

Summary Minutes
NEW MEXICO RESOURCE ADVISORY COUNCIL
September 13-15, 2004
Santa Fe

RAC Members Present:

Crestina Trujillo Armstrong
James Bailey
Philip Don Cantu
Mickey Chirigos
Max Cordova
Michael Eisenfeld
John Hand
Meade Kemrer
Mark Marley
Raye Miller
Robert Moquino
Anthony Popp
Gretchen Sammis
Joe Stell

RAC Members Absent:

John Hand
Don Tripp

Designated Federal Official:

Linda Rundell

Designated State Official:

Sally Rodgers

BLM Staff:

Bob Alexander, NMSO
Larry Bray, Roswell FO
Sam DesGeorges, Taos FO
Ron Dunton, NMSO
Janice Gamby, NMSO
Steve Henke, Farmington FO
Theresa Herrera, NMSO
Gary Johnson, NMSO
Jesse Juen, NMSO
Mark Lane, Socorro FO
Ed Roberson, Las Cruces FO
Anna Rudolph, NMSO
Paul Sawyer, NMSO
Ed Singleton, Albuquerque FO
Peg Sorensen, Carlsbad FO
Hans Stuart, NMSO
Steven Wells, NMO

Scribe:

Karen Meadows

SEPTEMBER 13 FIELD TRIP (Attachment 1)

The Taos Field Office hosted the Field Trip to the San Marcos Pueblo Archaeological site with the Galisteo Basin. RAC attendees Crestina Trujillo Armstrong, Jim Bailey, Mike Eisenfeld, Mickey Chirigos, Raye Miller, Mark Marley, Bob MoQuino, Joe Stell, Philip Cantu, Tony Popp, and Meade Kemrer. BLM attendees Paul Williams, Sam DesGeorges, Jesse Juen, Ed Singleton, Hans Stuart, Peg Sorensen and Theresa Herrera.

PUBLIC COMMENT PERIOD

Chairman Tony Popp opened the Public Comment Period at 6:07 p.m. and welcomed guests. Members of the RAC introduced themselves.

Isaac Medina, Espanola School Board, Alcalde

Marvin Brandstetter, Espanola Public Schools, Alcalde

Terry Covert, Espanola Public Schools Associate Superintendent of Finance, Espanola

Terry Covert said land is desperately needed in Alcalde because the elementary school library is sinking, and there is a crack in the gym floor. Alcalde is a growing community with no room for expansion: the federal government owns 90% of property there, and there is a main gas line they can't build close to. The board hopes something can be done to acquire property from BLM. Two hundred students need a new school, and the board has money to buy it.

Marvin Brandstetter said during the last big rainstorm June 5 or 6, the library sank almost 3 1/2 inches. The floor is separating from the walls, and dampness will bring mold. They need to tear the library down so mold doesn't spread, and move to a new place. They wanted to see if it was possible to acquire some BLM land so they can build before the whole school is condemned.

Isaac Medina said the other two schools in the area are full to capacity. When the board met with BLM staff a few months ago they were told it would take 3-5 years to acquire this land, but their children can't wait that long. Sombrillo Elementary in the area is a new school being built on land acquired from BLM.

Terry Covert said five portables are coming from the state in late October, and will have to be placed on pueblo land. That is a Band-Aid fix.

Question/Answer/Comment

- BLM has been supportive. The preferred property is part of the San Sebastian Martin Land Grant, which can only be purchased at fair market value, by amending the management plan, or by a legislative solution outside BLM channels.
- Linda asked whether any other parcels not part of the land grant would suit. Mr. Medina thought not. He has gone through numerous private owners. Sam said all BLM land in that area was part of the land grant. Linda said normally they would make land available at no cost, but that appears not to be possible. Had they talked to Domenici or Udall about legislation?
- Mr. Medina said he was told it takes an Act of Congress, and 3-5 years. The school board is willing to buy at fair market value. Bob Varell would support them with extra money for building the school. Sam thought it could be done by sometime next summer, with scoping, NEPA etc.
- Would nine months work? Better than 3-5 years. Linda asked whether that could be agreed to. Mr. Medina asked that something be written. Linda recommended geophysical testing for the proposed land and at least one alternative site. She explained that nine months would give enough time for public comment, but that would be the shortest amount of time. Mr. Medina was sure he could get community support.
- Putting the school on the suggested land would raise land value—a reason for community approval. Existing infrastructure includes water at the site, but not sewer, though it is close enough to tie in. Tony said BLM needs their help as community leaders to make sure people are behind them so this can be done quickly. RAC would represent them in the community if that seemed helpful.
- Max visited the site with Ron Huntsinger and this group. There is a NEPA document for water clearance, and other things on the drawing board. This would be supported. Education is one of the best things going, and these three people are really committed to making this happen. He thanked them.

Roberto Mondragon, NM Land Grant Forum, *Aspectos Culturales*, Santa Fe

Aspectos Culturales is a nonprofit preserving Spanish language and culture in NM, that produces bilingual education materials for schools, spanning language, history, folklore, music, dance and literature. Mr. Mondragon said his organization works to preserve values and traditions held close to heart by indigenous people and the Spanish who colonized NM. As people settled where water was associated with land, land grants were given. Therefore, some of the most important aspects of culture are land and water. He thanked the RAC for moving in the direction of providing land for the school as fast as possible. There could be no better way to utilize the San Martin Land Grant than building a school.

Question/Answer/Comment

- Tony appreciated Mr. Mondragon for thanking the BLM and the RAC, which he said is rare. Part of BLM’s mission is to help with these types of things. We might look long-term to see how such acquisitions can be done more quickly.
- Mr. Mondragon asked whether it would go faster if the county or school district declared an emergency. Linda said legislators can sometimes do such things quickly but they are at the end of their session and the November election takes precedence. She recommended visiting with legislators to see whether they might help this land exchange go more quickly, and asked to be invited for the ribbon cutting.
- Raye hoped that as the community grows other such areas might be identified earlier in the planning process.
- Mr. Mondragon said in Alcalde and Velarde people have had to move onto agricultural land. He hopes BLM and communities throughout NM can plan so that land good for growing isn’t overtaken by doublewides.
- Bob Moquino said there is a geologic fault through that area but not a major one. The problem with the school probably has to do with water subsidence.
- Sam thanked Mr. Mondragon for segueing into a topic of import to communities in the Taos area. The RMP scheduled for revision by 2007-2008 will consider community needs like expansion of water and sewer infrastructure. BLM will need community help to do that. The FO is trying to bring people together on the planning bandwagon. It hosted two community stewardship courses and there will be additional sessions on NEPA and planning.
- Max said in Spanish “you get more done with honey than you do with bile.” He met with the congressional delegation in 1998, when they said it would take a couple of years to get these land grant issues settled—and recommended working with agencies to figure things out. He said the government has been in confrontation with communities so they are finding new ways to work with issues and move forward.
- Mr. Mondragon said he sees Sebastian Martin not turning in his grave, but with a smile on his face for this way of using his land.
- The chairman closed the Public Comment Period at 7 p.m.

SEPTEMBER 14 RAC MEETING

CALL TO ORDER, WELCOME, OPENING STATEMENTS (Attachment 2)

Tony called the RAC to order at 8:13 a.m. and welcomed all. He mentioned that this was the last RAC meeting for five members so he hoped it would be as productive as possible.

