

Argenta Cooperative Monitoring Group
Issue Resolution Documentation – Section 13.1 of Settlement Agreement
Comment Period

1. Brief Description of Situation

At the recommendation of the NRST, the BLM arbitrarily changed the public comment period from a 30-day comment period to a 7-day comment period.

2. Issues among parties

The public comment period should be long enough for the public to deeply understand the implications of the report. 7 days is an inadequate timeframe for the public to understand this report and adequately comment on it.

3. Options for Resolution (Minimum of two)

Extend the public comment period to 30 days to give an adequate amount of time to understand and comment on the report.

4. NRST Recommendation to Field Manager –

The length of a comment period is not an issue that falls directly under the terms of Section 13 of the Settlement Agreement. This issue appears to be a difference of opinion regarding a decision of BLM management. The NRST makes no recommendation on this matter. However, NRST wishes to set the record straight on some inaccuracies or misconceptions in the WWP dispute.

First, the Settlement Agreement makes no explicit requirement for a written report to be prepared and distributed to the public. The purpose of the report was to inform the public (in general) and was completed because the public meeting scheduled for February 17, 2016 was cancelled. Also, there are no explicit directions for the duration of any comment period discussed anywhere in the Settlement Agreement. However, a reasonable interpretation is that the implicit comment period would have been about 2 or 3 hours long and would have coincided with a public meeting. The change from a comment period of a few hours to many days represents a substantial increase in the comment period.

Second, as a point of clarification, the NRST, and individuals from the NV SO, asked the BMDO (1) why was the grazing application process tied to a 30-day comment period without any discussion or prior notification to the permittees or to the CMG; and (2) whether comment periods of other length were possible, such as a 7-day, 10-day, or 15-day period? For the record, the NRST never made a formal recommendation on this matter, and the NRST was not alone in asking these questions. The decision to change the public comment period from 30 to 7 days

may have resulted after the NRST asked these questions, but the change did not result directly from a formal recommendation of the NRST.

Third, the length of any comment period is arbitrary; there is no explicit set length for a comment period to a public report in the Settlement Agreement. Managers of the BLM have the discretion in this case to set a public comment period, particularly when the guiding document is mute on this point. As of the writing of this response, the comment period has been set by BLM management at 14 days.

5. Field Manager – Acceptance with of NRST recommendation (yes X no _____).
Date Received 3/16/2016
Date of Decision 3/20/2016 Signature of FM *Jim A. Sheno*
Comments:

Mount Lewis Field Office originally proposed a 30 day public review period consistent with other public review documents. After discussions with the CMG an agreed to review period was set at 14 days.

6. District Manager – Acceptance of NRST recommendation, if needed (yes _____ no _____)
Date Received _____
Date of Decision _____ Signature of DM _____
Comments:

7. State Director – Final Determination
Date Received _____
Date of Decision _____ Signature of SD _____
Comments:

Instructions/intent for Issue Resolution Document

Purpose of Document – This tool is intended to provide a record of how decisions are made on various issues that might arise within the CMG, including how and at what level those issues are resolved. This tool will provide transparency to options and possible consequences, including the rationales for which choices are made, and specific record of the timing and outcomes of issue resolution. It will also establish a record and help create consistency in the face of changing players over time. Close communications and an environment for resolving issues at the lowest level is encouraged. Minor issues/disagreements that are easily handled in the normal team situation will not be documented in this manner; this is intended for substantive issues that affect intended outcomes under the settlement agreement.

1. *Document the situation surrounding CMG disagreement on a given issue, including if possible, the location, essential time frames, background (including reference to Settlement Agreement section if applicable), and potential scope of consequences.*

2. *Who are the parties in disagreement; what are the differing positions and the basis for each differing side?*

3. *At least two options for resolution must be described, even if one is “no action”. The CMG will be expected to problem solve and raise other possible solutions to the issue to assist the parties in disagreement. Each option will be briefly documented.*

4. *Following the problem solving activity (where needed), the NRST will select, document and provide rationale for a recommendation to the Field Manager.*

5. *If accepted, this will end the issue resolution process; if not, the NRST recommendation will be forwarded to the DM promptly, accompanied by written rationale by the FM for not agreeing to the NRST recommendation.*

6. *The DM will review the recommendation by the NRST along with the rationale statement by the FM for his/her disagreement. The DM will accept or reject the NRST recommendation; again, discussion between NRST and DM is strongly encouraged prior to determination. If the DM disagrees with the NRST, rationale should be documented and provided to the State Director along with resolution deemed more suitable by the DM.*

7. *The State Director will review the recommendation by the NRST and information in support of the differing position of the DM, and promptly render a final determination.*

Other – At each step in the process, the parties will be provided electronic copies of the various documents and determinations. The BLM Battle Mountain District Office will maintain the official record of transactions for the issue resolution process.