

**River Protection Workgroup for the Animas River
Summary - Meeting #16, Thursday, November 15, 2012
Kendall Mt. Rec. Center -- 5:30 to 8:30 p.m.**

Introductions and meeting opening

Facilitator Marsha Porter-Norton opened the meeting by stating that the intention for this meeting is to finish our work on Mineral and South Mineral Creeks, and then to move to a discussion of Cement Creek, the Upper Animas, and the small section of Cement Creek that goes through the Town of Silverton. At the next meeting (January), we will turn to the main stem of the Animas River, which will conclude the process of seeing if the group can come to agreements on protections, by segment, and/or if they wish to also reflect a "range of viewpoints" on certain ideas. The group will then discuss the watershed as a whole, exploring ideas for the future and determining if the group would like to weigh in on any watershed-wide ideas or not. Marsha reminded the group that one member, Bill Dodge, crafted a watershed-wide council approach on the table, which is now available as a handout for review.

A member asked why we were discussing segments of the river that haven't been found to be suitable for Wild & Scenic River designation (WSR) by the BLM or USFS. The group previously agreed to include these segments in discussions in order to take a broader approach, including looking at water quality issues in the entire watershed.

Ken E. asked that the letter to the RPW Steering Committee from the *Keep it Like it is Coalition* be made part of the minutes of this group. Marsha said the group hasn't seen the letter(s) and they would need to in order to discuss and decide whether these letters appear in the final report or not.

Review of previous outcomes of segment-by-segment discussions from the group.

The group summarized the previous agreements and ideas for Mineral and South Mineral. Please refer to the handout "Agreements and Ideas."

Additional comments from this meeting/discussion

- ❑ Steve F. clarified that even if the group recommends no new major impoundments on the Main Stem, there would need to be follow-up work on that point. Specifically, Bruce Whitehead would like to add some language clarifying how this agreement relates to the Animas-La Plata Project (A-LP). Marsha will see if Bruce can offer some clarifying language.
- ❑ Jimbo B. asked about the Howardsville storage sight. Steve clarified that the storage right and any diversions are not federal issues but rather state issues. The diversion right still exists. In a future meeting, Bruce W. may be asked to clarify how the Howardsville site is tied to A-LP.
- ❑ Ty C. asked for a clarification on whether the SWSI (Statewide Water Supply Initiative) site identified with A-LP was the Howardsville site. Steve said yes. Ty also asked if there was a SWASI site identified in the main canyon. Steve wasn't aware of a SWSI site there. Ty asked if Bruce could talk more about SWASI sites. Marsha said that Suzanne Sellers from the CWCB would be the best person to share more information about this topic. There is a SWSI site map on the Web site but she said the level of detail is too generalized (and small) to be able to determine where the SWSI dam sites actually are located.

Summary of discussion/range of opinions (from 10/25 and 11/15/12 meetings)

- Consensus on no new major impoundments on the Main Stem. (Again, Bruce needs to add some clarifying language here.)
- More information needed on Howardsville storage site and relationship to A-LP.
- Information needed on whether there is a SWSI site in the main canyon.
- More information requested on SWSI sites in general.

Mineral and South Mineral Creek - Opportunities, Consensus Findings and Range of Opinions (continued from October 25, 2012 meeting) The group again referred to the segment worksheet and had three additional areas to discuss that were brainstormed as protections at previous meetings. They include:

√ **Water Quality:**

- ☒ Steve conducted a brief review of water quality projects that have been conducted on these two segments, done by the Animas River Stakeholders Group (ARSG). The projects have greatly improved water quality standards.
- ☒ Kevin B. reiterated that the ARSG is doing great work and said he thought this group had agreed previously to both affirm their work and not duplicate their work. Marsha said yes, that is correct. Ty also acknowledged the Animas River Stakeholders work in improving water quality and its importance to the recreation-based economy down river both in the area and downstream.
- ☒ There was again consensus reached to support the work of the Animas River Stakeholders.

√ **Status-Quo:**

- ☒ Marsha stated the protections in place now reading from the segment-by-segment spreadsheet.
- ☒ Todd H. said that the high level of protections already in place works. Preserving economic attributes (access to minerals especially) to this area is important. He favors status quo as a current management plan, without suitability.
- ☒ Ken E. supports this position as well.
- ☒ Steve F. asked the group if status quo meant leaving suitability in place. Marsha noted that on page 3 of the segment-by-segment analysis worksheet, this was addressed: a) Status quo could mean no suitability or b) another version of it could mean leaving preliminary suitability in place, as it is in the draft USFS plan now. There are two ways of looking at "Status Quo" when it comes to the issue of Wild and Scenic Rivers. Note: These segments, along with the Main Steam, are currently "preliminarily suitable" in the draft Forest Plan. The reason they are "preliminarily suitable" is because the Plan is not out in final yet.
- ☒ Mark Stiles with the USFS, clarified that related to the Forest Plan, after the final EIS (Environmental Impact Statement) and Record of Decision (ROD), there will be no comment period. There will be an appeal process on the plan. This was a question raised at the last meeting.
- ☒ Ray F. feels that status quo is more than is necessary to protect the values now.
- ☒ Ty stated that he's ok letting WSR go but there are those who are in favor of it. He feels that leaving the river as suitable is a potential trade-off for not pushing for WSR designation.

