

August 19, 2013

TO: Durango City Council, Parks and Recreation Advisory Board, Natural Lands Preservation Advisory Board, La Plata County Board of Commissioners, Colorado Parks and Wildlife, La Plata Open Space Conservancy, Great Outdoors Colorado, North Animas River Work Group

RE: Public comments submitted regarding Oxbow Park and Preserve Draft Management Plan

It is imperative that the City manage public use of the Oxbow property in a manner that will protect, to the greatest extent possible, the irreplaceable natural values of the parcel and surrounding area. Doing so will also protect the unique river experience this natural setting offers for quiet flat-water boating opportunities, as well as the private property rights of adjacent landowners.

While Parks and Recreation should continue to improve management of commercial use of the river through town, it would be short-sighted for city staff to simply re-create that same recreational experience north of town. With thoughtful and proactive management, I believe Oxbow and the flat section of the Animas River north of town can offer a unique experience while preserving wildlife habitat in an unspoiled area.

If the City of Durango truly appreciates and plans to conserve the natural environment that makes ours a unique community, professional management of the newly acquired Oxbow parcel is paramount. City Parks and Recreation's current draft development proposal to accommodate all private and commercial users, and the resulting increased use of the corridor both upstream and downstream, would seriously degrade and put at risk:

- Sensitive wildlife/riparian habitat,
- integrity of the natural river corridor greenway and surrounding conservation easements,
- unique recreational experiences offering solitude for private small-craft river users as an alternative to the overcrowding of the town stretch,
- quality of life, privacy and private property rights of adjacent landowners.

This portion of the river corridor has been all privately owned until the city's acquisition of the Cameron-Sterk parcel, with many surrounding large parcels held in conservation easements. Until the threat posed by the City's plans to develop Oxbow, the surrounding conservation easements and rural nature of the area allowed the riparian ecosystem to support a rich abundance of wildlife, such as birds of prey (including federally protected bald eagles), migratory water birds and song birds, ungulates, large and small mammals, reptiles, etc.

The City's earlier stewardship statement to both La Plata Open Space and Great Outdoors Colorado in 2011 has little in common with the development of commercial operations proposed in the Oxbow draft management plan. In earlier renditions of plans for Oxbow, the City touted the "*cumulative beneficial impact*" of adding Oxbow to the existing conservation easement-protected corridor of the Animas River north of Durango. To quote from the GOCO application; "*By securing all development and mineral rights on the parcel, the City can ensure the parcel will never be developed, thus permanently protecting the parcel's species and ecological values...*"

The grant application goes on to state; "*The City's Comprehensive Plan Future Land Use Map designates the property as Conservation Open Space. This designation recognizes the parcel's high ecological value*

*due to its partial location within the Animas River Corridor floodplain and floodway. This designation also recognizes the City's longstanding desire to preserve the parcel as open space within the Animas River Greenway." As I understand, this was the approach taken by the City to secure recommendation from the La Plata County Board of Commissioners for its GOCO application.*

*The application goes on to describe plans for a neighborhood park and wildlife preserve, listing the following values to be protected through acquisition of the parcel; "floodplain, wetlands and riparian vegetation, wildlife habitat, including a back water slough that provides unique habitat for several species of wildlife, including a variety of waterfowl, view shed from the north Animas Valley and US Hwy 550, which is part of the San Juan Scenic Byway, passive recreational and environmental education opportunities, legal public river access and open space for the Animas View Drive neighborhood."*

*The application also promises active daily management; "To ensure long-term protection of the parcel's conservation values, regular and ongoing monitoring and maintenance will be undertaken as part of the daily activities of the City's Parks Maintenance Division." To date, this type of vigorous presence and enforcement have not been exercised by the City on its other open space acquisitions, resulting in the goals listed in those plans being rarely enforced or maintained on the ground. The big difference here is that Oxbow and surrounding areas constitute delicate riparian habitat, which will be endangered by any half-hearted approach to management of onsite or cumulative effects.*

*In its letter to City Parks and Recreation dated June 11, 2013, Colorado Parks and Wildlife stated; "The preserve is dominated by riparian forest. Riparian communities have the highest species richness of all habitat types in Colorado, particularly for avian species. A broad diversity of avian species use riparian communities for the nesting component of their life history, making these systems a critical habitat type."*

Although we're not talking about a wildlife "refuge" here, the flat stretch of the Animas north of town has offered refuge until now to creatures which have been displaced from the town stretch because of the industrial tourism there. Therefore I find useful and enlightening the following mitigations for managing river recreation and wildlife habitat at the Fort Niobrara National Wildlife Refuge:

