

**Gold King Mine Incident and Community Response
Group Meeting
Tuesday, October 20, 2015 – 10:30 a.m. to 1:00 p.m.
San Juan Public Lands Center**

Next meeting: 10/20/15, 10:30 a.m.

Opening

The meeting opened with introductions. Those present included:

Alex Mickel	Mild to Wild Rafting Company	
Ann Oliver	Animas Watershed Partnership	Coordinator
Ben Martinez	USDA - San Juan National Forest	Staff Officer, Eng, AML, M&G
Buck Skillen	Trout Unlimited—Five Rivers Chapter	Board Member
Cathy Metz	City of Durango—Parks and Recreation Department	Director
Ellen Roberts	Colorado State Senator	State Senator
Heidi Steltzer	Fort Lewis College	Professor
Julie Westendorf	La Plata County	Commissioner
Justin Abernathy	Bureau of Land Management—Tres Rios Field Office	Assistant Field Manager
Kristin Brown	Colorado Division of Reclamation Mine Safety	Project Manager
Liane Jollon	San Juan Basin Health Department	Executive Director
Marcie Bidwell	Mountain Studies Institute	Executive Director
Marsha Porter-Norton		Facilitator
Russ Howard	Animas La-Plata Project O&M Replacement Association	
Steve Fearn	Animas River Stakeholders Group	Co-Coordinator
Tom McNamara	La Plata County Office of Emergency Management	
Trevor Denney	Colorado Division of Homeland Security and Energy	
Ty Churchwell	Trout Unlimited	
Steve Smith	Animas High School	
Fort Lewis College Student (name?)		
Barn Horn	CPW	
John Whitney	Senator Bennet's Office	
Darlene Marcus	Congressman Tipton's Office	
Peter Butler	Animas River Stakeholders Group	
Anthony Edwards	PIO for the Gold King Mine Spill for San Juan County and Silverton	
James Wilkes	Mountain Waters Rafting	
Laura Lewis Marchino	Region 9 Economic Development District	
Andy Corra	4 Corners River Sports	
Aaron Kimple	MSI	
Tom McNamara	La Plata County OEM	
Flannery O'Neil	SJBHD	
Becky Clausen	FLC	
Rachael Hoffman	VISTA Volunteer, Animas Watershed Partnership	
Tomas German- Palacios	Southwest Colorado Community College—Economic and Workforce Development	
Marc Miller	US Bureau of Reclamation	
Tom Schillaci	Videographer	

Please let the facilitator know of any corrections or additions or errors including any titles that are missing.

Agenda/Ground Rules

The facilitator, Marsha Porter-Norton, reviewed the agenda, background of the group and went over the group ground rules used (see attachment). Two agenda items were added including revisiting the idea

of a letter of support to keep the Durango Animas River gage (located by the Powerhouse Science Center) and request by a videographer, Tom Schilliac, to videotape the meetings. The agenda and ground rules were agreed to.

The facilitator quickly reviewed the background of the group as this is meeting number 4 and also, several new players were present at today's meeting. The coalition started in August directly after the Gold King incident and was convened by Senator Ellen Roberts. She saw a need to work on the issue from various viewpoints and from the community(ies) level, and also, felt that a potential model to use is the RWEACT group which formed in the Hinsdale County/Creede/Southfork area after the West Fork Complex fire. Find out more at: <http://www.rweact.org/> This group sent representatives and their coordinator to Southwest Colorado in August to talk about what they do; their model; how they got started; how they work; etc. The coalition also, then, in September heard from NCAR (National Center for Atmospheric Research) about a model for water availability prediction that could be adapted to water quality. At all meetings, many updates are given across the various sectors and entities involved (business; government; science; emergency management; public health) and the group still is working on their purpose statement and structure. The group is open but focused on affected stakeholders and communities.

San Juan Basin Health Department – Communications Planning

The Department is managing a communications effort which, primarily at this time, is aimed at educating people about their water wells. Brian Devine is the communications point-person for SJBHD and he said the plan they are developing isn't a specific spreadsheet that assigns tasks nor is it a set of communications materials but rather, it lays out a process. Brian relayed that many in the public either are confused by all the data out there and there is still a need to help people understand the results of monitoring. This sentiment was echoed by others in the meeting.

