

San Juan River Workgroup

Meeting 6 Summary

Sept. 23, 2010

Final - 5 pages

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 said answers to the questions that the Wild and Scenic Rivers panelists could not answer at the Aug. 26 meeting are available in a hand-out provided at tonight's meeting. A DVD of the panel discussion is also available (email Marsha or Sue Meekins to check out a copy: Sue: cte33665@centurytel.net or Marsha: porternorton@bresnan.net or 247-8306).

Ted Kowalski of the Colorado Water Conservation Board provided copies of letters signed by numerous stakeholders in the Lower Colorado Wild and Scenic River Stakeholder collaborative process. This involved a group that met in Grand Junction to discuss the Colorado River mainstem and some of its tributaries. Recommendations from that group were sent to U.S. Rep. John Salazar. Ted said the group recommended releasing Colorado River Segment 3 from its WSR suitability finding because of the existence of other protections for that segment. He said this is an example of another process similar to this one that has come to a conclusion, but he is not necessarily recommending that the same solution be reached by the San Juan Workgroup.

Discussion: Are current protections adequate on the West Fork?

Marsha reviewed current protections available on the West Fork and asked whether they are adequate to protect the values present there. It was agreed that this question will be answered separately for the public land and private land along the West Fork and later for the East Fork.

Private landowner Donna Formwalt said the protections on the West Fork are adequate because of the presence of the wilderness area and management restrictions on national-forest land. She also said the canyon along the stream that crosses private land is not developable because of the steepness of the terrain.

David Smith, manager of Boot Jack Ranch, said conservation easements protect 1103 acres of the ranch on the east side of Highway 160 along the West Fork, plus 360 acres on the south end of the ranch. He said the easements do not extend across the stream, but they cover all but 1200 linear feet of the geology that is the West Fork's Outstandingly Remarkable Value (ORV).

Bev Warburton asked how much protection is really provided by a conservation easement. She said she had read an article discussing an easement being sold and the possibility that the seller may have to pay back money received from the tax benefit. Ted said the protection depends on who holds the easement. David said the Southwest Land Alliance holds the easement on the south end of Boot Jack and Colorado Open Lands holds the larger easement. There is no stipulation in either easement for the owner to take back or be released from the easement.

Marsha said more information should be sought on whether conservation easements truly are forever.

John Taylor of Hinsdale County said he believes the protections are adequate on public land and if there is to be more protection on the private portion, it should require the consent of the landowners. Chuck Wanner of Trout Unlimited said he agrees with John that the protections are adequate on public lands but believes more discussion is needed regarding the private land.

Kevin Khung of the San Juan National Forest said that, beyond the wilderness area, the public land in question is largely national forest. He said the protections are adequate now, but the situation could change whenever the forest's resource management plan is revised..

Steve Fearn of the Southwestern Water Conservation District asked what feasible threat exists to the ORV. Kevin said mining activity is a potential threat and that there have been three requests for hard-rock mines in the short time he has been with the San Juan National Forest.

Glenn Raby said virtually all the special geology along the San Juan lies outside the one-quarter-mile corridor on either side of the river that would be considered for WSR designation, though the river is the agent that exposed the geology. He said a great deal of activity could occur within the river corridor without affecting the geology, but the geology could be harmed by a massive timber operation that threatened slope stability or a large mining operation with spills and waste piles.

Glenn was asked about the likelihood of mining in the area. He said the possibility of oil and gas development can't be ruled out. Some hydrocarbons have been found in the area, but developing those has not been economically feasible, although it could be in the future. He said there is low to high potential for oil and gas in virtually all this region except the very high, igneous terrain. Currently there are about 20 producing wells towards Chromo on BLM land.

In regard to hard-rock mining, Glenn said the possibility of significant gold and silver deposits in the area is low. However, thorium and uranium are both present in the area, and extracting these would involve massive mining operations. He said the economic feasibility of mining changes with technology and demand.

Steve said it doesn't sound like the real threat lies within the potential WSR corridor and asked whether there is a way to implement a mineral withdrawal in the potentially threatened areas, because it doesn't sound like WSR status would even protect them.

John said he favors local control and suggested the group could draft a plan and set up a long-term committee to advise the Forest Service annually on area management. Kevin said such a group could suggest parameters to manage this corridor and protect the values.

Private landowner Charles Formwalt said the workgroup is getting too broad in scope. Marsha asked whether the group wants to narrow the discussion to only the WSR corridor. She said the listed values are larger than just the stream and the values statement does not specify only the

stream. She said the ORV doesn't directly relate to the water and is not in the water; it is not always even within the quarter-mile corridor.

Steve agreed that the WSR tool doesn't really address the ORV, and the values statement is much broader than the river corridor. That is why he asked what are the real threats to the ORV and whether there is a management tool to enhance protection.

Private landowner Bob Formwalt suggested a special planning and zoning district as a tool for private land. Ted said the South Platte protection plan used county zoning as part of its alternative management plan for the South Platte corridor and the WSR suitability finding was removed for that river segment because of the alternative protection.

