

## San Juan River Workgroup

Meeting #10 Summary

Feb. 24, 2011

draft - 6 pages

**NOTE: The Web site for the River Protection Workgroup, including the San Juan River Workgroup, is <http://ocs.fortlewis.edu/riverprotection>.**

**January 2011 minutes:** These were approved with no changes.

**Recommendations:** Facilitator Marsha-Porter Norton reviewed the draft recommendations of the Workgroup, noting that there had been some revisions since the last draft. She said San Juan National Forest Supervisor Mark Stiles had said that when an opinion is given to the Forest Service, the terms "consensus" and "advice" can trigger concerns that the opinion may violate the Federal Advisory Committee Act, so "consensus" has been changed to "agreement" in the recommendations. This does not alter anything the group has done or decided.

Becca Smith of the Pagosa Ranger District said there should be a correction to a statement on Page 3 of the recommendations regarding "a mineral withdrawal for public lands". She said a mineral withdrawal could apply to federally owned minerals under private land as well.

Meghan Maloney of the San Juan Citizens Alliance (SJCA) said Mely Whiting of Trout Unlimited disagreed with the wording of the recommendation about the West Fork public land because it stated, "One group member . . . cannot give final consensus until the East Fork is discussed.. ." Mely had said it was not just one group member. Meghan also would like to see the SJCA's name mentioned there. Those corrections were noted.

Marsha said it should be kept in mind that mineral withdrawals are not simple. Mark has said a smaller one has a better chance of being approved by Congress. Placing a withdrawal on the entire San Juan watershed might be a challenge.

J.R. Ford suggested a good size for the withdrawal might be enough to protect the scenic corridor, perhaps along Wolf Creek Pass and the two forks. He said much of that is already roadless, so perhaps a mineral withdrawal wouldn't mean giving up many development rights. He said the mineral potential there is low. He suggested having a withdrawal for hard-rock minerals and oil and gas, plus some restrictions on gravel-mining to preclude large pits but allow private landowners to mine gravel on their property for their own use.

Becca said there is some flexibility available in mineral withdrawals as to what types of minerals are withdrawn, but not much flexibility in writing the provisions of the withdrawal itself. She said gravel is considered a surface mineral so she did not believe the federal government could sell gravel off private land even where there is a split estate.

Bob Formwalt asked whether there is an example of language that would allow the federal government to extract minerals from a withdrawn area in case of strategic emergencies. This will be researched. Bob noted that the vast majority of rare-earth mining is now done in China,

and said tying up minerals could compromise national security. He said the withdrawal seems like an attempt to create a wilderness area without going through the official process.

Chuck Wanner of TU suggested a withdrawal for all three types of minerals (locatable, salable, leasable) for public lands/federally owned rights a quarter-mile on either side of the main stems of both streams. This would include about 15 stream miles on public lands. He said he would prefer the withdrawal be done legislatively rather than administratively.

Meghan noted that Mark had said previously that the geology that led to the finding of WSR suitability/eligibility is present throughout the area, not just within the quarter-mile corridor. Chuck agreed but said he is trying to find a creative, workable solution that would protect many of the broader values beyond the ORV identified by the Forest Service. The protections could include higher water-quality standards and other elements to preserve the stream and riparian/aquatic areas, reduce sedimentation and pollution runoff, and improve native-fish viability.

Marsha said the group needs to decide whether a mineral withdrawal would be in addition to or instead of WSR suitability/eligibility.

Steve Fearn of the Southwestern Water Conservation District said if a stream is given WSR status, no mining would be allowed within that corridor, so a mineral withdrawal would be superfluous. Marsha said it's possible there could be a broader withdrawal beyond the WSR corridor.

J.R. said some group members hoped for a larger withdrawal as an alternative to WSR status. Steve said he had in mind an alternative way to protect the view corridor. He agreed with Mark that the quarter-mile corridor would not protect all the geology.

Marsha said regarding public land on the West Fork, some people have said they would like to keep open the possibility of WSR designation. Regarding public land on the East Fork, there are two viewpoints as well:

- Some people have said they want to keep WSR on the table for future discussion.
- There is a divergent view that WSR is a big concern.

Chuck said he doesn't see TU's position changing regarding WSR suitability or eligibility on one or the other stream, but he wants to move forward with a different package.

Steve asked if there was agreement as to the purpose of a mineral withdrawal. Marsha said there were two possible purposes:

- To protect the area in general.
- To provide an alternative to WSR designation.

