

## San Juan River Workgroup

Meeting 7 Summary

Oct. 28, 2010

Final - 5 pages

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**NOTE: The Web site for the River Protection Workgroup, including the San Juan River Workgroup, is <http://ocs.fortlewis.edu/riverprotection>.**

**Information:** Facilitator Marsha-Porter Norton reviewed the purpose, principles and ground rules of the group for new attendees.

**Clarification on basin-wide discussion:** Steve Fearn of the Southwestern Water Conservation District, a member of the River Protection Workgroup (RPW) Steering Committee, clarified the concept of the basin-wide discussion of water protections. He explained that there are five different sub-basins in the San Juan Basin, all involving different communities. A separate but similar workgroup process is planned for each. The Hermosa Creek Workgroup has finished its process, and all the key parties were able to come to consensus on a plan. A key component of that plan is a proposal for legislation to make part of the watershed a wilderness area, leave another portion un-roaded, and allow some of the watershed to remain open to mining and/or logging. The group produced a detailed report containing its recommendations.

Steve said the expectation is that the San Juan River Workgroup will also produce a report, which may or may not recommend additional protections for the East and West Forks. Three other workgroups will go through similar processes, and in the end there will be five reports. Steve said there is a segment of the population that wants to see one more Wild and Scenic Rivers (WSR) segments designated in Southwest Colorado. He said Hermosa Creek is probably the most likely candidate for such designation. The water community has some concerns about the idea, but these concerns may be able to be mitigated through different measures. However, the proposed Hermosa Creek legislation does not address WSR status or water issues because it was agreed that it would be best to wait until all the workgroups have made their recommendations before deciding whether to propose Hermosa Creek as a WSR.

Steve said one of the concerns is that a potential reservoir site has been identified in the upper Hermosa watershed, and before the water community agrees to let the site be abandoned under a WSR designation, they would like to have an "offset" to ensure that the people who would be served by that reservoir site could be served by another site somewhere else.

Steve said whatever the San Juan Workgroup decides through its process, those recommendations will not be changed by anything occurring in the basin-wide discussion.

Meghan Maloney of the San Juan Citizens Alliance (SJCA) said it's important to clarify that the basin-wide discussion will not be about only WSRs, but water protections in general.

It was asked who will take part in the regional discussion. Marsha said the RPW Steering Committee will be involved with representatives from each workgroup as well. Marsha stated

that the specific format of the basin discussion including how it will all work is being developed and asked for anyone to give ideas who have them. Mely Whiting of Trout Unlimited said there should be fair representation of all interests, including people for and against WSR designation.

It was asked who will be included in the workgroups that will be formed in 2011 (for the Piedra and Animas rivers). Marsha said anyone can come to the workgroup meetings but likely the Piedra will involve many people who have been interested in the East and West Forks of the San Juan.

Michael Whiting asked for clarification on Steve's mention of an "offset". He said he doesn't want to see an area such as Archuleta County become a "sacrifice zone" to get rid of a potential reservoir site somewhere else. Michael said more people live in La Plata County than Archuleta County and their needs would tend to outweigh those of surrounding counties. Steve said that would have to be decided; perhaps Lake Nighthorse could be considered the offset. Marsha said Michael's concern is real and needs to be recognized. She said the idea is to meet the needs and interests of as many people as possible.

It was asked to whom the report will be given, besides the Forest Service. Steve said the San Juan watershed involves three counties, and those county commissioners should receive the report. Other interested entities and the public at large will receive it as well.

John Taylor of Hinsdale County said it is imperative for the group to come up with its own recommendations as an alternative to the Forest Service's WSR suitability/eligibility findings for the West and East Forks. He said any Congressperson could introduce legislation to designate these rivers a WSR, although he does not believe any WSR has been designated yet that was opposed by the local congressional representative.

There was discussion of John's idea to create a local committee to advise the Forest Service on management of the San Juan watershed. Marsha said if that recommendation is included in the final report, it will mean the local community will have to step up and be involved, and work out the details. Michael asked how the committee would be set up. Marsha said there are two broad directives. It could be a local group formed ad hoc or under the wing of a non-profit; such a group would be informal, but would have bylaws. The other option would be a formal group sanctioned through the Forest Service with members chosen under federal laws and processes. Such groups' recommendations are generally given greater weight. More information is needed.