Linda said she was pleasantly surprised about public comment. BLMNM is reorganizing statewide. During the Clinton administration, the three tiers of state, district, and resource areas for state and field were collapsed. Appeal/remediation for both public and employees came through the state director, which created a bottleneck. Also, about half of BLM employees are eligible for retirement within the next five years, and that structure change eliminated a layer of experienced staff to promote to higher management. Now, district managers will be put in place, but no cumbersome district staff. Steve Henke will direct a district based in Farmington FO that includes Taos FO. Ed Singleton will head the district out of Albuquerque FO that incorporates Socorro FO. Roswell FO will be a district office with Carlsbad reporting; and Las Cruces will stand alone. Ed Roberson will direct both those districts. Doug Burger, who has worked in Socorro and Farmington, and managed the Dakotas’ BLM

office for several years, will manage Roswell FO. Carlsbad FO hired another former New Mexican, Tony Herrell. Linda hopes they will both be able to come to the next RAC meeting.

All government agencies are feeling the budget pinch. NM's biggest reduction is in the area of biggest growth—recreation. A large volunteer force fills the gaps, but Linda is working with Washington to prop up that program. Some recreation sites may need to cut hours and services. BLM works for whoever is in the White House, with little flexibility because of the laws and regulations that guide the agency.

Sally welcomed RAC members to the state capitol on behalf of Governor Richardson. She has enjoyed traveling the state with RAC members, especially field trips.

Jim asked for the new managers' resource management backgrounds. Doug Burger has an undergraduate degree in wildlife biology, and has held a series of BLM management positions. Tony Herrell has a degree in mining engineering, was a geologist and solid mining engineer in Roswell, and currently manages Ironwood National Monument in AZ.

RAC members thought the field strip was wonderful, especially the archaeological site. Linda said longer tours could be arranged for RAC members.

Nominations for new RAC members were submitted to the Washington office in June and scheduled to be announced September 20. Raye thought the RAC had sent a letter to the Washington office about timely RAC appointments. Theresa will call Raye if new members are not appointed September 20, and he will circulate a letter to RAC members before sending it to the Washington office.

During public comment, Mike was struck by the passion people expressed for things needed in their community, but was most interested in how it might be done in nine months. An appraisal can be done, with a land use plan amendment, barring complications like public comment, large number of sites, or disagreements over appraised values. It's partly dependent on how well community representatives work. Sam said he explained to parents and the school board what options were available. They first need commitment from the school board on market value and willingness to work with BLM. Water, sewers, etc. will be a substantial package the community must provide. He thought the school board was not in consensus about steps to take.

Sally thought BLM could assist by putting clearly in writing what they will be required to do. Sam said an MOU usually lines out what each partner in the process needs to provide. Linda and Sam were both surprised that the board is willing to purchase the land. Jim said the San Pedro Mine agreement looked like a win/win. At the same time, equipment left there gave the impression that a lot of sites around the state have leftover equipment. Can we do better with such trash on public lands? We can always do better, but have systematically gone through active claims—worst first. That one had no hazardous aspects. BLM has made good progress. It just takes time.

Jim asked if there is control over cleanup and revegetation for new claims. Yes, it's the more-than-10-year-old ones that are problems. This equipment was associated with an inactive gold claim.

Max was concerned that the school board wants land that was claimed by BLM from the Spanish land grant. Ownership was challenged by residents. There is a waste transfer station that might affect water. BLM needs to resolve issues about that piece of land before proceeding. Ron said the land was up for disposal and suddenly barriers arose. He wants to make sure people are treated fairly. Linda agreed. No less than 10 schools statewide are located on former BLM land. Ron Huntsinger misspoke when he said that land was available by RFP. Linda doesn't know of any other way besides legislation or purchase. Sam said BLM is supportive of locating a school there. Title was acquired in 1938 through an act, and the land was put into restoration for grazing purposes. We need to focus on working with the community to move the project forward.

APPROVAL OF RAC MINUTES FROM LAS CRUCES, JUNE 2004 (Attachment 3)

Motion

Crestina moved to approve the minutes with the correction that RAC member Max Cordova should have been listed as absent. Joe seconded. Motion approved.

SIERRA/OTERO COUNTIES FLUID MINERAL LEASING PLAN**Ed Roberson, Las Cruces FO Manager**

The Otero Mesa plan includes historic grasslands. BLM issued a proposed management plan and final EIS that started a comment period. The governor had issues with the plan, so they came out with a supplement, and Linda proposed that 34,000 acres of aplomado falcon habitat be withdrawn from leasing. The supplemental period ended. The BLM director has not yet responded to the governor's consistency review, though protests and some state agencies were responded to. BLM sent a proposed record of decision to Washington, which will be finalized once the governor receives his response. They anticipate lawsuits from the environmental community. In the two counties involved, 250,000 acres are nominated for lease. Once the plan is out, BLM will evaluate those tracts. Reasonable foreseeable development is 1,600 acres disturbed and 80 productive wells of 140 wells drilled. One concern is whether black grama grassland can be restored. BLM is working with Jornada Experimental Range scientists on ways to improve restoration. There is natural loss of that grassland in the area too. The FO is working now on the two wells already drilled, getting a portion of those pads reseeded and fenced. The two Crow Flats wells were put to bed. Ed met with Otero County Advisory Board ranchers who observed and are satisfied with current attempts.

Question/Answer/Comment

- The NM Land Commissioner wrote a letter of support. The state has 80,000 acres under lease in that area and is looking at environmentally responsible development.
- NM OCD requires steel pits in the area. O&G developers will deal with cost and waste disposal.
- In the Permian Basin, about 100 wells have been drilled in the past 100 years, so foreseeable development needs to be based on that model rather than the highly productive San Juan Basin.
- Sally asked RAC members to read the governor's response to the Otero Mesa plan, available on the EMNRD website. She said it gives another perspective on a lot of issues that deserve consideration.
- Protection of fresh water and wildlife habitat are issues. BLM is consulting with tribes in planning efforts. Is 1,600 acres a real cap or will there be further development? Have impacts been adequately addressed? Balance is needed between state and federal issues, mandates and plans.
- Sally volunteered further information from agencies that cooperate with the governor.
- Joe asked the final result on size of sites, width of roads, etc. Is it business as usual? The plan requires no more than 5% of the 1,600 acres unreclaimed at any one time. BLM is working on monitoring with Otero County.
- O&G will need to address slush pits.
- Raye said his company testified against the proposal and considers it bad policy.
- The governor's appeal addressed two valid technical applications—directional drilling and closed-loop situations, but the industry says those are not technically feasible and too costly. The public needs education, and NEPA documents are a perfect educational opportunity. Does directional drilling mean more trucking? What are the costs? What are the ramifications? Time for more information rather than less.
- Max said there is little collaboration between agencies. Is BLM getting expertise from other managers? Linda said BLM works with USFS and other agencies, but USFS is not expert on this. Ed Roberson said they are using engineers and geologists from the Roswell/Carlsbad area.

Farmington FO has a different geologic environment. Otero Mesa is an O&G frontier. Operators are looking for pockets as opposed to proven reserves and proven technological capability.

- Mike said the time to determine that is when specific sites are proposed. He recommended analyzing direct drilling and implementing alternatives where possible. It's difficult to replant grama grass effectively and specific costs might change original planning on where things are sited. That key part of the puzzle is missing.
- Ed agreed that decisions would be made when siting occurs. O&G developers are aware of technology improvements that save time and money, e.g., twinned or triple locations.
- To clarify, black grama grass is a component of Chihuahuan grasslands. Jim said this is the only site of black grama grass in the US. We forget to look at the issue of rare vegetation and ecosystems that need protection. Linda said McGregor Range has extensive grasslands and so do other parts of the state because BLM and ranchers have taken care of them for decades.

INTERIM GUIDELINES FOR SPECIAL STATUS SPECIES PLAN AMENDMENT

Jesse Juen, Associate State Director (Attachment 4)

Jesse showed a map where dark lines indicated lesser prairie chicken and sand dune lizard habitat. Lesser prairie chickens are known to live in five states, while the lizard is restricted to NM and a few areas of TX. Both are candidate species through US Fish & Wildlife—deserving of listing but precluded because other species are priorities. BLM is working with livestock producers, O&G companies and environmental groups to manage these species in concert with other land uses. Working groups have met for more than one year. BLM is moving into an RMP amendment that addresses those species. Interim management protects habitat and attempts not to preclude options.