Steve said, as things stand, every time the Forest Service does a plan revision, the agency must evaluate all streams under its purview for WSR eligibility. Developing an alternative to that would mean that Congress would say, in effect, "This is a good way to protect the values and we can remove WSR status from the table."

Windsor Chacey of the Pagosa Area Water and Sanitation District (PAWSD) said she supports a mineral withdrawal because it would protect the quality of water coming into the Snowball treatment plant. Marsha said that could be a third purpose to a mineral withdrawal. Marsha said the group has not until now talked about a water-quality protection plan, and that could be part of a package.

Steve said to emphasize protecting water quality in the group's report as a guideline to the agencies that this is what the group wants to achieve.

Kathy and Don Weber asked whether stricter water-quality protections would preclude cattle-grazing along the river. Don noted that drinking water has to be treated and tested and there are existing protections for water quality.

Marsha said the viewpoint that the current level of protection is sufficient will be in the report, but there are others who want to look other levels of protection. Both views will be reflected.

Chuck said a higher water-quality standard is already in place on Hermosa Creek and grazing has been allowed there for more than 100 years. Hermosa carries an Outstanding Water Quality designation under the Colorado Water Quality Control Act.

Windsor said as far as PAWSD is concerned, the ag traditions in the county will not be impinged upon by them. She said water is ordinarily treated for any potential contaminants from livestock or wildlife. What would cause a serious problem would be a huge feedlot or mining operation. If a mining process were begun that released large amounts of new pollutants into the river, PAWSD would have to increase costs to eliminate those substances from the water.

Meghan said although there are state regulations to protect water quality, the state doesn't have money for much enforcement because of the current financial crisis. She said there appears to be a wide range of views about a mineral withdrawal and all those should be reflected in the report.

Meghan added that, regarding East Fork, she believes that when the report is sent to the agency, it should recommend that they continue research into pedestrian access for fishing. In 1940 when the East Fork property was created, there was an easement written into it for access. When that original deed was translated to the recorder's office, the easement wasn't recorded. It was in the original survey. She said there was some discussion between the SJCA and Forest Service and Scott McInnis' office about the situation in 2001, but it ended without the situation being resolved. She said public access is an issue for the SJCA.

Steve questioned whether it is also an issue for this group. Bob said he did not see the relevance because it's an issue of law and is up to the courts to decide. Don agreed. Marsha said the concern would be in the minutes but probably not in the report.

David Smith said Boot Jack Ranch has geologic reports indicating the mineral potential is low or negligible on the ranch, except for gravel and possibly rare earths. Ann Oliver said the initial information sheet noted that there is an assessment that at least part of the area has high to

moderate potential for oil and gas. Becca said the higher potential is in the area to the south. She disagreed with what David said.

Marsha said regarding a mineral withdrawal, there seems to be agreement to respect private landowners and a desire for river protection, but differences on how to get there.

Chuck said he still wants to discuss a stream-protection corridor for water quality and ORVs. He said the view corridor for the West Fork is basically what you see from the highway overlook. Some of it is going to be in wilderness and is not part of this discussion, but he wonders if there is a way to protect part of that zone.

Steve suggested a recommendation to protect it without having a full mineral withdrawal. Chuck agreed there could be a stipulation of "no surface occupancy", but he wants permanent protection, not just an agency finding of NSO, which can be changed with another plan revision.

David said the view corridor coming down the pass to the overlook is just one entrance into Pagosa Springs. There are two others and they are not nearly as attractive. He said no one is saying anything about them, but they should be on the table.

J.R. said the mineral withdrawal has to be sizable enough to get somebody in Congress to back it. He said if you don't include the mineral rights for a broad area, you aren't protecting the water quality.

Becca said where mineral rights are privately owned they would not be withdrawn. Where federal minerals lie under private surface, the landowner has no control over development, so there would seem to be a strong advantage to the landowner if those rights were withdrawn.

J.R. said that would indeed be a benefit to private landowners. He said any package needs to be bundled so both private and public lands are benefitting. He said giving up the ability to develop federal mineral rights would be enough for him to give up the right to develop his private mineral rights.

Don complimented Boot Jack and the East Fork Ranch for keeping their property intact and in good condition. David agreed the Wolf Creek Valley is a special place. He said Boot Jack's owner has spent millions to reclaim old pits. If the ranch does any gravel extraction it will probably be out of the river and for maintenance. The current owner doesn't need the money from a commercial gravel operation and East Fork Ranch doesn't either.