- ✦ Marsha clarified that no one in the group has stated being in favor of designation of WSR status so far.
- ✦ Ken E. said he doesn't feel it's a compromise, as nothing would be given up.
- ✦ Marsha asked Mark S. to clarify the difference between suitability status and actual designation. Mark replied that the obligation of the USFS, when a segment is found suitable, is to ensure that any actions don't negatively impact the identified ORVs. For example, if a power line was proposed along a "suitable" WSR segment and if the ORV was scenery, the agency would likely have the power line moved up higher in the canyon out of view -- so as not to impact the scenery ORV. (Note: This was given as an example of how a value might be protected under suitability for WSR.)
- ✦ Darlene M. asked if the USFS could leave these segments as preliminarily suitable or do they have to move to suitability. Mark said it was preliminarily suitable because the Forest Plan is not final yet. So, it could stay as suitable when the plan comes out but making it permanently a WSR, as has been stated many times, take Congress to act (via a legislative bill).
- ✦ Sandy Y. asked if this group has the type of influence to impact the USFS plan at this stage of the game. Mark said the group was recognized in the plan as being a group looking at options. He said he wouldn't suggest that the group give the USFS a recommendation, but the report may be cited, in terms of what's in the public arena. Marsha reminded the group that there is the WSR issue and that the FS will be paying attention to also, the group has a chance to look at many ways to protect values just like it has done in previous meetings around values on Mineral and South Mineral. This isn't just about WSR.
- ✦ Ken asked Mark how they manage suitability – is it based on Wild and Scenic? Mark said they manage for the specific identified ORVs.
- ✦ Kevin stated that he's against suitability because OHV (Off High Vehicle) use isn't included in the recreation ORV.
- ✦ Jimbo B. stated that he would like to see full designation of these segments as Wild and Scenic Rivers. He feels the USFS has identified ORVs but that there are other values that the group came up with that need permanent protection.
- ✦ Questions were asked about the final report and what would be included. Marsha stated that the range of opinions and any consensus points would be reflected. The group is a community process and is not formally advising the USFS or BLM, she noted. She said that members may want to look at the reports done by other groups to see how the various ideas and points of consensus or range of views are reflected. Links to these reports will be sent out and the reports are on the RPW Web page under each group's section.

Summary of discussion/range of opinions for Mineral and South Minerals

Water quality was cited as something everyone agrees needs to be worked on and everyone agrees that the work of the ARSG should continue and be supported.

As far as WSR and/or status quo, there were no additional agreements made tonight for the last remaining tools discussed. Some believe that keeping things status quo, as a general over-arching direction, is the way to go. Others feel that either WSR suitability or full designation is a way to go to fully protect the values in perpetuity.

Upper Animas above Cement Creek - Opportunities, Consensus Findings and Range of Opinions

Marsha reviewed ideas for protection and values previously brainstormed by the group in the segment-by-segment analysis sheet. These are available as a handout at meetings and on the web at

<http://ocs.fortlewis.edu/riverprotection/animas/handouts.htm>

- ❏ Ty clarified that the segment-by-segment analysis sheet stated there are 600,000 visitors per year, and it should state there are 600,000 visitor "days" per year, and asked that this be corrected.
- ❏ Todd said a large value was missed which is private property rights. He felt that all five of the first ideas for protection on the handout take away from private property rights. The primary value up there is minerals, and much of the area is on private property vs. patented claim areas.
- ❏ Jimbo asked if, on BLM land, there was a designation of an Area of Critical Environmental Concern, how that would take away from private property rights.
- ❏ Todd stated that withdrawal of access to private lands or adding such a level of bureaucracy would make it impossible for a private property owner to realize their minerals because it would be difficult to access them. Todd also stated that it's difficult to access minerals without touching federal lands because of the patchwork nature of land ownership in this area. Access and regulation are Todd's main concerns.
- ❏ Bob asked if the USFS recognized mineral deposits as an ORV. Mark stated that there is no WSR-related ORVs on this segment.
- ❏ Ty stated that the only Areas of Critical Environmental Concern (ACEC) in the area are on the Lake Fork side, not in this watershed.
- ❏ Ernie C. stated that San Juan County has passed a resolution that they will not support any additional Wilderness Study Areas. Ty asked for clarification on this and they agreed to talk about it outside the meeting.
- ❏ Marsha asked if there was anything this group could agree to in this segment, which led to the discussion points below.

√ **Status-quo:**

- ❏ Kevin said he supports status quo. Marsha read the current protections to the group, as listed on the segment-by-segment analysis sheet, which is reflective of status quo currently.
- ❏ Ernie stated that he'd like to see a withdrawal of any new major impoundments in this area including the Howardsville SWSI site. All agreed.
- ❏ Ty asked if the Handies Peak Wilderness Study area is included in status quo. The group agreed that yes, it is.
- ❏ Jimbo asked about potential conservation areas and how they fit into the status quo. Mark said he couldn't answer that accurately at the meeting, as follow-up is needed with the BLM.
- ❏ Ty asked if there are any protections for water quality in Cunningham Gulch. Mark said nothing different than anywhere else. Steve clarified that water quality up there can't be degraded. There is an ISF there now to protect quantity.

