

RPW Steering Committee Meeting Summary February 13th, 2014

Present: Bruce Whitehead, Chuck Wanner, Steve Fearn, Jimbo Buickerood, Ann Oliver, John Taylor, John Whitney, Wanda Cason, Preston Groetzke, Jeff Widen; by phone: Darlene Marcus, Suzanne Sellers. with contract staff Tami Graham. Observers: Ty Churchwell, Emily Orbanek, Mark Pearson, Sandy Young, Mely Whiting

Approval of last meeting summary

- Two minor revisions from Jimbo approved by SC.

Observer Comments

None.

Next meetings

- Thursday, March 13th, 10am-1pm (lunch provided)
- Thursday, April 10th, 1:30-4pm
- Both meetings at LPEA small conference room

Hermosa legislation update

- The drafting committee met in early January with DMR, regarding some concerns DMR had in relation to water. Additional language has been agreed to regarding reiteration of the existing right clause. Will be vetted with committee in DC and FS in DC office. Shouldn't be a problem to add in.
- Working on getting the bill out of committee in DC, which includes reviewing some of the technical language.

Forest Service FS update

- No updates in relationship to the plan
- Kara Chadwick will be the new SJNF Supervisor

Regional Discussion

San Juan BOCC

Steve distributed an email from the San Juan Board of County Commissioners, dated 2_12_14. At their 2_12_14 meeting, the Commissioners discussed and voted on the following:

- Unanimous Board (3-0) supports WSR designation on Hermosa Creek.
- Majority Board (2-1) supports South Mineral Creek WSR (recreational) designation.
- Majority Board (2-1) supports continuing discussion regarding whether WSR designation is deserving for the Animas River just below Silverton to

Baker's Bridge. If determined that WSR is not appropriate, majority (2-1) would like suitability to remain in place. A single commissioner does not want suitability to remain on the Animas.

- Majority Board (2-1) would like suitability to remain on all segments of Animas, if designation does not occur. Same majority (2-1) does not want suitability to be used as a bargaining chip in discussions as to whether a certain segment should be deemed suitable or not. A single Commissioner only wants suitability to remain on the San Juan, Pine and Mineral Creek segments if designation does not occur, and removal of suitability on the Animas and South Mineral Creek in any case.
- Steve and Bruce noted that SWCD is an independent government entity and by State statute, County Commissioners cannot tell a Director of SWCD how to vote. They appoint Directors and as such, can ask a Director to resign.
- Bruce stated that SWCD's position hasn't changed – they are committed to the notion of trade-offs as part of the regional discussion. Whatever the SC comes up with must go back to the Workgroup.
- The goal for the RPW process has always been to look for alternatives to WSR designation, while allowing water development to continue. There will be some trade-offs. If group doesn't want to look at trade-offs, SW ok with status quo.

General comments from SC on this issue:

- Would need CC support to move along any legislation. Politically, ideal to have unanimous support from CC's on any legislation but not a requirement.
- Proceed with regional discussion (RD) with this knowledge.
- Appreciate the opinion of CC's but we need to make sure it doesn't supercede what the various workgroups came up with.
- Balance and certainty have been agreed to as important for all involved.
- The Animas isn't entirely in San Juan County

Basin-wide proposal

Chuck brought forth a proposal, addressing all 5 river segments, which is as follows:

- Pine & Vallecito
 - Maintain suitability
- San Juan
 - Status quo, since workgroup had no agreement
 - Leave FS plan in place, with suitability segments
- Piedra
 - Supports agreement made at workgroup level including removal of suitability, since the three elements of a recreational designation have been addressed: flow, mining and obstructions
- Hermosa
 - Supports WSR designation. Combined with Hermosa bill, protects an entire watershed.
- Animas

- Less defined
- Below Silverton, already agreement to no dams and mineral withdrawal, which protects the value of the train.
- Propose three WSA's become Wilderness.
- Should be language alluding to the values of Mineral Creek segments
- Not going to get Howardsville site water rights to change or give up 325 cfs.
- Obtaining flows w/out a federally reserved water right are a big deal in this state.
- RICD downstream is older than any WSR reserved water right would be and will draw water downstream. That protection will substantially do what WSR would do.
- Possibility of water withdrawal upstream remains on the fork makes some allowances for water development.
- Removal of suitability on all segments including tributaries above Silverton.
- All of the above protects values while allowing water development on the main stem.