Steve asked whether there is agreement that there is a credible threat to the ORVs that justifies any restrictions. Marsha said there was agreement that on private land for both the East and West Forks, protections were adequate.

Steve asked whether there is a need for WSR suitability. He said it could be the group's recommendation that no new protections are needed and current protections are adequate on public land. Much of the land in question is roadless or is so rugged that development is not

physically feasible. Kathy agreed and said while she doesn't want any development there, she doesn't see any likely threats.

Meghan said if there is to be a discussion about removing suitability there has to be an alternative means to protect the ORV. Chuck said he was not proposing a mineral withdrawal and other protections in lieu of WSR but for their own purpose.

Bob said the early perceived threats were mitigated by the conservation easements since the first discussion two or three years ago. No one has identified mineral resources along the West Fork that anyone would be interested in, and it's difficult to identify a real threat beyond people on Highway 160. He said a WSR designation would just draw more people in. Bob said the East Fork does have more potential for mineral access and there has been substantial mining activity just over the mountain from the East Fork.

Ann said there have apparently been no successful commercial wells for oil and gas so far, but added that things can change because of new technology. The surge in coalbed-methane development in La Plata County was not foreseen.

Marsha asked those who favor WSR designation to explain the threats. Chuck said Colorado is the headwaters for most of the rivers that serve the western U.S. Colorado, yet the state has just one WSR. To say that no other rivers in this state are worthy of that type of protection seems unreasonable. He said the big picture needs to be considered. Protection is needed in perpetuity. He said things have changed greatly in the past 50 years, not always for the better, and some threats cannot be foreseen. Meghan agreed.

Gayle Broadbent said the changes are the result of an influx of people. She said a WSR designation would draw more people and that poses a threat. Chuck agreed but said more people will come to the area regardless, and if there is no protection the resource will be degraded to the point where no one can enjoy it.

Don said there is no manufacturing along the streams in the area and not likely to be any, and pollution from manufacturing is what has damaged other rivers.

Bev Warburton said designating a WSR might be acceptable, but the "recreational" WSR designation doesn't seem to offer much protection and other tools might be better.

Marsha said one viewpoint is that although there may not be a specific threat, we don't know what's going to happen in the future. Another view is that there is not a threat. The diversity of opinions will be reflected in the report.

Bob suggested, where there is mineral potential along the East Fork, there could be a mineral withdrawal for a one-mile corridor on either side. That would give scenic protection but leave open some areas that were excluded from wilderness because of their mineral potential.

Marsha said the unresolved issue is whether the mineral withdrawal is for its own sake or is an alternative to WSR. Meghan said she is not sure how the group could come to a conclusion on a mineral withdrawal until there is an answer to the other question regarding the WSR.

Meghan suggested that the report be released showing the full range of opinions and that the question of the mineral withdrawal be considered after the basin-wide discussion has occurred.

Steve said to draft the report with various views and ideas. He said part of this process is to find out what people really think. He doesn't know that the result of this phase has to be firm conclusions.

**Next steps:** Marsha complimented the group for listening to and respecting others' views. She said next steps are:

- She will write the report and seek feedback from the group. There can be one more meeting to go over the report.
- The report will be disseminated to the public through some official source. It will be sent to the newspaper, San Juan National Forest officials, the county commissioners, and others as judged necessary.
- This group will not be concluded because the basin-wide discussion still must take place. This group may be in recess for up to a year and a half.

**Basin-wide discussion:** Marsha said the regional discussion will take place after all the workgroups have finished their processes. The Vallecito/Pine workgroup has not drawn much interest so far. The Piedra and Animas workgroups still have to begin. After all are finished, the River Protection Workgroup will take the recommendations from the groups and decide on a mechanism for regional discussion. Questions to be considered are: Where does a WSR make sense in Southwest Colorado, if anywhere? What other tools have come out of the groups? What regional package can be put together that encompasses all the viewpoints?

For the regional discussion to be successful all the workgroups will need to buy in. Marsha said it is hoped the basin discussion will take place and conclude next year.

In answer to a question, Steve said nothing will come out of the basin-wide discussion that wouldn't have been agreed to by the San Juan Workgroup. Meghan said the basin discussion will include representation for this group. Chuck said the small groups have a sort of veto power. If they do not buy in on a regional recommendation, that recommendation can't be implemented.

**Next meeting:** The group will probably meet in April but the date has not been set. It will discuss the report and how to disseminate it. The report will be available in three to four weeks.