

## **RPW Steering Committee Meeting Summary July 30<sup>th</sup>, 2014**

### **In Attendance**

Ann Oliver, Bruce Whitehead, John Taylor, Preston Groetzke, Chuck Wanner, Steve Fearn, Mark Lambert, Jimbo Buickerood, John Whitney, Darlene Marcus, Wanda Cason, Suzanne Sellers (by phone), Tami Graham: Facilitator/Notetaker

### **Introductions**

#### **Approval of last meeting's summary**

Edits were agreed upon and incorporated into final summary.

#### **Observer Input**

None.

#### **Hermosa Legislation Update**

- John W. said it's been an up and down process the last couple of months. Last week there was a good opportunity to get a mark-up that would have happened on 7/31. There was some re-ordering of the language of the bill. There was no agreement on the Senate committee to have a mark-up at all. Majority and minority have to agree to a mark-up. There's a new chairwoman on the democratic side. John and Darlene felt that it would have passed out of committee, had it been voted on. BLM's plan blew up the existing compromise, which has cost 2-3 months. The snowmobiling community had felt that the language didn't address their concerns. Senate comes back in September for 3-4 weeks. This is not historically known to be a real productive time. Probably have to look at the lame duck session, which can be a very productive session.

Coordinating very closely with Representative Tipton's office. Darlene said on her side there had been a change of Bishop's staff. They had to be bring him up to speed. They wanted to understand the background, they had some issues with some of the language and had some questions related to the map. At the end of the day, the committee had some additional things to be addressed. Hoping to address those things in September. Steve said with everything going on, he felt they (John W. and Darlene) were doing a great job trying to get things done. Darlene said she felt they may need a new map from the FS. John stated that the map is very complex and challenging to read. Bruce said that if the map is redone, would be good to add the water storage location on the map. John has asked the FS for a new map, with an updated date. The SWSI language was difficult to sell with DC FS staff and with senate majority staff. We will know more after November. If not approved by January, have to start over from scratch with re-introducing the bill.

- In response to last meeting's conversation regarding addition of a small portion of wilderness in the Hermosa bill, Darlene asked Bruce if he would like to know, as a stakeholder and member of the drafting committee for Hermosa, if there are any other changes to this bill or future bills related to this process. Bruce responded yes. Steve added that it would be important to know if there's add-ons, so he, for example, could go to the SWCD Board, to assess if Board action is needed or not, and so that they don't get caught flat-footed. John W. stated that the Molas pass provision was not an RPW discussion. Darlene apologized if she and John moved ahead without informing RPW. It was understood that this was more of a process concern than a content concern.

- Also in relation to last meeting's discussion regarding the potential Hermosa designation as a Wild river, Ann stated that she felt Sandy's concern (from last meeting) regarding a Wild designation on Hermosa, was that while it might not include specific grazing limitations, could nonetheless allow the FS to justify the limitation of permitting for grazing. Chuck stated that we've always been aware of these concerns around Hermosa and possible WSR designation. It seems that there's general concern around grazing overall and it's not tied specifically to the Hermosa WSR designation, if Wild. Preston stated that he feels the FS's long-term plan is to phase out grazing, which has nothing specifically to do with this process or Hermosa.

### **FS Plan Update**

Mark Lambert updated the SC that the FS plan appeal process has come to an end. The Secretary of Agriculture decided not to do a discretionary appeal. The plan is being implemented. Bruce stated there was a denial of SW's appeal yet there are still other processes that could be pursued for entities not in agreement with elements of the plan including the possibility of litigation. Mark stated there are no changes to the language that was in the ROD. Bruce added that there has been some concerns raised at the state level with CWCB. Mark Lambert said in relation to this group, there were some appeals related to WSR issues. The FS wants to continue to be part of the conversation, though the appeals process is officially complete.

Jimbo asked the SC if anyone is intending on pursuing their concerns with the FS plan beyond the ending of the formal appeals process. Mark said there has been a ROD and that no further appeals are possible under the existing framework. From the FS's standpoint they will proceed to implement the plan. Some folks feel that plan has some deficiencies in it. One option is for litigation if it's determined as an appropriate approach by some. Some may feel they have an obligation to do this, primarily related to water rights issues. Bruce stated that SWCD appealed components of the plan. The SW Board has not discussed this further at this time. No timeframe around when it might be addressed, as of now. There are some other entities that appealed components of the plan. Suzanne was asked if the state is considering further action. She said she is not sure, hadn't heard any updates on that. Jimbo asked Bruce if one of the things they are looking at is the suitability decision. Bruce said that part of the appeal was around suitability on the East Fork of the San Juan. Jimbo stated he's trying to get clear around other moving pieces that we may need to know about as the steering committee. Mely stated that any litigation would be limited to what was brought up in the appeal process. Steve summarized that the SW concern is with water rights issues as related to the East Fork of the San Juan. Bruce said they will continue to be up front and open with the steering committee. SJCA did not submit a request for discretionary review. Steve suggested we walk around the East Fork issue for now. John W. asked if there could be any litigation regarding the other streams? Bruce stated he was not aware of any streams other than the East Fork of the San Juan that could be litigated in relation to the SW appeal.

### **Phase II/Regional Discussion**

The SC reviewed the table summarizing the TU and SJCA/WS proposals to date, with revisions noted below.

#### **Animas River – Bakers Bridge to Sultan Creek**

*In-stream flow*

- Bruce noted that there is no need for an in-stream flow on the Animas mainstem, as per the workgroup discussion, and asked for that to be added to the Mainstem of the Animas listing. Need to discuss further.

#### *Mineral withdrawal*

- Consistent with the suitability reach in FS plan.

#### *No new major impoundments*

- Pull language from SWCD as provided in the Animas workgroup process.