Other updates given during this segment and more on the wells:

Brian and Liane Jollon reported that the EPA will stand down its Incident Command on October 30th. Long term contacts at the EPA are being identified. A total of 55 EPA personnel or contractors are working locally on the incident and \$14,500,000 has been spent to date by the EPA. As was reported in the media, the EPA has completed a treatment facility at the Gold King site. Now, it is treating Gold King release water but has capacity to treat more (up to 50% more). The Red and Bonita Mine water is not being treated at this time, according to Brian.

The EPA has collected 1,489 surface water samples; 1,113 sediment samples and 742 well samples. Of the wells tested, 10% are in exceedance of maximum containment levels (MCLs) in the areas of lead, arsenic, iron and magnesium. Brian reported in some cases, these chemicals could have been in the wells before the mine spill and that it is not possible to tell exactly the sources of the contaminants. Geographically, the wells exceeding MCLs are both near the river and far away from it. The point the SJBHD would like to make is, this is an opportunity to educate everyone on their well regarding testing, filtering, treatment, etc. This incident has

given us (SJBHD) the opportunity to educate people about their well water quality and the need to address risks, Brian relayed. He also said wells do not have the same standards as what is in place for water quality. Liane agreed and said this incident has shined a light on a public health issue that the Department is addressing.

Question: Are you testing for biological contaminants? Brian clarified that the EPA is doing the testing and that no, they are testing for metals – total and dissolved.

Comment: Abandoned wells are a concern identified by the Animas Watershed Partnership and a concern for contamination of them.

Comment: Yes, there is a need for getting trusted information out there. There are probably 1,000 impressions of the event and there is still a lot of mistrust of river/sediment/well health.

Brian reported some people call him (and SJBHD is getting a lot of calls) wanting to see the data themselves. He provides the data and never hears back in some cases. In others, some get the data and call back and say they do not understand it. Some just want to know: Is the water safe for me, my family and my livestock and pets? He said he gives them the answers and they are okay with it. So, the ways people are interacting with the river/sediment/well results varies.

Comment: How to communicate this information is very hard. There is so much data out there but interpreting it for the public in ways they will trust and understand is very challenging.

Comment: I like how this is really “democratizing science.” This gives us a chance for everyone to learn about science in new ways. There are many opportunities for scientists around this issue related to communication.

Comment: The incident is not really “owned” by anyone. Yes, the EPA did the mistake and caused the blow out but everyone has a different piece of this: Emergency Management, water quality, well testing, etc.

Comment: Let’s not look back. Assigning blame is not what this group is about. Let’s look forward. The idea is to use what happened to ensure that in the future improvements can be made. That should be the goal of this group.

Comment: Yes, but we all need to acknowledge that things could have been better around the initial response and communications, and notification. Let’s take that learning into the future.

There was then a discussion of Emergency Response. In our region, there are two LEPCs or “Local Emergency Planning Committees” Trever Denny relayed, these groups are appointed/technical groups put in place to plan for emergency response. They were in place before the incident occurred. One is located in San Juan County and one is regional. These LEPCs have statutory responsibilities and were

very involved in this incident (and continue to be). Marsha asked if the group wanted a presentation by the LEPCs? The group felt that getting a purpose statement clear should happen first and then possibly, yes, if more information on EM is necessary, a presentation could be done. Trever said that alert and notification systems are in place in the event of another incident.

Wrap Up

Communication continues to be a priority across agencies/sectors. The SJBHD would like to use this group as the vetting group for its communications work. Now, their communication work is focused on wells. Be looking for more on this.

Resiliency Model

Dr. Heidi Stetlzer from Fort Lewis was appointed by a subgroup to give a framework for resiliency. Marsha explained that this concept came out of the 2nd meeting. She said simply put: this could be a framework for work but that everyone needs to understand a common definition and that is what Heidi is offering. Heidi gave her presentation. The group then discussed the model. Generally, everyone was OK with adding “resiliency” to the purpose statement of the group. This conversation can be continued, it was emphasized as today was a first stab at presenting the concepts. Heidi noted that resiliency is not just used in biological systems (e.g. watershed health) but is a concept for economic and other systems as well. The basic definition is:

- ◆ *Resilience is the long-term capacity of a system to deal with change and continue to develop and adapt, yet remain within critical thresholds.*
- ◆ *Keep the system in its current state or better.*
- ◆ *Science-based assessment of the resilience of human-natural systems is done to inform community decisions.*

The discussion that was held around resiliency included these points:

- There were various opinions expressed when one member asked: *Is our community resilient?* Some said, yes it is. Some said no. One person felt that the river “bounced back” fairly quickly. Another person said yes, but in the future, this might not be the case if another incident occurs that is more damaging or polluting. Another person questioned if the river has indeed bounced back? Another person said that our community doesn’t have resiliency when it comes to things like food security. If passes are closed, we are not resilient in terms of access to basic things like food.
- Comment: I see resiliency as being a need to be more proactive. We are reactive as a community, too often.
- Comment: I am okay with using this as part of the purpose statement. As to how to put this into play into activities, that is yet to be determined. I am still thinking on that. This group has

thinkers in it and do-ers. We need to recognize that this model is out there but we also need to do things, too.

- We can use this model for other things, such as forest fires.
- This brings up for me what we can control and not control. The vision for all of us should be agreement on a healthy watershed. I think we can all agree to resiliency in our watershed.

This part of the meeting ended by noting that a model has been proposed for the group to consider using as a platform or foundation.

Purpose Statement

The group then went on to the purpose statement. Marsha said that she spent just a few minutes crafting the draft on the agenda and that it needed editing and review.

The comments and discussion that came out of this included the group develop a list of interests. Marsha noted that everyone in the room has an interest in being here and that there is self-interest (“my check book”) and enlightened interest (“peace”) and both are ok/normal. By articulating interests, the group can determine/refine its purpose and any activities. The list of interests cited includes (more can be added):

- To live in a healthy community
- To be able to tell my kids and the students I teach that I am doing something around watershed and water health
- Relationship building
- Gap planning... across all the sectors, not just mine
- Increase coordination in my specific area
- Make a meaningful difference
- To work on long term issues
- Not duplicating efforts
- To address public concerns
- To mobilize; to build support for making the river/watershed better than it was
- To harness the power (empowerment) of this group. I see so many people who I do not interact with “in my world.” It seems like there is empowerment in that...
- To restore public trust in the river (so people feel comfortable being in it, playing in it, using it, letting their dogs and children play in it, rafting in it, using it for all purposes)
- Efficiency in how this group works. If 5-7 people want to do something, go do it. To not be bogged down by a cumbersome process.
- To have all voices here in this... maybe ones that don’t feel comfortable speaking up
- To use this incident to leverage the dollars and resources to clean up the river
- To build a new configuration for working together
- To be a forum for understanding community values and the risks related to those values or actions

- My entity (local government) wants the river cleaned up. We are very concerned about this. The incident really impacted us and we want to see a meaningful difference made.
- To actually improve the health of the river and watershed, to make a difference for the future
- To build off and use the science that we have
- Improve our image as a tourism economy
- To control the messaging around this for economic purposes (We are now known for being a community with an orange river. How do we turn that around?)
- To create an all hazard plan for the future; to address the all hazards issue in a more comprehensive way(s)

Thoughts/concerns about the purpose statement wording (Draft 1)

- The words “restore public confidence” concerns me because it seems promotional. Should we restore public confidence given the water quality even before the spill? This is a question. Comment: Yes, it does need restored. I hear from my constituents all the time how concerned they are. Alternative words could be: enhance, strengthen or promote. No decision on this.
- The last part around “while honoring institutional authority and decision making” applies to all the areas, not just the last part so change to; “all the while.”
- Concern about saying: *to ensure better planning and improve public safety*. This assumes or feels like blame is being placed. We had plenty of notice (one day) in Durango around the spill. I think it went fine. Farmers were able to get their head gates turned off. If they leaked, well, that is their issue. It seems to me like this statement is being critical of our response. Comment: We could do better. I think this is something to work on. No agreement on this.
- Need to put in there something about nonprofits. They are organizations, maybe not considered as “institutional.” Reflect this sector.
- Peggy Zemach from the Powerhouse Science Center emailed Marsha to say that “education” needs to be in there somewhere as today’s Herald article highlighted.

The facilitator then noted to the group that in this interest list and the good discussion, there is an “elephant in the living room” issue that she wanted to call out. That is the more controversial tools such as Superfund or Good Samaritan or the like. She asked the group if there is agreements that these issues exist; that there are many opinions in the room on these issues; that there possibly could be a lack of agreement for now on some of these bigger solutions; and asked if a purpose statement might be developed that allowed for “big tent” – that allowed for the recognition of the range of opinion on some of the bigger tools/solutions but allowed the group to still work on items. A formal vote was not taken but there were a lot of “yes” votes for this. The group was agreeable to recognizing different opinions exist about long term solutions and that a purpose statement could be done that is inclusive.

