



Gore Creek was officially designated as an "impaired stream" in 2013.

Vail Homeowners Association Newsletter

News, Analysis, and Commentary for Vail Homeowners

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Executive Summary - Gore Creek Cleanup

Recent events have moved the clean-up of Gore Creek pollution to center stage and challenged political leadership to find fair and responsible solutions. Changes in the water

quality standards have resulted in [Gore Creek being designated as an impaired waterway](#) by the State of Colorado. The [Gore Creek Water Quality Improvement Plan](#) has recommended consideration of the establishment of a new government agency, with a dedicated source of local taxpayer revenue, for management of the clean-up. There is the potential, if other solutions are not found, for local taxpayers to build a costly storm water collection and treatment system. Many questions are involved, including the nature of the pollution, how it can be effectively cleaned up, who will take the lead and what the ultimate price tag will be.

At the same time, [the Eagle River Water & Sanitation District \(ERWSD\)](#) is moving forward with a [\\$95 million Master Plan](#) to upgrade its three wastewater treatment plants and has decided to seek voter approval for a \$25 million tax increase and a TABOR voter approval "de-Brucing" wavier to fund Phase 2 of that work. Phase 1, already authorized for \$28 million is slated to begin construction in 2014 and is paid for by a ratepayer increase beginning in 2015. The District has not yet disclosed how it intends to fund the \$42 million balance of the Master Plan. However, these improvements will not offset pollution in the Gore Creek drainage above the Vail treatment plant.

The upcoming May 6th special district elections will provide District property owners who vote in Colorado an opportunity to not only decide the ERWSD's proposed tax increase and TABOR wavier, but also determine the make-up of their 7 member Board of Directors, as 5 of those seats are up for election. The newly elected Board will oversee implementation of its long-term Master Plan.

The Town of Vail has committed to have its own [Strategic Action Plan](#) to comprehensively cleanup all of Gore Creek ready by the end of this year. **Perhaps, before the Vail community supports the proposed ERWSD tax increase and TABOR waiver, it would be advisable for all interests, including the Town of Vail, ERWSD and the taxpayers, to have the opportunity to come to a consensus about how the overall cleanup of Gore Creek is to proceed and be financed.**

For more details, read on...

Gore Creek Pollution Update

In the [VHA December Newsletter](#) it was reported that portions of Gore Creek had failed to meet new State of Colorado water quality standards and that the Eagle River Water & Sanitation District (ERWSD) was conducting smoke tests on its wastewater collection system to make sure that storm water runoff from the Town's collection system is not entering the ERWSD's wastewater system. Now more has come to light about the condition of Gore Creek and what will be required to be done; while at the same time the ERWSD is moving forward with its plans for wastewater plant improvements. These developments raised a host of serious questions for Vail homeowners.

Special Events that include Kayak Whitewater Competition on Gore Creek draw many thousands of visitors to Vail.

Gore Creek Pollution: Gore Creek is one of Vail's crown jewels; a source of both beauty and pride. It is the community's primary source of domestic water and it runs nearly 11 miles along the valley floor snaking through the Town of Vail. For decades it has been designated a "Gold Medal Trout Stream," a designation it still enjoys. In high-water years Gore Creek supports rafting and other recreational uses and it is the focus of many Town activities, including in recent years, winter ice carving displays and international level white-water events.

The health of Gore Creek has been studied for over 20 years. Historically there has been little regulation of runoffs into Gore Creek. Streamside vegetation has not been protected and many property owners have extended their landscaping to the creek. Nonetheless, Gore Creek remained in compliance with applicable "fit for human consumption" standards.

There was, however, concern over the impact of development and urbanization in the valley and, in 2010, in anticipation of a potential need for corrective measures, all of the stakeholders, including the Town of Vail, ERWSD and CDOT, formed the Urban Runoff Group (URG). The URG, in turn, undertook the development of the [Gore Creek Water Quality Improvement Plan](#). While the plan envisions further study and monitoring, a number of items for planning and implementation have already been identified. Of particular note is the recommendation that the creation of a new agency, with a dedicated revenue stream, should be considered.

The plan comes none too late as in 2012 the State of Colorado, as required by the Federal Clean Water Act, enacted new "healthy stream" standards that impose more stringent water quality standards. Under those standards, the upper section of Gore Creek - from East Vail to the ERWSD Lionshead treatment plant - fell below the requirements. As a result, in December 2012 that portion, along with the remainder of Gore Creek, was designated as impaired by the State of Colorado.

Untreated roadway cinders, oil and mag choride salts from snowplowing eventually make their way into Gore Creek.

Sources of the Pollution: While upper Gore Creek has been designated "impaired," there is no "point source" location of the pollution. Instead, the pollution has been tied to three causes: (1) stream bank degradation due to development extending to the water's edge which prevents natural filtration of the creek water, (2) urban runoffs containing hydrocarbons and road salt (mag chloride) which end up in the creek because of impervious

covering of a large percentage of the valley floor (roadways, parking lots, etc.) and (3) pollutants from land-use activities (pesticides, fertilizers, etc.). Moreover, ground water migration may be bringing pollutants from locations other than streamside locations. As a result, finding a solution to Gore Creek's pollution will not be easy. Given the complexity of the pollution causes, the overall solution will most likely require a multiplicity of actions.

