

CHAPTER TWO

THE NORTH TRAIL DISPUTE

The story told in this chapter is about a complex, multi-dimensional conflict over use of a local wildland trail. The dispute involves primarily issues of land tenure and culture. Other factors affecting the dispute include conservation, type of recreational demand, community life, local control and history. It was triggered by a simple event, the purchase and fencing of land across which the trail traversed, but soon grew rapidly into a community-wide response. The reaction was fueled by escalated emotions and later quelled by a desire for resolution.

This chapter describes the details of the dispute over access to a segment of the North Trail. The chapter presents the issues involved and an overview of stakeholders. A mediation process emerged within the community to resolve the dispute. The chapter concludes with a description of the beginnings of that process.

ELEMENTS OF THE DISPUTE

Description of the North Trail

In 2000, a new landowner (“New Landowner”) purchased a one hundred and forty acre tract of land which includes a portion of land traversed by the North Trail. This land area is also locally known as “The Meadows.” The Meadows are at the junction of the North Trail and the Switzerland Trail. The northern portion was previously in private ownership by an absentee landowner; the southern half is managed by the U.S. Forest Service. These meadows were part of a ranch at the turn of the century. Under partial absentee ownership, they have been in common use by the community since the 1960s, if not before. The Meadows are a frequent site of summer weddings, picnics, and hikes. The meadows are also the site of the only natural ponds in the area and possible habitat for the Boreal Toad. The Boreal Toad is a species that is tracked by the Colorado Natural Heritage Program and research on the species can be funded through the State of Colorado.

The North Trail meets the Switzerland Trail at North Trail’s western extremity and just above the Meadows. The Switzerland Trail was built for stage coach use; later the Switzerland Trail was widened and graded for a narrow-gauge train to link gold mining districts in the area. The Switzerland Trail and surrounding area has been in recreational use since the 1870s. Currently, the Switzerland Trail is popular among locals and recreationalists from elsewhere in the mountains and plains. Car tourists from Denver cruise up the dirt trail on fine summer days. For precise ownership and location information, refer to Gold Hill Trails Map and Table 20. Stakeholder and Place Name Codes and Descriptions in appendix.

Walking along the North Trail offers solitude and views of a forest-covered landscape for as far as the eye can see. The North Trail runs east to west along the northern face of a montane ridge. The vistas include views of the summits of the Indian Peaks Wilderness and of Long’s Peak in Rocky Mountain National Park.

The North Trail runs along the northern edge of the Gold Hill townsite. The townsite is nine miles west and three thousand feet above Boulder. The Continental Divide is another ten miles west of Gold Hill and remains accessible by trail. Gold Hill is the location of the first gold strike of the Nebraska Territory in 1859. Prospectors streamed into the area upon their return east from the California gold fields. Boulder was later established as a supply town to the gold miners. The North Trail was used to access a sluicing ditch and prospecting sites during the mining era.

Gold Hill is no longer an incorporated town site. The town’s affairs are administered by Boulder County. Yet the community retains much local control and voice through the organizing capacity of the Gold Hill Town Meeting, Inc., a 501c3, and the Gold Hill Volunteer Fire Department.

Legal Framework for Land Tenure

The dispute emerged following permissive use of a segment of the North Trail by local people for many years. Permissive use exists when a property owner is absent or when a property owner grants permission for use. An absentee landowner held the property which the now gated segment of the North Trail traversed. When the property was sold to a new landowner (New Landowner), the new landowner chose to close the trail segment.

Positions

New Landowner believed he should be able to control the use of the trail that ran through his property. Upon provocation by dirt bike users and a local neighbor, he closed the trail. New Landowner's position precluded continued use of the North Trail by the community. He intended to build a home and wanted to ensure privacy. He also sought a tax break for the property by having it designated as agricultural land by the county. He opted to create a ranch, although no cattle currently or ever in his tenure have grazed on the land. With this designation, county property taxes are a mere seven hundred dollars annually for a property that sold for two million dollars in 2000. He claimed need to fence property for management of a leafy spurge infestation on the southern edge of the property. See Table Two-A, Positions of Locals who Opposed Access, and Table Two-B, Concerns of Locals who Opposed Access, in Volume Two of the *Community Trail Mediation Guide*.

Community members hiked the North Trail for many years prior to the New Landowner's purchase and for a year after his purchase. Community members were attached to the landscape through which the trail ran and wanted to preserve their access to the trail. The potential that the North Trail closure might foretell future closures of other local trails elicited the involvement of the community. Locals were concerned about preserving their unique quality of life. Locals are also attached to the community and landscape. Attachment to place occurs when one becomes intimately familiar with a landscape and that landscape becomes part of how one understands and defines one's self.

Incentives to Negotiate

The New Landowner had little incentive to negotiate based upon the advice of his attorney. He appeared to be solely concerned with his private interests. He did not appear to be interested in integrating with the community or even the smaller group of frequent trail users.

The incentives to negotiate for community members were much greater. Community members had not been able to directly communicate with New Landowner. They did not wish to pursue litigation, especially in light of the recommendation of the Boulder County Attorney (See Table 20, Stakeholder and Place Name Codes and Descriptions and also see below the section entitled, "Attendance at Gold Hill Trails Meeting with Boulder County Staff"). Community members were motivated to understand New Landowner's concerns and to find various means for alleviating those concerns.

The primary goal for using participatory action research in the mediation process has been to overcome the "no-discussion" approach of the New Landowner by raising awareness of possible solutions, possibly overlooked personal interests and to encompass community-wide interests that may always coincide with his own.

THE GOLD HILL ECOLOGICAL AND SOCIAL LANDSCAPE

The natural resources and landscape of Gold Hill have been a significant draw for the inhabitants of the area. The existing landscape has changed over the course of the past fifty years, but much less so than on the plains. Farmers and ranchers have converted prairie into fenced agricultural zones; and now housing development converts farms and ranches into subdivisions. The boom in construction starts and population growth along the Colorado Front Range is reflected in the North Trail dispute. Recreational demand throughout the area is on the rise, (and this) which has impacted the quality of life of Gold Hill residents.