*Recreational presence creates an immediate behavioral disturbance to water birds ... herons, waterfowl, shorebirds and Belted Kingfisher. These species flee from recreationists regardless of vessel number, type, or user behavior. This phenomenon may lead to longer-term impacts on the survival of such species due to the energetic stresses involved with continual disruption of daily activities and fleeing of the area. Further documentation of periods of use of the river corridor by wildlife should be undertaken to aid in determining whether concentrating or spreading out recreational disturbance would lessen the impact on water birds as well as other wildlife.*

*Based on our results and thorough review of scientific literature, we suggest that a low impact recreational presence be promoted. Management actions should be implemented that minimize disturbance to wildlife. Acceptable levels of river recreation, both annual and daily, should be established. Encourage river recreation to occur when wildlife are less active and protect those time periods when wildlife are most active and therefore more likely to be disturbed (e.g. early morning and evening hours). Larger group sizes should be discouraged due to the increased potential for noise disturbance. River floaters should be encouraged to stay in their watercraft so as to not trample banks, destroy habitat, or further disturb birds or other wildlife. Visitors should be discouraged from leaving*

*food or trash that may attract predators. Finally, an education campaign should be instituted to increase visitor awareness.”*

Irreplaceable riparian habitat is found in about 1 percent of La Plata County today, and I can attest to the richness of the intact habitat still present on this section of river. For the past five years I have monitored the riparian corridor north of town from 33<sup>rd</sup> Street upstream to Riverbend for the Colorado Breeding Bird Atlas II Project through the Rocky Mountain Bird Observatory. This area is just two bends of the Animas River south of the Oxbow parcel and would be highly impacted.

The diversity and quantity of wildlife is astounding for an area so close to town. Bald eagles arrive in the area as early as mid-October and stay as late as early April. Typically, up to two pairs of adult (often joined by immature) bald eagles fish and perch daily in the pines and cottonwoods overhanging the river throughout this time period. They are joined by osprey, which also use the area extensively during this time frame.

Great blue herons have fished in large numbers along in this flat section of the river because of the privacy allowed them by large private parcels under conservation easements and limited upstream river use. Their breeding and nesting schedule varies by year, but typically the herons breed and build nests in the cottonwood galleries of adjacent wetlands in late February. In 2013, 15 active nests in two rookeries were occupied by mid-March. By mid-April dozens of chicks begin to hatch on staggered schedules. Throughout May, their parents fished the adjacent wetlands and nearby river banks to feed the young. Studies show it is critical for successful heron nesting habitat, such as this, to be in close proximity to suitable foraging habitat, which this area has provided. The fledglings leave their nests also on a staggered schedule in late May, and remain in the adjacent area for a couple of weeks to practice flight and fishing in the wetlands and river near their home colonies, returning to roost at or near the nests they were raised in during this critical time.

Herons can live for 18 years in the wild, but most adults probably survive only for 10 years, and young herons have a much high mortality rate than adults. Estimates are that perhaps only 20 percent of fledged chicks survive their first year, mostly because they starve to death due to a lack of adequate habitat. The great blue's fishing technique is difficult to master and takes much time, skill and patience without disturbance. Their ability to stand motionless for long periods of time is impossible on a river filled with humans in springtime when they leave their nests.

In summary, great blue herons rely on this section of river for feeding all winter and for rearing of their young through late spring and early summer. In the past, land ownership patterns have protected them and other wildlife from large human disturbances. In winter and spring, cold temperatures and later, high water levels, have minimized upstream human recreation. With the recent unmanaged “soft opening” of Oxbow this year; however, increased downstream human use negated the herons' ability to use the river during the critical fledging period.

Herons and ospreys are protected under the Migratory Bird Treaty Act; bald eagles under the Threatened and Endangered Species Act. Many other migratory birds also depend on the riparian habitat provided on this flat stretch of the Animas River. In 2013, kingfishers arrived in this section in mid-April. In late April Canada goslings began to hatch and swallows arrived, followed by a diversity of migratory songbirds in early to mid-May. Spring and summer has seen documentation also of black-crowned night herons, egrets, killdeer, sandpipers, dippers, etc. During late winter and early spring, the diversity of diving and dabbling duck species feeding in this section of river is a joy to behold. The

merganzers and mallards go on to nest in this section and raise young. Dozens of other species of birds and woodpeckers thrive in the riparian habitat immediately adjacent to the river.

Wild animals have not been the only river users who have benefited from the solitude and natural environment on this quiet, rural flat stretch of water. Upstream small-craft river users find it invaluable as an alternative experience to the congestion, crowding and noise of the town stretch of river. Conserving this unique experience for kayakers, paddle boarders, canoeists and others will have tremendous value in adding to the diversity of recreational opportunities available on the Animas River.

