

Piedra River Protection Workgroup  
Meeting #4 January 17, 2012 5:30 p.m.  
Ross Aragon Community Center, Pagosa Springs

Next Meeting: Tuesday,  
Feb. 21, 5:30 p.m.  
Ross Aragon Community Center  
451 Hot Springs Road  
Pagosa Springs, CO

**Meeting agenda:**

1. Development of a collective values statement for the Piedra focus area
2. Discuss and identify conservation easements within the Focus Area
3. Discuss river protection tools
4. Presentation on Colorado water law
5. Report on local geology
6. Identify additional information

**Meeting Summary:** A brief overview of the River Protection Workgroup was presented by Chuck Wanner of Trout Unlimited. He emphasized the goal of discussing issues in a community forum and identifying people's particular values regarding the Piedra River Watershed. John Taylor agreed, noting that common ground can be found between different users using a collaborative approach.

Handouts on the area's geology features were provided and John Taylor gave a description of the regions' geologic history and rock layers dating back hundreds of millions of years. (See handout) Facilitator Tami Graham noted that the geology features within the Middle and East Forks of the Piedra River were listed as one of the Outstandingly Remarkable Values (ORV) by the San Juan Public Lands Center 2007 Draft Management Plan. The plan identified 50.12 miles of the Piedra River as "preliminarily suitable" for Wild and Scenic River status.

The group discussed various protection measures for the Piedra Watershed. It was agreed that to prevent regulation overlap, identifying which protections were already in place for the area was essential to determining if current protection are adequate, or more was needed.

**Conservation Easements:** Conservation easements on private property within the Focus Area were discussed as areas with some measure of protection, and were identified by residents on maps. Conservation easements are a legal tool that private landowners use to curtail unwanted development on their land in perpetuity. The easement land is put into a trust with a land conservation organization, which manages the health of the land with landowners, limits additional development and preserves agreed-upon traditional

agricultural uses. Conservation easements are legally binding agreements and apply to current and future landowners of that property.

Several conservation easements were identified within the Focus Area. The Focus Area comprises the watershed of the Piedra River upstream of Colorado Highway 160 and encompasses San Juan National Forest land, Weminuche Wilderness, private land and Archuleta, Mineral and Hinsdale counties.

The conservation easements identified within the Focus Area include:

- Weminuche Valley Ranch (2,500 acres) Hinsdale County, Weminuche Creek
- Notch Ranch (2,400 Acres) East Fork of Piedra River
- Piedra River (160 acres) Hinsdale County (Colorado Open Lands)
- Kleckner Ranch, 2 parcels @ at least 18 acres
- Lynd Easement, The Nature Conservancy, one parcel @ 40 acres
- Tres Piedras Ranch, SWLA, 2 parcels @ 77 acres

It was noted that the Colorado Cattleman Agricultural Land Trust and Southwest Land Alliance held some of the easements.

### **Wild and Scenic History/Piedra Area discussion**

There was discussion of a previous attempt to create a Wild and Scenic River designation for the Piedra River basin in the 1970s. There was initially support for the extra protection wild and scenic status would provide because large tracts of private land in the Upper Piedra Reach were potentially going to be developed. However, support for the Wild and Scenic plan began to erode after the Nature Conservancy purchased a large ranch in the area and donated it to the USFS, thereby eliminating development possibilities there.

John Taylor recalled that after potential development on private land was erased by the Nature Conservancy's purchase and donation of the land, the community opposed the Wild and Scenic proposal. He said the Piedra Special Area and Weminuche Wilderness Area were created as a part of a compromise to take Wild and Scenic status off the table for the Piedra.

Becca of the Forest Service said that the enacting legislation that created the Piedra Area and Weminuche Wilderness Area would be made available. Jimbo Buickerood, of San Juan Citizens Alliance, noted that there is very little mentioned about the Piedra Area in the Colorado Wilderness Act which established the special management area. He said two paragraphs describe some trails and water collection information. The Piedra Area constitutes 60,341 acres of the Piedra River Watershed above US 160 and includes 6 miles of the Piedra River. The Piedra Area lacks implied water rights protections associated with wilderness areas.

