

**Tarryall Fishing Club
Minutes from
2004 Annual Membership Meeting
11 a.m., May 15, 2004**

Location: Jefferson Community Center, Jefferson, CO

Board: Paul Grossnickle - President
Ken Black –Vice President
Theresa Pugh –Secretary
Anna Keith –Treasurer
Emery R. Hanson - At Large
Chuck Schwalier At Large

Call to Order: President, Paul Grossnickle, called the meeting to order at 11:20 a.m.. Board members were introduced.

Minutes: Minutes from the May 2004 Meeting were read and approved with the following correction by Larry Sharp, Stagestop Lot 48: At the 2003 meeting, there was some discussion by Attorney Amy Durfee West regarding providing fishing passes to the stream for other than Lost Park or Stagestop owners. He made a motion that before any action permitting anyone other than Lost Park or Stagestop owners to fish, that it be brought back to the membership for discussion and a vote. Larry asked that the motion be reflected in the minutes.

Treasurer's Report: Anna Keith gave the treasurer's report. As of the May 15 meeting time, TFC had \$11,277.03 in the treasury. Anna outlined the expenses TFC anticipates to run the club for the upcoming year. Income and expenses were also shown on the meeting handout. In addition to the fishing club operational expenses, the attorney fees and survey cost which have been incurred from the summer of 2001 to date were \$18,188.03. TFC has asked the two homeowners' associations (HOAs), Stagestop Owners' Association (SOA) and Lost Park Ranch Owners' Associations (LPROA), for reimbursement of \$10,664.57 to date. Anna also outlined projected legal expenses. We anticipate approximately \$4,000 for a title insurance policy, \$2000 in attorney fees, \$250 in incidental expenses, and if we have to file a court action, \$20,000 retainer for a total of \$26,250. The share of the projected legal expenses is \$17,325 from Stagestop and \$8,925 from Lost Park Ranch.

Gerry Taylor, SOA board President, asked if the HOAs were expected to make up the difference between the \$18,188.03 that has been spent so far and the \$10,664.57 that they have been asked to reimburse the TFC to date. Theresa Pugh answered the question. No, the HOAs are not expected to make up the difference of approximately \$7,500. At the beginning of this problem, TFC agreed it would spend whatever surplus money it had in its treasury to pursue the matter legally before the HOAs would pay. TFC had a budget surplus at that time in part because the water augmentation pond near Stagestop had been allowed to get too low to stock and the stocking money was not being spent there. TFC spent its reserves on the legal action before going to the HOAs for funding of the remainder of the legal expenses. Now the TFC is representing the two HOAs in handling the legal matters and has no money of its own to spend on the legal issues.

Bob Hanson, Stagestop Lot 310 asked what the court action of \$20,000 would accomplish. The question was deferred until later in the meeting after further discussion of the business.

Paul asked for a volunteer to review the TFC books but no one volunteered during the meeting.

Efforts and Accomplishments: Theresa Pugh reported on the activities and accomplishments of the TFC board over the past year.

- Survey - Since last year, a Surveyor was hired to survey the river. The landowners had to be notified and the survey was delayed because the surveyor had to work with the landowners to gain access to their land and an appropriate time. Afterward, we had to wait for snow to melt before the survey markers could be confirmed and access points identified and described. Our survey of the river is now completed and is to be registered with Park County.

- Title Insurance - We have given the survey to the title insurance company and we have received an oral promise of a title commitment from the title company.
- There are some areas in the lease where the trail of ownership is not clear and we need to get this cleaned up. Both TFC and the landowners have thought that the lease existed for long enough that we can claim prescriptive easement but we hope that we can get our attorney to negotiate an agreement without going to court.
- Red gate - A landowner along the river removed our red gate. We have determined from the survey that the land where the red gate was located is National Forest land. TFC has shown a copy of our survey to the Forest Service. We will send the Forest Service a final copy so they can get their lands people to contact the landowners and get the fence removed. If a landowner believes that the property is his, there may be court action between the landowner and the Forest Service and the fence removal could take quite some time.
- Signs were photographed and are scheduled for replacement now that the survey is finished.
- TFC Rules were updated and sent out to all members.
- Fishing passes were redesigned slightly to make them more difficult to copy. Five people spent several hours addressing envelopes and writing lot numbers on all of the membership cards, guest passes, hang tags.
- A written update, which included the history of the fishing lease and the actions that have affected it over the years, was sent to all members.