And last but not least, many private landowners in this area have given up development values under conservation easements. The variety of wildlife living, breeding, nesting, feeding and rearing their young along the river corridor is evidence of their responsible management. There is simply no other heavy-handed development or use along this section of river comparable to what the City has in mind.

To protect the values mentioned above, I submit the following recommendations for mitigations in accordance with the City's above earlier statements for protecting the values of this area:

1. **CLOSE THE UNMANAGED PARK NOW.** Oxbow Park must be closed to the public as soon as possible and remain closed until a management plan is in place to assure public safety and hygiene, quality of life for adjacent neighbors, and intact wildlife habitat. The gate should be closed and the parcel signed as closed.
2. **CONDUCT A BASELINE STUDY.** A baseline study of wildlife habitat and use patterns should be undertaken from fall through winter to late spring (of course, "baseline" conditions can't be studied until the unmanaged park is closed). Baseline monitoring should be conducted by an independent third party, although paid for by the City, under supervision of Colorado Parks and Wildlife. Season of use for water birds, birds of prey, shorebirds, big game (deer, elk, bear, coyotes, etc.), small mammals and reptiles, etc. should be documented. Monitoring results should be used to develop mitigations to conserve existing seasonal wildlife habitat. Rocky Mountain Bird Observatory monitoring data of bird use in the general area should be used to help document past wildlife use in potentially affected areas downstream.
3. **ESTABLISH SEASONAL WILDLIFE CLOSURES BASED ON THE BASELINE STUDY.** The baseline study should be used to establish set annual dates for seasonal closures to protect sensitive seasons for bird breeding, nesting, feeding and fledging habitat, as well as deer and elk critical winter habitat. A conditional winter closure attached to other big-game closures for deer and elk will not suffice. This is not an upland parcel; as flood plain and riparian habitat, its sensitive seasons are not solely tied to the migration of ungulates (although they, of course, depend on its bounty and privacy, as well). Set annual dates are also easier for the public to comply with and authorities to enforce, as opposed to "conditional" closures, which are often arbitrary in practice.
4. **ADDRESS CUMULATIVE EFFECTS.** The management plan should not focus primarily on the Oxbow parcel but prioritize study and recommendations for mitigation of cumulative impacts from increased public use up and down this section of the river. Many of the greatest negative impacts to the riparian corridor, riverine habitat and wildlife (as well as adjacent landowners) will be in the form of cumulative upstream and downstream effects.

5. SET A CARRYING CAPACITY TO GUIDE MANAGEMENT. The management plan should establish a carrying capacity to determine the appropriate and desired amount of use to protect user experience, neighborhood quality of life and natural habitat. Establishing a carrying capacity will help guide decisions to be made on specific management actions. The carrying capacity could easily be enforced by providing a specific number of vehicle parking spaces. When parking is full, the park would be considered at capacity, and no further parking will be allowed off-site so as to protect the neighborhood; however, once the river trail is complete, walk-in traffic would always be allowed during open seasons and daily hours of use. This will ensure a quality user experience, while managing impacts.
6. ESTABLISH DAILY HOURS OF OPERATION. During the open season of use, daily hours of operation should be enforced by opening and closing an entrance gate offering access. The park should be closed from early evening to late morning, both to safeguard neighbors' privacy and quality of life, and to allow wildlife to use the area during the critical feeding hours at dawn and dusk. Specific hours of operation could be arrived at by interviewing neighbors and through data revealed in the baseline study of wildlife use. Human use can easily be concentrated from mid-morning through late afternoon, when water and air temperatures are most conducive to river recreation, and wildlife access for feeding is less critical. Hours of operation should be posted, manned and actively enforced.
7. MANAGE OXBOW AS A NEIGHBORHOOD AND RIVER TRAIL PARK. Oxbow should be designed primarily as a destination for river trail users and as a "neighborhood park," so as not to encourage the displacement of the town stretch congestion north to this area nor encourage additional traffic on Animas View Drive. Parking for private parties should be offered only on the outside of the gate to the park. This would allow members of the public who use the river in late afternoon to be able to access their vehicles after the park gate is closed. This would also reduce the amount of pavement necessary inside the park, allowing it to actually serve as open-space.
8. DO NOT ESTABLISH COMMERCIAL RIVER USE IN THE AREA. Private river users seeking escape from the river scene through town should not have to compete with bus traffic, large crowds, congestion, etc. at Oxbow. Commercial use is incompatible with the unique values and experience offered by this park and preserve, the sensitive nature of the riparian habitat, and the adjacent neighborhoods and landowners. For the same reasons, no special events should ever be permitted. Meanwhile, the City should focus on improving the already established in-town river access points to make commercial use more compatible with those neighborhoods. The vision that Durango Parks and Recreation and the commercial rafting industry have for Oxbow is not the same as that of the general public. Do not simply move the experience of the town stretch of the river north.
9. CREATE A NEW RIVER RECREATION "NICHE." Oxbow can be a truly unique park and preserve if this portion of the river corridor is managed to offer users a difference experience than what can be found through town. Believe me, you can market that. Reserve Oxbow for use by the general public to enjoy its trails and access to a quiet, natural section of flat water bordered by private property. This will also decrease the amount of pavement necessary in this riparian zone and serve to protect private property rights. Allowing large vehicles and large crowds at Oxbow would be antithetical to the values touted by the City in its quotes noted above. Hundreds of

