

Hermosa Creek Workgroup

Meeting #9 Summary

Dec. 2, 2008

Facilitator Marsha Porter-Norton reviewed the meeting agenda and presented the summary for Meeting 8 on Nov. 3, 2008. The agenda was approved. The summary was approved with one change.

Marsha reviewed the process, principles and ground rules of the Hermosa Workgroup and where it is in the process. The group is approaching Phase 3, which will entail trying to reach consensus on options for possible tools.

Marsha said the web site is up-to-date with agendas, minutes, and handouts. The PowerPoint presentation given by Linda Bassi, chief of the Stream and Lake Protection Section of the Colorado Water Conservation Board ("CWCB"), at Meeting 8 is also available on the web site. The presentation describes the CWCB and Colorado's Instream Flow ("ISF") Program.

Continued discussion on values, issues and protection tools: The group began analyzing possible tools, beginning with the San Juan National Forest's Resource Management Plan ("RMP").

The draft plan revision was released in December 2007 and the public-comment period has ended. The agency is preparing a supplement on oil and gas that will have to undergo a separate public-comment period. The final plan revision and accompanying environmental impact statement ("EIS"), along with the oil and gas supplement, is slated to become final in 2010.

Workgroup members asked how much protection an RMP could provide for the Hermosa Creek area and whether it could stipulate protections as strict as those for wilderness areas.

Mark Stiles, manager of the San Juan Public Lands Center ("SJPLC"), and Thurman Wilson, assistant manager for planning, offered guidance on the protections available through the RMP.

The plan can stipulate very strict protections, but the plan itself is not law, whereas a wilderness designation is. Similar language could be put into the RMP to try to achieve some of the same objectives of wilderness in terms of protecting solitude and restricting road-building, but RMPs are updated periodically, so the protections would not necessarily be permanent.

Mark offered a hierarchy of federal laws and regulations as follows:

- U.S. Constitution
 - Treaty
 - Statute (e.g., National Conservation Areas, Wilderness Areas, Wild and Scenic Rivers, etc.)
 - Regulation (e.g., the Roadless Rule)
 - Agency policy
 - Resource management plan
 - Project plan

There is greater permanency but less flexibility and less local control as you move up the scale.

Wilderness designations are made by statute, but if the RMP recommends against wilderness designation for Hermosa Creek, it might be difficult to get a wilderness designation passed by Congress.

There are two statutory restrictions that currently apply to the Hermosa Area:

- The Wilderness Act. The SJPLC's draft plan revision proposes wilderness designation for much of the Hermosa Area on the west side.
- The Wild and Scenic Rivers Act, which mandates that agencies take a complete look at rivers and decide which are eligible and/or suitable for Wild and Scenic Rivers ("WSR") designation. In the draft plan, Hermosa Creek was found preliminarily suitable for WSR designation.

The agencies must manage Wilderness Study Areas and WSR-suitable rivers in order to protect the values that make them fit for such designations.

Mark noted that while the SJPLC found Hermosa Creek preliminarily suitable for WSR designation, it will be up to others to take that issue forward to Congress for such a designation if that is what the public wants.

It was noted that the WSR designation is a contentious issue in Colorado because of the likelihood that such a designation would carry a federal reserved water right. A grassroots effort by the San Juan Citizens Alliance started a local governmental water roundtable to try to find other ways to protect the outstandingly remarkable values of suitable rivers while still allowing for future water development.

The question was raised of whether a wilderness and/or WSR designation might not result in more degradation rather than more protection of the area because of the additional people it would attract.

Another workgroup member asked whether there is consensus that there is overuse in the Hermosa Area, saying she did not see an abundance of visitors

there and that protecting the watershed and water flows were the key goals. Others said there is crowding on portions of the Hermosa Area and that one of the values listed by the group was the feeling of solitude. They also said growth projections for Southwest Colorado make it likely that there will continue to be more and more recreational users.

Marsha said the tools the group selects may address a variety of different concerns. Workgroup members may not share all the same concerns but may be able to come to consensus on the tool or tools to be used.

Mark said the recommendations of the Hermosa Workgroup can influence the final RMP — even though the public-comment period has ended and the Hermosa Workgroup process was not recognized in the draft plan. The draft plan includes a “placeholder” that says the SJPLC wants to acknowledge input from such workgroups, so the recommendations of the Hermosa Workgroup could be incorporated as an amendment to the RMP. In addition, many of the potential tools being considered by the workgroup have already been represented in the plan and/or in the comments received. A number of tools can be used in concert. Mark stated that one group cannot have an inordinate amount of influence into the plan, but the workgroup’s feedback will be considered.

The travel management plan for San Juan Public Lands is separate from the RMP. The RMP takes a broader look at the entire 2.5 million acres of San Juan Public Lands and tries to set basic parameters for how chunks of land are to be managed, which portions are to be non-motorized, and so on. The travel management plan focuses on managing specific trails and roads. It still must fit with the bigger picture.

The draft RMP calls for the western portion of the Hermosa Area to be managed as Management Theme 1, which allows for very little human influence, no road construction, and no motorized use. The eastern portion is proposed as Management Theme 3, which is slightly more developed and allows for some motorized trails and for temporary roads for purposes such as fuels treatment. A Research Natural Area has been recommended for a small portion of the Hermosa watershed.

The group agreed that, if the RMP is being considered as a tool, the following questions must be asked:

- Are there substantive differences between the new RMP and the old?
- Does the wilderness proposal adequately protect the area’s values?
- Would a National Conservation Area proposal adequately protect the area’s values?
- What level of permanency is there?

Thurman said he could prepare a sheet that would compare elements of the old

RMP with the new.

One member noted that the values statement emphasizes roadlessness. If a regulation or statute to protect the roadless character of the Hermosa Area cannot be implemented, the issues of which uses are and aren't allowed would not be of much consequence. The group should not use regulation and statute to prescribe management in too much detail because it would tie the hands of managers in the future. The most important thing is to keep the area roadless. There needs to be a balance between protecting the core values and hampering the flexibility to manage.

The group asked whether it would be possible to write legislation for a National Conservation Area or National Scenic Area that would allow for periodic local review. Mark said that was highly unlikely because such a statute would not carry the force of statute.

Jeff Widen said there is starting to be some consistency in the way legislation creating NCAs is typically written, but there remains plenty of flexibility. The Wilderness Act, on the other hand, is quite clear on which activities are allowed and which are not. Some cycling advocates have called for certain wilderness areas to allow mountain-biking, but wilderness advocates say that would be essentially rewriting the Wilderness Act.

Colorado Healthy Rivers Fund: Bruce Whitehead of the CWCB noted that there is currently a check-off box on Colorado's state income-tax form that allows taxpayers to donate to the Colorado Healthy Rivers Fund. The money goes to the CWCB and the Colorado Water Quality Control Commission to provide protection and restoration of streams and watersheds. Each check-off must generate at least \$75,000 in revenues per year in order to remain on the income-tax form. Last year, the Healthy Rivers Fund generated only a little more than \$75,000. Bruce asked everyone to donate to the fund through the check-off box and to tell others to do so.

Next meeting: The next meeting of the Hermosa Workgroup will be Tuesday, Jan. 6, 2009, from 6:30 to 8:30 p.m., at LPEA. Jeff Widen and others will talk about the Wilderness Support Center, SJCA and Trails 2000 proposal for the Hermosa Area Wilderness.