

**LAS CRUCES DISTRICT
RESOURCE ADVISORY COUNCIL MEETING MINUTES
LAS CRUCES, NEW MEXICO
JANUARY 25, 2012**

AGENDA

9:30 a.m.	Meet and Greet
10:00 a.m.	Call to Order, Welcome and Introductions (Tony Popp)
10:15 a.m.	Review of Agenda and Approve Minutes (Tony Popp)
10:25 a.m.	Opening Statements and Updates (Bill Childress and staff) <ul style="list-style-type: none">• Updates on Resource Management Plans (RMPs)• Updates on Major Environmental Impact Statements (EISs)• Update on Budget• Administrative Details (Charter)• Other items
10:50 a.m.	Break
11:00 a.m.	Recreation Fees (Tom Phillips)
12:00 p.m.	Lunch
1:30 p.m.	Access Issue (Tony Popp and Bill Childress)
2:30 pm	Public Comment Period
3:00 pm	Break
3:15 pm	Future meeting topics (Tony Popp) <ul style="list-style-type: none">• Fire (Wildfire & Rx Fire)• Off Highway Vehicle use• Restore NM• Illegal Trash dumps• AML• Budget
3:45 pm	Next Meeting(s): (Rena Gutierrez) Date: <u>April 11, 2012</u> Start time: <u>10:00 a.m.</u> End time: <u>4:00 p.m.</u> Place: <u>Las Cruces District Main Conference Room</u> Public Comment Time: <u>2:30 p.m.</u>
4:00 pm	Adjourn

RAC Members Present:

Tony Popp
Jim Hyatt
Mike Walsh
Howard Bartoo
Ed Boykin
Rod Hille
Billy Garrett
Tim Eastep
Greg Magee
Michael Quintana
Paul Turner
Ray Trejo

Designated Federal Official:

Bill Childress

BLM Staff:

Rico Smith
Tom Phillips
Leticia Lister
Ray Lister
Jim McCormick
Lori Allen
Edward Seum
Jennifer Montoya
Rena Gutierrez

Public Attendee: Bud Starnes

MEETING MINUTES

REVIEW OF AGENDA AND APPROVE MINUTES

Tony Popp, Chairperson, called the meeting to order at 10:00 a.m. The Council, BLM Staff and public introduced themselves.

The Agenda was reviewed and accepted. Minutes from the October 20, 2011 meeting were reviewed, accepted and set.

Bill Childress welcomed everyone to the meeting and indicated staff would provide updates on major actions occurring in the District:

- 1. Land use plans—Tri-County and Prehistoric Trackways National Monument
- 2. Environmental Impact Statements—Alamogordo EIS, Copper Flat EIS, Sun Zia, Southline
- 3. Major actions -- lower level EAs—South Road, FreePort

OPENING STATEMENTS AND UPDATES

LAND USE PLANS

TRI-COUNTY RMP

Jennifer Montoya provided an update on the Tri-County Resource Management Plan which is amending the White Sands Plan (Otero and Sierra Counties) and the Mimbres Plan. The Plan has been in the works for 5 years. The goal for a Draft Plan for Washington and Cooperating Agency Review is June or July 2012. Bill stated our goal is to publish the Draft in August 2012 with a 90-day comment period. A typical RMP is 2-3 years induration; however, several factors including a 10th Circuit Court Decision on Oil & Gas Leasing caused delays.

Question by Tony Popp – He asked Bill Childress if the draft will be review by the RAC before or after it is published to the public.

Answer by Bill Childress – Bill stated that the RAC will review it when it's published for public comment. He also encouraged the RAC members to join us for the public meetings on the Plan to get a feel for the publics' concerns.

Question by Tim Eastep – Asked who the cooperating agencies were.

Answer by Jennifer Montoya – Sierra County, City of Las Cruces, NM Department of Game and Fish, White Sands Missile Range, Otero County, Dona Ana County, and NM Department of Agriculture.

Question by Rod Hille – Asked who the contacts within the City of Las Cruces and the Counties.

Answer by Jennifer Montoya – The city and county managers.