It was then noted by Marsha that word-smithing purpose statements is first of all, very important because it sets the foundation of a coalition. She said that doing it in today’s meeting might be too cumbersome and asked if a smaller group could meet and bring back Draft 2. This idea was agreed to do

and she then asked attendees to put a star by their name on the sign in sheet if interested in being part of the small group drafting. The task is to take today's discussion and create a second draft.

November 1st River Celebration

Flannery O'Neil from the SJBHD gave an update. She said the time is now 12 p.m. to 2 p.m. and it will be held at the Fairgrounds due to potential bad weather. The program is being finalized but there will be information booths, speakers, etc. It is meant to be educational and "celebration" type event. A request was made to not use "River Day" since Animas River Days has used that term for many years for its event. Flannery will send an email out and needs to know of any final co-sponsors ASAP. Liane noted that the "we" in this event is really this group. The SJBHD and CPW have taken the lead but his group should be considered the spear-heading group.

Good Samaritan Legislation ("Good Sam")

Peter Butler with Animas River Stakeholders Group: This has been contemplated for years. A "Good Sam" bill, if passed, would reduce liability to those trying to clean up mines. Such groups need a shield to avoid liability. The legislation does not apply to the waste piles but rather the mines themselves. There have been 12-18 bills contemplated for years. Any solution has to be bi-partisan. The legislation would address, among other thing, the discharge permit. ARSG has been involved in this and has suggested doing a pilot. The bill could mean amending the Clean Water Act which causes concern among some. Or another idea is to amend CERCLA (stands for the Comprehensive Environmental Response, Compensation, and Liability Act, known also as "Superfund"). Good Sam won't solve all our problems but it will help, Peter noted.

Peter was asked if there is a map of the most concerning mines in the upper basin. He said yes, he will get one to the group (32 of them).

Ty Churchwell, Clean Water Campaign and Trout Unlimited: We have also been working on this for years and it is consistently one of TU's top priorities. We started the San Juan Clean Water Campaign and even before the spill incident, there were 100s signed up including 60 businesses. The spill is a chance to mobilize to get this done. It will take bipartisan legislation. The community (ies) need to stand up in mass. That is what happened with the Hermosa Creek legislation. Without people and businesses saying, "We want this..." it probably would not have occurred. There are many nuances to Good Sam that are debated.

John Whitney with Senator Bennet's Office: We support Good Sam concepts and working with the Colorado delegation to see that is gets done. As the other two speakers relayed, yes, it has to be bi-partisan. Peter Butler is the one who came up with the idea of amending CERCLA vs. amending the Clean Water Act. This idea was originally somewhat of a 'dark horse' but it might be the way to get this moving. It's a different approach. The main center of the controversy is around the idea that Good Sam could, depending on how it's worded/drafted, let mining companies off the hook and suspend laws for them in their current mining practices. Also, some groups just don't like the concept of amending the Clean Water Act. Safeguards are necessary but we have to see what we can do. This has been

contemplated for over 20 years. There has been a lot of back and forth if it should be only a pilot project in Colorado or if it should be done nationally. With the light shining on this issue via the Gold King incident, it might be time to consider a national approach. This is something that has to be worked out.

Darlene Marcus, Congressman Tipton's Office: The mine spill gave us a chance to re-look at this. Congressman Tipton doesn't just want to introduce a bill, he wants to introduce one that will pass the House. We have to thread the needle here in a way that works for all the interests. Mining companies would like recognition of their cleanup efforts. Can they be considered as "Good Sams"? Is coal involved? This is another question. Darlene said that this has to be bi-partisan and that their office is committed to it.

River Monitoring

The group did not have time to hear about river monitoring. Each entity doing monitoring was asked to write up a simple paragraph describing what they are doing and a handout can be created. It can also be a future agenda item. It was clarified that while Incident Command is being dismantled, the EPA will continue to do river monitoring.

Gage

The Durango Gage almost lost funding but has been kept in place for one year. It is used by many entities. There was a request, Marsha said, to have the group write a letter of support and this will be revisited at the next meeting. It was previously thought a letter was too premature until the coalition developed a purpose.

