

**RPW Regional Discussion
Drafting Committee Meeting
August 3, 2015
LPEA Small Conference Room
FINAL**

In attendance: Jimbo Buickerood, Steve Fearn, Chuck Wanner, Jeff Widen, John Taylor, John Whitney, Darlene Marcus, Bruce Whitehead, Mely Whiting, Marsha Porter Norton, facilitator, Tami Graham, recorder

Observer: Mark Pearson

Introductions and overview of the proposed outcomes and agenda

Marsha welcomed everyone and conducted an overview of the proposed outcomes and agenda. All were in agreement.

Bruce asked how public involvement would be handled in this phase, as he understood from the last minutes that the public wouldn't be involved in the drafting phase. Bruce reminded all that in the Hermosa drafting phase, there was no public present. Darlene mentioned that there's a balancing act to find here with allowing public input but also having an opportunity for the drafting committee to converse freely in the process. After a discussion, the group agreed to allow the public that was present at this meeting to remain but in future meetings to not have the public present. With that said, Darlene suggested getting some work done over a few meetings and then having a public meeting where the public can give input. All agreed.

Debrief of CWCB presentation in Ignacio

It was agreed that the RPW presentation went very well and was well received by the CWCB Board. Steve said there was good feedback after the meeting from several board members and that we achieved what we wanted – which was to give the CWCB Board an overview of where we're at in our process. It was also noted that the impression was that we were making good use of their funds and support. Chairman George seemed very pleased with this process and how it has worked.

Chuck asked if Betsy Blair, Senator Gardner's natural resource staff person for our region, would be able to attend our meetings. Darlene said she was going to be here as often as she feasibly could. Jeff asked when they might hire a Durango staff. No definite word here but Darlene thought it might not be until next year.

Discussion of process and steps related to legislative drafting for the Agreement in Principle

Confirming the issues is still to be worked out (e.g., WSR release language, defining and describing what "no new major impoundments while allowing water diversion" means in the draft bill, and the East Fork of the San Juan).

Marsha directed the group to the “background document” and to the Agreement in Principle document for additional information on all of these topics. Both documents were emailed to the Drafting Committee prior to the meeting.

Jimbo asked about the WSA elements and if we worked out most of the elements there. Marsha directed everyone to Page 9 of the Agreement in Principle which discussed several elements of the WSAs.

Steve responded that he felt we had a tentative idea of what would work for the WSAs. He suggested that we review them as we get to that place in our discussion. These points were summarized:

- West Needles: 1993 Wilderness language but not including Molas Creek and not including Sultan Creek on the north.
- Bruce said that the 1993 Wilderness bill would apply as it relates to water in Elk Park.
- Marsha reminded everyone that Tami had combed the small group summaries for discussions around the WSAs and we have that document available for when we get to that point in drafting.
- Boundary adjustments were made to eliminate any potential conflicts.
- Steve said that if other things come up, we should talk about them while we’re working from the Agreement in Principle.

Determine a course of action and process for legislative drafting

Marsha asked for input on the process moving forward. She stated that with the Hermosa drafting process, the group took one topic at a time and used the ground rule that if more information is needed, we’ll gather it. She suggested that perhaps this is the way to start this process.

Mely said one thing that helped with Hermosa was that there was a draft of the bill early on to look at. The group started early with a skeleton and left space for the big issues and to further develop language.

Steve asked if we should take the Agreement in Principle as our basic framework.

Jimbo said he assumed that was what we were doing.

Jeff said using the Agreement in Principle will direct the group to come up with draft language that is then handed over to the congressional staffers.

Steve said that if there are areas we haven’t defined yet, we can put them in brackets and keep moving forward. He asked if the group is going to have two draft bills – one for the House and one for the Senate.

John W. said he thought it would be better to have one draft.

Darlene agreed, saying two drafts would complicate things.

Steve agreed. He just wanted to get their view on this.

John said he and Darlene would work together on a draft once we're ready. He said that if he and Darlene have everything they need, they can start translating into legislative language anytime.

Jimbo said he felt we're not quite at that point yet. He would like to move a few of the "hanging chads" forward and make it more tidy than it is now in the Agreement in Principle.

Chuck offered that John and Darlene could start working while the drafting committee continues to work on the 3-4 issues that still need more work.

Marsha mentioned that in the Dolores process, there have been blanks for a couple of years as people have been filling in other pieces. A parallel track process, in essence.

Jimbo felt that many of these pieces are interactive with each other and that it may not serve us to start work on pieces that might actually shift a bit moving forward.

John W. asked if all of the Hermosa that was found to be suitable would be designated.