About Boulder County

Gold Hill is located in one of the more progressive political climates of Colorado. Nearby, the University of Colorado-Boulder is the largest and was the most liberal university in the state. Some Gold Hill residents are employed by the University. Research opportunities and environmental education programs at the University of Colorado have created a prolific laboratory for conservationists.

The City of Boulder is recognized nationally for its open space programs. A groundbreaking landscape protection measure called the “blue line” prevented construction above an imaginary elevation line in the foothills west of Boulder. The City has been a model to many others in terms of the creation and management of open space parks. The result has been a city with high amenity value.

The County’s population has grown substantially, in part attributable to the amenity value of open space. While growth in the City of Boulder has been limited, the value of homes has increased substantially. This increased value has caused the cost of living in Boulder to outpace the national average income. As a result, many individuals and families choose not live in Boulder. The cost of housing is being partially addressed through high-density construction in the remaining undeveloped residential zones.

In the past thirty years, Boulder County has been at the vanguard of protecting open space. County residents support the expansion of the Boulder County Parks and Open Space Program through their ongoing favorable votes for bond funding. The program manages over 70,000 acres of land.

The City of Boulder’s population heavily influences the political landscape in Boulder County. The city’s residents weigh in on the selection of three county Commissioners. Commissioner districts, which might dissipate the influence of the City of Boulder on the Commissioners’ Office, do not exist in Boulder County. The progressive, environmentally-friendly influence of the City of Boulder can be explained by the health-conscious, outdoor recreation profile of its residents, the vision of its civic leaders and the spectacular beauty of the setting.

Ecological Landscape

Boulder County reaches from plain to alpine peaks in just thirty miles of terrain. The City of Boulder is located in the middle southern portion of Boulder County at the juncture of the plains and the mountains. The City is in a low-lying valley graced with impressive uplift geologic features in the adjacent foothills. Canyons reach into the foothills and serve as points of entry. Gold Hill is located at the high point of three of these canyon roads. These are (north to south): Left Hand Canyon, Sunshine Canyon, and Four Mile Canyon which joins Boulder Canyon three miles west of Boulder.

The Gold Hill Study Area encompasses a ridge formation that is five miles east to west by two miles north to south. Gold Hill sits towards the eastern end of this ridge at an elevation of 8296 feet. To the west the ridge merges with the steep slopes that lead up to the Continental Divide. To the east, Big Horn Mountain with an 8600-foot summit flanks the ridge. This montane forest ridge is bound by two second-order streams to the north and south. 40° N. latitude transects Boulder County three and half miles south of Gold Hill.

For the purposes of delineating this case study site, the Gold Hill Study Area parallels the Gold Hill Fire Protection District. The study area is part of the Southern Rockies Ecoregion. Habitat varies by elevation (7100' to 9100') and by slope and exposure. The landscape is transitional from ponderosa pine to montane forest. Northern slopes are densely populated with fir and lodgepole pine. Some blue spruce can also be found. Southern slopes are open meadow with ponderosa pine. The flora of the montane is abundant with yellow banner, indian paintbrush and lupine in the meadows; columbine and arnica flourish in the shaded understory of aspen and coniferous trees.

Gold Hill is generally dry, windy, sunny and prone to fire due to the suppression of natural fire regimes. Wetland meadow and twelve riparian zones associated with first-order streams drain from the ridge. These streams are fed by snow melt and springs. A quaking fen, a rare wetland feature at this latitude, sits at the western edge of the study area just below its highest peak. This fen is 1/4 mile southwest of the "Meadows."

The wildlife species commonly associated with montane forests are elk, deer, bighorn sheep, mountain lion, bobcat, coyote, porcupine, beaver, and black bear. Moose have recently been sighted. Red fox and rabbit are common. Mice, squirrels, martens, chipmunks, cottontails and bushytail woodrats are also part of a healthy montane forest. Common birds are mountain bluebird, chestnut-backed chickadee, red-breasted nuthatch, ruby-crowned kinglet, pygmy nuthatch, gray jay, Stellar's jay, and Clark's nutcracker (Bailey, 1995, 77). Bald and golden eagle are occasionally spotted, along with red tail hawks.

A Federal endangered species, the habitat of the Mexican spotted owl (*Strix occidentalis lucida*), is poorly presented in protected areas of the Southern Rockies (Shinneman, Watson and Martin, 2000, 7). Protected areas tend to include higher elevations and much of the montane of the Southern Rockies is not protected. This owl has been sighted to the north and south of the Gold Hill Study Area in similar ponderosa pine forests of the lower elevations. At the higher elevation range of the study area, a state listed species, the Boreal Toad (*Bufo boreas* pop 1.), has been sighted in a lake on a ridge two miles north of the North Trail.

Social Landscape

Waves of human migration have, in chronological order, included pre-historic peoples, the Ute and Arapaho, Europeans, Chinese, and people of African descent. The Arapaho entered the area in the late eighteenth century having been pushed out of hunting grounds to the east. Their well-known leader was Chief Niwot, or Left Hand. He spoke four languages including English and French. He allowed the first prospectors to come into his territory upon the condition that the Arapaho not be impeded in use of their hunting grounds. This condition was not met. He was later mortally wounded at Sand Creek.

Gold prospectors on their way back east over the Oregon Trail prospected west of Denver after going bust during the California Gold Rush. In 1859, the first gold strike in the Nebraska Territory was in Gold Hill. Gold Hill preceded Boulder, a supply town to the mining districts of Boulder County. African-Americans and Chinese-Americans came into the area to build the railroad and run sluice-mining operations. The landscape is pocked with overgrown prospect holes and a few larger tailings piles. The area is a National Historic District with an evident cultural history and ongoing site-based traditions.