There are four zones:

1. Occupied good habitat with intact use
 - If not leased for O&G and minimally developed, would hold off till plan finished
 - If leased, would require plan of development (POD)
2. Habitat either occupied or suitable for occupation
 - If not leased, no surface occupation
 - If leased, POD
3. Leased with impact though not significant, requiring POD
4. Fringe or not suitable—leased, business as usual

The key factor discussed by BLM and the O&G industry is to verify a base for common-sense decisionmaking. BLM proposes to hold leasing on sand dune lizard habitat not now leased, and to continue monitoring and land health assessment with permittees for livestock management. The plan also addresses recreational activity, and is a joint effort between Roswell and Carlsbad FOs. They are shooting for a 2-3 year process, signing agreements with counties, and holding community workshops. Interim guidelines were sent to constituents with explanatory letters.

Question/Answer/Comment

- Other states still hunt prairie chickens. An interstate prairie chicken working group is addressing habitat improvement, quantifying requirements and impacts.
- Jim said NM is the only state with a substantial area of public land prairie chicken habitat. He asked for a copy of the map and interim guidelines,

- In NNM, pinon loss is an issue. Are there management plans for leaving living trees and harvesting dead ones? Sam said Taos FO is issuing permits to harvest wood, and stewardship contracts are out for bid. Overall they are watching the change from P-J to juniper to grasslands.
- FFO is harvesting dead pinon and still thinning in areas of fire threat. There is some empirical evidence that areas thinned prior to beetle impact survived better, e.g., around Cuba.
- Sally said NM has initiatives underway. She invited the RAC to look at the EMNRD website for the governor's pinon initiative. EMNRD is working with partners on how to use thinned trees for community economic value.
- Mark hopes BLM will work with livestock producers on what the threshold should be. They're watching to see agency response as ranchers increase livestock numbers following recent rains. Boundaries shown have expanded from initial discussion by the prairie chicken work group. They shouldn't increase so much as to be onerous or antagonistic to livestock producers and O&G.
- Jesse said the working group indicated that best solutions lie in the hands of those most invested in end results. Boundaries are different from the core plan that the prairie chicken group worked on, but not from the interim plan. In some areas, mix of ownership is such that this plan won't affect prairie chicken protection.
- Jim said in area 3 the birds are sparse and scattered. There's been creeping loss of birds, now gone from more than half of historical habitat, so it is extremely important to pay attention in those areas. BLM should set the best possible example where private lands are included.

SIGNIFICANT ISSUES FOR FUTURE RAC INVOLVEMENT (Attachment 5)

Field Office Managers

Ed Singleton, Albuquerque FO

Growth in urban development is a growing problem that BLM needs RAC help with. AFO is building a shared office in Cuba with Soil & Water Conservation Service and USFS. An RFP is soliciting an engineer and architect, with construction underway by next spring. All rents will go to the S&WCD. Rain caused flood damage to EL Malpais and Tent Rocks. Drought is still evident in the Guadalupe, Casa Salazar, Cabezon area, e.g., along the lower Rio Puerco where there's been no rain for seven years. All allotments are down in stock and a few have no stock. They have engaged the Department of Agriculture and Soil Improvement Task Force. Even though there's no feed, BLM expects resistance to removing all stock.

Mark Lane, Socorro FO

Collaboration, especially as reflected in RMP revision, is a large issue. The FO is moving the EIS draft back, having to do with including Zuni Pueblo as a cooperating agency and applying to USGS for hard data on what they proposed. The cooperating agency endeavor is new to BLM and providing lots of "opportunities." All partners are overwhelmed. They have held many meetings soliciting public input but few people attend.

Wild horses are an issue, and a new manual is being developed. Research shows that a herd needs 150 horses to be self-sustaining. Their herd has 50. BLM is working with permittees and other interests for a different management plan—expected to complete in about a year.

Question/Answer/Comment

- Issues for self-sustaining populations are demographic or genetic. This is genetic. Have the option of bringing in a small number of horses to maintain genetic diversity. But some want that herd's characteristics maintained. University of Kentucky tested the herd's genetic uniqueness about 1990

and there was danger of inbreeding. Gus Kaufmann suggested a herd with similar genetic characteristics be mixed in, but that was not done. The herd has characteristics similar to Spanish mustangs but also to domestic breeds like Morgans.

- Some albinism due to inbreeding is evident. The habitat cannot handle a herd of 100. Thirteen horses were introduced in the mid-to-late 90s. Preference for adoption is primarily for buckskin color and Spanish characteristics. There are about 273 cattle within the herd management area. A permittee may be able to give up part of his livestock allotment for more horses.
- This RAC recommended that RMP revision call for public input at all phases, not only through public meetings, but also through public working groups. Follow that policy.
- Zuni Pueblo is a cooperating agency concerned with Zuni Salt Lake protection. Other pueblos have been contacted. Bob would like a copy of the letter sent to pueblos, because there isn't always communication among pueblos.

Sam DesGeorges, Taos FO

Taos FO hopes to have RAC involvement, maybe 2-3 members in a working group to start dialogue about envisioning the future. Taos communities are either surrounded by or adjacent to federal lands, so people live and die by BLM decisions. Dialogue needs to begin early. Taos FO hosted collaborative partnership training sessions that Crestina attended.

Several allotments became vacant, with clear guidelines for how they would be reintroduced. If 2-3 entities vie for permits, how do we decide? A working group could address that. Current proposal is to develop a prospectus outlining standards and criteria, and advertise.

A 30-year disagreement over occupancy of public land was resolved in May 2004, resulting in 90 days for the occupant to remove all belongings. If not accomplished the taxpayer would pay for cleanup and restoration, including recontouring, reclaiming and reseeding in time for winter moisture.

Question/Answer/Comment

- Crestina said the training she attended was extremely valuable and recommended that other RAC members go through it.
- Max asked to be on the Taos FO mailing list, and would encourage residents to attend meetings.
- The FO will reseed with a mix specific for that area.

Steve Henke, Farmington FO

Steve enumerated statewide issues the RAC might become involved with:

1. Develop a statewide strategy for heritage tourism, which may offer significant budgetary opportunity.
2. After the presidential election, there may be a window of opportunity to receive a modest proposal for wilderness designation.
3. Legacy wells in O&G patches in northern and southern NM need reclamation. Build consensus on strategies for addressing those sites that do not meet current standards. Priorities, funding opportunities, landscape basis decisions.
4. Reclamation/revegetation requirements vary between FOs. We're caught in how-to rather than what sites should look like when rehabilitated. What stipulations would accomplish end results?

Question/Answer/Comment

- BLM headquarters is featuring heritage tourism as an opportunity for learning and recreation. NM's wealth of cultural and historical resources brings in people. How can BLM take advantage? Budget planning system for out-year featured programs. Would be competitive for budget increase.
- Pueblos would appreciate that opportunity too.
- BLM would welcome state involvement in legacy issues. A common approach would be beneficial.

Larry Bray, Roswell FO

NM Land Office is considering selling exclusive rights for hunting big game species on blocks of state land. BLM is concerned that access to BLM land across state lands might be blocked. It's still unclear how this will shake out.

Tony recommended that BLM and RAC become very involved in this. Many serious issues will arise and may not have been considered.

