

Hermosa Creek Workgroup

Meeting #18 Summary

Jan. 5, 2010

Announcements: Facilitator Marsha Porter-Norton said the San Juan River Workgroup will kick off Feb. 25, 2010 at 5:30 p.m. at the Community Center in Pagosa Springs.

Meeting summary: The November 2009 meeting summary was approved with no changes.

Review of process: Because there were some new faces at the meeting, Marsha briefly reviewed the history of the Hermosa Creek Workgroup. It first met in April 2008. There were more than 70 people at the first meeting. That number shrank, but there has been a steady core group of attendees at meetings. In July 2009 the group reached consensus on some basic recommendations for the Hermosa watershed, including creating a wilderness area, a special management area ("SMA"), and a roadless area; reducing sedimentation; and establishing an advisory council. At that point the group formed a Drafting Committee ("DC"), which has met more than 10 times to refine the recommendations. The document presented tonight reflects their most recent work (see attachment).

Marsha commended the Drafting Committee for their efforts, as well as Dave Baker and Thurman Wilson of the San Juan Public Lands Center ("SJPLC"), who have been attending the DC's meetings in an advisory capacity and have been very helpful. She said the committee had many tough discussions but all were respectful. Three basic themes came out:

- To the extent possible, existing uses should be allowed.
- Protecting the watershed is a strong and over-riding goal.
- The entire watershed should be protected as a unit.

Review of Hermosa Creek Workgroup Recommendations: Marsha reviewed the recommendations as developed by the Drafting Committee as of 1/4/10 (see below with new items since the last meeting in blue). One new item is the concept of zones for the Hermosa watershed:

- Zone 1 is the proposed wilderness area.
- Zone 2 is the inventoried roadless area, which will be called "unroaded". The use of "unroaded" is to avoid confusion surrounding the term "roadless", which is constantly being redefined because of politics and legal decisions. The DC's recommendation is to leave the existing inventoried roadless area permanently unroaded, with no boundary adjustments.
- Zone 3 is a more heavily used area to the north where there is considerable activity, including logging, potential ski-area expansion, roads, and some mineral activity.

It was asked how "unroaded" would be defined. The precise definition will be spelled out in legislation crafted.

Another new recommendation from the DC is to set the east side of the wilderness boundary one-quarter-mile from Hermosa Creek.

The Drafting Committee has not reached a consensus on logging, primarily because it ran out of time to work on the issue. There are differing opinions regarding logging in the SMA. The conservation groups believe logging should be used only for general forest-health and public-safety purposes. On the other hand, there is an active timber sale in the north portion of the SMA, and some DC members believe logging could be allowed in this area. One idea is to allow timber harvest only in certain areas to be spelled out in the legislation, but not in the unroaded area or the wilderness area, and to direct the Forest Service to manage logging for watershed health and water quality. Another idea is to specify there will be no commercial logging except for forest health.

Regarding the existing Statewide Water Supply Initiative (“SWSI”) reservoir site at Cross Creek in the current inventoried roadless area, the DC agreed in principle to certain language which is stated in the recommendations. Marsha said the DC decided not to recommend “carving out” a road to the SWSI site, and she noted that a road would be difficult to construct there.

Discussion

Wilderness: Marsha said the decision to end the wilderness boundary a quarter-mile from the creek was a trade-off made in exchange for the SWSI language.

Jeff Widen of the DC said it was felt by some of the group that having the wilderness boundary extend all the way to the creek would effectively preclude water development, and one of the consensus items in this process was *not* to make any decisions about water in Hermosa Creek until the circling-back process at the end of the other workgroups’ efforts. The DC decided to have an agreement that doesn’t address water and the water folks agreed not to change any language related to the roadless area and to accept the language about SWSI in the recommendations.

