. San Juan National Forest Supervisor Mark Stiles said it would in all likelihood be the Forest Service.

Tami said the DC is trying to find the right balance to satisfy as many interests as possible while protecting current and future uses. She said the DC has talked about making the SMA's boundaries an overlay of the Colorado roadless areas within the watershed, with a modification off the First Fork Road to make the management easier. The Piedra Area is now approximately 60,000 acres. If it were expanded it would include another 33,000 acres; or, if a new SMA were created, it would encompass 33,000 acres.

Steve Fearn of the SWCD board said an SMA would provide flexibility to make a custom model of management for the different areas within it. But there's no assumption this is going to happen or that an SMA is the best tool. An SMA is just another possibility and the DC is exploring that.

Tami said this is not the last opportunity for input on this. The workgroup will meet again in July and another full Piedra workgroup meeting will also follow.

Travel management within the SMA was discussed. It was noted that the Forest Service could continue to oversee this through its travel-management plan, or some specific restrictions about mechanized and

motorized uses could be written into the legislation for the SMA. Steve said given continuing changes in technology, it might be good to leave some flexibility in any restrictions and not micro-manage these.

It was asked whether a Colorado roadless area offers less protection than an SMA. Mark Stiles said yes, because rules can change. Until two years ago, there was not a Colorado roadless rule. When in place, rules have the force and effect of law, but they are written by the administration rather than Congress. A statute would have greater surety. Mark said the main difference with this proposal is it would try to anchor what is current management.

It was asked whether agricultural users would have the right to use motorized vehicles to maintain their stock ponds, water developments, etc., within the SMA. The answer was yes. That right would be written into the SMA legislation to give it more permanence. One man commented that he believes the legislation would remove what some people see as a threat – WSR suitability.

Bruce said the DC is still discussing the boundaries of the proposed mineral withdrawal for federal lands in the SMA. Concern has been raised that a withdrawal extending a quarter-mile on either side of the Piedra would be excessive and would eliminate the use of many gravel deposits. Bruce said the DC is also still trying to work on a definition of a “riparian area”, if that is language to be included related to mineral withdrawal.

Mark said the handout on “areas of consensus” mentions a mineral withdrawal on locatable (hard rock) and saleable (sand and gravel) resources, but does not mention “leasable”, which includes oil and gas, potash and uranium.

Hinsdale County Commissioner Stan Winnery voiced concern about the need to notify neighbors and be aware of impacts to private lands of any possible mineral withdrawal. He said there is a strong need for aggregate. He agreed to provide suggestions for some exemptions for the mineral withdrawal.

Bruce read language from a Gunnison wilderness area that was defined according to a river’s edge, and said similar language could be used to define the boundary of the mineral withdrawal.

Mely Whiting of Trout Unlimited said to keep in mind that the areas under discussion are roadless areas, so for any minerals to be extracted, they have to be in an area that can be accessed.

It was noted that gravel pits can be reclaimed.

In answer to a question, it was clarified that the SMA would remove the watershed from WSR consideration in perpetuity, unless Congress decided to undo the legislation.

Darlene Marcus of Congressman Scott Tipton’s office said it would be good to clarify why having an SMA takes WSR off the table, as opposed to keeping the area under the Colorado roadless rule. Mely said a WSR designation comes with a junior federal reserved water right, a requirement for no dams, and a requirement for consultation with federal agencies before undertaking any projects that might affect the stream. The DC is exploring how to provide an equivalent level of protection in the focus area in lieu of WSR designation.

Some corrections were noted in another paper about the DC’s work, “Drafting Committee Consensus, Recommendations & Issues for Continued Work. . .” Under “d) Impoundments”, the phrase, “This agreement would be in exchange for removal of WSR suitability status on all of the above segments” should be changed to “WSR suitability status *in the basin*”.

In the third bullet under the same heading, “Need further discussion of whether there would still be a need for consultation requirements if WSR suitability removed,” it was stated this probably would not be needed if agreement is reached on the SMA.

Stan raised a concern about the need for material to make any major improvements to the Williams Reservoir in the future, and warned against too many restrictions on resource extraction.