Steve said yes, everything that the Forest Service had found suitable would be designated per the agreement we have now.

Bruce felt that moving forward with drafting worked well even though some pieces needed work along the way.

Mely agreed that this is a strawman and it works well to move forward with what we have now. It doesn't lock anything into place by doing so.

Steve felt it was like an engineering task in that it's an iterative process along the way. He did an overview of the pieces that still needed discussion: WSR release language, no new major impoundments, and East Fork. He felt we could move forward now even though those pieces need some finalization.

Jimbo said that, for his organization, there are foundational pieces that still need some discussion. The suitability release, impoundments language, etc., are foundational to a possible agreement. He'd like for us to deal with them soon and before handing off.

Steve said he doesn't see that we ever "hand it off" to Darlene and John because the Steering Committee stays involved throughout the process.

Marsha asked John and Darlene how they feel about having to go back and redraft some pieces if needed.

Darlene said that John is more adept at this than she is, and he's going to have to lead this effort. She understands that Jimbo is not quite there yet. Darlene and John both stated that August is the busiest time of year for congressional staff. They both felt that if, politically, we're not quite there yet, perhaps we should wait a bit to start drafting. Also, many congressional staffers go on vacation in August, so getting a lot done on drafting probably wouldn't be feasible anyway.

Steve felt that August is irrelevant. He's concerned we'll end up going in circles if we don't start moving forward with drafting.

Chuck was also concerned about getting bogged down at this stage. He felt that perhaps after a September and October meeting, we should have enough and be confident enough to ask John and Darlene to start drafting.

Marsha asked the group how they felt about dedicating $\frac{3}{4}$ of a meeting to WSR release language, as well as the same amount of time for impoundments language and the East Fork issue, and then shoot for late fall as a time to start drafting.

Bruce felt we shouldn't put off starting drafting at this time.

Jimbo said he's not against anything in the Agreement in Principle, but has a different approach in wanting to take on the big issues sooner rather than later, as these topics are relevant to several of the watersheds we're looking at.

Jeff said he's fine either way and suggested that this may be a semantic issue. He suggested tackling these substantive issues early in the drafting: release language, impoundments language, etc.

Mely said it seems that we're all pretty much on the same page here, and the question seems to be the timeframe we're looking at.

John W. said they'll start when the group is ready, but some of the timing is out of his control, as the legislative committee has their own priorities.

It was agreed to meet again in September and hammer out some of the big pieces remaining, as discussed.

Steve asked Jimbo what the big issues are for him.

Jimbo would like to work on major impoundments and release language. He doesn't see a need to work on Wilderness water language, but it could come up. He also wants to work on the East Fork.

Steve said that release language would need to be run past their (SWCD) attorneys. He and Bruce had some concerns with the Rio Grande language and whether it applies here.

Jimbo suggested we discuss the release language at the September meeting.

Steve agreed and said time is needed between meetings to run language by attorneys. He also agreed that we have more work to do on the East Fork.

John T. said he wasn't sure what we needed to talk about on the East Fork, as he thought we talked about removing suitability in the private property area and having suitability remain above private property.

Marsha said the Agreement in Principle reflects the SWCD and TU proposal, but there's not agreement yet on what to do with the private land and the lower segment (private land to confluence).

John T. said he has spoken with his County Commissioners (Hinsdale) and they were in support of the idea of a local advisory council.

Bruce suggested we put both the release language and the impoundments language on the September agenda and go from there. All agreed.

Next meetings

The next meeting was set for **September 21, 1-4 p.m.** The topics of suitability release language and major impoundments language will be the primary discussion items.

October 27, 1-4 p.m. was also set as a meeting date. The group will wait to identify agenda items for the October meeting until after the September meeting.

Steve said he and Bruce would get with their people about coming up with some additional thoughts on release language and how to define "no major impoundments", in terms of more specifics.

Chuck said everyone should make an effort to suggest language and do some research on their own so we have some specifics to talk about.

Marsha reminded everyone that they could send information to her beforehand and she will compile and disseminate. Information can also be brought to the meetings directly.

Mely said she feels the release language is going to be relatively easy to work through, if she understands the issue. On the impoundments issue, there may be some more work to do conceptually. She cautioned to not get too hardened on language yet via lawyers.

Marsha reminded everyone that they agreed to no new major impoundments while allowing diversion.

Jeff asked if the Rio Grande language had been run past the SWCD lawyers yet.

Steve said they had not had it vetted yet with their attorney.

Jeff suggested they use the Rio Grande language as a starting point since there might not be as much pushback on using language that already passed muster legislatively.