Soon afterward, people suffering from tuberculosis began to arrive from as far as Europe, seeking the dry, sunny climate and pure mountain air. Recreationalists began to make steady visits by the mid 1870s. Gold Hill's Wentworth Lodge was a favorite haunt of the poet, Eugene Field and the famous attorney, Clarence Darrow. The Bluebirds, single working women from Chicago, ran a cooperative vacation timeshare out of the Lodge from the 1920s to the 1940s.

This was followed by a period of primarily summer residency until the 1950s. A group of five families started to settle the area along with a few persistent families from the mining days. A summer camp for children was established on an old dude ranch west of town.

Soon after, a generation of hippies became yuppies in Gold Hill. They have raised families in an alternative lifestyle of music, new age practices and healthy vegetarian foods. The first schoolhouse in Colorado maintained operations with 20 to 30 students per year. The Gold Hill General Store, in existence since the mining era and an important community hub, became a health-food store. An ashram was established and remains west of town. Famous musicians made their home in Gold Hill. Well-educated, upper middle class individuals took up residency in the Historic District and the "Subdivision." The "Subdivision" was created on an old potato farm in the 1970s and soon much larger homes began to appear.

In the last twenty years, most of the homes in the Historic District have been upgraded and outhouses are a thing of the past. Many in the area commute to metropolitan areas on the plains. Others work out of their homes in consulting or high-tech fields. A few locals work the summer season at the Gold Hill Inn, formerly Wentworth Lodge; others do construction or work at the Gold Hill General Store, now also a less health-oriented café. Some also commute to a spa and a restaurant bar west of Gold Hill in the town of Ward (off the Peak-to-Peak highway between Central City and Estes Park).

Tourists flock to the area in the summer for all day outdoor concerts, site-seeing and recreation. Athletic bikers climb the circuits that go through Gold Hill. With milder winters, bicyclists can be seen making a water stop at the Gold Hill General Store in almost every season. In the winter, cross-country skiers come through on their way to the Indian Peaks Wilderness.

The social history of Gold Hill remains reflected in those that co-exist in Gold Hill today. The stability of Gold Hill's small clustered population, its long winters, and difficult access up steep dirt roads have honed residents into a strong sense of Gold Hill identity. These residents share a commonly held appreciation for the landscape and its history. Of the 300 current residents in the town, most live a lifestyle of independence and self-sufficiency. There is no communal center in which resources are shared explicitly as, for instance, on a commune. Despite this, a sense of community does exist.

Gold Hill's cohesiveness as a community arises primarily from residency and participation in place-based activities like outdoor recreation, neighborly exchanges, Gold Hill Inn concerts, and school and community events. Gold Hill community activities range from school plays, Fourth of July pancake breakfast, parade, and concert, hiking, biking, fire protection, dances, to child-care groups and writing clubs.

Wildland Qualities

Although these montane forests are not protected as wilderness like the adjacent Indian Peaks Wilderness which was set aside in 1978, the forests do exhibit wildland qualities. Hiking in wildlands is an opportunity to observe innumerable intact ecological processes in relative solitude. The landscape of the montane forest that surrounds Gold Hill could qualify as wildlands despite its major roads, because the landscape is relatively restorable and the experience is one of seclusion. Gold Hill residents have historically been willing to bear physical hardship in order to access the less populated, wilderness landscape adjacent to the Indian Peaks Wilderness.

With the passage of the Wilderness Act in 1968 and Roadless Area Review and Evaluation in the 1970s, many acres of landscape were preserved at higher altitudes. These landscapes are scenic, but poorly exploitable by logging and timber interests. Lower elevations represent critical habitat, but are more exploitable. Political interests precluded their protection. So, because wilderness connotes an official designation, wildland is a useful term to describe a broader range of landscapes than those that fall within protected area designation.

In the North Trail dispute, protection of wetlands and riparian corridors around the Meadows may eventually contribute to resolution. The area is habitat for elk and other keystone species of the montane. In addition, the boreal toad and the Mexican spotted owl could also be restored to this wetland and upland ponderosa forest habitat.

THE TRIGGERING EVENT

I would like to begin this section with one point of clarification. I have not had the opportunity to discuss matters with New Landowner. Since the following anecdotes have been presented to me as the basis for this dispute, I have gone ahead and presented them. Much of this information has been authenticated by triangulating data sources. That is, the information is presented with consistent similarity across those affected. Other statements are solely the experience and claims of a particular stakeholder. Table 20 in the appendix, Stakeholder Code Names and Descriptions, is a reference for the narrative that follows.

Leading up to the Triggering Event

The New Landowner bought the land from the absentee owner (“Meadows Absentee Landowner”) through a neighboring property owner who is also a Seller’s Agent (“Seller’s Agent”). The property had received authorization from the Boulder County Land Use Department for four buildable sites. I corroborated this information with the Boulder County Assessor’s Office.

Soon after the purchase, the New Landowner posted a sign re-baptizing the land a ranch. A portion of the land had been a ranch during the late nineteenth century. No domestic stock were present.

In the spring of 2002, the New Landowner hired a crew to install a fence on the land for ranching activities. In the summer of 2002, tensions began upon the discovery by locals of the fencing operations. “No Trespassing” signs were posted. New Landowner left ungated the North Trail points of entry across his land. New Landowner claims to local stakeholders that the fencing activities are for cattle ranching, but that the trail will be kept open for local use.

The “ranch” sign was vandalized. New signs were posted; the vandalism continued. To compound matters for New Landowner, a flyer was distributed by an unknown person spoofing the purchase of the Meadows and implying that the New Landowner’s acquisition was for an outlet mall. (A copy of this letter is provided in the appendix.)

The claims-making that swirls around the loss of access to the affected segment of North Trail and the Meadows is compounded and aggravated by the handling of “Hansen’s Pond” by Seller’s Agent. Seller’s Agent was also a newcomer to Gold Hill. He purchased a portion of the old homestead including Hansen’s Pond in 1998. Seller’s Agent closed the pond to casual local use and to a picnic that took place after the annual mountain bike rally. The Seller’s Agent fenced the pond and would no longer allow casual visits for a swim in the local watering hole. However, Gold Hill school children were still allowed to visit for field trips.