Ed Roberson, Las Cruces FO

- FOs have been encouraged by Washington via Standards & Guidelines to assess 10% of acreage annually, which is about 500,000 acres/year for Las Cruces. Other offices have the same problem. RAC may offer ideas and opportunities, e.g., setting priority watersheds.
- In section 7 consultation under the Endangered Species Act, the FO generally addressed grazing on a species level but is considering combining species to work on a regional basis.
- Water rights impact management. Application for in-stream flow-in on the Black River in 1995 has not been followed through. Every three years they pay to keep that application in place. State engineers look at this differently. Las Cruces is getting applications for rights of way for water drilling in Alamogordo, particularly with the county on EISs for wells, pipelines and desalination.
- Travel management, e.g., RV use, is an issue

Question/Answer/Comment

- BLM filed an application for beneficial use in 1995, but never thought it was a good thing to pursue. It has never gone before the State Engineer's office; BLM just put its place in. Water is being applied for beneficial use on Bonita.
- Jesse said they are organizing a workshop for spring 2005 with state water partners on what can and cannot be done. He will keep RAC apprised.
- Sally appreciated the big picture presentations. She encouraged taking advantage of opportunities for the state and BLM to share info. State initiatives dovetail with these discussions, e.g., a broad-based group is working on the Healthy Forest Initiative—to consider preservation, restoration and management of watersheds. And an interagency working group is addressing removal of invasive species.
- Las Cruces FO is starting its three-county RMP revision that will include urban development. The McGregor Plan comes out for public review in October. They are interested in RAC participation, e.g., coordinating RAC meetings with other meetings.
- Max asked where the water rights came from. When the land was acquired, BLM thought they were acquiring the original rights.

Peg Sorenson, Carlsbad FO

The FO is in a state of flux. Issues include wilderness, recreation, and tourism. Many NM communities are gateways to public lands. Transportation plans are very important. Public lands offer

opportunity for improving public health. The RAC's involvement in collaborative planning would be very helpful.

DIRECTIONAL DRILLING OF OIL & GAS TO MITIGATE SURFACE IMPACT

Steve Wells, NMSO Petroleum Engineer

Steve Henke, Farmington FO Manager

Steve Wells said recently only 80 of 1,240 acres for lease were approved for direct drilling because of wild game, Navajo Reservoir and other surface values. Burlington Resources, knowing the restrictions, paid \$28 million, the highest ever for one lease. BLM attended Otero County Commission meetings to share what they look at in drilling permit review: a drilling plan, down-hole inspection by geologist and engineer, surface use plan, and NEPA and onsite inspections by specialists including ranchers.

Inspection and enforcement staff wants visibility and presence, which is necessary for ensuring credibility and for other planning, leasing and permitting. There are 90 people spread over four states, rigorously trained. They work with Navajo and Jicarilla tribes to enforce regulations.

More and more directional drilling is underway as the industry uses expanding technology to get the last drop of oil out of the rock. In China some laterals go out six miles. Those drilling need to know about the rock, where they're going and the pay zone. Pipes spiral and may create manmade doglegs, stressing pipe and equipment. Pipes can also go horizontal and then vertical in an S shape. Two doglegs cost more and create more problems, but are feasible, best done when the reservoir is known. All fields are declining. The Permian Basin peaked 20 years ago, so drilling companies have to work harder.

Engineers isolate any water, especially good water. Stronger protective regulations have been in effect since the 1970s. BLM is confident in current reviews by the NM Water Engineer, and all are learning more about potential fresh water areas.

Question/Answer/Comment

- OCD is focusing on water quality and gained a lot of knowledge from wells drilled last year on Otero Mesa even though plugged, particularly about formations holding fresh water. Currently state and federal agencies look at ground water with caveats about protecting underground water.
- A system started with USGS tracks number and types of wells visited, and hours spent by each of the 90 inspectors, then forecasts for the coming year. Inspectors visit 600-900 wells each. With support from Bingaman and Domenici, BLM hired 17 new inspectors. They integrate with surface folks including members of the public who call inspectors if they see something amiss. The program is educational as well as keeping people honest. NM has the highest number of wells per person nationally and has worked to increase effectiveness.
- Farmington has 700 new drilling permits, and up to 300 wells plugged. Agencies are getting more data on maps, invested \$1 million for satellite imagery to map disturbances that can be evaluated to prove what's there and what's permitted. Building GIS items to look for resource sensitivity. The hard part is getting to the physical spot. But BLMNM can compete well in Washington because inspection is needed.
- There is opportunity to work with OCD inspectors. OCD is much more understaffed. A total of 600-900 means 3-4 wells per day. They may be different wells or the same well twice. In reality one lease might have 5 or 50 wells. It is wise use of funding to randomly check some instead of all 50. Repeat offenders are revisited. Inspection strategy is to get to every site every three years, and to higher priority wells once or more annually.

- May inspect one cement job in a shift, or 50 wells and storage facilities in a high-production area in two days.
- How is casing done to protect fresh water? Same principles apply whether horizontal or vertical. Slant rigs put in at a 30-degree angle with steel casing to the depth needed. Cement goes through the pipe and back up the outside to the surface. It's trickier drilling horizontally to fill the bigger void and fight gravity. Now have down-hole motors.
- Companies develop reserves, and every 3-5 years technological advancement allows better use of reserves.
- Steel pipe flexes, sometimes spins and warps and can even break off. The more complexity introduced, the more care needed. Line is strongest where coupled and threaded.
- After there's a hole, is perforating machinery and technique perfected for angles? Yes, can selectively drill in one direction or another. Drilling rigs often now have computers on-site read by company hands and sent to company offices for engineers to oversee.
- It is risky when they hit a fault. It deflects the bit even when drilling direct. You may go out of the oil-bearing strata and it may be difficult to find again. A Nevada field of 300 acres produced 20 million barrels but had faults in all directions, so horizontal drilling was not feasible.
- Companies see directional drilling as another tool for getting resources left behind, and we have already gotten all the easy-to-get-to oil. We will see it in the majority of fields internationally. It is still financially prohibitive, although costs are coming down. Once a well pad is built, think ahead for options. Smaller tubulars and well bits are being made.
- Most NM oil fields were established with vertical holes in the 1950s. But equipment, knowledge and financial incentive are readily available in NM for directional drilling.
- Air has the advantage over water because it is light and rock pushes back in. It's cleanest. When near the surface you can see groundwater coming up.
- Is directional drilling less safe for groundwater? Drillers evaluate as conservatively as possible. Groundwater is the most critical thing out there. Otero Mesa staff evaluated what's published to anticipate where water will be. At Crow Flat they anticipated water at 1,300 feet and had operators take precautions. Better technology and collection of data can evaluate where formations are. Often companies drill vertically through a water formation before angling.

Negro Canyon (Attachment 6)

Steve Henke oriented the RAC to a map showing seven proposed coal bed methane wells. Outside the lease are 80 acres where a vertical well will be drilled to determine how to proceed with directional drilling. Production history is well-known, with an estimated 50 billion cubic feet of natural gas recoverable. Burlington Resources paid a bonus bid of \$28 million to drill, and will pay an estimated \$30 million in federal royalty over life of the lease. Values being managed for include big game winter range, an undeveloped area that is relatively scenic, and an adjacent reservoir. They are protecting bald eagle range near Navajo Reservoir, and migratory big game during times of activity. The FO worked with Burlington on a POD for one well every 160 acres. There is one site they aren't sure they can reach by directional drilling, so will wait to learn more. Applications for permit to drill have been approved.

NM Land Commissioner Lyons is protecting his trust. He asked for a 2% override, and the operator decided on right-of-way to federal land instead. Needs to be addressed case-by-case. There are limits to impacting technology and variables, one of which is economics. Directional drilling costs twice as much as a vertical hole. Water in the coal zone is brought to the surface, piped or trucked to

centralized sites and reinjected. There is production risk in new technology, but the resources are so well-known that Burlington was willing to risk.