Mary Monroe of Trails 2000 asked whether the wilderness area would mean no trails. She said there are roads in the area that could become trails. Jeff said the intention of the group was to prohibit new road construction. This did not mean no trails, just no new passenger-car-size roads. Thurman said the language in the legislation would provide management direction on roads and other issues.

Regarding the southern part of the wilderness, there are still some details to be decided. The original “polygon” came from the Trails 2000 alliance, and they would have to be consulted. The DC’s idea to add acreage to the wilderness area on the south. However, Trails 2000 is concerned that several trail connection points between the Colorado and Hermosa Creek trails will be lost if wilderness designation is granted to the area where proposed. Trails 2000 would like a trail connection at the watershed’s southern boundary that would not be within the wilderness.

Helipad sites exist in the southern part of the watershed; they will remain and will be put on the map. The standard language would apply regarding wilderness areas and

firefighting. The intent is not to prevent San Juan National Forest officials from making decisions and doing whatever they deem necessary if a wildfire breaks out.

Mark Stiles, manager of the SJPLC, said the Forest Service still may have concerns about expanding the wilderness boundary further south because of restrictions this may mean in terms of fire protection. There are two aspects of concern: Using equipment and maintaining the helispots. The Forest Service could probably maintain them with non-mechanical devices once they are in place, but it probably wouldn't be consistent with wilderness-area policies to be going into the area to construct them.

Mark said the wilderland/urban interface there is heavy brush. Because this is so close to populated areas, the Forest Service wants to be able to get in and fight fires if smoke is reported. Firefighting in a wilderness area is allowed and he can find a way to do approvals to allow the use of certain heavy equipment, but there is a process to be followed and it can take time. It's important being able to keep the helipads in place so you can land a helicopter safely. Mark said, in its 2007 Draft Revised San Juan Public Lands Resource Management Plan, the SJPLC pulled the boundary back up because they could not provide for adequate fire protection while dealing with established concepts of wilderness.

Jeff Widen said legislative language could be explored to allow the necessary leeway.

Steve Fearn of the DC said the intent is to see if language can be crafted that will allow the wilderness border to be moved further south while also allowing for adequate firefighting efforts.

John Whitney suggested language to the effect that "nothing in this language shall be construed to prevent the USFS from maintaining pre-existing helicopter landing pads that, effective on the date of enactment of this act, are only to be used for fire control, suppression and mitigation". Mark said that probably would suffice.

Minerals: Steve Fearn said the DC has proposed a mineral withdrawal for the entire watershed except for two areas where there is known mineralization and existing rights. One, of about 1,000 acres, is in the south end of the watershed, in the Kennebec area at the top of La Plata Canyon, where there are existing mining claims. The DC suggested leaving a 300-foot buffer next to the wilderness area where no mining would be allowed, but beyond that mining could occur.

The other area, of 300 to 400 acres, is in the north at Bolen Pass. Steve said there are a number of unpatented mining claims there. The DC proposes that this area also would not be withdrawn from mineral development. Everything else in the SMA, including the wilderness area, would be withdrawn – a total of 146,000 acres. The areas where mining would be allowed amount to less than 2 percent of the watershed, and are served by existing roads. Anyone wanting to mine would have to go through the county, state and federal permitting process. None of the watershed is withdrawn from mining now, except possibly the ski area.

The scope of the mineral withdrawal was discussed. The DC members said it would mean no hard-rock mining. However, Mark Stiles said that wouldn't necessarily mean a withdrawal from sand and gravel, or oil and gas. Coal is another question; it is leasable

and is not a “hard rock”. Mark asked whether the group is thinking those types of extraction would be allowed.

Ed asked whether the Forest Service could continue to do road maintenance using on-site materials if all forms of extraction were banned. Matt Janowiak of the SJPLC said they could extract gravel for that purpose, but the gravel could not be put out for competitive bid for commercial activity.

Mark said the Forest Service has an arrangement with Durango Mountain Resort to do rock-crushing for them and it is cheaper than the Forest Service doing it. He advised saying “not available for mineral entry” if that is what the group means. He said when you have locatable hard-rock minerals, you usually wouldn’t have oil and gas present in the same formations.