Bill Childress commented that the areas where BLM is anticipating concerns are with Areas of Critical Environmental Concerns (ACECs), Oil & Gas, Off-Highway Vehicle (OHV) designations and land tenure (disposal and retention areas).

PREHISTORIC TRACKWAYS NATIONAL MONUMENT

Lori Allen provided an update on the Trackways RMP/EIS.

- The Plan was reviewed by BLM State Office for 3-4 weeks; received 30+ pages of comments. Most comments were minor with the biggest changes regarding wording for paleontology that is incorporated in the Law.
- NM State Office reviewing comments for compliance, which will then be forwarded to Washington.
- Finalizing Draft RMP, then to Rena for final editing and publishing.
- Goal is to have the Draft to the public by March 2012. One public meeting will be held in Las Cruces.
- Once draft is out to the public, the 90 day comment period will commence. The RAC will receive a copy of the draft on CD.
- The draft will be available for the next RAC meeting.

Comment by Bill Childress: He suggested they discuss the RMP issues for one hour at the next meeting.

Question by Mike Walsh: He inquired about the process of developing an RMP and how long the process takes.

Answer by Lori Allen: Lori provided the RAC Members with a handout of the planning process.

MAJOR EIS PROJECTS

Doug Haywood, Project Manager provided updates on two EIS projects, the Alamogordo Regional Water Supply Project and the Copper Flat Mine project near Hillsboro.

ALAMOGORDO EIS

- Received Draft of the Final EIS from the Contractor—ready for State Office Review.
- State Office has 2 weeks to review then to Washington Office for review.
- Bill Childress will review
- Goal is to have completed by early summer.

COPPER FLAT EIS

- Notice of Intent published in the Federal Register on January 9, 2012.
- 30-day Scoping period
- Public Meetings in Hillsboro and T or C on
- Scoping to completed by the end of March 2012
- Draft EIS delivery date is December 3, 2012

Discussion and questions on the scoping process and how it works—comments, notification, outreach, how much notice to public, how public meetings are conducted. Jennifer Montoya explained the process to the group.

Comment by Bill Childress: The RAC will be included on all mailing lists and notified by email on the projects out for review. We will ensure you are kept in the loop.

A general discussion followed on the operation of the mine, expansion, lands involved (Federal, Private, mixed ownership), location, minerals being mined, and biggest issue (draw down on water).

Comment by Doug Haywood: The mine has an application submitted for a draw down test – 150 acre feet of water in 9 days.

SUN ZIA TRANSMISSION LINE EIS

Edward Seum provided update on Sun Zia Transmission line stating that it is under review by cooperating agencies and should be to the Public by the end of March or beginning of April 2012.

SOUTHLINE EIS

Edward Seum provided the update and stated the Notice of Intent for this project should be published in the Federal Register within the next 30 days. The Scoping Meetings will be held in late March.

Comments by Bill Childress: The Sun Zia transmission line goes through the Las Cruces District and into Arizona. The Southline project is in the Afton area. He will make sure the RAC is on both mailing lists.

MAJOR ACTIONS—LOWER LEVEL EAs

SOUTH ROAD

The south road project provides important access to the New Mexico Spaceport. Proposals have been submitted for an EA for improvements. The NEPA process will begin once a consultant is chosen (February 17, 2012).

FREEPORT

The Freeport project is an RMP Amendment for construction of a new haul road. Currently, a contractor is being selected for the project.

Question by Tony Popp: What is the difference in the process for an EA and an EIS?

Answer by Edward Seum: Significance; one could begin with an EA and it could develop into an EIS. An EA focuses on the issues at the lower level and usually stays within the office.

Questions by Billy Garrett: Who are the cooperating agencies on the Sun Zia project?

Answer by Edward Seum: Counties, NM Department of Game and Fish, and the Military.

Bill Childress reiterated that the RAC will be kept posted on these projects—meetings, key milestones, etc.

