

Bonita Peak Community Advisory Group March 28, 2019 FINAL MEETING NOTES

The Bonita Peak Community Advisory Group (CAG) met on March 28th from 3 to 6 PM at the Silverton Town Hall. Twelve of the 17 CAG Members were in attendance, including: Peter Butler, Ty Churchwell, Paul Montoia, Charles Smith, Chara Ragland, Anthony Edwards, Larry Perino, John Ott, Melissa May, Jenna Emerick, Terry Morris, and Parker Newby. Approximately 12 members of the public attended the meeting. Shannon Manfredi facilitated the meeting.

After introductions by CAG members and the public attendees the meeting began with a motion made by Melissa to approve the notes from the last meeting. Peter seconded the motion; there was no discussion, and the February 2019 Meeting notes were unanimously approved.

April 2nd Open House: Peter briefly announced that USGS would be hosting an open house on April 2nd at the Kendall Mountain Center, 4:30-6:00 for any interested members of the public to learn more about the geophysical mapping of the subsurface in the Silverton Caldera that they will be doing using a helicopter and electromagnetic technology to find possible subterranean water pathways.

The remainder of the meeting was spent approving and editing as needed the *3/26/19 DRAFT Operational Procedures and Mission Statement* that the Bonita Peak CAG has been working on the past two meetings. Each operational procedure was individually reviewed, discussed, edited as needed, and approved. Final versions, including edits made, are detailed below.

Operational Procedures

Meetings and Announcements

Announcements for meetings will be posted on the Bonita Peak CAG website, email lists, newspapers (Silverton Standard, Durango Herald & Telegraph), radio and print, community calendars, social media posts and the EPA's BPMD website and monthly updates. Meetings will alternate between Silverton and Durango with at least one meeting each year in New Mexico.

John motioned to approve this procedure as written; Terry seconded the motion. There was no discussion and it passed unanimously.

Executive (or Steering) Committee

At the beginning of each year the CAG will choose an executive committee of three members; a chair, vice-chair, and secretary. CAG members can nominate other members or themselves for positions on the committee. If more than one person is nominated for a position, members will vote for appointment to that position by secret ballot. Executive Committee members will serve one-year terms and can be re-appointed using the aforementioned nomination and voting process.

John motioned to approve this procedure as written; Melissa seconded the motion. There was no discussion and it passed unanimously.

Conducting Meetings

The executive committee will develop a draft agenda and notify the public of upcoming meetings. The chair or vice-chair will conduct the meeting starting with any discussion about the agenda. Meetings will operate using Robert's Rules of Order. A quorum is not needed to conduct a meeting but is necessary for the CAG to vote when making decisions.

Peter motioned to approve this procedure as written; Parker seconded the motion. There was no discussion and it passed unanimously.

Decision Making

Eleven of seventeen CAG members must be present at the meeting or participating via a conference call or video connection to constitute a quorum for making any decisions for the CAG. Decisions will be made through Robert's Rules of Order, (*i.e.* a motion must be made and seconded; any discussion of the motion will follow and then the motion must be approved by at least 2/3rds of the members participating in meeting by person, by phone, or by video connection. The chair of the meeting cannot make or second a motion.)

Discussion: If the number of CAG members changes over time, the CAG may want to change the number of members that will constitute a quorum.

Melissa motioned to approve this procedure as re-written; Paul seconded the motion and it passed unanimously.

Executive Session

CAG meetings shall be open to the public, but the CAG reserves the right to hold executive sessions, closed to the public, by approval of a motion through the aforementioned Decision Making process.

John motioned to approve this procedure as re-written; Paul seconded the motion. There was very little discussion and it passed unanimously.

Conflict of Interest

If a CAG member has a direct personal or private interest (particularly financial) in a position the CAG may take, that member shall recuse themselves from the discussion or any voting on any motion taken with regard to that position. If a member is not sure if he or she has conflict of interest, the member shall disclose why they might have a conflict and let other members discuss if a recusal is warranted.

Paul motioned to approve this procedure as written; Melissa seconded the motion. There was very little discussion and the motion passed with eleven members approving and one member opposing. *The opposing vote preferred that conflicts be communicated before discussion at the meeting.*

Meeting Summaries

The Executive Committee will assure that notes are taken at each meeting either by an executive committee member or by another CAG member. Summary notes of each meeting will

be disseminated via email prior to the next CAG meeting for members to review. After meeting notes are approved by motion and vote, they will be posted on the Bonita Peak CAG website. Notes shall include decisions made along with a summary of the discussion and rationale or justification related to those decisions. Meeting notes shall also list all members in attendance, and summary of all agenda items, including presentations, requests for information, and public comments.

Discussion: Members were provided two options for the last sentence of this procedure. The above edits reflect the final approved version.

Parker motioned to approve this procedure striking the first version of the last sentence and replacing it with the second version of the last sentence as indicated in the edits above; Terry seconded the motion and it passed unanimously.

Video and Audio Taping

The CAG will allow reporters to record audio to help them accurately report on meetings, but will only allow the press to video record if the CAG votes to support video recording at the beginning of the meeting. Requests to record meetings (audio or video) for purposes other than for improving accuracy of reporting must be requested and approved by a vote of the CAG at the beginning of the meeting. Executive sessions will not be recorded.