Steve said the down side of a formal group is that the Secretary of Agriculture would appoint the committee members. The Hermosa workgroup decided they wanted their advisory committee to be more informal and grassroots-based. The San Juan group will have to decide how it wants its advisory committee to be structured.

Pete, Tom, Kurt, Rusty, Lucille, Gail, J.R., Tom, Kathy, Mely, Michael, John, Ray and Don Weber all indicated an interest in looking at the council. Steve said the Southern Ute tribe needs to be involved too.

Marsha said Nancy Lauro, a consultant with an expertise in land use issues, is working on answering the questions the group had at its last meeting. This information will be e-mailed to the group members.

**Continuation of discussion on West Fork (private reach):** Marsha started by noting a handout of the agreements/ideas discussed last time (see below on pp. 6). She further said the wording of both conservation easements covering the West Fork are available to be examined. There are two easements on the private land along the West Fork, both on the Boot Jack Ranch. She said the one held by Colorado Open Lands is very restrictive, allowing only two home sites and only agricultural uses.

Kathy Weber said she thinks the easements are adequate protection. Buck Skillen of Trout Unlimited agreed. He also said Boot Jack is a gorgeous, valuable piece of property and it is highly unlikely anyone would allow a gravel pit in the middle of it.

John said WSR status is a superfluous protection in a wilderness area, and if there is a need to further protect the river on private land, something similar to the South End Hinsdale County plan could be utilized.

Marsha noted that Bob Formwalt, who could not be present tonight, had brought up the idea of an overlay of a zoning district that would encompass both public and private land. He suggested at the last meeting that if done correctly, this could work, to protect values but could avoid the more restrictive and less popular WSR suitability status. Marsha stated that after doing very preliminary research, she believes it is possible to create such a district. This would not mean the county would *govern* public land, but an intergovernmental agreement could be crafted between the county and Forest Service. Steve said if this group decides to recommend such a zoning district, the details would be worked out later by those most affected. Steve said Bob had raised the idea and the group should look to him to provide more details. Others said this should not be recommended unless the landowners up the West Fork want it.

Ray said the overlay zoning district would have to be put together by the planning commissions and county commissions of both Archuleta and Mineral counties. He said it is important to recognize that the Forest Service's WSR suitability finding is already in place in the draft 2007 Forest Management Plan, and if this group does nothing, that recommendation will remain in place. He said it is possible a Congressperson from another district might propose something the locals wouldn't want, and if the group doesn't want to see such an occurrence, it needs to be proactive and come up with an alternative.

Mely said she likes the idea of an inter-county agreement. She said there needs to be more discussion between counties about developments such as the Village at Wolf Creek that will have impacts beyond the county they are in.

Ray said a regional planning commission was set up several years ago involving the Forest Service, Southern Ute Tribe, Mineral County, Archuleta County, and Hinsdale County to address issues affecting the San Juan Basin. It met several times and then lost momentum, but it was

never technically disbanded, although it hasn't been meeting recently. He said if a zoning district is recommended, the regional commission perhaps could play a role.

It was agreed that, for there to be consensus to establish an overlay zoning district:

- Landowners must support it and buy in, or it will not move forward.
- Another group must be willing to take it on. The San Juan River Workgroup would be the group to broadly suggest this recommendation. However, a smaller group committed to the idea would have to "take it and run with it", Marsha suggested.
- The county must be involved.
- It would be an alternative to WSR.
- Bob Formwalt needs to be consulted because it was his idea.

It was suggested that a possible alternative to forming a large zoning district could be that the half-dozen landowners and Boot Jack's owner might agree to put in a deed restriction to protect the values of the San Juan. Some people like this idea and others didn't. There was agreement that of course the landowners would have to support this concept.

Jimbo Buickerood of SJCA said there are two parts to the values to be protected: the geologic value that is the Forest Service's Outstandingly Remarkable Value (ORV), and the broad values listed in the values statement. Water Commissioner Pete Kasper said almost all the geology ORV is protected by the conservation easements.

Marsha asked whether there is consensus that current protections (conservation easements, instream flow, zoning and other private-land regulations) are adequate to protect the values, including the broader values, on the private stretch of the West Fork. There was more discussion.