Urban runoffs are of particular concern because they are largely untreated discharges. For example, the Town of Vail's storm water collection system only has sand traps to remove particulates; there is no filtration to remove toxic pollutants. And while there are traction sand collection ponds along the Vail pass portion of I-70, that runoff is also unfiltered for hydrocarbon and mag chloride contaminates.

The Challenge to Town Leadership

Vail, since its beginning, has had a legacy of protecting Gore Creek's tourism value through stream bank, wetland and open space protections.

The Town of Vail is not presently obligated to do anything to clean-up Gore Creek. That, however, begs the question of whether the Town will pick up the leadership banner, given the importance of the creek to the community. It is after all, the Town of Vail that has the most to lose from a polluted creek. And that is a situation that cries out for political leadership from the Town.

From an action standpoint, the Gore Creek Water Quality Improvement Plan provides a good blue print, but it is not yet clear what the Town will do. So far the Town's initial efforts

seem to be directed at the regulation of pesticides and fertilizers and some site specific actions while it evaluates whether to impose penalties for removal of riparian vegetation, increase stream set-backs, create "no-mow" buffer zones, require increased landscaping and storm water treatment at parking sites and undertake aggressive enforcement of illegal dumping into the Creek.

Yet to be addressed are the critical questions of whether the Town will take the lead in managing the over-all clean-up by itself or through the creation of a new agency, and what the source of funding for the clean-up will be. Also still to be addressed are the more sensitive questions of what might be required of stream-side homeowners in the way of repair or restoration - such as the [reintroduction of native plant species](#) to filter the creek - or what might be necessary to deal with urban runoff. Nor has the Town decided whether to impose Best Management Practices (BMPs) in key areas.

Still, the clock is ticking. It has now been over a year since Gore Creek was designated as impaired. And it is not just Gore Creek but rather the entire Gore Creek drainage that needs to be addressed. That includes the Gore Creek tributaries of Black Gore, Booth and Red Sandstone creeks, as each delivers inflows into Gore Creek.

Much can be expected in the coming months as the Town has committed to develop a [Strategic Action Plan](#) by December 2014. VHA intends to closely monitor the situation and will regularly report on developments ([See VHA October 7, 2014 Newsletter](#)).

Role of the State and Federal Governments: Also not yet addressed are the obligations of CDOT and the Federal Government for mitigating the detrimental effects of I-70 run-off. It seems logical that a significant portion of the pollution of Gore Creek comes from the maintenance of (magnesium chloride) and traffic use (hydrocarbons) of I-70. And, while CDOT has built collection ponds along Vail Pass to prevent traction sand flow-through to Gore Creek and has a road sand removal program, there are no runoff collection ponds west of Mile Marker 182 and no treatment facilities for any of the runoff. What the obligation of CDOT and/or the Federal Government is, or should be, to contribute to the solutions for Gore Creek is a consideration which should be addressed.

Lessons That Could Be Learned

While the Gore Creek Water Quality Improvement Plan provides a blue print for moving forward, Vail could gain some valuable insight from studying the steps taken to protect [Lake Tahoe](#), the actions of [Austin, Texas](#) and the restoration of the Eagle River, particularly in the Minturn area. Beginning in the 1980s governments around Lake Tahoe imposed a series of measures to prevent pollution of the Lake, which have been largely successful. At the same time, Austin, Texas was faced with non-point source pollution and decided to require storm water BMPs at all new developments. And the Eagle River was seriously polluted due to runoff from the old Eagle Mine at Gillman. Through a series of land-use regulations for property adjacent to the river and repairs of channel courses and streamside conditions, the river was eventually restored to a healthy state.

While regulation of private property adjacent to the creek will potentially be a contentious issue, dealing with urban runoff could be an even bigger problem. As the ERWSD isolates its wastewater system from the Town's stormwater runoff, more of the Town's stormwater runoff will find its way to Gore Creek. At the same time, runoff from I-70 and Gore Creek tributaries continues unabated. The Town will have to consider the adoption of uniform

regulations and/or mandatory BMPs for the collection and disposal of that runoff. It may even ultimately have to build a runoff collection and treatment system. If upgrades to the ERWSD's existing plants alone have a \$62 million price tag, the cost of a storm water collection and treatment system could be many times more. The financial impact of such actions cannot be judged at this time since there might be sources of State and Federal funding that could substantially reduce the financial burden on local taxpayers.

ERWSD Plans and Ballot Proposals

Vail Waste Water Treatment Plant located along side Gore Creek in West Lionshead

ERWSD is a special taxing district that was created in 1966 to provide public water and wastewater treatment systems in the eastern half of Eagle County, roughly from Vail to Cordillera. The ERWSD encompasses not only Vail property owners but many other down-valley property owners. It is governed by a publicly elected seven-member Board of Directors.