Marsha said that needs to be specified in the legislation.

Logging: Marsha reiterated that this issue has not been given much attention by the Drafting Committee because of a lack of time. The question is whether to ban all logging, allow logging for ecological health, or allow logging for commercial purposes.

Ryan Bidwell with Colorado Wild said the term “commercial” should be avoided because, even in the case of logging for forest restoration, the goal is for the project to be as commercially viable as possible. He said the question is more one of intent; emphasize what you want to achieve rather than the mechanism you would use to achieve it. Ryan said this forest type is predominantly spruce-fir and does not need much fire mitigation. In that forest type, watershed protection is the predominant goal.

Mark said he agreed, except for the fact that part of the area on the north side of East Hermosa Creek is heavily roaded. There is some opportunity there for re-entry for harvesting, which probably would not be for restoration. There is not much area in the San Juan National Forest with a suitable timber base where there is the opportunity to harvest, so Mark advised being careful about removing that.

Ed said this portion of the Hermosa watershed is in San Juan County, and the county commissioners would probably prefer not to preclude any economic opportunities. If the group wants this legislation to be passed it would be good to have them on board.

Mark said water quality would be one of the Forest Service’s biggest concerns because of the density of roads in that area. So even if it were available for logging, there would be a heavy emphasis on protecting water quality, which would be a limiting factor in any new logging.

Jeff said that before the Drafting Committee meeting ended yesterday, the DC was closer to a consensus that if logging does occur there, it should be subject to a high standard of protection. John Whitney will work on potential language.

It was asked whether any of these recommendations would be negotiable when the group “circles back”. Mely Whiting of Trout Unlimited said she doesn’t think anything will be changed or renegotiated regarding the legislation, but there will be issues that weren’t addressed. She hopes there will be a meshing of the bill with additional protections.

Steve Fearn said they would need to be complementary to be practical. He said there is sentiment to have at least one WSR in Southwest Colorado, and the DC thought that if this issue were looked at from a basin-wide perspective, this might be possible.

Elizabeth Testa, president of the Four Corners Back Country Horsemen, had presented a letter to the DC with comments regarding the recommendations. Elizabeth said the horsemen would have been involved earlier, but were misled by the name "Hermosa Creek Workgroup", which seemed to focus only on water issues. The horsemen look for land-related issues and meetings.

Sandy Young, an ag producer in the Animas Valley, an outfitter and a member of the Back Country Horsemen, also submitted a letter and offered observations. She believes the report would be more complete if big-game habitat, agriculture and agency management concerns were addressed. Marsha agreed there should be more discussion of those issues. The DC will review and consider Sandy's and Elizabeth's comments.

Both Elizabeth Testa's and Sandy Young's letters are available upon request to Marsha.

Outreach to the public: Marsha said it's being recommended that the Drafting Committee and anybody else who is interested look at a broader public-education strategy; this would be a subcommittee. Buck Skillen of Trout Unlimited said a PR effort is needed if the legislation is to succeed. He said it should be made clear that recommendations were reached after considerable work by the stakeholders over a long period of time. Others agreed that the process should be emphasized along with the recommendations.

La Plata County Commissioner Wally White said there is a significant concern among the counties that the public has not been involved in many of the wilderness-area projects going on today in other parts of Colorado. He said that unless there is significant public education and input, the Hermosa proposal may meet with opposition from those who do not know about it. He said there is a great need for general public education.

John Whitney noted that announcements have been regularly published in the newspaper. Marsha said there is an e-mail tree of close to 100 as well. Marsha said this was designed to be a public table rather than an elitist table. Buck said anyone could have come, but some people weren't willing to meet once a month for nearly two years.

Marsha said the DC is planning a formal presentation to the La Plata and San Juan county commissioners. Meghan Maloney of the DC recommended it be not just the DC but the larger outreach group that goes to the commissioners.