Discussion:

In answer to Bob Hanson's earlier question regarding why the \$20,000 amount for a quiet title action might be needed, Theresa explained that we have been told that due to the nature of the action, once an attorney begins working on a quiet title action, they cannot resign so in order to get an attorney to begin, a \$20,000 retainer must be put down. This does not mean that the entire \$20,000 will be spent, nor does it guarantee that \$20,000 will be enough money to complete the action.

Discussion:

Bill Burris, Stagestop Lot 228, 222, and 116, owns the property between Stagestop and the LPROA water aug pond property. Bill requests that people take care crossing his fences getting to the river. Fences have been broken numerous times. Bill agreed to have Paul Grossnickle look at the problem with him.

Bill Burris also wants to know why it took three years to find out who had the legal right to the river when he got his within a month with the number of where it is recorded in the county. He said he has been told for two years that our fishing lease is only a handshake deal. Theresa Pugh said that at the meeting last year, our attorney said something that may have been confusing to people. The attorney held up a copy of our lease and said that it was a page better than a handshake. She did not say it was a handshake. Theresa agreed that the lease was duly recorded but said that the legal description in our lease describes some land that is not even on the river. We are trying to get those details cleared up so that we have a much stronger position to speak from so that when we go to the landowners we can tell them we have this lease, this is what is required on our part and on theirs.

Rules: Paul Grossnickle reviewed the TFC rules, which were updated this year.

Discussion:

- Scott Johnson, Stagestop Lot 226, suggested we might want to add a restriction to the rules prohibiting activity at the lake after dark. TFC has been following Colorado fishing rules, which do not restrict fishing at night. TFC will take the suggestion under advisement.
- Duane Mellinger, Lost Park Ranch Lot 198, asked where the 20-foot mark is measured. Cliff Pugh, LPROA President stated it is measured from the high-water mark on either side of the stream. Paul reminded members that there is a 10-foot limitation for about 100 yards where the river passes along the cabin owned by Observatory Rock Bison Ranch.

Fish Stocking: Paul Grossnickle reported that the first fish stocking of the season had been scheduled for May 10 but had been delayed to allow the lakes at Lost Park Ranch time to fill. Stocking will take place before the Memorial Day weekend and is planned for approximate 1 week before the holiday weekends (Fourth of July and Labor Day). TFC will monitor the stream gage to determine if the flow in the Tarryall River is adequate to justify putting fish into the river. Last winter, Lost Park Ranch aerated the pond by Stagestop. It appears that some of the fish have survived the winter. We are not sure if there are enough deep holes for fish to survive in river over the winter. We are looking into

cooperation with river restoration projects to help improve the fish habitat. Due to the increased cost of fish and TFC's limited funds, stocking for August and September will have to be cut down to about \$2000.

Discussion:

- Bill Burris, Stagestop Lots 228, 222, 116, suggested we might want to eliminate the river stocking because the river gets too shallow for the fish to survive the winter. Paul stated that due to the access issues, we have only been stocking the river by the SOA firehouse, and the LPROA water aug reservoir and the stream gage.
- Bill Burris stated that in the past when he served on the board, SOA was only required to drain one of the ponds in Lost Park to fulfill the water augmentation requirement and questioned why both ponds are being drained. Cliff Pugh who manages the LPROA water aug plan said that SOA may be able to work with the water commissioner and may not have to drain both ponds this year but he had not yet had an opportunity to talk to the SOA board regarding how they need to work out the issue. TFC will work with the HOAs to maximize fish survival.
- Paul noted that there is a leak in the upper pond at Lost Park. Anna Keith asked Gloria Phillips, SOA board member, if they had been able to get in touch with the contractor to get the dam fixed. Gerry Taylor, SOA President, said she had tried to call the contractor who worked on the pond a couple of years ago but he had not called her back. She had contacted someone else for a bid and it would involve draining the pond. Gerry discussed another alternative with Cliff Pugh that SOA board was going to pursue and the pond would probably not need to be drained at this time.
- Chuck Schwalier stated that there are several members who do fish the length of the river. He said that you have to work a little bit harder at it but there are some big fish in there. The river is very productive as several can verify.