Discussion: Members were provided two similar but different versions of this procedure. The above edits reflect that the second version preferred and approved by the CAG.

Charlie motioned to approve the wording of the second version of this procedure; Anthony seconded the motion and it passed unanimously.

DISCUSSION RELATED TO THE FINAL TWO OPERATIONAL PROCEDURES: CAG Members discussed and worked the longest to get the phrasing correct on the final two operational procedures listed below, i.e., “Members’ Terms and Reappointment,” and “Member Attendance and Possible Removal.” The detail is intentional to clearly describe the term limits and process for reappointments with respect to both the government appointed members and all other CAG members. Generally speaking a four-year process is described for getting the CAG membership adequately rotating with new and reappointed members. After this “initial four year start-up period,” the intent is for CAG members to serve three-year term, with possible reappointments as desired. Additionally, CAG members discussed potential scenarios for when a CAG member’s term could be ended by the CAG membership as well as by the governing body they represent.

Members’ Terms and Reappointment

CAG members will serve three-year terms. However, in order to maintain continuity and not have complete turnover of CAG membership, the initial set of seventeen CAG members will be split into thirds:

- The initial term of one-third of the original members will be two years;
- The initial term of another third of the original members will be three years; and
- The initial term of the last third of the original members will be four years.

San Juan County and La Plata County appointees shall initially serve a two-year term, and three-year terms thereafter. The Town of Silverton and City of Durango appointees shall initially serve a three-year term, and three-year terms thereafter. These appointments shall serve at the pleasure of their respective governing bodies.

For the rest of the original CAG members, four will have a first term of two years, four will have a first term of three years, and five will have a first term of four years. At the end of members' terms, the CAG will seek applications for the vacancies from members of the public, including CAG members who would like to be reappointed. Then CAG members whose terms are not up will determine who fills the vacancies keeping in mind the importance of representation from diverse community interests including locales within the watershed.

Peter motioned to approve this procedure as re-written; Paul seconded the motion and it passed unanimously.

Member Attendance and Possible Removal

If a CAG member misses three consecutive meetings, the CAG can vote to remove the member from the CAG or request a new appointment if that member is a government appointee. If removal of a non-governmental member occurs, the CAG will solicit applications for a new member and decide who they will appoint.

Melissa motioned to approve this procedure as re-written; Jenna seconded the motion and it passed unanimously.

BONITA PEAK CAG MISSION STATEMENT

The Bonita Peak CAG serves as an informational conduit between diverse community interests and U.S. EPA and its governmental partners with regard to activities at the Bonita Peak Mining District Superfund Site and their effects on the Animas River watershed within Colorado. In its advisory capacity, the CAG desires outcomes that are: protective of human health and the environment, feasible and practicable, conducted expeditiously and efficiently, and mindful of community cultural, social and economic interests.

Melissa motioned to strike the words, "within Colorado," and approve the Mission Statement; Terry seconded the motion.

Discussion: Members discussed whether or not to strike the words "within Colorado." The main reason for removing these words was because actions will have an affect beyond the Colorado state line. During the discussion the following reasons were stated for retaining these words:

- Although not encouraged or preferred by the EPA, there can be more than one CAG formed for a Superfund Site, e.g., CO can have its CAG and NM could form its own CAG. This CAG has been structured to represent diverse interest reflected in the communities along the river & watershed's reach in Colorado. As such there is a discomfort in removing these words and potentially implying that the CAG represents communities

and interests for the entire watershed (or all downstream communities affected, for that matter), including NM, the Navajo Nation and beyond.

- The clean up actions will occur in Colorado, and most closely to Silverton--a community with a small population. Having a CAG with representatives from all interests and communities downstream could easily overwhelm and diminish the issues of concern and perspectives of those closest to the clean up actions and most likely to be the most affected on a daily basis by clean up actions.
- New Mexico is in a different EPA Region than Colorado, and the Navajo Nation is in yet another EPA Region. Interacting with all the different EPA Regions could be quite cumbersome.
- Lastly, actions that benefit Colorado and those closest to the BPMD, will also benefit everyone downstream.

Melissa withdrew her previous motion and motioned to approve the Mission Statement as written; Terry seconded the motion; and it passed unanimously.

APPOINTMENT OF EXECUTIVE COMMITTEE: Shannon asked the CAG Members if they felt ready to discuss and elect members to the Executive Committee. In addition to a couple of the operational procedures approved above, the number of Executive Committee members and role of the Executive Committee was discussed at length during meeting two.

CAG Member, Marcel Gaztambide, was not able to attend this meeting and as such drafted and disseminated a letter to his fellow CAG Members which included his nomination for Executive Committee appointments, including nominating Peter for the Chair; Anthony for the vice-Chair; and Ty for the Secretary.

John motioned to accept Marcel's Executive Committee nomination; Melissa seconded the motion.