Previously, the pond had been in community use for longer than anyone can remember. The pond was the site of local gatherings, school outings, family picnics and an annual mountain bike rendezvous known as the “Tour de Rump.” Locals were not yet used to this loss of access and the loss of the annual activity.

As Seller’s Agent was involved in the sale of the Meadows to New Landowner, individuals in the community became wary of a pattern of change of access. In addition, local residents learned that Seller’s Agent and New Landowner have become partners in order to establish their as yet inactive ranch.

New Landowner was apparently counseled by Seller’s Agent and a mutual attorney. In the late summer of 2002, New Landowner installed a barrier to passage over the North Trail. Another “No Trespassing” sign was prominently affixed to the barrier. Many locals continue to hike or run the trail by either going around or hopping the fence. Another local resident who uses the trails to run and also has a long segment of the North Trail on her property is Trail Runner/NT Segment Owner, Too. She encountered the New Landowner on one of her runs and a very heated exchange ensued. Others recount similar experiences with the New Landowner.

Other neighbors have also had troubling encounters with the New Landowner. Two other neighbors are “Doctor” and “Trail Runner/NT Segment Owner, Too.” Doctor is the lead at a well-established Boulder practice and is also my doctor. The latter Gold Hill resident is affiliated with a

prominent clothing/home décor manufacturer. She also owns property with a segment of the North Trail running across it. This segment is closer to Gold Hill; in the mid-1990s, she rerouted the trail away from her new, large, old growth log home, but did keep a bypass option open for locals.

Catalyst's Story

The stage was set for ignition of an escalated conflict over access to the North Trail. On one August morning in 2002, Catalyst and the New Landowner found themselves both on hikes with their respective dogs. New Landowner had two large dogs and Catalyst was walking his smaller one. New Landowner was walking on his property and Catalyst had hiked down the trail from Morning Sun that connects with the North Trail. He met New Landowner on New Landowner's property.

Catalyst is a generally credible and very well-spoken figure. He is a middle-aged, athletic, writer/practitioner in the field of organizational development. He holds a PhD in literature. He experiences attachment to place. He has recently married a nationally prominent local resident who speaks on alternative health in the same circuit as Deepak Chopra and Carolyn Myss. Previously, and at the time of the triggering event, Catalyst lived on neighboring land to the southeast belonging to his best friend ("Landlord/Best Friend"). The following passage is Catalyst version of the event:

"[New Landowner] was carrying a rifle, not pointing it. ...He sprung out from the trees with the challenge, "Who goes there?" [which] was utterly surprising to us both [Catalyst and his girl friend] as well as to his [New Landowner's] fiancée. [His fiancée] had one large dog on a leash, and the other advanced to [my dog] who was wagging in friendliness. But the hostility I believe of the woman transmitted to the dog, who began to tear into [my dog]'s back. At first [my girlfriend] and then I moved to rescue [my dog], [New Landowner's Fiancée] yelled to leave her dog alone. She was clearly not seeing what was objectively happening."

This encounter and the way it is told catapulted the North Trail closure issue into community-wide awareness. Catalyst also described mounted patrols by Seller's Agent. Many in the community had not yet known of its closure. Catalyst mobilized the community to respond to the closure of the North Trail.

Aftermath

Catalyst's presents this version of events: "[New Landowner], who had met me on the trail on the day of closing on the property and who had assured me that I would still be welcome, was enormously apologetic and offered to pay the vet bill, although he said that these two "attack dogs" now lived on the land and we'd be passing through at our own risk henceforth. He said he'd eventually have an electric fence to keep the dogs bound.

We took my dog to the North Boulder Veterinarian Clinic the next day [and to] New Landowner's vet as well. [The vet] said the dogs were not "attack dogs" who only attack on command but dangerously out of control dogs. A day later, New Landowner called, [and] kept repeating that [my girlfriend (not the alternative health care speaker described earlier who is now his wife)] was "irrational" in screaming for intervention when [my dog] was being attacked, and since she was "irrational," he was withdrawing his offer to pay the vet bill."

Catalyst shares use of Landlord/Best Friend's property. Two other tenants live in separate houses at "Morning Sun" as the property is known by locals. New Landowner's tract surrounds Morning Sun to the North, East and West.

Catalyst's neighbor at Morning Sun is the most important and influential actor in resolving this dispute. She will be referred to as "Dedicated Trails Volunteer." She initiated the mapping project of the North Trail, the idea for a trails reference for Gold Hill, and the establishment of a bypass trail that goes around New Landowner's property. She also attended meetings in my stead at the Gold Hill Town Meeting and was always ready to help the process along.

In terms of the mediation process as it progressed, Dedicated Trail Volunteer is the more active of the two tenants. She is a middle-aged social worker that works with a famous idiot-savant sculptor. She is counted upon by the Gold Hill volunteer fire department as a first responder. She

loves the Southwest and has expert knowledge of petroglyph sites throughout the region. Her fondness for nature and attachment to the local landscape can be explained by several factors. She has lived at Morning Sun for 18 years and hikes almost every day. She grew up near a woods with an uncle who was a biologist.

INITIAL STEPS TOWARD RESOLUTION

Catalyst Mobilizes the Community

In early August of 2002, Catalyst called me for advice in reporting the trails issue to the Gold Hill Town Meeting. I have been a resident of Gold Hill since 1990. Catalyst and I had previously met through mutual friends, Trail Runner/Landlord's Wife and Best Friend/Landlord. Catalyst called me because I had recently served on the Board of Directors of the Town Meeting. Through the Town Meeting process locals come together and try to sort out what to do about threats to their lifestyle, in this case about the trail closure.

I answered Catalyst's questions and informed him about the inner workings of the Town Meeting and the Meeting's reliance on Robert's Rules of Order. I suggested that Catalyst prepare a motion prior to attending the meeting on August 12, 2002.