Question/Answer/Comment

- Four wells per section is enough to know what’s underground with a high degree of accuracy.
- It takes \$160,000 to drill about 3,000’. Challenge is to complete downspacing in the most sensitive way, primarily by twin locations—which can’t be done everywhere. Asked staff to analyze horizontal alternatives in sensitive areas with an EIS. An EA doesn’t lead to what everyone considers the right answer, so it’s a judgment call in the public interest.
- Injection wells for this proposal will be 6-7 miles away. Water will be held in large tanks on site and periodically trucked to the injection site. Section 12, Bureau of Reclamation land around the reservoir and not under this lease, is steep and rocky, probably bald eagle roost.
- On Table 2, there are examples of 2-13 times greater production from horizontal drilling. Raye mentioned a case where no additional recovery was expected by horizontal drilling.
- Formation dependent. Results vary depending on whether drill bits can stay in the coal seam. That is a big area for sand dune lizards and prairie chickens. We know quite a bit about what’s underground so there’s good opportunity for directional drilling.
- We are still a free-market economy. Tracts in the SE are sold for much less.
- If it seems marginal, companies may choose not to lease and you lose taxpayer benefit. No formula tells a field manager the right answer. Meade reiterated that there appears to be a lot of opportunity for directional drilling. Some skepticism has evolved.
- Raye said BLM might have looked at identifying a two-acre area inside 5, 6, or 7 where it gave operators a specific small block, because rights of way with the state are subject to change.
- Mike said development of directional drilling has potential to save costs because operators are not developing more infrastructure. Raye said the risk of loss of a directional hole is much higher.
- Coal seam thickness varies, in that area about 20’, sometimes strands of 1-2’ layered like a cake. There’s about 25-30 billion feet of gas in the coal and another 20 billion in the deeper formation.
- In one twin location a company drilled into another company’s well bore. Seems that 75’ of separation minimizes the risk.
- If one of the five directional wells fails? Beginning with three vertical wells, they’ll evaluate and learn as they go.
- Probably will require compression at some point. Negro Canyon is a noise-sensitive area and suppression was included in the leases.

**FOLLOW-UP ON RANGE MONITORING &
DISCUSSION ON THE USE OF ECOLOGICAL SITE DESCRIPTIONS**

Bob Alexander (Attachment 7)

Dialogue continues with ranchers Bebo Lee and Mike Casabonne concerning an agreement on BLM and voluntary rancher monitoring. They discussed moving from state to local level and how BLM assesses and monitors rangeland elk. BLM would like monitoring on every allotment. Prohibitive but some can be done using historical photographs. Ranchers want to make sure BLM is accountable for monitoring. BLM does not have degree and frequency rules. The ranchers presented an MOU as a starting point.

Ecological site descriptions (ESDs) are more and more important. An ecological site is a type of land that will produce a certain type of vegetation. BLM developed 300-400 NM site descriptions. Historically western range management was based on vegetation prior to European settlement, so uses

of the land that changed it were considered degradation, and the goal was to get back to the original. That isn't a good measurement technique for the western US, so BLM struggled in the last 15 years over how to assess. With NRCS and Jornada Experimental Range, BLM has deposited what is known and gained detail. Now they can communicate with all users.

Bob showed a map of grasslands that have been completely assessed—about 75% of BLMNM land, and areas being worked on now. A handout gave Shallow Sandy as an example ESD, with physiographic, climatic, water and soil features. Plant communities are being added, with an overview of how they interact and a diagram adding the complexity of reality. Arrows indicate whether the soil can be returned to past conditions, which is a planning tool for what can be expected and how much needs to be invested.

Times change and the land changes. The question is not what the site once was, but what it actually could now be. This is a valuable communication tool within BLM and with the public. Color photos indicated progression from historical black grama grassland to mesquite-dominated landscape. What comes back when left alone depends on the area, which is why this site-specific tool is so valuable.

These ESDs are works in progress. Noe Gonzales is moving forward on woodlands site description. There's ongoing dialogue with the Nature Conservancy's fire ecology project. The BLM national director toured and liked what she heard at Jornada Experimental Range as a way to help with BLM issues, so Jornada provided a briefing for the Washington office, which plans to incorporate this approach. People need a common language, and ESDs may provide that.

Question/Answer/Comment

- In the Sacramentos, Guadalupes and Organ Mountains in southern NM, historically two agencies had two different systems that have not yet come together. BLM chose in 1986 to go with the Soil & Water Conservation Service approach. USFS has its own, but is considering joining in.
- For further information, go to www.nm.nrcs.usda.gov/technical/fotg/section-2/esd.html.
- Once a site is described, BLM can determine what can be done. Site description applies to the soil, not to a particular place. This needs to be merged with monitoring.
- Mark thinks this process takes us farther away from monitoring. This needs to be more scientific and rolled together with plans for monitoring. Such approaches are becoming more and more burdensome for cattlegrowers.
- Bob said we are better off working with ESDs in decisions made and interaction with the public. The intent of the rapid assessment process is to tell where there may be problems or concerns. Then BLM can monitor to gain information to resolve issues. By March, all rangeland should be described.
- Mark said it looks redundant, and it is already a challenge for ranchers to meet all mandates.
- Bob said with good ESDs we have a tool to move forward with wildlife and range, O&G, EAs, etc.
- Mark said this gives the impression that BLM is redoing things before anything can be implemented. We need to streamline and merge. Bob said this is the foundation. Mark remained concerned that this seems subjective.
- Bob thinks it's not subjective and is especially important because BLM and other agencies are losing significant numbers of their workforce.

ACCESS ISSUES IN SOUTHWEST NEW MEXICO (Attachment 8)
Angel Mayes, Las Cruces FO Senior Technical Realty Specialist

Angel pointed out 26 access cases in the Las Cruces area on a map. She wanted the RAC to see how much acreage could be denied to the public by one locked gate. The future depends on the relationship between private landowner rights and public land use. Problems come with the common Western checkerboard. BLM encourages managers to take access issues into account when considering land exchange. Possible solutions include purchasing easements. Some Counties maintain some roads beyond locked gates. County approaches differ. La Mesa in Dona Ana County can be dealt with fairly easily. Brokeoff Mountain has multi-agency engagement to allow access to an area of broad public interest. In the La Luz area a new homeowner locked gates on a private road and there is alternative access, though rough, so no action is currently planned. The Peloncillo Mountains include intricate areas with blocked access that will probably go to court.

Cooke's Peak access was routed around private property. After an EA BLM will establish either a trail or a road. Drainages have chopped it up. The state is also involved, and BLM is attempting to get archaeological clearance. They plan a public meeting in Deming, and have applied to the state for right-of-way. Approximate cost is \$10,000-\$15,000 if done in-house. Access is a common problem among agencies throughout the West. Joe requested a printout.

Question/Answer/Comment

- If state lands are leased for hunting there will be more problems and potential conflict—could wreak havoc on all public lands.
- San Juan County faces these issues too, especially with former county roads still listed on maps. The FO contacted counties to ask if they are interested in rights-of-way, so BLM can have a voice in the process when they decide to vacate a road. Chaves and Lincoln counties solicit public comment and have public advisory committees that work with BLM.
- Ed Singleton is working with the county where a rancher blocked a county road that provides access to Acoma Pueblo land.
- Catron County restricts access to the public on some roads and the FO is working on that.
- Ft. Stanton Cave is open to the public by permit when the bats are hibernating.
- Carlsbad caves on BLM land have been vandalized, so BLM has fenced and gated, with access only by permit. Don't know if that could be used for roads.
- Las Cruces has such an agreement in one place.
- This issue has two sides. If a rancher is accountable for property and people come and go, the rancher is responsible for problems the public may cause.
- We're looking at solutions for large areas of land where this is critical. We hope this is a last-ditch effort so we don't need to go to court. First, talk with the rancher. At Cooke's Peak the rancher has had too much damage on his land and is within his rights to block access. But unlawful closure could be applied if no other way can be found to reach public land. That rancher is now charging people to get through the gate.
- Mark asked the RAC to look at both sides of the equation. Even if an easement has not been achieved, ranchers have the right to deny access.
- Linda said at Cooke's Peak BLM offered to purchase an easement. It was clear to the family that BLM would attempt to find a route on public land.