thousands of taxpayers' dollars will be spent to bring the Animas River Trail to Oxbow, so surely foot and bike traffic should be a main focus.

10. DO NOT BUILD IN THE FLOOD PLAIN. No facilities should be constructed within the flood plain to safeguard both the public investment of infrastructure from high-water damages and the surrounding environment from potential pollution.
11. ENFORCE WILDLIFE CLOSURE RESTRICTIONS. Annual seasonal wildlife closures should be enacted by the locked gate and fencing, and actively monitored by park rangers and/or law enforcement. Public notices of closures and openings should be offered in local media and other venues by the City. All fencing of the property should be constructed in a wildlife-friendly manner approved by Colorado Parks and Wildlife.
12. ACTIVELY ENFORCE A LEASH LAW OR DO NOT ALLOW DOGS. During the open season and hours of use, a strict leash law should be in effect and enforced during hours of operation in both the developed and undeveloped portions of Oxbow. Removal of dog waste should be mandatory, and waste bags should be offered onsite. If active daily enforcement of the leash law is not a possibility, dogs should be banned altogether.
13. USE THE BASELINE STUDY TO PLAN DEVELOPMENT. In its letter to City Parks and Recreation regarding plans for Oxbow dated June 11, 2013, Colorado Parks and Wildlife stated; *"The construction of trails and trail use restrictions within these habitats should be carefully planned... demonstrated a shift in avian species composition associated with trails. Other studies ... have shown non-motorized recreation (eg hiking and biking) can alter species composition and behavior, lead to avoidance of otherwise suitable habitat and decrease species composition and activity levels."* Actively engage Colorado Parks and Wildlife in the layout and design of the developed and undeveloped portions of the park and preserve, and in the interpretive signage messages. Interpretive signs should include hours of operation and season of use, map of facilities, explanation of how the park is designed and managed to accommodate human use while protecting wildlife habitat, safety messages and regulations.
14. KEEP OXBOW A RIVER PUT IN. Any downstream commercial river use from the north should not be allowed to take out at Oxbow, to keep from doubling its use and negatively affecting its public values. Again, the focus should be to offer access to the general public seeking a nature-based experience.
15. ENFORCE BEAR SAFETY. All trash receptacles onsite must be bear proof, trash containers must be emptied on at least a weekly basis, and litter must not be allowed to accumulate. Signage should be posted to notify the public of bear-safety regulations. Engage Colorado Parks and Wildlife in design of these components.
16. PROTECT THE PRESERVE. The shoreline of the undeveloped portion of the park must be off limits to human access from land or water to reserve shoreline integrity and limit erosion. Trails should be carefully laid on the ground to avoid sensitive areas. The wildlife closure should be strictly enforced.
17. PROTECT THE PARK. Areas of the developed portion of the park which have sensitive shoreline, erosive slopes, wetlands or easily damaged vegetation should be blocked by natural barriers,

such as boulders or logs. This will passively guide users to take advantage of areas where river access is more appropriate or has been improved for their safety.

18. DO NOT OPEN OXBOW UNTIL IT CAN BE ACTIVELY MANAGED. It is imperative that creation of Oxbow not mean creation of unsafe and illegal behavior up and down this section of river. Park rangers and law enforcement should have a daily and noticeable presence during high-use seasons in the developed and undeveloped portions of the park, as well as along the adjacent properties. The plan should include an agreement between the City of Durango and La Plata County as to adequate enforcement of responsible behavior in the river corridor from Oxbow put-to the city limits. Practical means must be established to control trespassing and guard against erosion of private property banks.

If the City of Durango truly prioritizes and follows through on the values of the Animas River Greenway stated in its Animas River Corridor Management Plan and other public documents and statements, it must manage use of Oxbow to protect those natural and social values onsite and in the potentially affected adjacent areas. I, for one, hope the City stays true to those goals.

Sincerely,

/s/

Ann Bond, private citizen

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