Comments from SC on proposal above:

- Not a lot of trade-off above. Need to protect the Swifts and Fens up on Mineral Creek.
- Remove a portion from suitability on E. Fork on private land but leave suitability in place on public land. SW appealed the FS move from eligibility to suitability.
- Support leaving East Fork alone.
- Piedra workgroup agreed to removal of suitability in exchange for legislation.
- Vallecito/Pine already protected.
- Are there enough protections in place on Animas to give up WSR?
If not, what are specific protections still desired?
- When we talk about removing suitability, which has only happened once in Colorado, we know what a heavy lift that is. It's a huge thing in the conservation community.
- Argument of removal of suitability is a political one vs. a resource one.
- The trade-off is removal on Animas for designation on Hermosa.
- As a regional organization, interest is in the protection of watersheds and building in resiliencies in protection. Supply and quality of water is important. Sometimes frustrated where there's uncertainty from an administrative view. 100,000 foot view: take seriously the need for having locales for water development in the future, with the interest of releasing suitability in some places to support that. 2 million acre feet in the basin is a lot. Looking at what storage is available, there's a lot now and possibilities for development. When looking at overall balance of things in the workgroup process, we have flexed and given away on a number of things, which were highly desirable for our organization. Have not pushed or asked for additional ISF's in a number of places. We'd like to see that but have been able to let go of it. Have let go of

possibility of additional Wilderness in Piedra. Suggested some protections that weren't adjacent to existing Piedra area and let go of that. On San Juan, have been ok on release of suitability on private land. With all that, if looking at balance, if San Juan is off the table and possibly pulling suitability off Piedra and Pine, would be more than 100 miles of suitability removed, and possibly Animas. This would not feel balanced. What is being flexed or given up in terms of water development, if possibilities for diversion structures remain, a lot of storage in the works and available.

- Looking for content, not what we're giving up. How to protect rivers? ISF question hasn't come up. Lets say what we want. Balance between storage and protection at this point is not too bad. Balance between protection and vulnerability is not good. Real concern is not how much water is stored but what we can protect in terms of free flowing streams.

Discussion on politics of getting a legislative package passed

John W:

- Has to be able to pass the House and Senate. The House is a little more respectful of the individual representative's view/perspective than the Senate.
- Hearing a lot of unwillingness from the Natural Resource Committee regarding removal of WSR. Every bill is seen as a potential national precedent. Generally bills don't get passed that don't have support of the agency.

Wanda:

- Has to be something that the DC staff can live with for a long time. Precedence is the piece to really watch for.

General comments from SC members:

- Needs to be a bill that has local agreement and an ability to be supported in DC.
- Lets come to an agreement and run it up the flag pole locally and with national groups and then put a bill forward.
- Important information from congressional staffers regarding possible legislative hurdles. Good to keep in mind. We have no choice but to see if SC can agree to something and then the Workgroups and then the Natural Resources committee.
- Major sticking point is removal of suitability on more than one river. Might be some play in that issue, as we move along. On Animas, no matter what SC comes up with, that Workgroup had no consensus. We are bound to go back to that Workgroup and hammer out something.