FINALIZE ACCESS PROPOSAL (Attachment 9)

Tony Popp, RAC Chairman

Tony said the RAC has talked about access for two years and the current proposal does not deny landowners' rights. The proposal is meant to set policy for BLM to set up a system to solve the problem of blocked access to public lands.

Motion

Jim moved that the proposed recommendations or criteria be forwarded to the BLM. Crestina seconded.

Discussion

- Emphasis has been on large blocks of land. Need to look at how access to smaller areas would be the opposite of this policy. Tony said there is recourse through the courts for blocking entry to deeded lands.
- Mark said county policy has been to ignore areas where access to large blocks of land the public uses is primarily by way of county roads but also covers small sections of deeded land. We want this policy to be fair.
- Tony said he is not allowed to go on deeded land. That's called trespass.
- But there is a counterbalance.
- Under the first criterion, Mark asked to pull out "or successful action would set legal precedent" which he considered argumentative.
- Tony thought if similar situations across an area might lead to litigation, BLM could use that precedent without having to go through the whole process again.
- Mark recommended using it if probability tends to be high, period. Tony agreed to amend.
- Jim suggested adding a second criterion of situations where successful actions would set legal precedent. Stop with a period before "or," and make the rest of the sentence a second criterion.
- Mark thought legal precedent didn't achieve anything in the situation after the "or."
- Linda thought it redundant to mention setting legal precedent.

Motion

Jim moved to make the words following "or" a second criterion. There was no second.

Motion

Mark moved to amend the original motion to put a period at the end of "appears to be high" in the first criterion and drop the rest of that statement. Philip seconded. It was confirmed that there was a quorum. Amendment was approved by consensus.

Mark said he didn't want this to be antagonistic to landowners, and his amendment achieved the same result without potential for antagonizing. Tribal lands might also be antagonized. Counties get payment in lieu of taxes. Need to point out to counties that BLM is attempting to find a solution that achieves the most success for all.

In the past someone closed roads but BLM had legal access. When land changed hands, the new owner did not know that and closed the road again. So it's a disclosure issue. Discussion.

In #3—important to whom? Who will determine? For #5 the process is already there, but who does that? The recommendations are fraught with lack of clarity. When not stated, it would be BLM. Lack of clarity and conciseness reflect on the integrity of the group. Tony said this has been considered by the RAC twice and he asked for comments but only received two. Comments need to be given to the subcommittee. Discussion continued. Lists like Angel's did not exist when this proposal was

developed. The plan is to instruct all FOs to do what Las Cruces FO is doing now, in a consistent way, following the same procedures. It is an action plan.

Members voted. The motion did not pass.

ELECTION OF OFFICERS

Tony opened nominations for RAC chairman.

- Gretchen nominated Raye Miller.
- Mark moved to close nominations and elect Raye by acclamation. Philip seconded. Approved.

Tony opened nominations for RAC vice-chairman.

- Mark was nominated and declined.
- Bob was nominated. He accepted and was approved.

SET NEXT MEETING DATE & LOCATION

The next RAC meeting was set for November 8-10 in Albuquerque. Orientation of new members will be on the agenda.

HOUSE BILL 4242: TRANSFER JURISDICTION OVER CERTAIN PUBLIC LANDS FROM THE BLM TO DEPARTMENT OF DEFENSE (Attachment 10)

Ed Roberson

The 108th Congress House Bill 4242 introduced by Congressman Pearce to transfer jurisdiction over certain public lands from BLM to the Department of Defense, affects up-to-eight million acres, including Holloman AFB, White Sands Missile Range and Fort Bliss. Withdrawal is usually the way of transfer. McGregor and six other installations have shared management. In most cases RMP amendments are completed for such areas and they are turned over to the military. If this legislation goes through, those lands would be considered real property. But military property must be offered to federal agencies before giving it to counties or states. Other agencies have separate public land orders that might compete or conflict. If the military attempts to sell without cleaning up ordnance, the land would have hazmat status. The House of Representatives has delayed decision for two years, and the Senate is not taking action, so this will probably not be decided before the election. When this issue has risen before, BLM mostly has had no interest in maintaining management. It is not known how it would affect county tax bases. Total acreage within NM is not known. McGregor is 600,000 acres. There are many gray areas. Base commanders control what's done unless responsibility is shared with BLM. McGregor Range and part of Alaska are the two areas where BLM would like to continue to be involved. Loss of McGregor would close the area to multiple uses including hunting, grazing, and public access. There is long-term research in those areas, with significant issues. Otero Mesa ranchers would object.

Subcommittees announced times and places of meeting. Meeting recessed.

SEPTEMBER 15 RAC MEETING

Tony called the meeting to order at 8:02 a.m.

NEW MEXICAN RECLAMATION INITIATIVE

Jesse Juen, Associate State Director

The NM Reclamation Initiative, also called the Legacy Initiative, capitalizes on great examples of ongoing efforts where ranchers, O&G companies and BLM reclaimed wells, pipelines, caliche pits, etc. Over the past year 30,000-37,000 acres of land have been identified as un-reclaimed or

unsuccessfully reclaimed. The proposal is for \$1.2 million annually for five years for New Mexico as a pilot to expand cooperative volunteer efforts. FFO has a committee dealing with watersheds, roads, improved allotments, and experimentation with produced water to make vegetation permanent. Don Peterson in the SW is working with a group to “create” sand dune lizard habitat.

There is ongoing discussion with Washington to assure that BLM does not assume liability for past wells. They want to move forward cooperatively to revegetate sustainably, fix roads, and put 1,000+ caliche pits in the SW to bed. Hope to leverage at a 3-to-1 rate with industry, environmental groups, etc., to move forward at a faster pace. Two hundred fifty acres were rehabilitated in the SE for \$100,000, so that was used as a ballpark figure. BLM could redo those 30,000 acres in 6-10 years. Washington has asked BLM not to use the term “legacy,” because it applies to specific sites.

Question/Answer/Comment

- Steve Henke is working with Burlington Resources to establish a package of wells that are mostly twinned, and also to reshape, recontour, reseed old well pads. They are bringing some of the legacy wells to today’s standards as they develop twins and looking at opportunities for addressing duplicate roads. They are mulching, irrigating, and cooperating with the NMSU experimental station on seed mix and use of produced water.
- Is there a monitoring system? How much does this cost companies? Is it cost-effective for the big picture?
- Rick Arnold is conducting a research project on seed use that will be published. Not sure what it costs companies. There’s an incremental increase from the past, and more effort recently in compliance on new construction. Companies are fine-tuning with new techniques, probably putting \$3,000-\$5,000 into each location of 1-1 1/2 acres.
- BLM has literature and photos of wells where grass is close. That is not happening in Mark’s part of the world. He knows of 20-40-year wells with tanks long out of use where the bare area surrounding pads is still as big as it was. To him that’s not reasonable use of the surface—it takes land out of production for ranchers. He is particularly concerned with such situations on split land. What’s being done?
- In the San Juan Basin anchors established when wells were drilled are left in place for potential workovers. Companies agree to revegetate up to the anchor.
- Would like it to be smaller, but it’s better than in the past. Anything that shrinks that pad fits all interests.
- Roswell and Carlsbad FOs are looking 20-30 years into the future. Surfacing isn’t necessary where the ground will sustain rigs, soils don’t require it, or companies can put in minimal surfacing. They are going back to old locations of big white caliche pads and telling operators they need to rehabilitate out-of-use areas. Now instead of rig anchors they want to reclaim right up to production equipment.
- Mark would like to see work on 20-year-old wells too. Get rid of caliche; reuse it on other pads.
- BLM allows operators to do that now.
- On split estate land where BLM is a mineral owner, there are laws for reasonable use of surface—but argument about definition of reasonable use. In some instances they work with what happens on the surface, but not in others. It’s a double standard. Who do people go to?
- Linda said she gets lots of calls from private landowners not wanting restrictions, so they may not be applied equally across the board.
- Steve said he would go back to parties involved and look at surface agreements.