In the fifth bullet under the same heading, the statement, “Nothing in the legislation will restrict ability of water users to do needed upgrades, providing that safe passage of boating is maintained”, needs to be worded so that fish passage is also allowed – but can be restricted if needed to encourage certain species over others.

There was consensus that the DC should keep moving forward in the direction it is.

Review of the Piedra River Workgroup’s draft final report: It was noted that a photo of a frozen waterfall on Page 13 was taken on the Piedra, not the East Fork.

Bruce said it should be made clearer that the suggestions listed under “Range of Ideas for Future Actions” are not things that necessarily have consensus. Mely then asked when these would become actual suggestions, and why the word “recommendations” is being avoided.

Mark explained that because of the Federal Advisory Committee Act, it is preferable not to refer to consensus recommendations from the group to the Forest Service. It should be made clear that the group’s ideas are not advice to the agency to do something. This is to avoid the requirements of FACA, which is triggered when a group gives consensus-based advice to the Forest Service. FACA mandates a very stringent method of creating an advisory committee. Mark said it would cast a pall on the group if people criticized the way its work had been done. He advised not using the word “recommendation”, or at least making it clear that the recommendations are aimed at Congress or someone other than the agency.

Mely suggested noting in the report that federal and state agencies took part in this process in an advisory capacity but did not take part in making the suggestions.

It was noted that at the end of the DC’s process, the workgroup will move from suggestions to consensus ideas. The DC will develop an outline for legislation and bring it back to this group. If the outline then results in actual legislation, that bill will also be brought back to this group to see if there is buy-in.

Tami said people have a month in which to e-mail her comments about the work of the DC and/or the draft final report, and will also have an opportunity for further comments at our next RPW meeting, in July.

Regional discussion: Tami explained that after this workgroup concludes, the Steering Committee will circle back and have a regional discussion about the five workgroups’ findings and explore ideas to see if there is a need for any negotiations related to the regional package as a whole. The Steering Committee spent a lot of time coming up with a process for the regional discussion and would like to move forward.

Steve said when the Hermosa Workgroup finished its process, it looked like that creek might be a possibility for a WSR designation, but water-developers first wanted to be able to see the bigger picture to ensure there would still be the opportunity to develop Colorado’s water resources, yet fulfill the desire of people in the area to have a WSR if there is such a desire. That is why the Hermosa-area legislation is focused on land protections, because the water discussion was left until later.

It was asked how the Steering Committee was created. Steve said the effort started with the government roundtable, which was designed to give input to the Forest Service about its management-plan revision. Later, Chuck Wanner, then with the San Juan Citizens Alliance, came to the Southwestern Water Conservation District board to see if they would like to engage in a dialogue, so they put together a Steering Committee with key players representing diverse interests. The Forest Service served in an advisory capacity. It was stated that the Steering Committee is administrative, not policy-making.

Steve said the regional discussion was planned as a way for the Steering Committee to look at what came out of all the workgroups. They talked about having two people from each workgroup in the regional discussion, but couldn't figure out who would be chosen, so decided the SC would handle the discussion. They have agreed they will not change anything decided by the workgroups; if a change seems desirable, they will take that suggestion back to the workgroup to see whether it agrees. They want to see how the different groups' ideas mesh and whether any opportunities pop up. The exact process for the discussion is still in process but a clear framework about how to move forward has been identified.

It was asked whether any citizens who were not with government agencies or nonprofits were included in the SC. It was noted that some people represent both, such as John Taylor, who represents the SWCD but also ranchers. It was also noted that citizens can be involved through the workgroups, and that the SC is primarily oriented around creating a process for how the various Workgroups work, and is not a decision making body when it comes to outcomes.

Bruce said he hopes by its next meeting the DC can get closer to finalizing its ideas (the bullet points for legislation) to bring back to this group.

Next steps:

- The Piedra workgroup's next meeting will be Monday, July 22, at 5:30 p.m.
- In the meantime, the DC will meet twice more.
- People should look over the final report draft and the Drafting Committee's work to date, and send comments to Tami within the next four weeks.