ADMINISTRATIVE ISSUES

Rena Gutierrez provided updates on several issues:

- Handed out the revised 2012 Charter (handout).
- Provided information on expansion of recreation fee language in revised Charter.
- Addressed updated council contact list.
- Notified the group about a Call for Nominations to be printed in the Federal Register (45-days) in a few days. The 1-year term positions would now be 3-year terms. Encouraged 1-year term RAC members to apply.

Paul Turner asked that his contact information be corrected—email to gmail.com

BUDGET UPDATE

Comments by Bill Childress: He addressed budgetary cuts and will provide update at next RAC meeting.

10:55 AM – BREAK
11:05 AM – RECONVENE

RECREATION FEES (Tom Phillips)

Tom Phillips addressed a proposed increase in recreation fees. The issue had been introduced at the last RAC meeting. Recreation fee increase proposals need to come before RACs for review and approval.

In December 2012, business plans for Aguirre Spring, Dripping Springs, and Three Rivers Petroglyph Site were sent out for review (this is the starting point for State Office and Washington Office review).
Talking points:

- Handout –Federal Lands Recreation Enhancement Act “Public Participation” & “Recreation Resource Advisory Committee” Provisions.
- Handout -- BLM Recreation Fee Proposals Step-by-Step Review and Approval Process.
- Handout - - New release issued on January 9, 2012---BLM Proposed Fee Increase at Three Popular Las Cruces District Fee Sites in Southern New Mexico—Comment deadline January 23, 2012. Posters and post cards were also available at all three sites.
- Explained that BLM solicited public input/comment in 2008. Total respondents were 98 with 87% overall support. The 2012 input was with 118 respondents with 82% overall support.
- Purpose of latest news release and public comment (2nd) was to insure public opinion was still the same.
- Western Slope No Fee Coalition – one strong opponent. Tom will forward the comment through Tony Popp.
- Tom Phillips inquired if everyone on the RAC had read the proposal.
- Stated that the fees were established under the fee demo program.
- Key point: There is broad public support for the fee program.

Question by Tim Eastep: How much would fee increase close gap to budget concerns?

Answer by Tom Phillips: He stated that if current use remains the same, the fee increase would increase collection amounts by 40%. He is not certain, but based on analysis they are not meeting the \$200,000 budget needed to service the sites.

Question by Tony Popp – When preparing budget, is the budget approved in Washington, DC?

Answer by Tom Phillips – Part of budget is approved in Washington, DC and at the state office. There is no budget for particular sites.

Question by Howard Bartoo – Why is visitation at certain sites decreasing, particularly at Three Rivers?

Answers by Tom Phillips – More seniors are using the senior pass, many of them non-residents of New Mexico. At Dripping Springs, many non-New Mexico residents and more seniors are using the Senior Pass.

Comment by Tony Popp – The economy and high gas prices have also affected visitation.

Question by Howard Bartoo – Do we want to increase fees when the economy is down and people are unemployed? He also stated that this is not a good time to increase user fees.

Comment/question by Michael Quintana – He addressed the long-term costs of managing a facility. He asked what would be time period before user fees are increased again. When will we slow down development? He stated that he has a number of BLM projects that were only constructed because there was money available.

Comments by Tom Phillips – He addressed the resource management plan and special recreation areas and the experiences of the users. He noted the Doña Ana Mountains as an example, stating that there are conflicting needs and therefore, there is a need for more infrastructure, i.e., parking, information signs, and trail separation for different types of users. Referring to the three sites in the resource plan, they were recognized as special resource areas. He addressed the impact on these resources. He also commented on fee increases, saying that the expectation is that the fee increase will be adequate to fill the gap as costs to manage the sites go up.

Question by Michael Quintana – Are we going to restrict these types of implementations? (Referring to brick and mortar projects.)

Answer by Tom Phillips – There is no plan for any new level of project infrastructure or expansion.

Comment by Bill Childress – We are trying to close the gap as to what it costs to maintain these highly visited areas. We are trying to keep it reasonable and on par with our sister agencies. An example is Lake Valley—minimal stabilization of cultural structures. For these sites, the action is appropriate because our budget is decreasing, but the site usage continues to be high.