- A lot of times there is no surface agreement, e. g., access across federal surface to split estate lands where they don't have to get okays from landowners. Do I want to spend a fortune arguing reasonable use with companies with deep pockets?
- Raye said Carlsbad FO policy is to have surface agreements with landowners or no APD. He asked Larry how industry is informed.
- Larry said this was brought up at several quarterly meetings.
- Raye said no one has been coming to meetings. He will make sure Larry knows when meetings are held.
- Is there conformity between companies on well bed sizes? Can that be standardized and made smaller?
- Depends on depth of well and what is anticipated for completion technique—therefore related to trucks and tanks. What do you do if you need to bring in equipment later? They go in and disturb the area again, then reclaim it. Raye has talked to OCD in his area about pit closures. They want to modify some requests to achieve the same goals but allow for removal of caliche, using it as fill material in the pit and then covering the pit. In the Carlsbad area they traditionally take caliche out and a deep pit remains. If they fill in as described, the depression is bowl shaped. OCD now prohibits those depressions—wants a berm. But in that area grass grows better in a bowl. A lot of effort is being made to improve reclamation.
- Jesse said in June/July Washington developed a best management practices policy now bureau-wide that includes 60 practices they know work.
- Mike said NW companies with leases of 330 x 400 acres should focus on paring that down. The best reclamation process is not to disturb land in the first place, and it's also important to look at alternatives—including ways to get into well pads. He commended BLM on vast improvement. People need to think about ways to avoid disturbance, since reclamation is costly and takes time.
- Steve said Burlington's improvement program determined that they could save money by keeping equipment out in perimeters. Steve was alarmed and asked them to reconsider, which they have. Flip side—BLM was named by EMNRD for allegedly causing too small an area of development that contributed to loss of two lives. They keep working toward a happy medium on requirements for distance between tanks and well beds for safety.
- Moves have been made to locate access roads, pipelines and electricity corridors properly, which wasn't the case in Farmington seven years ago.
- In prairie chicken and sand dune lizard areas they've targeted the concept, and are working to get from ideals to actuality.
- In NWNM, reclamation was front and center for major pipelines and in many places very successful.
- This is a prime opportunity for working group help. Is there a map?
- No comprehensive map, but a GIS team is pulling information together for SENM. They can give location of caliche pits.
- Specifics would help the working group approach. Larger companies would be able to do some work when in the area. Opportunity for public lands and BLM to work with the state orphan well fund. Artesia OCD wells have been plugged and reclaimed. If opportunity and authority—we can do this, if no authority talk to someone like Joe Stell. The parties in this group can help it happen.
- Toby Herzlich said there are a lot of regulations but no incentives. Build in an incentive program to reward companies that take this on. Also reward companies for innovative methods on historical wells that could be applied to future agreements.
- Jesse thought incentives were worth consideration, but is not sure what the sideboards would be.

- Raye said we need to try things and make sure they work before implementing policy, e.g., coating seeds to help germination during times of low rainfall, and recreating natural habitat in sand dune lizard country. It will take years to see how successful that is. He would like to see experimental and current techniques applied in the same place to evaluate.
- Ed Roberson talked with Jornada about black grama grass on 98 old wells on public lands. They need to set standards, test seed mixes, and return information to the working group. Philip said water-retaining polymers might help germination.
- At Threshold they worked a seed mix out with the company and ranchers. It was Hayco's idea to see how gluing seeds to pellets works. Threshold mulched, and both fenced to keep cows out. There's polymer, mulch and fertilizer in the pellets. Water tanks help. Roswell FO is doing that in some areas. Raye does not like that approach and wanted to be on record.

Ed Roberson clarified that Congressman Pearce's HB 4242 would convert BLM lands on military properties to realty that could be turned over to BLM. He will update the RAC.

THREATENED, ENDANGERED & OTHER DECLINING SPECIES ON BLM LANDS
Dale Hall, FWS Regional Director (Attachment 11)

The Endangered Species Act (ESA) passed in 1973 and was amended a couple of times, especially in 1993 with the 5-year sunset clause that's re-authored each year with annual appropriations. Congress debates but nothing is done because there is such disparity of use that all are afraid of what would result. The basic act starts off with the purpose of preserving ecosystems and the species that depend on those ecosystems. There are 15-18 sections of the act, but only two deal with regulation: section 7 concerning federal entities, and Section 10 concerning private parties. The rest tells us to work out solutions to keep species from going extinct. A listed species is like the red light on a dashboard that shows something needs to be fixed. How do we address the red light?

The ESA is straightforward but there's conflict over what it means. USF&W is charged with working for the health of species and remedying threats. It is in all of our interests to prevent listing species. In the 1970s through the early 1990s there were mostly regulatory tools, but government needed incentives, not threats, to work with people. Discussion led to assurances and no surprises under the section 10 permit program. Last year they were sued by Spirit of the Sage on that policy and the judge agreed—asking them to make it a regulation by December 2004. That tool gets people to the table. Safe harbor is appropriate with private landowners. USF&W starts with a baseline of no endangered species, and agrees to work on habitat creation that helps recover species. Usually there is a 10-year commitment not to harm. Logic is that when a species is in peril the toughest part is to stop the decline. Working with people does that and is used a lot, e.g., in south TX where on 98% private land the aplomado falcon had been gone since the 1950s and now there are 35 nesting pairs.

Candidate conservation agreement with assurances has potential for the prairie chicken and sand dune lizard. Parties would agree while the species is still a candidate to do all the things they would do if it were listed. If for other reasons it still had to be listed, nothing else would be asked of those with agreements.

Section 10(j) provides for designation of reintroduced species like the aplomado falcon as experimental populations. It's a tool used to bring back a viable population that can't be documented, without onerous regulation. The only take prohibition is intentional harm. It doesn't interfere with any other activities, and applies to BLM, USFS and Department of Defense lands.

We want to use common sense to make things better on the ground for habitat and species. Past mistakes were made out of misunderstanding. Using regulatory aspects rarely brings species back. We want the land to look like something when it's done, but leave it up to people on the land to get it there.

For example, an endangered bat population needs one agave every 10 acres. Cattlegrowers agreed. USF&W recognized their authority, experience and commitment. By law, listing and recovery efforts are based on the best available science and information. But there is very little science on the 1,300 endangered species because they aren't game. There are three categories of science: it's repeatable and proven; we're not sure what it tells us yet; or we know nothing. The second and third get increasingly difficult, so it's important that they be done in group settings with different experiments to help interpret what is reasonable to do. We can be cautious, but can't apply regulations without science. A new law—the Information Quality Act—drives that home. Two bills moved recently out of House Subcommittees to reinforce that with peer review. Peer review includes gray literature and local expertise. We aren't sure how to place local expertise though we know it's important. The simple but difficult answer is to sit around tables with people and talk—then try things, monitor and evaluate.

We're in this together and would rather work cooperatively than regulate.

