

Answers from Roy Smith, State BLM Office
Re: questions raised about WSR
1/12/12 Animas meeting

1. How would a mineral withdrawal work, if this were to be a tool used, in relation to WSR? And in general: what affects, if any, would a WSR have on mining?

A wild and scenic river designation doesn't automatically withdraw all minerals within the designated stream corridor. As Mark Stiles stated, the only time minerals are withdrawn is if a stream segment is classified as "wild." So, if a stakeholder group wanted to legislatively withdraw all the minerals within the designated corridor, the stakeholders would need to ask the Congressional delegation to include a mineral withdrawal in the Wild and Scenic legislative language, or the stakeholder group would need to ask the Congressional delegation to pass separate legislation that orders a mineral withdrawal.

2. Are water rights impacted by the ¼ mile (I am pretty sure the answer is no, water rights are not affected by the ¼ mile.....but the water rights come into play in terms of the designation and at that time. At that time, quantification happens and the quantification is related to the values and the water needed to protect the values. Correct?)

The water rights that would be claimed by the federal agency are not typically related to the width of the designated stream corridor. As you stated, the water rights are most directly related to the values that are to be protected. In most cases, the water right claim is restricted to flows in the stream channel. In rare cases, where other hydrologic features are specifically called out as an ORV, (such as springs, seep, hanging gardens, and streamside lakes), the water right claim might be extended to cover water flowing from those features.

3. Would San Juan County be responsible for paying EMS and Corner costs if it's designated WSR? Or, would those costs be transferred to another entity?

A Wild and Scenic River designation does not incorporate funding to cover EMT and coroner costs. However, if a river is designated, the managing agency typically receives additional funds to manage the stream segment. Federal agencies aren't authorized to cover EMT and coroner costs, but the funds can be used for river ranger and educational services that help reduce the number of accidents and safety issues.

4. Would a WSR affect the operations of the train and if so, how? Specifically, if the train would need to get in to do some work, including clearing the tracks, how would a WSR designation affect this action? What are all the effects on the train that the group should know about?

The train operates on a right-of-way that is a pre-existing right, and W&SR designation doesn't curtail pre-existing rights. If maintenance needs to occur within the right-of-way, W&SR designation would not affect the ability to perform that maintenance. The only time there might be an effect is if the railroad needs to work outside of the right-of-way, such as stabilizing rock faces to prevent rock-fall. In that situation, the railroad would need a permit or emergency work authorization from the managing agency to do the work, but they would need that authorization whether or not W&SR designation were in place. In processing the authorization, the federal agency would work to minimize any impact on the ORVs.

5. Can the ¼ mile corridor be “shrunk down” to accommodate the train or a mineral withdrawal in some places?

Yes, the ¼ mile corridor can be adjusted to accommodate other uses. The adjustment needs to be placed in legislative language at the time of designation, or the legislation needs to authorize the managing agency to make adjustments.

6. Also, at a previous meeting, there was interest in seeing if the economic benefits of a WSR could be demonstrated or quantified in some way. Is there some type of study out there that could be considered objective that quantifies what a WSR brings to a community in terms of economic impact?

I'm not immediately aware of any studies, but if the group is interested, I can inquire with the interagency Wild and Scenic Rivers Council to see if they are aware of any studies. Before doing that, it would be worthwhile to peruse the www.rivers.gov website to see if there is any readily available information.