- Running agreements up the flag pole has always been an important piece. There is some threshold where you put together consensus locally but use the input from decision makers, using knowledge from past legislation and committee's. But we don't not try something because the legislative staff doesn't see it passing muster. Being creative on a local level is good but also being realistic about what legislative bodies will accept.
- We have to know what we want to achieve before we let the outside perspectives shoot it down. With that said, it's well within the precedent of Congress to decide either way on suitability.
- This is pretty uncharted territory. Rio Grande removal of suitability was done above our heads (Scott McInnis and Ken Salazar). Conservation community needs to have some robust conversations on the side. Believes conservation community could accept this package, but the question is at what price?
- Important to show up as a unified group, if possible, when taking to the Workgroups.
- Understands that removal of suitability would raise a red flag. Could be some good things to come from it. Likes Wilderness, but the designation has caused the FS some extreme problems. Only management tool they can use is fire. Wilderness is doomed, if changes not made. Suitability conversation could open door to some changes in Wilderness tools available to agencies.
- Congress has approved the ability for agencies to go in with mechanical means for fire suppression. But there is often a disconnect in terms of implementation and administration of law.

Observer Input

Mark Pearson

- Animas: WSA boundaries drawn in 1980 by BLM. Delineating between what was developed and undeveloped. When Congress enacted Colorado Wilderness Act and expanded Wilderness to that edge, they took it to the obvious boundary, the watershed divide. Inclusion of WSA's as Wilderness is not a big deal. It's more or less managed as Wilderness now, with the exception of mineral withdrawal. Having contorted Wilderness boundary to include WSA's may not be a real conservation benefit as a trade-off.
- Protecting the Animas (including Hermosa) as a watershed makes sense as a collective discussion. Piedra seems like an outlier thrown in.
- Piedra: it sounds from the process that occurred that the Hinsdale CC's drew a hard line and workgroup went along with that. Is abandoning administrative protections of WSR suitability is worth what's been offered through the Workgroup process?
(Two workgroup members commented that they felt the Hinsdale CC's did not overly influence the decision of the workgroup).

Mely Whiting:

- Comfortable with how the Piedra agreement happened
- TU has been fighting with Denver water over Moffat project, which takes a lot of the Colorado River over to the Front Range. After six years, reached a settlement last night. There is hope. In that process, we focused on what we needed and were courageous enough to go for what we wanted, outside of the federal process. If that agreement fails, it goes back to the federal agencies. It's an incentive to keep working together, outside of the norm. TU has a commitment that if this group is comfortable with whatever agreement is reached, then were willing to fight for it if need be. This particular process requires federal legislation, so it is a bit different than the Moffat situation. If giving up suitability, durability of protections is important.
- If you, as a SC, don't believe in the package, you're not going to sell it.

Ty Churchwell:

- Concurs with TU colleagues in meeting. Regarding committee's concern about release of suitability as it may set a precedent, as he understands Colorado water law, it's unique in the country. Only one designated river in Colorado, even with all the eligible and suitable rivers. Can committee look outside the box, in that it may make more sense in Colorado for release in exchange of a designation.
(John Whitney said he will run the most recent discussion up the flag pole in DC again. Hermosa legislation was out of the box, with pre-negotiation done in DC. Don't want to have to come back to community with big changes, can cause whiplash and is not efficient or productive, if we see that the bill may be DOA.
(John W. stated that he has no problem going to his boss with something out of the box, as long as we do it knowing there may be some pushback in DC).
- Ty: If we are asking DC to do this, we have to be willing to do this with our own groups, as well. While release may seem counter to what we're wanting to do, adding Hermosa may be worth it.

Sandy Young:

- Understands the disconnect that John T. stated about law and local agencies enforcing. Understands that with WSR that existing cattle grazing stands. Lost 10 days in Hermosa for grazing. Concerned about classification of Deer Creek and Elk Creek as "wild". If "wild" designation comes through, we will not have cattle grazing for our community up there. Doesn't have a problem with WSR on Hermosa. Asking committee to look at changing the miles from "wild" to "scenic".
(Chuck responded that he feels her concerns are more with the FS than with the Hermosa bill. Bruce asked for clarification whether Sandy had concerns with this existing bill. She said no, not with existing bill but rather if a WSR designation were recommended on Hermosa).

Next steps

The SC agreed to discuss the current proposal with their constituents and get feedback in time for the next meeting, which will take place on Thursday, March 13th, 10am-1pm.

Meeting adjourned at 1:05pm