Whirling Disease: Chuck Schwalier gave a brief presentation on whirling disease. Whirling disease, *Myxobolus cerebralis* (Mc), is a parasite that infiltrates the spinal column and the brain of smaller fish – generally rainbow and cutbow trout. It multiplies rapidly; causing fish to swim erratically and in severe cases, die. When an infected fish dies, millions of tiny indestructible Mc spores are released to the water where they can lie dormant for up to 30 years. When the Mc spore is ingested by a Tubifex worm, the spore changes and multiplies inside the worm and is released from the worm in a highly infective form, the Triactinomyxon (Tam). Tams are free-floating in water until they infect trout causing spinal deformities and decreased abilities for feed. Infected fish may have a darkened tail, twisted spine, and deformed head. Young fish may also swim erratically or whirl.

Whirling disease is highly contagious and can be carried in a number of ways. You can help prevent its spread by following a few precautions when fishing the river and ponds:

- Clean waders and equipment before going from one body of water to another. Hosing off mud and debris is a good practice for preventing transfer,
- Clean fish away from the stream and ponds. Dispose of the entrails in dry waste that will go to a landfill.

More information is available at www.whirling-disease.org.

Discussion questions were addressed:

- How is the disease treated? Treatment to eradicate the disease is drastic. Ponds must be emptied and dredged.
- Is it legal to clean fish at the ponds? It is not illegal but it is not a good idea. Paul added that the fish we stock come from a family-owned hatchery and are guaranteed to be whirling disease free and asked that people dispose of entrails at home. Yeagers, Lot 104 asked if might want to add a prohibition of fish cleaning to our rules. TFC will take under advisement.

Survey/Access Points: Theresa Pugh reported that survey of the Tarryall River and out access points has been completed. The surveyor was to have recorded the survey on Friday, May 14. The surveyor came out and verified his work and marked the access points on April 7. One of the landowners removed the red gate while our survey was in progress. We have learned that our access near the place the red gate used to be located is actually on the Topaz Mountain Bison Ranch property. We plan to contact the property owners with results of the survey. In addition, the land where the red gate itself was located is National Forest land. We have met with Sara Mayben, District Ranger for Pike National Forest to review our survey and to ask permission to replace the red gate. Ms. Mayben said she could not give us permission to replace the red gate because the land should not be fenced. When we send her a finalized copy of our survey, she will have her lands people notify the landowners in the vicinity of the red gate that the fence must be removed. If no one claims the fence or the property it is fencing in, the TFC may be asked for volunteers for removing

the fence. If there is a landowner who thinks that the property we identified as National Forest is theirs and takes the matter to court, it will take significantly longer. In the meantime, we can access the river by crossing the fence and walking directly to the river on the National Forest Land. TFC will send a copy of the survey map to Park County Sheriff to explain why we are accessing the river at that point because it is possible a landowner may try to charge us with trespass.

Theresa asked Cliff Pugh to point out the access points on the survey overview/cover sheet. Cliff pointed out that the cover sheet is a display map of the whole river. The succeeding pages include the details of metes and bounds description of the river. The title insurance company required that we have this legal survey description before they would consider insuring our leasehold estate.

Cliff told members that he would be glad to take any members on a tour of the access points after the meeting. Cliff began at the upper part of the survey that begins at Bill Burris' property (adjacent to Stagestop commonly owned property) and pointed out the areas where TFC members can park and access the river.

- The LPROA water aug pond near Stagestop and the 40 acres of land owned by LPROA – Members can park by the pond (not on the dam or in the fields) and walk to the pond or the river.
- The stream gage – members can park on public land and cross the fence by the stream gage to access the river.
- The former red gate – members can park on public land near the Forest Service road and cross the fence where the red gate used to be located (just north of the new road built by Topaz Mountain Ranch. Our access point is at the second gate on the new road and goes to the south along the fence on the Topaz Mountain side. The land north of the new road is public land and can be used to access the river until our other access point in that vicinity is more clearly marked.
- The State land at the southern most point of the TFC lease – members can park in the public parking area and access the river at the fenced end of the leased area.