### **Water 101 discussion**

Bruce Whitehead, Director of the Southwest Water Conservation District, gave an overview on the complexities of water law and water management locally, within the

state, and federally. The Piedra River and the San Juan River are part of Division 7 of the Colorado Department of Water Resources. For the complete Water 101 presentation go to <http://ocs.fortlewis.edu/riverprotection/piedra/resourceDocuments.htm>

Whitehead explained an unresolved water case regarding the USFS claim to a federally reserved water right (FRWR) on the date the forest was created by Congress. In Southwest Colorado, national forest lands, including those now belonging to the San Juan National Forest, were reserved by Roosevelt in 1905.

USFS claims there is reserved water right as part of the National Forest in order to preserve the stream-channel geomorphology for waterways on the Forest. Whitehead said FRWR can predate existing water rights including any attached to a Wild and Scenic river designation. However, the FRWR cases for streams and rivers in the forest have been pending for 10 years, Whitehead said, and that the inventory of all streams and rivers crossing National Forest in SW Colorado have not been quantified at this point. Negotiations in the case stalled in 2003.

**Southern Ute Tribe:** South of Highway 160, The Piedra River crosses the Southern Ute Reservation. The tribe has water rights on the Piedra River dating to the creation of the reservation, Whitehead said. The Southern Ute Reservation was created by treaty in 1868 and included the western one third of Colorado. It was reduced in 1873 as part of the Brunot Agreement, and then to its present size in 1918.

There are three trans-mountain diversions within the Piedra River Basin that direct water into the neighboring Rio Grande Basin. The Don La Font 1 and 2 are Colorado Parks and Wildlife diversions. The Williams/Squaw diversion is private.

Whitehead noted that Colorado is ahead of many states in that it recognizes diversions from groundwater have an impact on downstream flows. He added that Colorado has a good record of working out water issues before they go to court. Regarding the Piedra, he said there could be adequate protection currently, or it may need more. The only other Wild and Scenic River in the state is for a section of the Poudre River, and the state legislature only moved forward on that because of favorable community support.

Whitehead discussed in-stream flow protection (ISF), which is the minimum amount necessary to protect natural environment. ISF is designed for a stretch of river rather than for a particular point as other water rights do. An in stream flow is an in-channel appropriation of non-consumptive water between two specific points and is appropriated by the Colorado Water Conservation Board for the purpose of protecting the natural environment to a reasonable degree.

John Reed, owner of the Sportsman Campground, asked whether you have to report water rights you don't use. Bruce said no, it just goes down to the next person downstream. However, if there is a call from a senior water right on a junior water right upstream, then that water must be used for beneficial use by the senior call. Failure to use your water rights over an extended time for a beneficial use could lead to loss of those rights, known as abandonment, under state water law. Stan Whinnery noted that

there is a bone of contention regarding environmental flows because that water right is simply sent downstream.

10 minute break

### **Discussion on current protections in Focus Area**

Stan Whinnery, Hinsdale county commissioner, spoke of the danger of overlapping regulations and unintended consequences of overly restrictive planning and zoning. He said “be careful what you wish for” and gave an example of counties that have trouble getting around their own regulations when they want to provide a public service of some sort for the community.

The group wanted more information on conservation easements and other regulations within the Focus Area including:

- What are the terms and conditions of each conservation easement, including how many linear feet of streams and rivers are included, total acreages, and what, if any, water rights are associated with them?
- What protections, regulations and zoning measures do Archuleta, Hinsdale and Mineral counties have in place for the Focus Area?
- What are the specific protections provided by the San Juan National Forest within the Piedra Area.

Steve Fearn said the Piedra’s potential as a candidate for Wild and Scenic status is the initial driver for this particular River Protection Workgroup, but that the values of the broader watershed are also important. One approach is to define potential conflicts or threats that Wild and Scenic designations may have on the values of others, he said. Sorting out why one thing is a threat to one user but a value to another is an important aspect of finding solutions to keep the area from being over run.

Chuck Wanner, of TU, added that listing current protection tools for the Piedra in detailed fashion is needed. Once the details are known then protection gaps, if any, can be identified. He said TU’s interest is in long-term protections that have more endurance than the Forest Management Plan thereby insuring the river’s current healthy condition is not chipped away at in the future.