ERWSD operates three wastewater treatment plants; one in Vail at Lionshead and two others in Avon and Edwards. The Lionshead plant discharges into Gore Creek; the Avon and Edwards plants discharge into the Eagle River. While only the [upper section of Gore Creek drainage is polluted](#), the ERWSD had been mandated to improve the effluent nutrient discharge (reduction of phosphorus and nitrogen) at all three of its plants. While reduced discharges will improve the quality of downstream water, the changes to the ERWSD

treatment plants will do nothing to clean-up the upper portions of Gore Creek which are currently impaired.

More to the Story: Recently the ERWSD sent an [election notice letter](#) to its subscribers announcing that to fund changes in its treatment plants it intended to seek a \$25 million tax increase and exemption from TABOR revenue and spending limits. The letter made it seem that was the total extent of the District's actions but that is not so. What the District is doing is much more extensive and the cost is greatly in excess of the proposed tax increase, but the District's actions have received little public attention and no scrutiny.

The ERWSD Master Plan

Telltale signs of phosphate pollution are evident at Vail Treatment Plant outfall. Although previously compliant, the Plant does not meet the new State water quality standards.

The District's strategy is contained in its [2012 Wastewater Master Plan Update](#). The fifteen year plan involves three things: an increase in overall wastewater treatment capacity, an upgrade of its treatment plants to reduce nutrient discharges and consolidation of solid waste treatment at the Edwards treatment plant. The total cost is projected to be \$95 million through 2028. According to the District, it considered eight different alternative plans before selecting what is in the Master Plan. There was, however, no public vetting of that process or the various choices. In the alternative selected by the District, the upgrades for just reducing nutrient discharges comprise appropriately two-thirds of the total cost, or about \$62 million, a figure that is greatly in excess of the proposed tax increase.

While the overall plan has been presented to the Town of Vail (for informational purposes only since the Town has no authority over the District) and in some other forums, it has

received little public attention. Phase 1 of the plan, the consolidation of solid waste treatment at the Edwards treatment plant and some miscellaneous improvements, is scheduled to begin this year. To pay for Phase 1, the District has issued \$28 million in revenue bonds and to pay for those bonds; so beginning in 2015, water and sewer charges per single family equivalent (a 3,000 square foot home) will increase \$6 per month.

Phase 2 of the Plan involves the upgrades to the treatment facilities to reduce nutrient discharges. To pay for the initial portion of Phase 2, the District is proposing to issue \$25 million in general obligation bonds. To fund those bonds the ERWSD decided to submit two measures for voter approval in the May 2014 election: a tax increase to begin in 2017 and a TABOR spending limits waiver. The tax increase would amount to \$25 annually per \$500,000 of home value, although the actual mil levy could vary year to year over the life of the bonds. The District has not yet disclosed how it intends to fund the \$42 million balance of the Master Plan.

What's The Rush? The upgrades of the treatment plants are not scheduled to begin until 2018 and even when completed will not impact the portion of Gore Creek that is currently impaired. Well before the ERWSD upgrades are even commenced, many decisions concerning the Gore Creek clean-up must be made, at least some of which may have significant financial consequences. And, the Town has committed to have its own [Strategic Action Plan](#) ready by the end of this year.

Perhaps, before the Vail community supports the proposed ERWSD tax increase and TABOR waiver, it would be advisable for all interests, including the Town of Vail, ERWSD and the taxpayers, to have the opportunity to come to a consensus about how the overall cleanup of Gore Creek is to proceed and be financed. In forming this consensus, it would be helpful to be guided by a proposed management pro forma, which should include an analysis of the soundness of the financing obligations incurred by the proposed election issues under discussion as well as the other costs that will have to be incurred to get Gore Creek back to its proper status.

The May 2014 Special District Elections

The May 6th special district elections at which the ERWSD ballot issues will come up also will involve the election of five members of the ERWSD Board of Directors, as well as the election of a majority of the Vail Recreation District (VRD) Board of Directors, which itself is engaged in similar complex preservation and land-use issues.

Unlike the Town Council elections, all Colorado registered voters, who own property in Vail, are eligible to vote in both the ERWSD and VRD elections. This creates the opportunity for Colorado registered voters who are Vail property owners to shape the outcome of those elections. However the two elections will be handled differently.

The [ERWSD election](#) is a "mail-in ballot" only election so all eligible voters should automatically receive a ballot by April 26th. That is not so for the VRD election. For the [VRD election](#), eligible voters who want to vote by mail will have to request a ballot from the Designated Election Official. Obviously these different procedures have the potential to create confusion, but VHA has been involved in a campaign to ensure that all who want to vote will be able to do so.

See the [VHA website](#) for more information on voter eligibility, registering to vote and requesting ballots for both elections.

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All Photography (unless otherwise noted):

◆ James Franklin Lamont

www.norriislamontgallery.com

PDF Version, Copy Editing and Distribution:

Elizabeth Bailey

Books Plus

Books.Plus.More@msn.com

Email Design and Layout:

Jill Gordon

Gordon Group, LLC

gordongrp@comcast.net

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