Question/Answer/Comment

- Max said all policies start out with good intentions and turn into monsters. NNM people depend on the forests. When the forests were closed to woodcutting, elders died in the cold and children were ill. Are people more important or the spotted owl? His people forced the ranger to open the fuel area. The flaw in the ESA is that it doesn't put people on equal footing with species. As a result of community work, habitat improved, but there was no agency or court support. It's outrageous that the environmental community is more important at the negotiating table. The court never asked the community what it thought.
- Dale agreed on some things that have been wrong. He doesn't think it has to be a tradeoff. We need to talk to each other. He will testify at the House Committee field hearing in AZ that there is no benefit for a listed species in an unhealthy forest. The solution is to talk around a table about how to keep a forest healthy, which will include communities clearing for firewood.
- Max pointed out that forest work is not permanent. Agencies can't keep up without community help.
- What was Dale's stand on Albuquerque's suit over using San Juan/Chama water for the silvery minnow?
- The federal position was that that water was separate. They supported Albuquerque, because that water already had a section 7 saying "no jeopardy." The judge disagreed.
- Raye asked, if you are not charged with recovery, and rely on other agencies to help with science, how do you decide what projects to undertake and where to get funding?
- EPA has a role in recovery. Science is done by the Biological Research Division of USGS. Results end up in peer review journals.
- Raye said H2S monitors were installed on O&G equipment in sand dune lizard habitat but they never heard what was being studied, why, or results. He could have given better guidance on how to find H2S. It occurs in caliche pads and lizards don't like caliche. So that report would be suspect. He asked Dale to track that one and see what happened.
- Dale said there has been extensive discussion with USFS on how to focus and conduct research. Groups like the RAC are very helpful. A research committee considers questions from field offices and ranks them.
- Joe appreciated the cooperative emphasis. He served on a government task force studying the relationship between USFS and permittees several years ago, and certain agency personalities were uncooperative. NM is obligated to live up to its water compact with TX. But after drought, Carlsbad Irrigation District farmers didn't get what they needed when a recovery program demanded

release of 31 cfs. The rationale was that the water doesn't belong to us, but we own the dams. He is counting on Dale to overcome that difference of opinion.

- We will do everything we can. This drought challenges us all. We have to be innovative and work together. We can't carry out the ESA at the expense of farmers and ranchers.
- Courts have decided that ESA applies to tribes.
- Mark said the challenge in NM, especially for the prairie chicken, is that the ESA pictures lands separately and with the two different tools mentioned. But the land is intermingled. Ranchers need the same assurances on federal permits as on deeded lands. Otherwise ranching is not economically viable. Overall ranch units need protection. That single thing would go farther in protecting that species than any other. He would like for USF&W to find alternatives, although NM is a marginal area for prairie chicken focus.
- Dale said CCAA is a pre-listing recovery plan, with a role for federal lands. He might have to go an extra step and give Linda a heads-up. She can ask for a biological opinion for candidate species. It's very workable.
- Mark said the prairie chicken working group doesn't appear to be an all-encompassing approach for overall protection beyond land status.
- Dales said CCAAs if done right and as a plan for recovery, could be adopted once a species is listed.
- Meade asked whether this happens with land around ACECs. Are there agreements with locals?
- Linda said ACEC is only a name, what's important is prescriptions in land-use plans. Requirements for prairie chickens and sand dune lizards in ACECs were set by conservation organizations a year ago. The larger area was looked at during stakeholders' group meetings for 16 months. Dale will meet with them. He hopes to find a plan that's global in nature and involves all owners.
- Appreciate the collaborative approach to address fragmented territory. Certain things are not compatible with certain species. Mike thinks some prairie chicken habitat is affected by urban growth and certain uses, and ESA values have to be maintained. These are complicated issues that people seem to simplify.
- Dale said water and urban growth are common threads that we need to deal with.
- Raye said NM may develop good ideas about prairie chicken habitat, but how will we be penalized by other state's failures?
- Dale said the value of a conservation agreement is that you are doing all that is expected of you, and are covered.
- Mike asked what Dale saw coming with the lesser prairie chicken.
- Dale said he would resist listing that species as long as a group is working together, and getting input needed to move forward. It's critical to keep it moving.
- Joe introduced Joanna Prukop, Director of the NM Energy, Minerals & Natural Resources Department. She said the ESA is very important to her agency and the governor understands the complexities of implementing the ESA and modifying it to be more effective. If there is anything her agency can do to move things forward, particularly on the prairie chicken and sand dune lizard, she is more than willing to facilitate. She agreed that we don't want it listed. OCD knows O&G has concerns, but has been willing to take steps. Especially in SENM, with the aplomado falcon, Otero Mesa, and for vertebrates in the Bitter Lakes Wildlife Refuge, OCD wants to be proactive and effective rather than obstructive. They want to partner to protect and conserve while allowing other activities to go forward.
- NM State Land Office Deputy Commissioner Jerry King said the Land Office is pushing hard with this working group. The Land Office has fiduciary responsibility, and tries to look at blocks as a

whole and give incentives to local people. A withdrawal order for the prairie chicken was issued—with no leasing for 1 1/2 miles around known LEK sites in Roosevelt County. They don't want the prairie chicken listed.

CLOSEOUT WITH OUTGOING RAC MEMBERS

- Mickey thanked departing members.
- Mark thought this was an honest frank discussion on difficult issues.
- Meade said the information at each meeting was entirely different. He was especially impressed with today's response to restoration/reclamation, which is so important. He would like to hear more about various areas the RAC visits.
- Max said this group brings a big learning curve. He gets to see people's interests and opportunity for collaboration. Some he can call friends, and he will miss those leaving. It was important working and sharing with them.
- Philip said it takes awhile to get a handle on issues presented, but meetings are educational and fascinating.
- Bob said it's great sitting on the RAC, with interesting exciting issues and concerns. On his reservation people are not exposed to these things. Even the prairie chicken—what the heck is that?
- Raye liked the field trip and reclamation, USF&W presentations. He was pleased that Steve made drilling simple enough to understand. The RAC needs to focus on issues and do positive things for BLM. It's great to learn, but we need to help them. He hopes that organizational changes Linda has set in motion will bring more effectiveness for users and the land. The RAC should be careful not to micromanage, but to see what it can do here and in local areas.
- Mike said he firmly believes in these sorts of groups and a proactive approach to collaboration. He thinks the pressure on public land is unprecedented and an extraordinary challenge. He was greatly encouraged by what he's heard about approaches to contend with those pressures. He would like to see BLM successes highlighted. Use public relations in the communities, work with people, and build upon that. He appreciated most the diversity of people and the education he received. It is important to understand others' values.
- Joe said he enjoyed the association with other members. He suggested that decisionmakers take on more and more knowledge, and that the RAC set agendas to involve leadership like Joanna, Sally, the USFS and Bureau of Reclamation on water issues. We can't make good decisions without knowledge gained from people who know what they're talking about.
- Gretchen said she learned a lot, especially coming from a private landowner's viewpoint.
- Crestina learned from diversity, and appreciated the respect among members. She hopes new members learn that respect. A council of this nature helps us get out of the box. You can't have good rangeland without allies. FO managers and the state officer are wonderful.
- Tony thanked outgoing members and looks forward to meeting again in the future in other ways. His public economics students complain about government, but he has been impressed at the dedication and integrity of state and federal staff met through the RAC. He never met a better, more dedicated, group working with public lands. BLM has given him more than he gave in return. He appreciated the state's commitment to the RAC, and Sally for participating as the governor's representative.
- Sally echoed other comments, and said from her perspective it is a great benefit to be exposed to so many helpful viewpoints showing her how state agencies might work together. The RAC was one of the best forums she has ever been involved with. Divergent points of view have to be heard for solutions to be found.

- Linda commended RAC members for their dedication and commitment to the land, communities and conservation. Citizens of NM owe them a debt for their time spent with the RAC. Those leaving gave countless hours attending at least 15 meetings, in subcommittees, doing homework, and informing their interest groups—a huge time commitment. She made some lifelong friends. She invited those leaving the RAC to take a break and become members again.

Tony gave the gavel to Raye. Raye reiterated that RAC members could serve another term and encouraged them to consider reapplying so their base of knowledge is not lost. Mike pointed out that it is also good to go back to their communities and recruit others to apply.

The meeting adjourned at 11:20 a.m.