Comment by William Boykin – The fact that the public overwhelmingly supports the fee increases must mean it is a good thing.

Question by Tony Popp – Who are the day users who come in by bus?

Answer by Tom Phillips – They are schools, senior groups, tour buses, and people going to group sites. The fees for schools and seniors are waived, but not for tour buses.

Comment by Bill Childress – He stated that the fee increase is per vehicle, not per person. The same applies to the campsite.

Comment by Billy Garrett – Stated that there are still free options and opportunities for the public to use public sites. This proposal would take care of sites with expanded amenities, not an effort to expand but take care of what is out there. I'm in support.

Comment by Tom Phillips – When gas prices increased, we saw an increase of users at Aguirre Spring due to proximity to Alamogordo, El Paso, Juarez, and Las Cruces and also a spike in use as a result of forest closures.

Comment by Tony Popp – Addressed the staff and asked for additional comments. He moved that the fees be accepted. One opposed (Howard Bartoo) and the motion was passed at 11:45 AM.

Comment by Tony Popp – He apologized for not sending out information sooner, prior to the meeting. He stated he will make sure that materials are provided in plenty of time before the next meeting.

1:20 PM – AFTERNOON SESSION.

ACCESS ISSUES

Opening comments by Bill Childress – Bill Childress opened by listing five items to discuss regarding access related issues. He provided handouts of memorandums. Handouts included:

- SW RAC 2004 Program Proposal-resolving public access issues
- Instruction Memorandum (8/11/2005) – how to proceed to maintain or secure access
- Instruction Memorandum (6/28/2006) – District Manager issued policy for public access
- Technical Report –issues/procedures on how to identify, acquire, and take care of issues
- Table showing areas that should be acquired for access.

He provided information regarding some of the successful public access issues addressed:

- Procured access to Cooke’s Range-acquired an easement and built road
- Soledad Canyon- acquired easement for public access to the Canyon (recreation)

Bill stated that a trend that concerns the BLM is that the counties are having difficulty maintaining public roads (funding). If the county discontinues maintenance, the land owner will be responsible for maintaining it and in some cases the land owner will close the road. The BLM has to occasionally work out an agreement with the counties to maintain access to the public.

He then turned the floor over to Tony Popp.

Comments by Tony Popp – There are 22 issues on 278,000 acres of BLM land; there has been progress but it’s been 8 years with only 2 or 3 done. The policies are in place. Is the Council interested in trying to move forward and resolve these issues? It is not easy to resolve and these issues represent and affect the entire area. Is there room for the Council to do something?

Question by Howard Bartoo – He asked for clarification on whether Otero County and Sierra County have access restrictions; but Doña Ana County does have land access restrictions.

Answer by Bill Childress – He responded that is correct. Doña Ana County does have land access restrictions. The new plan has recommendations. Examples of two areas that are currently wide open for OHV travel cross-country are Red Sands and Aden Hills.

Question by Paul Turner – He asked if the non-restrictions in Otero and Sierra applied to private land.

Answer by Bill Childress – He responded that ‘no’, it does not apply to private land. An easement agreement must be in place.

Comment by Michael Quintana – He stated that people are trespassing on leased and private land and ranchers are beginning to block access to private land if easement agreements are not in place. He used the Game and Fish Department as an example of how hunters can use state land during the hunting season. The public must be educated on this issue.

Question by Tony Popp – I have access to state land, but do rancher have to unlock the gates?

Answer by Michael Quintana – He stated that ‘yes’, ranchers have to unlock the gates and provided access to state land during hunting season. Rights-of-way issues can be worked on.

Comment by Tony Popp – He requested input and viewpoints from some of the ranchers on the RAC.

Comment by Bill Childress – He stated that on some land, (Cooke’s Peak, Alamo Hueco, Big Hatchets), issues have been resolved.

Question by Paul Turner – He asked a question relative to legal land available for access by the percentage figure in the memorandum.

Comment by Jim McCormick – He addressed the percentage of land legally available to BLM access and land illegally accessed.