Discussion: During this discussion CAG members acknowledged the experience and knowledge that Peter, Anthony and Ty had with not only the recent actions since the BPMD Superfund site was established, but also their knowledge and history of clean up in the upper Animas Basin prior to becoming a Superfund. Other CAG Members expressed interest in serving on the Executive Committee in the future, but not at this time because they felt they needed time to learn more about the history, issues, data, current conditions, *etc.* Additionally, CAG Members suggested that in future Executive Committee selections that they would like to see other CAG Members step into these roles (i.e., to develop Members capacity to serve in these leadership positions) as well as having a female represented on the Executive Committee. Hence at this time, no one else expressed interest in serving on the Executive Committee now, and no others were nominated.

The vote was unanimous in favor of electing Peter Butler to be the Chairperson; Anthony Edwards for Vice-Chair and Ty Churchwell to be the Secretary; effective immediately.

ADMINISTRATIVE ITEMS: Ty informed CAG Members that updates to the website were almost done. He asked for agreement about items to be posted on the website. It was agreed that the following would be posted on the website:

- the approved meeting notes;

- the sign in sheets of all CAG and public attendees at the meeting. (Sign in sheets will be scanned, omitting email and/or physical addresses, and attached to the back of the approved meeting notes.)
- a listing of CAG Members, along with the diverse interests they represent and those that are governmental appointees.
- The Mission Statement and Operational Procedures once reviewed and accepted by the EPA. (Peter gave CAG Members a couple of options for reviewing a letter he offered to draft to send to the EPA along with the Mission Statement and Operational Procedures that were just established. It was agreed that he would draft a letter with attached Mission and Procedures and send it to CAG Members with date to send edits or comments. If he does not receive any “substantial concerns or comments,” then he will send it to EPA. However, if he receives substantial comments, he will bring them back to the CAG for discussion at the next meeting.)

Terry motioned to give Ty permission to post the items on the website and Peter permission to draft the letter to EPA; Anthony seconded the motion; and it passed unanimously.

TEMPORARY SHUTDOWN OF GOLD KING TREATMENT PLANT: The water treatment plant went offline on the evening of March 14 due to extreme weather conditions resulting in a power surge that tripped critical circuit breakers at the facility. The same weather event triggered an avalanche and several snow slides across the county road and prevented access to the plant. After a period of less than 48 hours, EPA brought plant back on line and resumed normal operations on the afternoon of March 16. EPA's preliminary water quality sampling data indicated that there were no adverse impacts to downstream drinking water or agricultural users associated with the short-term shutdown.

The incident highlighted that EPA needed to revise their Alert and Notification Plan to include alerts downstream of Colorado. However, some in CO learned of the shutdown from officials downstream rather learning about it from CO agencies and officials, which was cause for concern. Melissa conveyed that NM felt that they were notified in a reasonable amount of time, i.e., they had enough time to inform users in San Juan County New Mexico. She also noted that all things considered, it was a better time than usual for a shutdown to happen because very few are using the river or diverting any water which meant that there was more water in the river to dilute the pollutants.

BACKGROUND AND DISCUSSION OF THE UPPER ANIMAS BASIN.

Peter provided a short presentation on some background issues regarding the upper Animas Basin. The presentation will be put up on the Bonita Peak website. Some highlights were:

- Water quality data has been collected monthly at the four gages around Silverton since the early 1990s.
- Mineral Creek is the big success story with zinc and copper concentration reductions by 70%
- Boulder Creek and Bear Creek are Silverton's water source
- Treatment in Gladstone of the American Tunnel began in 1978 and ran thru 2003. The plant was upgraded in 1986. Then in 2015 built a treatment plant in the same spot to treat the Gold King Mine.

- Of the 160 draining Mines sampled and the 180 Mine waste sites sampled in the late 1990's; ARSG identified that 33 Draining Mines and 32 Waste Piles account for 90% of the metal loading from mining-related sources.

PUBLIC COMMENT, ANNOUNCEMENTS AND UPCOMING EVENTS:

- There was a professor and three students from Fort Lewis in attendance. The professor thanked the CAG and encouraged CAG Members and others to support Andy by letting him interview you for his research paper.
- Melissa and Paul announced that June 19th-20th will be the 4th Annual Conference in Farmington, NM. The Conference is currently inviting presentations. For more information <https://animas.nmwrri.nmsu.edu/2019/>
- EPA is rescheduling the public meeting that canceled in March. They are tentatively planning to reschedule that meeting either April 23, 24, or 25th.
- Mark Rudolph announced that May 13—17 there will be a 40-hour HAZMAT Training and on May 14 is the 8-hr. "renewal training." Certifications from these trainings are required for anyone wanting to contract with the EPA for any clean up work at the BPMD.

NEXT MEETING DATE & AGENDA:

The next meeting will be April 25, 2019 from 3 to 6 PM at the La Plata County Fairgrounds Extension Building in Durango. The EPA will be at the meeting to discuss the Baseline Ecological Risk Assessment (BERA).

Other topics identified for April and/or upcoming meetings included:

- Reviewing of the Sunnyside Decree Document
- Past and current remediation projects done by CDPHE, ARSG, Sunnyside and others
- Information from EPA regarding their goals, the boundary of the Superfund Site and a review of their loading tool.

The May Meeting will be on May 23rd in Silverton.