I did not attend the Town Meeting on the occasion of Catalyst's motion on trails. The Town Meeting approved a motion to seek a peaceful resolution of the trails issue. The Town Meeting formed the Trails Committee to address local trail issues. Anyone who has the time or interest may become a member of a Town Meeting Committee.

The Early Trails Committee

In the early weeks, members of the Trails Committee include Catalyst, Doctor and several other local residents I have not yet introduced.

These residents include a couple of elderly property owners of a very large tract of land to the south of New Landowner's property. This property is nearly twice as large as New Landowner's. Trails also traverse this land and join the Switzerland Trail further south than the North Trail. To characterize the eclectic nature of the Gold Hill community, I will also further describe them as well-spoken with extensive experience of overseas life in Europe and China. I will refer to them as "Consultant to China- and Wife."

Another early member of the Trails Committee is a former fire chief ("Former Fire Chief") of Gold Hill's volunteer fire department. She is a grandmother and currently performs office management for Doctor's practice. This woman also has close ties to Boulder County's Democratic Party and serves on Boulder County commissions from time-to-time.

Another important background point needs to be made here about Gold Hill: The tenor of Town Meetings in Gold Hill have often been subject to emotional outbursts that divide. Former Fire Chief has not helped matters in this regard. She has been very influential in controlling dialogue at town and fire department meetings. She effects this often undue influence by her commanding voice and the control she exerts by being the self-appointed principal interpreter for Robert's Rules of Order at meetings. Her oftentimes hurtful and attacking remarks and her allowance of such conduct by others has tended to keep residents away from civic engagement in Gold Hill Town Meeting events. She simply is not aware of her impact, I believe. There has been an obvious need to improve the facilitation of civic dialogue in Gold Hill to increase participation.

An active ongoing member of the Trails Committee is a woman who runs easily nine miles a day on the local trails. She is a mother and daughter of a wealthy Mormon family. She is also the wife of the Best Friend/Landlord who owns Morning Sun. He is also referred to as Morning Sun/Moccasin Trail Segment Owner. She, "Trail Runner Landlord's Wife" also owns land with a trail to a renowned viewpoint that is on her property. The trail ascends Big Horn mountain and reaches the "Crow's Nest" with views to the plains and the Continental Divide.

Community-Based Action Research

Before my involvement, the Trails Committee began the process of engaging in action research. Trail Runner/ Landlord's Wife interviewed other landowners with trails to find out what their concerns might be. She is also concerned about maintaining her right to run as well as protecting her property from vandalism. The Crow's Nest is much more popular to locals and non-locals as a quick hike than the full stretch of the North Trail of which many non-locals know nothing. Young people's parties sometimes occur on her land; Trail Runner/Landlord's Wife complains about finding broken glass and other detritus on her property. She finds herself cleaning up every year. She has an inside perspective on the concerns of landowners with trails.

Dedicated Trails Preservation Volunteer started mapping the three-mile stretch of the North Trail as it heads west out of Gold Hill over to the Meadows. She plotted the course of the trail on aerial photos taken in 1978 of the Gold Hill Fire Protection District.

Catalyst began visiting research libraries and successfully found historic maps of Gold Hill and its trails. Catalyst also sought advice from Boulder County and developed a working relationship with a Boulder County attorney, ("Boulder County Attorney"). Catalyst learned that trail closures were beginning to emerge as a countywide concern. Another area in Boulder County with a similar mining history has also been experiencing trail disputes. Boulder County Attorney also shares a personal experience on her own property in another part of the state. She and her husband recently purchased riverfront property in a high-use recreation area in Central Colorado. She drew up a formal document conferring a conservation easement on the trail, based on Colorado state law. The state statute provides a means to allow public use of a trail without incurring liability risk. After she presented this approach to Catalyst, she also offered to visit Gold Hill to discuss trail matters with Gold Hill residents.

Local Meeting with County Staff

The Boulder County Attorney and a land use planner specializing in transportation ("Transportation Planner") came to Gold Hill's Community Room. The Community Room is above the volunteer fire department's equipment in the "Fire Barn." This meeting was held on October 14, 2002 before the regular bi-monthly Town Meeting that occurred on that same date. The room was full, with 20 to 25 local residents in attendance. Landowners with trails were present. New Landowner and Seller's Agent were not.

Small town dynamics can create facile alliances of common thinking and friendly conversation. All of these everyday personal relationships eased tension in the room. Of interest, County Attorney and Consultant to China are family friends through County Attorney's parents.

Of greatest interest, Trail Runner/Landlord's Wife presented her research on landowners with trails. The meeting was congenial with only one digression by a woman who also owns a section of the North Trail. This section is just on the northern outskirts of the townsite. This woman has resided in Gold Hill for 40 years and lives alone after having raised two daughters. She is a native of Kansas and was raised on a farm ("Kansas Native/NT Segment Owner, Too.").

She has herself blocked off sections of the North Trail with downed timber that she hand-sawed. Pedestrians could pass, but she mostly wanted to stop use on horseback. During the meeting, Kansas Native cited two reasons for attempting to close her segment of the North Trail. She had concerns about erosion from horse travel, which have since been remedied with the felled wood. She also sought to protect the area for nesting Blue Grouse on the north side of the Historic District. This species is open to hunting by Colorado Division of Wildlife rules during the Fall. She disliked people walking the trail with their dogs and rousing the nesting females in the Spring. The horse traffic has stopped, but residents still walk the trail. Kansas Native tolerates the use only because she can't really stop it.

The Vision of the Trails Committee

The Trails Committee prepared a “Provisional Vision Statement.” The statement included subsections entitled: “Why now?”; “Creating our Future”; “Preserving our Social Ecology-A Quality of Life Issue”; and “Process for Pursuing Vision.” The statement presented a description of Gold Hill’s quality of life and threats to that lifestyle. It also attempted to present the two sides of the debate: trail users v. landowners. The statement presented interests of landowners with trails and the community-at-large, but not explicitly those of New Landowner.