Cliff explained that LPROA had made an agreement with Federal Highways to make some public parking areas near our river access points in exchange for some land that LPROA owns and FHWA needs for the County Road 77 improvement project. Tom Backe, Stagestop Lot 8, asked how many access points were being described. Cliff said that if we count the access through the commonly owned property near the Stagestop firehouse and the LPROA water aug pond, there are five points. Tom asked if we had plans to try to get another access point. Cliff said that could be one of our next steps but the first step is getting the title insurance locked down.

George Trujillo asked if it would be possible for the TFC to give some maps showing the access points to all members. Cliff said that maps were given out to people at the meeting last year. There are about 20 more available if people did not get one. If anyone wants a copy of the survey, we can get one for you for \$20.

Larry Sharp asked if we have the right to access the river where the red gate used to be. Cliff said we could but the landowners may not think we can. Cliff said TFC planned to give a packet of information to the County Sheriff so they would be informed of the issue. Larry then stated that members may still be subject to challenge and asked if it would be best to avoid the area. Cliff did not think that would be necessary since the land we would be crossing is not private land. Larry then stated that it appears that de facto, we are being denied access by the buffalo and he wants to know what to do. It is one thing to say be careful if you are 35 years old but another thing if you have your grandchildren and your wife with you. Larry has asked some other attorneys and tried to describe the buffalo issue and the unofficial opinion of the other attorneys is that there is a legal issue, and that we are being denied, de facto, access to the river because of the buffalo. He thinks we need a legal opinion and a plan of action to do away with that. Larry wants to fish that part of the river but is not going to go there with buffalo. Paul stated that we hoped to get something worked out since the buffalo are likely an issue with EPA because of their effect on water quality. Cliff said that the buffalo are an issue and are on the list. We are working on it one step at a time, the first being getting title insurance.

Chuck Schwalier said that it has been hours of work on the part of the board to get this far. Please park and access the river in appropriate places.

Bob Ellis, Stagestop Lot 127, asked when we were going to be talking to the Park County Sheriff and Theresa Pugh responded by Memorial Day.

County Road 77: Cliff Pugh said that there were 3 areas along County Road 77 where there would be parking for the public. We will be able to park there and walk to our river access points. You must be more than 30 feet from the center of the road to be out of the county road access.

Next Steps: Theresa Pugh outlined the next steps that the TFC would be taking:

- Get a copy of the survey we had done and a copy of the survey that Dr. Melia's had done to the Forest Service.
- Communicate with property owners regarding the results of the survey.
- Purchase title insurance up on the parts where there were no questions of title.
- Send a copy of the survey to the Park County Sheriff.

River Restoration: Ken Black said that when people hear river restoration, they probably think more money but everything we have been looking at is a free service. There is a group of organizations, business people, and landowners headed by Deter Ergman, a conservation real estate specialist, working together to restore stream banks. They have done a project on Eagle Rock Ranch to deepen the river and put crossings over the river. They have raised money to save Wahl ranch. Ken has been keeping in communication with them. We would like to get help to deal with the buffalo issue. A group that works under them is Coalition of the South Platte. We hope to get some cooperation from the landowners and this group for the benefit of all. The restoration group will be working with the area downstream of the Tarryall River.

A question was asked by Cindy Peterson, Stagestop Lot 53, if any thought had been given to trying to get Federal grants to help with a river restoration project. Ken replied that we had not gotten to that stage and emphasized that it will take the cooperation of the landowners before anything of this sort can be done.

The group does about 3 – 5 miles at a time. We may be able to get something worked out through Stagestop and the Lost Park property.

Fishing Clinic: TFC is going to hold a fishing clinic for people who do not know much about fly-fishing. One of the owners of the Two Guys Fly Shop in Lafayette has volunteered to come up and put on a clinic. We can post the information on the websites if they are working. We would also like to have a clinic for those who do not know how to fish at all. Sign up if interested.

T-Shirts: Some people have expressed an interest in t-shirts. Sign up if interested and we can look into how much it would cost. Mitzi Gibson Stagestop Lot 413, knows someone who can design embroidered denim shirts.