Comment by Tony Popp – He stated that the question the issue presents is “Can we get there and have access to it?” He also stated that to have this much acreage with issues and still not moving the issue along, concerns him. There are policies in place, but the problem has still not been resolved. He admitted that he is stepping out of his role as Chairman to address this issue.

Comment by Howard Bartoo – He said that if the landowners are blocking access, it becomes a court issue if access agreements and easements are in place.

Comment by Tony Popp – He said that ranchers do not like access through their property, but the access is legal via county roads.

Comment by Michael Quintana – Stated that any access on State land must make money, for example, from hunting.

Comment by Bill Childress – He stated that all the issues aren’t access issues. Part of the list does relate to access issues.

Question by Howard Bartoo – Is a land trade feasible?

Answer by Bill Childress – He stated that it is a difficult process. Some of the issues are vehicular access; can vehicles make into some areas.

Comments from Rancher and RAC member Jim Hyatt – He stated that most ranchers and land users do not want a lot of people accessing private land, especially hunters. He also said that the dedicated hunters on foot are fine. It’s the lazy 4 wheelers that do not want to work to get to a site that are causing problems. He does not know what the answer is on private land. Some private land has access, but the private land next to it may not. He said that he does allow a hunter with a young child to hunt on his land as a safety issue. He also said that if his roads were turned over to the state, they are responsible, or should be maintaining the roads.

Comments from Rancher and RAC member Rod Hille – He said that regarding gaining access, one barrier may be that limiting access to private land lends to the value of the land.

Question by Howard Bartoo – He asked if a land exchange would help resolve the issue.

Answer by Bill Childress – He responded that conducting a land exchange is a costly issue. One other issue to resolve is working with the counties to maintain as much public access roads as possible.

Question by Ray Trejo – Is there money in the BLM budget to assist the county in maintaining county roads?

Answer by Bill Childress – He responded that ‘no’, the BLM does not have the budget for this.

Comment by Howard Bartoo – He said that each county has a list that they provide to the state listing which roads they maintain and how much it cost to maintain them. He also said that he put a gate on a county road, which restricts access to BLM land.

Comment by Tony Popp – He stated that everyone can’t access whatever land they want. He emphasized that tougher enforcement must be in place. He does not believe that everyone is concerned with that.

Comment by Michael Quintana - He said he is taking off his state land hat and says he is a private land owner and that he’s not granting easement access to anyone. He also stated that in the case of the BLM, he does not want a county road on his land. People dump trash, shoot his cattle, and drive off-road.

Question by Michael Quintana – Can the types of access be restricted to foot and horse traffic, blocking access to motorized vehicles?

Answer by Bill Childress – He responded that ‘yes’, that is possible.

Question to Michael Quintana from Tony Popp – Is all of your land private? There is no BLM land?

Answer by Michael Quintana – There is access around my land.

Question to Michael Quintana from Tony Popp – How much of your land is accessible to BLM land?

Answer by Michael Quintana – About 1.5 miles.

Comment by Rod Hille – He said It’s ironic that we have one federal agency, the BLM, trying to open access, and another federal agency, the Forest Service, trying to close access.

Comment by Bill Childress - He commented that the BLM doesn’t have the authority to force a lessee with private land to allow access to the public.

Comment by Greg Magee – He commented that in cases on Forest Service land he public has to sign in and provide personal information to access it. He said it might alleviate some private land access issues.

Comment by Paul Turner – He addressed the issue of uncontrolled access. He said the inter-play of internal access must be addressed.

Comment by Mike Walsh – He said that there may be a lack of knowledge on the public’s part as to what the rules are.

Question by Jim Hyatt – What are the restrictions regarding access to WSAs?

Answer by Bill Childress – He responded that there is some access to a WSA and through a WSA.

Comment by Tony Popp – He stated that there is BLM land that could be used and held for the public. Why is there access to some people to use the land, but not allowing access through private land to use the public land?

BREAK IN DISCUSSION TO PROCEED WITH PUBLIC COMMENT TIME – 2:30 P.M.