The Provisional Vision Statement was inspiring and exemplary in its effort to look at both sides and support a mediated solution. Excerpts follow:

“Addressing this matter is deemed especially timely now in view of the recent trend, noted by the Boulder County Attorney’s Office, for newly arrived property owners in our county to close off trails and convert the organic landscapes historically enjoyed with shared appreciation and respect by local residents into a fragmented patchwork of fenced enclaves.”

“Preserving social...balance requires setting limits. Use of trails by community members, our neighbors, is not the same as use by the public at large. The pressure of increasing intrusion from outside the Fire District, along with its accompaniment of increased litter, damage, fire danger and disturbance of the peace, is another aspect of what is changing here that we hope to mitigate.”

“It is our human relationships-the dignities that we grant to and expect from one another as neighbors-that are most fundamentally at stake here.”

Another excerpt relates to consensus-based decision-making:

“We hope to arrive at solutions among ourselves, face-to-face in civil dialogue.”

Former Fire Chief adds the following comment:

“ We ... understand the desires of all property owners, old and new, for privacy and security as well as their need to not feel invaded on their private property by hoards of (sometimes inconsiderate) strangers. Our hope is to find a mutually satisfying middle ground where all in our community can share in the beauty and serenity of this mountain area that satisfies and nourishes the soul.”

MY GROWING INVOLVEMENT

Neutrality and the Vision Statement

Catalyst was the principal author of the Provisional Vision Statement. He presented the document to me for my comments. I observed that the tone of the Provisional Vision Statement was hopeful and well-intended, but was not entirely neutral. I suggested that the document may not be perceived as neutral by New Landowner, whose primary interests appeared to be a defense of private property rights. I suggested to Catalyst that despite all his best intentions, the document conveyed a bias of experience and interests. Catalyst had not spoken with New Landowner since their altercation on the trail.

Attendance at Gold Hill Trails Meeting with Boulder County Staff

As a member of the community, I attended the meeting with Boulder County Staff for two reasons. I had an interest in the North Trail remaining open. I thought I should attend the meeting out of civic responsibility. I have enjoyed hiking the North Trail with friends and family. I was and remain curious about trails and wanted then and still do to better understand trail issues. While at the meeting, I thought it would be useful to catalogue the various ways in which Gold Hill Landowners have or could approach trail use. I have since done so for this project. Although I had been hopeful, it also seemed clear from this meeting that a quick legal remedy did not exist.

Becoming More Involved in the Trails Issue

As my interest in the emerging mediation process grew, I deepened my involvement. I realized that the Trails Committee might not be perceived as a neutral body by New Landowner, despite all of their good intentions.

I was also concerned about harnessing interest in the issue in a way that would result in a positive outcome. I had observed many failed proceedings in Town Meeting politics in which only a few dedicated individuals expressed their views regarding an issue and did so at their own emotional peril.

I felt that, through my recent education on social processes and natural resources, I might make a difference and protect me from the same social imperilment that others had faced. In fact, many of my experiences in Gold Hill town politics led in part to my eventual attendance at the University of Michigan and my interest in organizational psychology, group behavior, environmental mediation and participatory research practices.

I wanted to test what I had learned. I realized that I might be able to build a thesis on the experience. I knew I held several biases of acquaintance and use. Yet I felt that my input could be operationally neutral. Catalyst concurred. He was aware of my studies. Having been an academic, he was sympathetic to my research and practice interests. In addition, Catalyst thought that strategically my suggestions made sense. I address the consequences of this support by Catalyst and my actual participation in the Discussion.

Attending A Trails Committee Meeting

At the first Trails Committee meeting I attended, eight or nine people were present: Trail Runner/Landlord's Wife along with Landlord/Neighbor, Dedicated Trail Preservation Volunteer/Tenant, Civically Minded Native, Kansas Native. Catalyst was not present. He had begun to burn out on so much involvement and needed to focus on his work.

A particularly important new addition was a landowner residing with his family on a large tract of land even further west than Doctor. He was a civic engineer for a well-respected firm in downtown Boulder. He later contributed significantly in terms of the mapping process. He will be referred to as "Engineer/Mountain Biker."

Another addition to the group was an individual who lived on a road that had become the circuit of a downhill bike racing team. He was annoyed at their repeated (20 to 30 times a day) use of the seldom-frequented road in front of his house and the trails east of Gold Hill. This network of trails lead to the Crow's Nest among other areas. These trails are on the plateau upon which Gold Hill was originally founded, to the East of the current townsite. He worked at home as a stained-glass artist. He also enjoyed the East Trail system. The racers used the west and south faces for their jumps. He had also been in communication with Boulder County separately from Catalyst. He will be referred to as "Stained Glass/East Trails Advocate." He felt that if something couldn't be done, he would need to move from the area.

At this meeting, Dedicated Trails Preservation Volunteer presented the results of her mapping efforts so that everyone present could see the North Trail in geographic terms. She also had begun to use a GPS device and USGS maps to plot coordinates for greater accuracy. Some refinements in the process and work products were suggested at the meeting.

Dedicated Trail Preservation Volunteer also suggested that a guide to trail use be prepared. This suggestion launched the *Trails Mediation Guide* project and a search for guidance on meeting the needs of landowners. It was suggested that the *Mediation Guide* include a set of guidelines for trail users so as not to infringe on landowner's sense of privacy or lifestyle.

I added that a written synthesis of what the group was learning in addressing the trails dispute made good sense. I thought that the *Mediation Guide* could set the stage for further discussions with New Landowner. I also proposed including a chart of the various ways in which Gold Hill landowners with trails allowed access to the trails on their land. The chart would show the signage chosen by the landowner, the terms of access, and the ways in which individual landowners dealt with liability risk. The chart could potentially synthesize Trail Runner/Landlord's Wife's research. See Table One-B in Volume One of the *Community Trails Mediation Guide*.