Steve said he has talked recently with the San Juan County commissioners and they are very positive. They will probably have a public hearing.

Ty Churchwell of Trout Unlimited said there are five conservation groups represented in this room and suggested they all contact their members, and that the people who represent other entities contact their groups as well.

Other suggestions included having a town-hall meeting and creating a simple one-page handout, with maps, to give out.

Consensus on recommendations: Marsha asked if the group agrees with the recommendations of the DC so far. The group said yes.

Next steps: Marsha said the DC could go over the two letters and the logging issue and come back to the workgroup one more time with one last set of recommendations. Someone suggested that the larger group meet again only after draft language in actual draft legislation is crafted. This was agreed to by the group. John Whitney said he had spoken with Congressman Salazar that day and he is ready to move forward. John requested a letter be sent asking the Congressman to initiate legislation and to direct his staff to work on this bill. It was agreed the DC would craft the letter and send it on behalf of the group.

Several members of the group along with the facilitator noted that this meeting was quite a milestone after 22 months of work. Everyone was thanked.

No meeting is planned until draft legislation is ready.

Hermosa Creek Workgroup Recommendations

(1/4/10)

(New recommendations forwarded to the Hermosa Creek Workgroup by the Hermosa Creek Drafting Committee are denoted in BLUE. All items in BLACK represent previous consensus decisions made by the Hermosa Creek Workgroup.)

Legislation

Move forward and develop "*Hermosa Creek Legislation*." This legislation will include language that protects the values in Hermosa Creek and the watershed itself, and includes goals to maintain Hermosa Creek's State of Colorado Outstanding Water Quality designation. The legislation will encompass the watershed boundaries and focus on land protection measures at the present time. The "Hermosa Creek Legislation" will establish three areas or "zones" that encompass the entire Hermosa Creek Watershed. Zone 1 is a proposed Wilderness Area; Zone 2 is an un-roaded area(s); and Zone 3 covers a more heavily used area to the north (please refer to the map). Note: A map will be inserted in final report.

Wilderness

This federal legislation will, if passed, establish a new *Hermosa Creek Wilderness Area*. The boundaries are noted on the map. Water in the wilderness would be

addressed by inserting previous language established in 1993 for other Wilderness Areas in Colorado. [This language is available on the Web site. The Wilderness Boundary on the east side will go to within ¼ mile of Hermosa Creek.](#)

Special Management Area (SMA)

The legislation will also establish the *Hermosa Creek Special Management Area* that essentially includes lands surrounding the Hermosa Creek Wilderness Area. By law, a management plan specifically for the SMA will be developed with broad public comment. In the SMA, and related to it, the following details are recommended:

Boundary: The proposed SMA includes lands shown on the map. The SMA also encompasses a current Inventoried Roadless Area and recommends that this area remain permanently un-roaded ~~roadless~~. [\(The term “un-roaded” is being recommended so as not to get confused and mired in the complicated and changing roadless rules. The intention is that Zone 2 would not have new roads constructed if this legislation passes. The southern part of the Wilderness should be extended further south \(the exact boundary is under discussion in relation to issues surrounding a future potential connector trail, minerals and the Wildland Urban Interface or “WUI”\).](#) Note: At the current time, the legislation would set up a Special Management Area (SMA). However, if, as the legislation proceeds, another designation is more fitting - such as a National Conservation Area – the designation sought might be changed.

- Grazing: The legislation needs to ensure flexibility for grazers. It should allow grazing where it exists now in the proposed Wilderness Area. Grazing in the SMA would be managed under the Forest Plan and management goals. An existing set of Congressional Grazing Guidelines that were established in other legislation should be used for guidance. The legislation should ensure a reasonable level of activity for maintenance of grazing allotments and relocation of grazing facilities. [These guidelines are on the Web site under “Hermosa Creek Workgroup” and then “Key Resource Documents.”](#)
- Motorized: Motorized use in the SMA should be limited to designated routes/trails

defined by the SMA management plan (note: motorized equipment is not allowed in Wilderness Areas).