David said Boot Jack Ranch is adequately protected because of the easement and the instream flow (ISF) on the stream segment.

Marsha said the existing protections on the public-land portion of the West Fork are: roadlessness, Forest Service management (with public involvement), ISF and wilderness. She asked whether there is consensus that those current protections are adequate.

Chuck said he can agree this is true for this segment, but the larger picture of the whole San Juan Basin must be considered. He said he may not still agree when the river-group process for the whole basin is concluded. He said TU feels there is merit to having at least one WSR in this basin, and if the process ends and there is not a single WSR recommended he will have a difficult time agreeing that the protections are adequate.

Marsha said the WSR issue will be revisited in 2012 after the Animas and Piedra workgroups have concluded.

John said he isn't sure there is adequate protection on the strip between Boot Jack and Born's Lake. It's Forest Service land from Boot Jack to Born's but is not wilderness or roadless. Kevin said there is about a half-mile from the private land down to Born's. John said gravel-mining has occurred in the area in the past and asked whether it could in the future. Kevin said yes, but it would have to go through the Forest Service's environmental process. John said he doesn't think that is a good place for a gravel pit and it would be detrimental to the values.

David said the problem is not the gravel pits but the lack of reclamation. Steve said in order for the state to issue a gravel-pit permit, a reclamation plan must be provided, so old problems with reclamation are not likely to recur. John said there could be a simple statement that the group thinks the Forest Service should maintain the area as is. Some workgroup members said gravel is a needed resource and they did not see a problem with a gravel pit. This will be discussed further.

Bob Formwalt said Colorado law allows special zoning and mining districts and suggested this could be given special-district zoning with rules set up locally. John said Hinsdale County had done something similar and that it is an "onerous process". After the break, Marsha said she

had talked with Bob and the planning and zoning district he is envisioning could encompass both public and private land and entail an MOU. More information needs to be obtained.

Marsha asked whether there was consensus regarding the protections on public land. Steve recommended including the values statement as part of the workgroup's report and urging the Forest Service to incorporate the statement as part of its plan. David said the values statement is vague. Marsha said the Hermosa Creek Workgroup produced a very extensive report at the end of its process, and this group's report will also be specific and detailed.

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.

John's idea for a local advisory council was discussed. Kevin said there are many examples of resource advisory groups for national forests nation-wide. Those groups are appointed by the Secretary of Agriculture. Steve said the Hermosa workgroup decided not to have such a formally appointed group because they wanted more community input.

There was consensus in favor of forming a local advisory group, with details to be worked out later.

The concept of a mineral withdrawal for certain areas was discussed further. Steve said when he suggested it, he was proposing it as a tool to protect the ORVs as opposed to a WSR. The withdrawal might be only to protect cliffs and aesthetics. It might require directional drilling.

Kevin said before anyone can use a drill to mine for any substance, the Forest Service would have to conduct an environmental assessment. There might be stipulations related to timing of drilling, or restrictions such as no surface occupancy. This environmental review, with potential mitigation measures, is different from a mineral withdrawal, when extraction is completely prohibited. Glenn commented that the Forest Service could recommend a mineral withdrawal but the BLM is actually the agency that owns the federal mineral rights, so it would have to agree. Such a withdrawal would typically be reviewed 20 or 30 years later in a public process.

There was consensus to consider a mineral withdrawal to protect ORVs, but more information is needed.

Protection for ORVs on private land along the West Fork: Donna asked what the resource is on the private land and what, if any, threats exist to it. Glenn said geology is the resource and the threats have been described. It was agreed that further discussion is needed, including a map of existing conservation easements and mineral rights as well as information on Archuleta and Mineral County zoning. Hinsdale County's South End Land Use Plan will also be brought in.

Ted said it doesn't seem like WSR is the right tool to protect the geology in the area and it isn't clear what protection "suitability" provides on private land. Chuck said there is a whole spectrum of values discussed that may or may not be associated with geology.

David said Boot Jack and Saddleback ranches both submitted letters saying they would not be a partner if the river is designated as a WSR, and that the bulk of the West Fork is on their ranches. Marsha said the group would not be discussing the private land if the Forest Service had not included some private reaches in its finding of suitability. Steve said he had been told that for the geology ORV to be valid, it had to include the entire range of the stream because the geology changes with the elevation. Chuck said there are many WSRs nationwide that flow through private land where the landowners actually wanted the designation.

Marsha said this is a consensus-seeking group and that can mean a longer process. She also said the group may not find consensus on all issues.

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

Next meeting: It will be Thursday, Oct. 28, from 5:30 to 8:30 p.m. at the Ross Aragon Community Center. The group will consider: Are current protections in place for private land (including current laws and rules, instream flow and conservation easements) adequate to protect the values?

More information: The group agreed that further information should be obtained on the following:

- 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.