My Proposal

I discussed the meeting with Catalyst. He was losing momentum on the project and needed to focus elsewhere. I suggested that I could guide the Trails Committee in maintaining a research-based, neutral stance on the North Trail closure. I indicated that this would be necessary in order to ensure the legitimacy of the Trail Committee's efforts to find an equitable solution to the North Trails dispute. Catalyst agreed. With his accord and with the intention of preparing a presentation for the next Trails Committee meeting, I designed a process for mediating the dispute.

At the next meeting, I began by stating the obvious: that because New Landowner isn't involved and hasn't responded to calls, resolving the dispute is going to be difficult. I also noted that because those involved share the same values and perspectives, the approach taken thus far appears one-sided. I see this dynamic and its likely failure. I described the principles of a sound mediation process. I presented the challenge of acting with operational neutrality rather than acting with bias. I indicated my interest in using the experience as the basis for my M.S. thesis. I offered to replace Catalyst as coordinator of the committee.

I further explained that through operational neutrality, the Trails Committee might better engage New Landowner in dialogue. I also proposed holding a forum for discussing trails once all of the research had been completed. Dedicated Trail Preservation Volunteer and I aligned in terms of addressing the neutrality issue. She immediately understood and restated the concepts I was presenting during the meeting.

I suggested that the investigations independently undertaken by individuals on the Trails Committee were legitimate participatory action research; that despite the interest of most of those conducting research to preserve the trail system for local use, participatory action research could help all parties make better choices. In this way, the research itself was an operationally neutral tool for seeking resolution. I also emphasized not to pass judgment until all the findings of the Trail Committee's research became clearer. I sought to strengthen the research and sustain the mediation effort.

Becoming Coordinator of the Trails Committee

The Trails Committee liked the approach I presented. No one else had as much energy for the process as I seemed to present, and they were willing to have me take off where Catalyst stopped as coordinator of the Trails Committee. I like to believe that the Trails Committee saw my involvement as credible. They understood that I had given the subject of environmental mediation considerable previous study.

I did observe that during the course of the meeting, framing participatory research as a mechanism for creating neutrality and suspending judgment redirected the tenor of the meeting. A tendency diminished to stereotype New Landowner by some Trails Group members.

One member failed to support my role as coordinator of the Trails Committee. She had also been present at the county meeting and grew up in Gold Hill and went to the local elementary school as a child ("Gold Hill Native"). Her teacher also still lives in town. Gold Hill Native particularly

frowned upon the North Trail closure by Kansas Native. This new closure particularly concerned her. Kansas Native is an old friend of Gold Hill Native’s parents, all having lived in Gold Hill about the same length of time.

Her lack of support was particularly troubling to me. She later stated to me that she did not like the fact that I appeared at a couple of meetings and then found myself in the role of coordinator. She also thought that my description of mediation and the proposed process was too complex. I further address this critique in the Discussion Chapter.

I was worried that she might disrupt the process or that someone else in her family might. She no longer involved herself with the Trails Committee, although her mother fortunately did. Her mother’s support was an enormous relief to me. The extended family is well-liked and civically-minded. Gold Hill Native’s father spends a good portion of every day at the Gold Hill General Store, a historic supply source now turned café. Gold Hill native’s father is an influential figure in town politics. He enjoys expressing his views on all subjects. He also put in my heating system which just was completed this year. Gold Hill Native now lives in Alaska and despite repeated efforts to draw her in, she never attended another trails meeting.

CONFLICT ASSESSMENT

The context of this dispute involves increasing recreational demand for wilderness, recent growth residential development in the montane (which may be tapering as evidenced by real estate sales slump in mountain property), and a disparity in financial wealth accumulation which has impeded opportunities for dialogue. This dispute involves a lively cast of characters whose history, values and personalities contribute to the dynamics of the dispute. Their perspectives and actions affect the configuration of issues intertwined in the dispute and shape the subsequent efforts to mediate it. The stakeholders have been described as the story, the dispute, and the process to resolve it unfolded.

The names of stakeholders have been coded to ensure anonymity for the purposes of this thesis. Despite this coding, the characters described could be identified by locals based on their traits. I am somewhat contributing to expanding common local knowledge by writing this thesis, but I don’t think many locals will be reading it. The *Trails Mediation Guide* is more specifically written for the local audience and not an academic one.

Gold Hill community members can be grouped by residency and landownership status. This grouping is useful in measuring participation (see Diagram 1. Participation in Phase One in Chapter Four), but less useful in understanding the dynamics of the dispute. The critical factor seems to be integrating the New Landowner into the community to create a harmonious social environment that forgoes the need for top down enforcement of existing statutes or the creation of new ones.

For the purposes of telling the story of the North Trail, a useful grouping of stakeholders can be made based on opposition to, or support for, local access to the North Trail. This grouping includes both resident and non-resident stakeholders. Table 1 presents this approach to grouping stakeholders.

Table 1. POTENTIALLY AFFECTED PARTIES BY RESIDENCY AND POSITION TOWARDS TRAIL ACCESS

Community Members

Pro-Trail Preservation Community Members

Trails Committee Members

Morning Sun Residents and Neighbors of New Landowner

“Catalyst”

Claims: Sense of Community

Claims: Old West v. New West

“Dedicated Trails Volunteer”

Option: North Trail Bypass

“Morning Sun Photographer”
Process: Community building through high tea

Other Neighbor of New Landowner
 “Doctor”
 “Consultant to China”
Maintaining safety on their land by local trail use
Maintaining prerogative to build without beholding to
emotional tenor of Gold Hill community and
“illegitimate” authority of Gold Hill Town Meeting

Other Members of Trails Committee
 “Trail Runner/Landlord’s Wife”
Landowners have legitimate needs
Interview landowners to find out needs

Other Landowners with Trails
Every other trail is open to local use with or without a set of restrictions

Horseback Riding Enthusiasts
 3 Local Women
Trails to be open used to ride north trail

Seller’s Agent (contradiction and opportunity)
Nice to have trails open for horseback rides

Colorado Mountain Ranch
Keep trails open for summer camp rides

Another dude ranch operator now realtor
Closed ranch because of too many trail closures

