

**Meeting Notes**  
**Bonita Peak Community Advisory Group**  
**August 22, 2019, 6:00-8:30.**

**CAG members in attendance:** Peter Butler, Marcel Gaztambide, Paul Montoia, Anthony Edwards, Brian Devine, Melissa May, Ty Churchwell, Charlie Smith, Levi Lloyd, John Ott, Larry Perino, Trevor Downing, Russ Anderson. Not in attendance: Terry Morris, Parker Newby, Chara Ragland, Jenna Emerick.

There were a few members of the public along with representatives of CDPHE, DRMS, and BLM.

**Introductions and Approval of Minutes**

CAG members introduced themselves and welcomed new CAG members, Russ Anderson and Trevor Downing. Russ is an engineer with lots of experience in hydrology, watershed and river channel remediation, and mine remediation. Trevor is a geologist working with Wright Water Engineering and a GIS specialist.

Gary Pennington of Durango had set up video equipment for recording the meeting. He had been hired that morning to video by a law firm that represents Sunnyside Gold Corp. He was informed that the CAG bylaws do not allow for video recording of meeting without CAG approval. The CAG thought that Sunnyside Gold might be interested in videoing the meeting because of Anthony's presentation on legal issues involving the Bonita Peak site. Anthony said he was comfortable being videoed. After some discussion, Charlie made a motion to allow taping of this particular meeting provided that Sunnyside provides a copy of the tape so that the CAG could make it available to the public. Anthony seconded. The motion passed unanimously.

The past CAG meetings have been very full and the CAG had to catch on approving notes from previous meetings. Levi moved that we approved the meeting notes for May, June, and July with one minor typo corrected in the July notes suggested by Paul. Paul seconded, and the motion was approved unanimously.

Mark Rudolph with CDPHE announced that over the next couple of days, there would be public tours of the Summitville Superfund mine site southeast of Wolf Creek Pass.

**Discussion of Last Meeting about CDPHE Standards Presentation and EPA's Adaptive Management Strategy plus Fall Meeting Scheduling**

Peter discussed several Water Quality Control Commission (WQCC) hearings coming up in December that include the Animas River Basin. One is a cadmium table value standard (TVS) hearing where the new TVS for cadmium will be applied throughout the state. ARSG already made a proposal two years ago to apply this new standard to the upper segments of the Animas basin and that proposal was approved by WQCC. A second hearing involves temporary modifications to standards, and Peter didn't believe that hearing would create any substantive changes in the Animas River Basin. The third hearing is approval of the 303(d) list of impaired waters of the state. While this hearing doesn't appear to substantially impact the Animas, he had some questions about some of the listings.

There was little discussion about the CDPHE presentation, other than it was quite informative. The presentation will go up on the Bonita Peak CAG website.

There was more discussion of the EPA presentation. People had a number of questions as to what the adaptive management strategy meant in practical terms. Other questions centered on where in EPA this strategy came from and how that affects EPA personnel who are implementing the process on the ground. There was also discussion of developing a CAG perspective as to what an adaptive management plan could look like before meeting with EPA and discussing a plan in more detail.

### **Sampling at Confluence of Cascade Cr. and Animas**

Peter noted that near the beginning of August, he and Kirstin Brown hiked down to the Animas River along Cascade Creek from Purgatory to collect a water sample for metals, dissolved organic carbon (DOC), and hardness. Ty said that Trout Unlimited could cover the cost of running these samples for a few months while other funding was pursued. The CAG hopes to get a sample at this location every month of the year.

### **Funding Wish List**

This discussion was cut short because of time. The main funding items the CAG is considering are administrative costs (website, meeting room, meeting preparation, *etc.*), lab costs for some water samples (TU has graciously covered much of the recent administrative and lab costs until we get other funding in place), updating and analyzing the ARSG database with all the data being collected in the basin. While EPA may look at different water quality data being collected in the basin, they will likely only use EPA data in their decision-making. WQCC could look at all the data collected in their water quality standard deliberations.

### **Presentation on Legal Issues Involving the BPMD Superfund Site**

Anthony gave a legal presentation which he has given to several other groups this past year. There are a host of issues. For example, mine tunnels or adits may cross multiple, and sometimes overlapping, mine claims. There may also be slivers of public land between claims. The company that drove the tunnels may or may not be the owner of the claims. The tunnel may have just provided access to claims where the ore lies. Who is truly responsible for the mine drainage?

Under Superfund, EPA can conduct cleanups and then try to recover costs from potentially responsible parties (PRP's). EPA often targets deep-pocket PRP's for all the costs of cleanup, even if that PRP's only caused a small portion of the problem. Then that PRP can sue other PRP's to recover some their costs. With the *Chevron* decision, public land management agencies can be considered PRP's for mines on public land.

In addition, there are over \$4 billion in claims for the Gold King spill. The Superfund claims and Gold King claims can intersect. For example, because EPA caused the Gold King spill, could it be considered a PRP for the Superfund site?

### **Administrative Items**

The next CAG meeting will be in Silverton in the evening, Sept. 26<sup>th</sup>, after the Innovation Expo. The CAG will ask all the government agencies working in the basin to give updates about their activities. The October CAG meeting will be in Farmington, NM.

### **No Public Comment**

**8:30 PM: Adjourn**