Video Taping the Meetings

Tom Schillaci, a local business owner, who specializes in videotaping public issues, has been covering the incident and many other aspects of the river for a long time. He has asked to video tape the group. It was asked if there was opposition to this. None was expressed. (Note: This agenda item came up after several attendees had left.) Tom said the purpose is to document the process.

Action Steps

A list of proposed actions was summarized and will be discussed next time:

- a) Produce an all hazards watershed plan based on community resiliency
- b) River Celebration Day (in process)
- c) Be a forum for sharing accurate information (happening)
- d) Study other models
- e) Track on or develop communications tools/plans to help the public better understand the river and its status (SJBHD is working on a communications plan that will be vetted with the group for input)
- f) Develop a better public warning system (in process?)

Next steps

- ◆ A small group will bring back another purpose statement. After this is agreed to, the group will determine what projects or initiatives they want to take on ensuring that duplication does not occur.
- ◆ The group agreed to meet on the 19th of November from 2 – 4:30 p.m. (location TBD). The main topic, and one to start with, will be continued work on the group “house keeping” list.
- ◆ The 11/1 “Animas River Celebration” Day will occur. Flannery O’Neil, SJBHD, will get information out to everyone via the email tree.
- ◆ The facilitator will develop a simple handout on who is doing what type of river monitoring. This is meant to be a quick snap shot, not a technical document.

Submitted by Marsha Porter-Norton, Facilitator, mporternorton@gmail.com or 970-247-8306

ATTACHMENT:

**Gold King Mine Incident and Community Response
Group Meeting
Tuesday, October 20, 2015—10:30 a.m. to 1:00 p.m.
San Juan Public Lands Center, 15 Burnett Court**

AGENDA

Purposes of the meeting

- a) Sharing of information and ideas and opportunities
- b) Firming up group purpose and structure
- c) Plans for River Day (11/1, 1 to 3 p.m., Dallabetta Park)

Ground rules

- ◆ All opinions count even if you do not agree with them
- ◆ One person talks at a time
- ◆ Keep focused on the future, on collaborative efforts, on what we can do *together*

Agenda

- I. Introductions (5 minutes)

- II. Purpose of this meeting and background, Marsha Porter-Norton, Facilitator (5)

- III. Update on Communications Work (5), the San Juan Basin Health Department has a communications plan so we will hear about it as well as any other communications efforts.
- IV. Updates on River Monitoring (10): Many entities are doing river monitoring. If your entity is involved, please bring brief and highlighted updates. Handouts and links are helpful.
- V. River Day, November 1st, Flannery O’Neil, San Juan Basin Health Department (15)
 - Update on the event
 - Sponsors to date (10/20 is the deadline to sponsor)
 - Help needed
 - Booklet that is in process to record, in one place, what everyone is doing
- VI. Group House Keeping:
 - ◆ Concept of Community Resiliency and Definition, (20) including a Power Point presentation by Dr. Heidi Steltzer, Faculty, Fort Lewis College (Heidi and representatives from the San Juan Basin Health Department have been working on ways to present resiliency as a concept/model for the group to consider in its work and discussion)
 - ◆ Other “House Keeping” Items (35 minutes)
 - Purpose statement (draft below)
 - Discussion of roles of the group (OVER)
 - Ensuring duplication does not occur
 - Structure including participation
 - Governance including methods for decision making
 - Coordination and funding
 - Does the group need a name?
 - Other
 - Summation and Next Steps
- VII. Information Item: Federal “Good Samaritan Legislation”, John Whitney, Senator Bennet’s Office; Darlene Marcus, Congressman Tipton’s Office; Ty Churchwell, Trout Unlimited and San Juan Clean Water Campaign; and Peter Butler, Co-Coordinator, Animas River Stakeholders Group (40 minutes) *(Note: The group is not being asked to take a position on this issue at this at this meeting. This item is on the agenda to share information.)*
- VIII. Other Updates (10)
- IX. A check in re: minutes from the meetings, approval, etc. (5)
- X. Summary, Marsha Porter-Norton

Potential Purpose Statement (draft, draft, draft, draft 1)

The purpose of the XXXXX group (yet to be formally named) is to foster communication, coordination, and collaborative action after the Gold King Mine spill incident; to restore public confidence; to support resiliency in our communities; to ensure better planning and improved public safety for the future; and to promote local economic health, while honoring institutional authorities and decision making.