Patrolling: Paul advised members if not comfortable patrolling on your own, go with a partner. TFC will have some forms that can be filled out and turned in to the HOAs when the fishing patrol encounters violators. Chuck Schwalier suggested that members wear their pass on their clothing in a name badge so that they are not approached repeatedly.

Volunteers: Last year, we had volunteers for various things but we did not use the volunteers like we should have. This year we will call people and use our volunteers. Sign up sheets are available for volunteers.

TFC Agenda: Paul stated that some people think the TFC has an agenda. We would like to keep the fishing rights that we were told we had when we bought into our property. We would like to protect our rights and keep things as simple as possible. We are all volunteers and we are trying to accomplish this for as little as possible. Bernie Petrone, Lost Park Lot 231 complimented the work done by TFC. Jeannie Mellinger, Lost Park Ranch, Lot 198, complimented the efforts of the TFC and the HOAs in working together to get the job accomplished.

Questions and Answers: Steve Sypher, Lost Park, Lot 109, asked if we were going to be \$20,000 short for legal fees. Theresa Pugh said that the \$20,000 is what the TFC anticipates needing. TFC bills the HOAs for the legal bills as they accumulate. The HOAs have been collecting special assessments and people will need to ask their HOA what their financial standing is regarding ability to pay the legal fees.

Anna Keith clarified that TFC is only collecting assessments from the HOAs as we bill them. The HOAs are holding the money and they dole it out as we request.

Bob Ellis, Stagestop Lot 127, asked if since the January 10, 2004, SOA board meeting when the TFC had been asked to commit no more funds, if that request had been withdrawn by SOA and if the outstanding bills had been paid. Ken Black said there were no longer any restrictions.

Will TFC do something about the weeds at the lake? Paul said that we had looked at chemical options to kill weeds but were considering a manual dragging method .

Scott Johnson, Stagestop Lot 226, asked if anyone knew when the work would start on County Road 77. Cliff Pugh said that he had talked to FHWA officials and learned they would not be able to start the project in 2004 since the highway bill had not been passes.

Scott Johnson also asked if there be something to keep the river from getting polluted and fish from being killed. Cliff Pugh said that Federal highway projects are subject to all kinds of environmental regulations and it is not likely that this one will be any different.

Bill Sanders, Stagestop Lot 264 asked about the plans to fill and reopen Tarryall Reservoir. Cliff Pugh had talked to Colorado Division of Wildlife. The DOW met in Fairplay where it was decided Tarryall Reservoir could hold only about 128 acre-feet of water for a sediment pool. The Tarryall Reservoir water right is very junior and unless they can buy water or deal for it, Tarryall Reservoir is not going to open this year.

Anson Andrew, Stagestop Lot 440 wanted to know specifically where the access points are located. Some people do not know where they are.

Richard Harrington, Stagestop Lot 13, wanted to know if the survey could be put on the website. TFC does not have its own website – it has an information link from the LPR and SS websites.

Door prize Drawing: a drawing was held for door prizes that Ken Black solicited for the meeting. Prizes and winners were as follows:

<i>Prize</i>	<i>Donor</i>	<i>Winner</i>
Fish shaped cutting board	Made and donated by Skip Slaughter of Stagestop	Paul Eltabib, Stagestop
Birdhouse	Made and donated by John Doe of Stagestop	Bob Typher, Lost Park Ranch
2 Guest Passes	TFC	Jim Coyle, Stagestop
2 Guest Passes	TFC	George Trujillo, Stagestop
Stained glass bird	Made and donated by Ken & Mary Black of Stagestop	Jeannie Mellinger, Lost Park Ranch
Fish shaped cutting board	Made and donated by Skip Slaughter of Stagestop	Martin Sanders, Stagestop
2 Guest Passes	TFC	Leonard Reid, Stagestop
Agate key chain	Made by Mary Black's father, J. Lee Barnett	Gerry Taylor, Stagestop
2 Guest Passes	TFC	Virginia Skeffington, Stagestop

People were reminded that a tour of the access points given by Cliff Pugh would be given following the meeting. There were no other questions during the meeting.

The meeting was adjourned at 1:07 p.m.

Respectfully Submitted

Theresa Pugh
Secretary