

**River Protection Workgroup for the Animas River
Summary - Meeting #17, Thursday, January 17, 2013
Kendall Mt. Rec. Center
6:15 to 9:15 p.m.**

Introductions and meeting opening

After a round of introductions, Marsha Porter-Norton, the facilitator, gave an overview of the RPW process and progress of the group to date, including documents available at the meeting and on the website at <http://ocs.fortlewis.edu/riverprotection/animas/handouts.htm>, as well as the ground rules and process principles for the group. She also discussed the forthcoming final report and where and how it will be disseminated.

Review of previous agreements and ideas

Marsha handed out and reviewed a document summarizing the previous agreements and ideas for protection on various segments. Categories on the handout include segment, value, potential tools or ideas, and information needs. This handout can be found on the website. Marsha explained that this is in draft form only for now. There was discussion on the following topics:

Good Samaritan Act

Peter Butler briefly discussed what the Good Samaritan Act is, as it is a consensus point of the group to support its passage. Wendy asked if the group has actually put their name on any particular legislation. The answer is no, as there is no legislation pending at this time.

Iron Fens

Marsha reminded the group that MSI is working on a fact sheet that will be available to the group that will summarize locations and other facts, i.e., current protections in relation to Iron Fens. This document should be ready for viewing very soon. Bill Simon read a statement that he prepared regarding the Fens which will be available on the website. Bill stated that mapping has been done. Nothing in the San Juan County code protects Fens specifically. His conclusion is that sediment impact should never be allowed. He recommended that the FS provide San Juan and La Plata counties with maps of all the Fens, and the counties then implement measures for protection in their land use codes and as part of the permitting process. Todd mentioned that there are county roads above some Fens. Those roads need to be graded. He was concerned about limiting the ability for the county to do road maintenance work. Aaron from MSI stated that the information they are compiling includes any county regulations regarding the Fens. The group will circle back to this topic at the next meeting. Todd also stated a concern about possible unintended consequences of such regulations, as a private landowner with Fens on his property.

Black Swifts

Bruce clarified that the FS could be asked to request an in-stream flow to protect Black Swifts. The CWCB would be the entity to file for an in-stream flow.

Town of Silverton's storage rights on South Mineral

Bruce discussed water in relation to the Town of Silverton. Silverton does have 1965 decreed water rights, with a very early appropriation date. The Town identified

impoundments at that time. As part of the collection system, there was reference to impoundments for Boulder and Gavin Creeks. The Bear Creek decree did not have any specific references to impoundments, but they were referenced in other filing and court documents. They didn't actually decree storage rights, but they were discussed as a part of the water system. Ernie stated that those water storage rights are still active. Bruce feels the group needs to recognize the historic storage rights of Silverton. All in the group agreed.

It was clarified that the Upper Animas referenced (in the document being reviewed as part of this discussion) Cement Creek and above, is different than the Upper Animas – referenced in boater guide books as the segment below Silverton and above Baker's Bridge.

Mineral withdrawal at Animas Forks

Todd clarified that if the federal government acquires patented mineral claims, as is the case at Animas Forks, then there's no mineral entry (ability to develop those minerals). Matt from the FS confirmed this. Bagley mill is privately owned. Gold Prince mill was acquired by the FS. Marsha asked if the FS could bring a map that would include the area and structures. The FS agreed to provide this information at the next meeting.

Howardsville site

Bruce discussed the A-LP project. The original filing included storage rights at Howardsville reservoir which was decreed (approximately 90,000 acre-feet). In 1980 there was a change of water right which allowed alternate points of storage and diversion. The project was downscaled. Lake Nighthorse was built. There are still water rights associated with the Howardsville site. The SW water district is sensitive to the need to recognize the existing water rights associated with the Howardsville site. The dam that was envisioned would have been just below where the county road crosses at Howardsville. Bruce handed out a document with language regarding this issue. This document will be available on the website.

In the interest of achieving consensus, the district can concur with the recommendations of the workgroup, noting that nothing in the group's recommendations may be used to adversely impact the water rights associated with the A-LP project. Kevin asked if A-LP's water right supersedes the Town's water rights. Bruce said no, however condemnation of land for water development could occur, though there are no plans for a dam at this point. Marsha reminded everyone that this group will only make recommendations. Bruce stated that the district holds the water rights. The district itself would not be the recipient of the water, as there are sovereign nations and other states that would be the recipient. Kent asked what the total quantity of storage rights for A-LP is. Bruce said he did not have the exact figure, but with fill and refill rights could exceed 300,000 acre-feet. Current constructed storage capacity at Lake Nighthorse is around 125,000 acre feet.

Marsha asked if the group could acknowledge the letter from Southwest Water Conservation District. Wendy stated that she'd like to sit with this until the next meeting, where a few more questions can be answered. Kevin said he'd like to understand more about the scope of the project. Steve stated that the Howardsville project would back water up to Cunningham gulch and Eureka. Steve stated that SW needs a qualifier so they can be on board with the consensus regarding to no new major impoundments. Marsha asked if the group was ok with coming back to this in the next meeting for a few

minutes. All agreed.

Main Stem of the Animas

Presentation by Suzanne Sellers, CWCB

Animas River at Baker's Bridge Hydrograph

Marsha introduced Suzanne Sellers from the CWCB. Suzanne explained the work of the CWCB as having inter-state and federal sections. Another section is the in-stream flow water rights. Linda Bassi, from that section, has presented to the Animas group in the past. The CWCB created a fund that supports local groups, like the RPW, in exploring options to WSR. Suzanne is also here to support the group technically, which is her role at this meeting. A packet of maps and inventory of potential dam sites was handed out and then presented by Suzanne (this packet of materials will be available on the website). The hydrograph was developed using "StateMod", a program developed by the CWCB. The major reason for the presentation, as requested by the group, was to get an idea of how much water gets pulled through the canyon.