One public wish to comment: Angel Montoya

Question/comment by Angel Montoya – Why do I have to call the rancher to access a small piece of private land to gain access to public land? He (the rancher) should not lock a gate on public land, denying access to public land. He challenged the council to come up with a solution to provide reasonable access to public land. He does not want unlimited access, but he wants rightful access to public land. He stated there have been instances where public land and state land is blocked. The public needs to be educated; as a responsible sportsman the issue needs to be addressed.

Comment by Jim Hyatt – He said that most ranchers understand that it is illegal to kick someone off state and federal land.

Comment by Angel Montoya – He commented that when sportsmen are denied access to public land, a volatile situation exists. When you have the general public using land, problems may exist.

Comment by Rod Hille – He commented on the issue of Ted Turner locking up access to BLM land.

Comment by Jim McCormick – He responded that there is approximately 9,000 acres of BLM land on Ted Turner's property.

Question by Michael Quintana – Are there roads that the county wants to eliminate and do we know what these roads are?

No comment/response to this question.

Comment by Tony Popp – He said that BLM land is public land and we have a right to use it. Private land owners, with a lease to run cattle on BLM land, does not put them in a higher level of access than the public. All of us should have equal access to BLM land. Jim has a right to block access to his private land via a private road. There is no simple solution. If someone leases BLM land, that person should make sure that access to BLM land is accessible.

Comment by Bill Childress – He stated that we do not have the authority to force a private land owner to open their land to the public.

Question/comment by Billy Garrett – On public land, are their rights and responsibilities that go with the lease; stewardship of the land? Whose obligation is it for protection of investment in the lease?

Comment by Bill Childress – The permit is for livestock use—no stewardship on BLM land.

Comment by Jim Hyatt -- He said that his lease is just for grazing rights and water rights. If I overgraze, I can have my rights relinquished. If I abuse my lease, I would be subject to cancellation.

Comment by Jim McCormick – He stated that what we've tried to do in this district; narrow the scope of responsibility and to prioritize the list to large blocks of public land. The majority of public land is accessible to the public. How do we go about the steps to work on these areas that require additional access? You have county governments that are working on these access issues as well. They are key to where we go from there. We and they are trying to get away from using a work force to build roads around these leased lands. That will create a firestorm. There are so many irons in the fire, but we are making progress based on our budget and what we can afford.

Comment by Ray Trejo – He said that education may be a route to help the public, through the schools and to outdoor enthusiasts. He suggested a code of ethics that should be created for the public and build relationships with the land owners.

Comment by Paul Turner – He addressed the possibility of charging a daily user fee to the public to access through private land. Create a mechanism where the landowner and lease can monitor and control that.

3:05 PM – BREAK

3:05 PM – MEETING RESUMED

Comment by Tony Popp – He asked the committee if further discussions are needed on land access issues and can any resolutions be made today.

Comment by Michael Quintana – He addressed exploring prioritization of areas and more restrictive easements, foot and horseback only, for example.

Comment by Angel Montoya – He suggested that we look at alternatives. He said that in the state of Montana, private landowners are paid by the public to access private land. He encouraged the committee to look at alternative programs, referring to block management in Montana. He suggested that the committee look at the Montana state website.

Comment by Billy Garnett – He addressed how to bring ethics and appropriate behavior to the public.

Comment by Jim Hyatt – He stated that he does not want the responsibility of turning down a hunter if his access is limited.

Comment by Tony Popp – He suggested establishing a sub-committee to work on land access issues and to schedule it into the next meeting. There were no objections to this suggestion from the committee.

NEXT MEETING TOPICS:

1. Land access issues.
2. Prehistoric Trackways RMP/EIS – should have a copy by next meeting
3. Illegal trash dumps
4. Abandoned Mine Land
5. Restore New Mexico
6. OHV Background
7. Fire or Restore

Next Meeting(s): (Rena Gutierrez)

Date: April 11, 2012

Start time: 10:00 a.m. **End time:** 4:00 p.m.

Place: Las Cruces District Main Conference Room

Public Comment Time: 2:30 p.m.