#### *Addition of WSA's to Weminuche Wilderness*

- Some border adjustments needed. Fairly simple on Whitehead Gulch. Steve has some concerns with a mining site in Weminuche Contiguous. Would like to exclude private land. Also, Steve has some concerns with some patented claims being included in a Wilderness area on the Weminuche contiguous. Bruce would like to see access to private claims be excluded.

- Chuck asked for a map of adjudicated water rights, private lands and patented claims, as well as access to those. Steve concurred that would be useful.

- Deer Park is in the gap between the two WSA's.

- Access is currently not allowed to the Mable mine, which is where the road ends now. On Whitehead Gulch, Steve's primary concern is the historic access road to claims is now in WSA. Needs to be carved out so there is reasonable access.

#### *Addition of Tank Creek and Grasshopper to Wilderness*

- Steve expressed some concern around water rights and that these areas were not part of the discussion with the Animas group. Jimbo had understood that we could circle back to the workgroups to discuss pieces not discussed there. Bruce stated that anything that might limit or restrict water rights in any way would not be acceptable. Jimbo looked at maps and it appeared that the water rights were right on the river, so if we pull back the boundary, could address that concern. Ann stated that it is a bit of an uphill battle to get this into the package, since it wasn't discussed in the workgroup. Perhaps we could leave on the table for now? Bruce asked Jimbo what was the need or desire to include this in the WS and SJCA proposal? Jimbo stated that from SJCA's point of view, have been looking seriously at release of suitability in exchange for other additional protections. Need to lobby heavily with national groups if advocating for releasing of suitability. These areas have some watershed protection values. Bruce asked if it was a cutthroat stream now? It is now, as a conservation population, in Grasshopper, but not Tank Creek. Steve said he doesn't see Animas as a stand-alone. Mely stated that where TU is coming from, it is a package and there are some trade-offs. Part of that is having equivalent protections. TU gave their best shot at equivalent protections. She stated that it sounds like Jimbo needs more protections if removing suitability.

- Steve stated that mineral withdrawal is no small concession in the canyon. If we do some of the modifications on Whitehead and Weminuche Contiguous, the mining group didn't want that at all. Need to be prepared to address their primary concerns. A major concern is that the 1/4 mile mineral withdrawal is a big deal. Steve feels it's a risk to add Elk Park and may blow up the whole thing.

- Ann asked about including upper portions of Grasshopper, above water rights issues. Is interested in the Cutthroat trout population. Need to clarify where exactly the cutthroat population is. Ann will find that out. Jimbo finds it hard to imagine how were

going to go forward without going back to at least one or more of the workgroups, in order to get to a package.

- Bruce asked if the roadless boundary areas are why Tank Creek and Elk Park are being proposed to be added to Weminuche Wilderness? Jimbo stated that SJCA is interested in water quality. Bruce and Steve agreed that is important to them as well. Bruce stated that future water rights and ability to create those are of concern. Getting water rights in Wilderness areas is going to be difficult.

- Ann shared that in the Animas information sheet, there are two cutthroat populations, both on creeks named Bear Creek. Also noted that there are pure cutthroat populations on Grasshopper Creek. There are stocking restrictions on entire creek to protect the cutthroat. The barrier is near the Animas.

- Ty will bring a complete map next meeting for the Grasshopper and Tank Creek areas. Ann will gather more information from Jim, from Parks & Wildlife. Most of Grasshopper is roadless but there are no other protections in place to protect water now. Tank Creek is a different watershed. Bruce asked if Tall Timbers is in either Tank or Grasshopper Creek areas? Jimbo will double check but didn't think there was any overlap.

## **Mineral Creek**

### *¼ mile mineral withdrawal*

- Included on both proposals. A correction needed to table, as TU did not have ¼ mineral withdrawal in their original proposal. Will be corrected. Steve is fine with TU's proposal. ¼ mile mineral withdrawal on South Fork Mineral Creek was not included in TU's original proposal. Will be removed from table.

### *Updates to Table of Proposals*

- Remove "deal with SWIFTS and fens" on TU proposal for South Fork. Was not included in original proposal.

- A clarifying question was asked regarding removal of 8.65 miles of suitability on SJCA and WS proposal. Which segment is that? Response that it is all of the suitability segment on Mineral Creek. With that said, agreement to remove the 8.65 miles from SJCA/WS table to avoid confusion but their proposal remains the same for removal of all of suitability segment.

### *Scenic by-way*

- Jimbo asked Ann if she was able to find out if there are any protections from being a scenic by-way? It was stated that it was contingent on what came out on the plan. There is a mineral withdrawal within the scenic by-way. Ann will follow-up on in regards to width of the corridor. Steve stated that there are several mines on that section of highway now. Jimbo asked if the adjacency is with the road or the creek. Steve said they are essentially the same. Will discuss further at the next meeting, once we have more information as provided by Ann. Jimbo stated that it is outside of the Silverton special management area.

- The FS plan has suitability on Mineral Creek. The intake for the Town is a tributary of Mineral Creek. The County has a conditional water right with the diversion point upstream. ORV's on Mineral Creek are recreation, scenery and ecology (fens).

## **Next Steps**

Chuck suggests we don't dwell too long on any one point or points but rather see if we think we have agreement on various streams.

**Future Meeting Dates**

Thursday, August 28<sup>th</sup>, 1-4pm

**Observer Input**

Ty: A concern with SJCA and WS's proposal – his understanding was that in order for something to be discussed at regional discussion was that it was to be brought up at the workgroup level first. Adding these pieces in a proposal puts the process at risk.

Jimbo asked if he felt that we should put this process on hold until the Hermosa legislation is completed. Ty said no.

Bruce: Feels that there is some risks also, with adding pieces in that weren't discussed previously.

**Meeting Adjourned**

4:03pm