Group members asked whether the Forest Service can ignore the group's recommendations if the group says current protections are adequate.

Becca Smith of the Pagosa Ranger District said the Forest Service does reserve the ultimate decision-making authority, but she believes if this group said current protections are adequate and/or if an alternative for protection can be found, San Juan National Forest Supervisor Mark Stiles would take that into consideration and would seriously consider removing the suitability finding.

Steve said if the group says current protections are adequate, it needs to be able to say why.

Mely said private landowners may not want to sell their land or have a dam on the river, but the possibility exists that an entity could force something like that to happen through eminent domain. This group must make sure the landowners are comfortable with any protection recommended, but must consider the threat of water impoundment too.

Jimbo said there is a long stretch of the river that is not protected by an easement, and said the Pagosa Area Water and Sanitation District may want to further protect water quality upstream.

Becca said if this group thinks current protections are adequate, she does not believe they have to be forced into coming up with an alternative to suitability. She thinks this group has the option to say current protections are adequate *without* the suitability finding. She said the group has three possible recommendations it could make:

1. Current protections are adequate without suitability.
2. Current protections are adequate if an alternative is found. WSR designation is not desired.
3. WSR designation is desired.

Several group members said there are numerous laws and agencies that already protect rivers, including the U.S. Army Corps of Engineers, Clean Water Act, Endangered Species Act, National Environmental Policy Act, and wetlands protections. Mely said authorization by the Army Corps does not always mean a project will adequately protect river values, and said after a certain reservoir was built on the Colorado River in 1984, the entire population of sculpin below the reservoir died, as did the macro invertebrate population.

Marsha said anyone who wants to provide more information about existing protections through laws and agencies can do so, and it will also be noted that there is a whole array of regulations, laws and agencies that private land owners deal with.

There was agreement that there is not currently consensus support for a WSR "suitability" on the West Fork of San Juan River for either the West Fork stretch that is public land nor for the stretch that is private land. There was then discussion of whether No. 1 or No. 2 of Becca's choices was preferable. Kathy said she could not support No. 2 unless she knows what the alternative would be. Mely said the two choices are not that different.

The group decided that before making final recommendations, they wanted to hear from the landowners involved, as well as from Bob Formwalt regarding the zoning district. She said the two choices (#1 and #2 above) will be left on the table until more information can be obtained for the next meeting. Then the group decided that at the next meeting the East Fork will be discussed. Then, the group will make their final report.

J.R. Ford said the real threats that need to be addressed are the possibility of a reservoir and of mining. If those are addressed, that might provide enough protection. He suggested getting a commitment from the water district regarding whether it would employ eminent domain. Pete said the district still has a storage right on the West Fork.

Marsha said the group will be receiving a document via e-mail with answers to other questions and information. At this meeting, the Pagosa Range District Office had produced mineral maps for everyone to review.

**Next meeting:** The next meeting was set for Thursday, Nov. 18<sup>th</sup> (NOTE: This meeting has been rescheduled to be on the 29<sup>th</sup> of November at 5:30 p.m. due to the fact a high number of

people couldn't make the 18<sup>th</sup>). It will be from 5:30 to 8:30 p.m. at the Ross Aragon Community Center.

### **Recommendations from the San Juan River Workgroup**

(as of 10/29/10)

(Working Draft)

#### **Public Land - West Fork**

- There was consensus that current protections on the public-land portion of the West Fork are adequate, recognizing that conditions can change and that Chuck cannot give final consensus until the remainder of the basin workgroups have made their recommendations.
- There was consensus in favor of forming a local advisory group, with details to be worked out later.
- There was consensus to consider a mineral withdrawal to protect ORVs, but more information is needed.

#### **Private Land – West Fork**

- There was consensus that, whatever is done, the landowners should be engaged, involved and in agreement with it.

#### **More information requested at September meeting:**

- The location of mineral resources
- How a mineral withdrawal might work
- The location and permanence of existing conservation easements
- Applicable zoning rules in Archuleta and Mineral counties
- Specifics of how a special zoning district would work
- Hinsdale County's South End plan.

**Important: The San Juan River Workgroup is continuing to develop its recommendations. Thus, this document is in draft until the Working Group finishes and releases its final report.**