The red line includes water rights on the main stem. Steve pointed out that A-LP water is a portion of the water that is shown reflected on the red line. This hydrograph does not include Hermosa Creek. Todd said that in his opinion, there is a large quantity of water that is allocated and cannot be interfered with (approximately 1,100 acre-feet) and the conditional rights that now exist above Baker's Bridge are minimal. Steve said this presentation, in part, was a way to show that there's enough water in the river to support river rafting on the main stem. Marsha stated that this gives the group information to assess if additional tools are needed to protect the values on the main stem. Bruce briefly discussed the RICD in Durango. Ty noted that this right is not perfected yet. It's conditional at this time.

CWCB inventory of reservoirs and dam sites (SWSI – Statewide Water Supply Initiative)

A dam site inventory was conducted in 1996 as required by the state. They were asked to identify potential sites over 20,000 acre feet. A caveat was that there are no technical plans for these sites and limited field investigations. Tables from dam sites in La Plata and San Juan county (included in the packet of handouts) were discussed including the Howardsville site. It was noted by Suzanne that there is a little ambiguity around some of these sites, and some San Juan county sites were wrongly listed as being in La Plata county.

Conditional and absolute water rights are reflected in the "Storage Water Rights" table in the packet. Storage rights that withdraw only from Elbert Creek or storage rights that were 10 acre-feet or less were not included. The map of storage sites was reviewed. It also includes conditional and absolute water rights. It includes 7 potential sites between Howardsville and Durango – including triangles which are SWSI sites. The yellow and green areas are other storage rights on the river. 19 selected storage rights are reflected. Some have already been developed, i.e., Andrews Lake. Ann asked if there were water rights associated with all of the SWSI sites. Some, like Howardsville, do have water rights associated (A-LP water) – others do not. Bruce reminded the group that Mineral Creek and South Mineral Creek do not have storage sites identified.

Ideas for protection – Main Stem

Marsha reviewed the values the group has identified on the main stem and disseminated a handout reflecting the group's ideas for protection on this segment.

In-stream flow

Discussion and comments

Due to the seniority of water rights below Baker's Bridge, there is an established flow that must be maintained in the canyon if it's naturally available. Kevin said that we have a defacto in-stream flow already via RICD and other senior flows that have to be maintained. It was reflected that what is already being pulled through the canyon may be enough to protect the natural environment which is the criteria that the CWCB uses when evaluating the need for additional in-stream flows.

Summary of discussion

There was no strong support for an ISF in this segment.

Status-quo (meaning current protections are adequate)

Marsha reviewed the current protections in place (per the handout).

Discussion and comments

The train, Tall Timbers and The Coalition that Ken represents have said they are officially opposed to WSR designation. Todd reiterated that the Clean Water Act, county land use codes, and other review processes are required in this corridor. Kevin recommended removing suitability, stating that there's enough water in the canyon now and numerous other protections are in place. Andy would like to keep suitability on the table, as a landowner in Silverton and business owner (Four Corners Rafting). He feels it's a tool for the future, not knowing what will happen in the future. Todd advocated for the removal of suitability because the FS has to manage it as such which could negatively impact uses in the canyon.

Another opinion was reflected that suitability should remain because the economic stimulus of the train and rafting bring in more money than any other use in the canyon currently. Ty stated that WSR designation, with recreation as an ORV, may actually clear hurdles that the train might otherwise have to jump over. Matt J. weighed in that he spoke with the railroad. He said that he told them and feels they have no special protection now in relation to how the FS works with them. If there was a rock slide, for example, the FS supervisor is bound by law and may have to shut down the train temporarily in certain circumstances. With a designation of WSR and an ORV of recreation, the FS has more power to keep the train moving.

Kent asked if there could be a sub-section of WSR that is geographical and might be less threatening to some – a shorter section, for example. Ernie stated that he felt his constituents want to leave it as it is. Ken advocated for status-quo, stating that the federal government will make it more complicated. Ray feels that this section is already well protected. Jimbo encouraged folks to go to the river outfitter websites for the Cache-Poudre. They all state up front that it is "the only river protected by Wild & Scenic status" in the state of Colorado. Ann stated that one of the values is peak flows which is not curtailed on the main stem. There aren't a lot of tools to protect peak flows. She

would prefer to leave suitability on the table to help protect peak flows. Andy stated that an economic impact study in 2005 showed the impact of rafting in Durango was 19 million users???. An individual present called the rafting companies on the Cache-Poudre. He said they felt the pros by far outweighed the cons of WSR status.

Summary of discussion/range of opinions

- Drop suitability
- Leave suitability
- Consider suitability in certain sub-sections

Letter from Todd Hennis

Todd read a letter that he submitted to the group voicing opposition to WSR. He feels that WSR will impair the ability to extract minerals which may be needed for national security. He feels that the plethora of regulations serve to meet management needs. He also feels the group is biased towards WSR.

Letter from commercial outfitters

Andy read a letter from four commercial outfitters that hold permits on the Upper Animas. The letter cites the values of the Animas including recreational. The Upper Animas is one of the nation's top whitewater destinations. The Animas has over 45,000 rafters per year. They are supportive of the RPW's collaborative process. They support the Values Statement which they feel reflects values that are worthy of permanent and durable protection. They support WSR designation as a valuable marketing tool.

Next meeting – February 28

We will continue the discussion of the main stem and review Bill Dodge's proposal.