Summary of discussion/range of opinions

- Consensus was reached on no new major impoundments including the Howardsville SWASI site (with the caveat that we need to understand how this site relates to A-LP and get language about existing agreements in place).

- Consensus was reached that status-quo should remain in place for the Upper Animas (this means that all current protections are adequate to protect the values).

✓ **Mineral Withdrawal:**

- ❏ Steve asked if there was a need for any mineral withdrawal given the current regulations in place.
- ❏ Ty said there are some that would like to see no impact on public land in relation to private mineral development. Ty said he is not advocating for mineral withdrawal himself.
- ❏ Ray said that when you stake a claim, it doesn't mean you own the land. The USFS has acquired numerous patented claims that were previously private.
- ❏ Mark asked if Animas Forks, for example, would be a place, due to its historical nature, that could be considered for mineral withdrawal. More research is needed on this specific area, as Todd didn't feel that mineral withdrawal was an option there anyway. The group agreed to get more information and possibly revisit this.
- ❏ Jimbo asked about protection of municipal watersheds. According to Ernie, the Boulder and Bear Creek watersheds are protected under the land use code of San Juan County.

Summary of discussion/range of opinions

- No consensus on mineral withdrawal except the group agreed to get more information on Animas Forks and if a mineral withdrawal is currently in place there.
- Some feel current regulations are adequate to protect against impacts of mining on values

Cement Creek - Opportunities, Consensus Findings and Range of Opinions

Marsha reviewed ideas for protection and values previously brainstormed by the group in the segment-by-segment analysis sheet. This is available as a handout at the meetings and on the web at:

<http://ocs.fortlewis.edu/riverprotection/animas/handouts.htm>

- ❏ Ty asked what "clean up the river" means in the segment-by-segment analysis sheet. The group agreed that this means improving water quality. Ty also asked that the typo economic "corder" be changed to economic "corridor" under values. All agreed.

✓ **Iron Fens:**

- ❏ It was clarified that Iron Fens are not viewed as ORVs, as this segment was not found to be suitable. (Remember, ORVs or Outstandingly Remarkable Values are values deemed by the BLM or the USFS in their Plans.)
- ❏ Todd said that he owns land in this segment where a large portion of the Iron Fens are located. He assured the group that he's doing nothing that would threaten them and that there are already laws in place that mean they cannot be harmed or if they are, there has to be mitigation.

✓ **Status-quo:**

- ❏ Todd said the Animas River Stakeholders Group is looking at this whole segment very closely. He feels there is a strong case for preserving status quo. One of the possibilities is a treatment plant for water. Other mechanisms are also being explored.
- ❏ Ray said there is potential for doing stope-field technology which could improve water quality.
- ❏ Marsha asked about water quality improvement efforts by the Animas River Stakeholders Group. Steve said there is significant mineral loading from mines in this area into the creek. The reason is hard to explain (human caused or natural?). They are currently investigating how best to address this. Many proposals are on the table. Designation of the area as an EPA Super Fund site is not occurring now. It is being watched by the EPA to see if the work of the ARSG and others will make a difference.
- ❏ Ernie said there have been improvements to date and there is potential for the future.
- ❏ Jimbo asked how the group might want to support Good Samaritan legislation.
- ❏ Steve said a Good Samaritan provision would enable a lot of good water quality efforts to move forward.
- ❏ Darlene said that one of the reasons Congressman Scott Tipton's office is involved is because Congressman Tipton and Senator Udall are both interested in Good Samaritan efforts.
- ❏ Ty said TU wouldn't stand in the way of improving water quality work on Cement Creek and is supportive of Good Samaritan legislation.
- ❏ The group found consensus on supporting Good Samaritan legislation.
- ❏ Consensus was found on status quo (meaning current protections in place are adequate to protect values).

Summary of discussion/range of opinions

- The group reached consensus on supporting status quo (current) protections and supports the work of the Animas River Stakeholders.
- The group found consensus on supporting Good Samaritan legislation efforts.

October 25, 2012 Minutes review

Page 9: Darlene would like it clarified that, should the group recommend an ISF to protect Black Swifts on South Mineral Creek, Senator Tipton's office would want to make sure it's analyzed carefully so there are no unintended consequences of doing so. She said she supports the concept of an ISF but just wants to ensure study of all homework is done on impacts.

Next meeting: January 17, location TB

Marsha handed out the hydrograph for the Animas as produced by Suzanne Sellers with the Colorado Water Conservation Board. The point of the hydrograph, she said, is to understand how much water is being pulled through the Animas River Canyon by the existing water rights. Also, a hydrograph helps everyone understand how the flows function (amount wise). Suzanne will explain the hydrograph in detail at the next meeting. Marsha asked for any questions to be fielded to her about the document ahead of time so she can have Suzanne come prepared to answer them.