- Ski Area: The following language will be included in the legislation:

The Durango Mountain Resort Ski Area is managed under current USFS rules, permits and guidelines. There are no recommended changes. More specifically, DMR has a 40 year permit, COL544 expiring January 1, 2049, including an approved Environmental Impact Statement, which govern the activities within the Ski Area. Nothing in this Report or in the proposed special legislation is intended to or shall be interpreted to impact activities pursuant to the Ski Area Permit and its current boundary.

- Wildfire: The goal is to establish a natural fire regime. The USFS should be able to do what they think needs to be done around pre-mitigation and fighting fire. A minimum tool analysis should still be required for Wilderness but mechanized tools should not be prohibited for the Wilderness Area altogether. The intention is to reduce confusion for the USFS/BLM Fire Service personnel and Public Land Managers and to take care of the resource. The current heli-pad sites will remain (there are areas identified where the USFS' crews could land fire-fighting equipment). Standard Wilderness language around use of equipment in Wilderness Area applies. The intention here is to not prevent the USFS from making decisions their expert staff deem necessary if a catastrophic wildfire breaks out. The intention is to also ensure that the WUI (Wildland Urban Interface) area in the SMA can be mitigated as per USFS wildfire planning.
- Logging: ~~The legislation will be silent on logging.~~ The Hermosa Creek Drafting Committee is still working on this issue and has not yet arrived at a recommendation. The facilitator will give an overview of the ideas being discussed to date.
- Recreation: Various types of recreation are allowed as per USFS policies, and overall management and travel management plans that are adopted.
- Water: A specific decision was made that water language will not be recommended for inclusion in the SMA legislation because such matters will be

discussed under the “circle back” process described below.

- SWSI site: [The following language has been agreed to in principle by the Drafting Committee:](#)

[“Nothing in this Act shall be construed so as to alter existing Federal or State management authority, rule, regulation or law existing at the time of the enactment of this Act that affect the site for potential water storage in the Hermosa Creek Watershed identified by the State of Colorado in its Statewide Water Supply Initiative \(SWSI\) Study \(reference date, Web site, version of study, etc.\)”](#)

- Minerals: [Minerals in the Wilderness Area and the Special Management Area and the un-roaded area\(s\) will be withdrawn except for two “polygons.” The first polygon is in the north. Unpatented claims in this area are located within two quarter sections at the very north end of the watershed. The portion of these two quarter sections that fall within the Hermosa SMA watershed will not be withdrawn at the present time. Further information is currently being gathered from the BLM regarding more specific claim locations and geology. The boundary for mineral withdrawal may \(or may not\) be adjusted as more information becomes available. However, the total acreage for the lands not withdrawn will remain the same.](#)

[In the southern area, a map adjustment will be made to leave a polygon of mineralized areas \(refer to hand-drawn line on the map\). For, the rest of the lands in the southern part of the SMA, the minerals will be withdrawn.](#)

Roadless Area

Within the SMA, establish a permanent [un-roaded Roadless Area](#) using the current map of the Inventoried Roadless Area [\(Zone 2\)](#).

Sedimentation

The HCW discussed the fact that sedimentation in the Creek, while an issue, is hard to quantify both in terms of the amount and sources. Therefore, the group agreed that:

Standards for roads and/or trails need to be bolstered to reduce sedimentation caused by human activity. The appropriate forum to work on this is with the USFS.