Marsha also suggested that everyone start thinking about how the bill itself will technically be written. Will it be in separate sections as per each watershed or by topical area (i.e., no new major impoundments, release language, etc.)?

Jeff said this should be something that John and Darlene work out.

Steve felt that there will be site-specific language that will need to be there, but otherwise, he's open to what John and Darlene suggest, stating that this is what occurred on the Hermosa.

Jeff said conceivably you could have a section called "Release of WSR suitability" (with a list), and then have the details discussed in a separate section.

Mely said the key issues will come up organically, but the specifics should be up to John and Darlene as far as how to structure it.

John said they haven't thought about the flow yet and what that would look like. Darlene concurred.

Marsha reiterated that we are in legislative drafting mode and that we will spend the next two meetings tackling the two major issues mentioned, and that this will be an iterative process.

State Level Tools in Agreement in Principle and determining if the RPW wishes to begin pursuing these items (i.e., Outstanding Waters on Grasshopper Creek, an ISF on the 3 tribs on South Mineral, a grant to study the ground water for the fens, etc.)
Chuck would like these issues to be treated just as seriously as the other issues and that we, as a committee, have them ready.

Outstanding Waters

Chuck said that the process for Outstanding Waters starts in October, suggesting that the group keep these deadlines in mind as we move forward.

Jimbo agreed we should draw up a calendar on this.

Bruce also thought we should decide which one of these are pursued by this group versus other groups (i.e., Mountain Studies Institute) in terms of who takes the lead.

Chuck felt that this group should be the one to propose moving forward on these tools at a state level. Outstanding Waters goes to the state water quality control commission. Chuck continued by stating that, in October, there is a scoping hearing. Then it's almost a year before there's an issues formulation session. Then in 2017 there's a rules change meeting.

Mely said it's announced conceptually in October, and then it gets progressively more committed as data is put together and submitted.

Chuck said if we get our proposal in to the Division of Water Resources, with sampling, it will be very legitimate with the commission. Anyone from this group can bring this to the commission. This should be a fairly simple proposal.

Mely agreed to take the lead on submitting a concept letter informing the commission that we're looking at proposing Outstanding Waters on Grasshopper Creek. All agreed.

ISF

Mely said there are deadlines for these tools at the state level. Regarding ISFs, there will be a workshop in February.

All agreed that the Forest Service will be asked to make the recommendation to CWCB for the ISFs on the three tributaries on South Mineral Creek.

Mely thinks the local staffers would be happy to do this.

Chuck said that Kara seems very interested and that we should start with her.

Jimbo recalled that Mark Lambert said he would help with this. All agreed.

Marsha said she would ask Mark and Kara to come to the first part of the next meeting to give them an overview of what's wanted. Suzanne can provide us with information on how to apply for a grant from CWCB for an ISF study.

Bruce asked for clarification on the purpose of a CWCB grant.

Steve said the difficulty is that we have Iron Fens, and it's presumed that the water source for them is from certain drainages, but we don't know that for sure. The study would help identify where the water does come from that feeds the Fens.

Steve felt that we need to make sure the Forest Service isn't doing a mineral withdrawal in the whole area. This study could actually help them manage the area better in relation to the Fens and their water sources. It is unlikely that the study would be done in time for the legislation to get enacted, but we need to start the process now and discuss how to include it in the legislation. MSI has said that the county maps are imperfect but it's a starting point. He suggested that we start out with a block for mineral withdrawal protection but we get more specific as we know more. He supports these three state tools regardless of whether we have agreement on other issues or not. As such, he feels we should begin moving forward on them.

Mely suggested having a scope of work for this process. MSI is having someone from Ft. Collins conduct a study on Fens. We can combine his input and also get input from Suzanne and Linda Bassi from CWCB regarding the way to move forward.

Briefing Key Entities

- Senator Gardner's office is working to get his part of the state covered.
- John Whitney said he spoke to Betsy from his office and that she is getting Marsha's emails.
- Southern Ute Tribe – Marsha spoke to two gentlemen from the Tribe at the CWCB meeting. They said they would start sending someone to these meetings. Bruce said the contact would be Lena Atencio, the head of the Natural Resources Department.
- Division of Water Resources – Marsha asked if they need to be briefed. Steve said yes, they should be briefed but don't necessarily need to attend unless they want to. Bruce will talk with Joe Crabb, a water commissioner in Pagosa Springs who came to a few of the later Piedra meetings.
- All agreed that the Drafting Committee will wait to get a draft bill before talking with BOCCs.

Meeting Adjourned