Private Property Rights Community Members
 “New Landowner”
 “Seller’s Agent”
 “Store keeper”
Spoke in favor of New Landowner at Site Plan Review
Prevented petition to be posted at Gold Hill Store in support of NT access

“Local Historian”
Private property rights must be respected
You as a mediator are being used

Disinterested Community Members
 Gold Hill Inn
No comments

Ashram
No comments

Other Trail Mediation Process Supporters
Support working out a peaceful solution for trails

Non-Residents

Gold Hill Elementary School Teacher (now retired)
Concerned about ecological resources and sharing knowledge with children

Gold Mill Operator
Concerned about preserving right to mine

Recreational Users
 Boulder County Mountain Bike Enthusiasts (BOA)
 International Association of Mountain Bikers (IMBA)
Public lands cannot be closed to only local use
Actively engaged in building respectful use amongst association members
Would be willing to help with trail maintenance

Denver Dirt Bikers/ATV users/Downhill Bike Racers
Represented through Gold Hill Storekeeper

Gold Mill operator gave permissions
Two serious injuries in 2003

President of Boulder County Horseback riding club
The more miles of trail, the better

Boulder County Government
 Open Space Department
Concerned about Recreation and Public Purposes Act (R&PPA)
exchange with the BLM
Concerned about increasing miles of trail for recreational users
Concerned about keeping the peace

Land Use Department
Concerned about adhering to county codes

CO State Parks and Wildlife Ranger
Concerned about people's safety around large predators

US Government
 USDA Forest Service Ranger
Concerned about quaking fen
Concerned about leafy spurge
Concerned about motorized use on Switzerland Trail
Concerned about mountain bike use on Todd Gulch

DOI Bureau of Land Management Administrator
Concerned about preserving Big Horn Mountain
(Crows Nest/East Trails) as part of administering R&PPA.
Concerned about ensuring divestiture; supports Boulder County
acquisition of East Trails area through R&PPA

Sources: Interviews, Trail Mediation Workshop and Trail Committee Meetings.

Note: Not all Trails Committee members are listed.

See also Table 20 in appendix.

The interests of parties are italicized

Many people have been involved in the dispute and the process of its resolution. However, only seven parties are critical actors in the North Trail case. Most of these individuals live or own land in the area of the closure. These include the New Landowner and his neighbors. In support of the New Landowner there is his selling agent and ranch partner, Seller's Agent. In support of a resolution to the dispute, there is Dedicated Trails Volunteer, Catalyst, Morning Sun Photographer, Consultant to China and Trail Runner/Landlord's Wife. Note that all neighbors of New Landowner are involved except for one. This neighbor has not become involved in any activities or conflicts. A complete set of stated concerns in support of and in opposition to trail access is presented in the appendix, Appendix Two-B. Gold Hill Trail Access Perspectives: Positions, Interests and Incentives to Negotiate.

Many others also affected the dynamics of the dispute and the process in significant ways, but the primary actors are those above. See Table 20. Stakeholder and Place Name Codes and Descriptions in appendix. As the dispute resolution process has played out, most of the potentially affected parties and their indirect interests have been less critical to resolution. These parties and their interests form the context within which the dispute emerged, but the neighbors of New Landowner are the critical factors in supporting a sense of community. Sense of community can internalize reconciliation and relationships of respect for New Landowner.

ALTERNATIVES TO FURTHER COMMUNITY-BASED RESEARCH AND MEDIATION

Before continuing, then and now, it seemed and seems useful to review the alternatives to the EDR with PAR approach I proposed. The alternatives to more research and more attempts to mediate included that the North Trail would likely remain closed to local use. Since it appeared unlikely that some locals would release all claims to use, those locals would likely continue to use the trail. To do nothing could lead to more disputes, escalated retaliatory behavior, and expensive and socially destructive litigation.

Another option implemented by Dedicated Trails Volunteer over the last three summers (2003, 2004 and 2005) has been the creation of a bypass. This has had some advantages and some disadvantages which are discussed in Chapter Three. The bypass has not proven to be completely effective in resolving tensions. In addition, I have seen people still walk across New Landowner's land and use the North Trail. I have heard of other cases. There must be others that do the same of which I do not know.

Closed access could not be easily enforced by New Landowner without his own use of aggressive tactics, which are expensive and dangerous. I later learned that the Boulder County sheriff's department seldom responds to trespassing reports and even more rarely supports prosecution. And even if a Boulder County judge rules for the landowner in a trespass case, sheriff backup is unavailable until civil litigation has completely released all claims to access other than by the landowner.

Expensive and socially destructive litigation would be the next, but not ideal recourse. A case is made in the next chapter for this option as a means of encouraging participation by the New Landowner. But this approach serves no one's interests well. To compound matters, if the courts decide in favor of access, access would be open to the general public and for all uses including dirt bikes and ATVs, not only pedestrians, bicyclists and horseback riders. The trail would no longer offer the experience to locals of a peaceful, local access trail. This outcome was not desired by the members of the Trails Committee or others with whom I spoke. Although I may be out on a limb in not validating this opinion with the New Landowner, I would strongly surmise that such an outcome would not be favored by him either. Avoiding this particular outcome may be one of the strongest incentives that exist to encourage the New Landowner to negotiate.

A complementary approach might rely on awareness-raising and lobbying. In such a scenario, government entities might eventually recognize the role of trails or the persistent disruptiveness of trail disputes. At the state level, a bill could be introduced to mandate that existing trails must remain open to local use and at their existing volume of use. At the county level, the site plan review process could include an inventory of existing trails and the requirement that those trails remain open. This outcome would depend on the quality of research conducted and the caliber of outreach that might follow.

In any of the presented resolution scenarios that might lead to a mediated, a litigated, or a legislated outcome, the research of the Gold Hill Trails Committee appears to be an important first step. Participatory action research is necessary not only to de-escalate the North Trail dispute, but necessary to resolve it and to prevent future disputes. PAR may however remain insufficient in reaching a stable outcome.