Proposed Land Exchange

During the HCW process, a proposed land exchange process was occurring that would, if finalized, bring the 160 acres of private lands in the Hermosa Creek watershed into USFS ownership. This was discussed on many occasions. A policy was agreed to by HCW regarding this proposed land exchange (note: the comment period ended 10/30/09):

- support the USFS' goal to have the watershed be comprised of intact Public Lands;
- it is noted that some HCW members' have concerns about the potential development of the private lands in the watershed and the possible impacts;
- it is also noted that these lands are private property and many in the group support private property rights; and
- the HCW chose not to take a position on the current proposed land exchange in the formal EIS public comment period.

Advisory Council

The establishment of a community-based Hermosa Creek Advisory Council is recommended to continue to allow many diverse people and organizations to *work together* for the betterment of the Hermosa Creek watershed through education, projects, providing public input to the USFS, and mainly: to promote overall stewardship endeavors. It is recommended that this Advisory Council not be included in the Hermosa Creek Legislation but rather that it be set up through a grassroots structure. It is hoped that the HCW can be the beginning of this group. Model programs such as the Verde Valley Group in Arizona can be studied. One major concern is that this group does not become politicized and partisan nor that it functions as a group that is "meeting just to meet." Finally, it needs to be helpful to, and work in concert with, the Public Land Managers - yet be able to give input where it deems necessary. The San

Juan Mountains Association could serve as a role in this endeavor. The Hermosa Creek Advisory Council should be established a non-governmental model. The concept of the Council as well as its mandate does not have to go into the legislation. The vision is a community based effort such as a Council that would operate under a non-profit or another fiscal agent (SJMA was identified as a candidate).

Water

The RPW was established because of the general contentious nature of water across the West, especially in relation to the WSR designation. So, not surprisingly, current and future water protections were discussed at length in this process. After many weeks of deliberation, the following consensus was reached:

The Hermosa Creek Workgroup and the RPW Steering Committee will “circle back” for discussion of additional water protections for Hermosa Creek, and most especially the Wild and Scenic Rivers designation issues, after four remaining public workgroups are concluded in 2011. These public workgroups will be organized by the RPW for the Animas; Piedra; Vallecito Creek/Pine; and the San Juan.

- **NOTE! Here....some verbiage in the actual report has been omitted because it was narrative and background.**

The “circling back” action step does not mean that water issues for Hermosa Creek are being placed on the shelf indefinitely, nor does it mean the WSR designation is no longer an option. It should be strongly noted that the “circling back” for discussion of water issues for Hermosa Creek ***will*** happen, and sooner than originally planned. A new goal was established to finish the remaining public workgroup by 2011, earlier than the original target date of 2013.

By agreeing to this approach, the RPW Steering Committee reiterated their ongoing support to not only fund and conclude the public workgroups across the basin but to set up a structure by which regional negotiations can occur on key water issues,

including ideas, issues and protection tools raised in the HCW meetings. So, discussions on additional water protections on Hermosa Creek are “to be continued” but the land protections, the Advisory Council and other recommendations should move forward now.

The Hermosa Creek Drafting Committee would like to further recommend:

- A letter be send to Congressman John Salazar’s office requesting that he take on this legislation; that his staff be directed to begin drafting the legislation working with the Legislative Council; and that the local staff continue to work with the Hermosa Creek Drafting Committee and Hermosa Creek Workgroup to work out specific details on remaining issues.
- The Hermosa Creek Workgroup report should be completed in January, 2010. The Hermosa Creek Workgroup wrap up its work by the end of January, with additional meetings being called when necessary and once the legislation is crafted.
- The Hermosa Creek Drafting Committee, along with anyone from the larger Hermosa Creek Workgroup who wishes to help, develop a community education and outreach strategy once the report is completed.

ard with legislation if the group is, but he will want to hear from both sets of county commissioners first (San Juan and La Plata). John said if this bill does become law, everybody in this room can be proud. This process, he said, is a model for involving local communities in natural resource issues. The group agreed to send the Congressman a letter and directed that the DC draft the letter to Congressman Salazar asking that the legislative process start. The workgroup will not meet on Feb. 2. No meeting is scheduled until the legislation is more specific.