### **Discussion on watershed focus**

Facilitator Tami Graham asked the group if there was consensus on working to protect the broader watershed of the Piedra, and not just the East and Middle forks.

A discussion ensued on the topic of looking at the bigger picture of the Piedra drainage, not just particular stretches or basins.

Steve Fearn agreed a broader approach was a logical strategy because the watershed is an interrelated system.

John Taylor said the entire Piedra Basin should be looked at because all the streams that feed the Piedra have an effect on the river. He noted that Wild and Scenic status only protects the immediate corridor of the river.

John Reed of Sportsman Campground agreed with the wider view as well. He commented that without a healthy watershed we will have an unhealthy stream, so it all works together.

Wendy McDermott said the Piedra's remoteness and close connection to the local community made focusing on overall watershed health a good approach.

Jimbo Buickerood saw firsthand how diversions upstream can impact fishing quality downstream.

Whinnery noted that 96 percent of Hinsdale County is managed as federal public land, leaving little land left over for county management. He stressed the importance of protecting historic agricultural values on public land, such as grazing, and asked the group to consider how proposed policies will affect the communities 40 years from now.

**Consensus:** Facilitator Tami Graham concluded that there was consensus within the group that focusing on preserving the health of the watershed as a whole, not just the river corridor, was important. No one disagreed.

### **Hinsdale County regulations**

Ray Ball, Hinsdale Planning commissioner, discussed the Hinsdale County Upper Piedra District planning regulations. The plan is designated to implement the Hinsdale Upper Piedra Comprehensive Plan by preserving the natural character of the Upper Piedra and accommodating agricultural-related uses along with low density residential development.

Some aspects of the **Hinsdale County Upper Piedra District plan** include:

- Protecting right to farm and ranch
- Development sites shall be clustered and low density to minimize impacts on wildlife and habitat
- Restricts development on riparian habitat if such an area exists on a lot or parcel
- Mitigate development impacts on riparian habitat areas
- Roads, and most structures, shall be located at least 50 feet from the high water line of all streams, rivers, wetlands and riparian habitat areas.
- Culverts that may become barriers to fish passage shall be prohibited
- Commercial or industrial development and open pit mineral extraction shall be prohibited.
- Preserves natural character of Upper Piedra River
- Requires Special Use Permits for higher impact uses, including gravel mines, telecommunication towers, guest ranches, lodges and/or campgrounds
- Limits on building near steep slopes to protect river drainage
- Requires roads and driveways to have set backs from drainages and waterways to reduce erosion.

For more information on the Upper Piedra District planning regulations go to [www.hinsdalecountycolorado.us](http://www.hinsdalecountycolorado.us) and click on land-use tab. The Upper Piedra District zoning rules begin at section 2.5

Ray Ball explained the one technique Hinsdale County uses to gage support for land-use plans. Surveys of every property owner is conducted on proposed regulations. If

80 percent agree than a management tool is created to address the issue. If only 50 percent agree with the proposal, it is dropped.

Jimbo Buickerood said that county planning and zoning is important piece of the puzzle to secure the character of the area and that plans need teeth to insure those values are protected long term.

John Reed noted that one area prone to development is along the Piedra Road. He said a lot of Hinsdale County were concerned with development there. Ray Ball added that in 2004, there were just 75 property owners on the south side of the county, but now there were 100. He wondered if current development restrictions were not in the Piedra District land use plan, how many more private-property subdivisions there would be today.

John Taylor pointed out that the Piedra watershed is managed by the Forest Service, but local counties have to communicate on a permanent basis with forest officials what local needs, values and uses are for public lands.

Meeting adjourned at 8:30 p.m.

**Next Steps:** The next meeting will be Tues. February 21, 5:30 p.m. at the Ross Aragon Community Center, 451 Hot Springs Blvd. Pagosa Springs.

The agenda will include:

1. Discussion of additions and/or changes to the values statement
2. A review of updates and/or additions to the information sheet
3. Discuss in detail the current protections that are in place
4. Identifying potential conflicts or contradictions with protections
5. Assess next steps for the Workgroup