



# BLM MONTANA/DAKOTAS

## *Dakotas Resource Advisory Council*

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### **Dakotas RAC meeting**

### **August 25, 2016**

### **BNI Coal offices, Center, North Dakota**

#### **Attendees:**

#### **Dakotas RAC**

#### **Category 1:**

1. Bruce Bowman
2. Drew Combs
3. Ray Gilbert
4. Vern Timmerman

#### **Category 2:**

1. Kevin Forrester
2. Ronald Waterland
3. Mike Kain

#### **Category 3:**

1. Vernon Bleich
2. Debra Brown
3. Ryan Brunner
4. Jay Volk

**BLM:** Diane Friez, Loren Wickstron, Chip Kimball, Paul Kelley, Mark Jacobsen

**USFS:** Bill O'Donnell, John Kinney

**Public:** Mike Melhoff, Kelley Huemoeller, Chris Friez

The meeting was called to order; housekeeping, building orientation, agenda, travel claims and introductions.

#### **Schnell Recreation Fee Proposal: (Paul Kelley)**

- A handout was distributed and Paul presented the information as per the proposal. Currently \$5 per night stay is collected at the site; patronage at the site is on a downward trend likely due to the end of the oil boom. The site fees generate about \$1 k

annually and the money is used on site. There is no charge for general access, parking, day use activities like picnicking. The fee amount has not changed since the late 1990s.

- Discussion: Other agencies charge much more for like services/amenities. Bringing the fee proposal to the RAC is the first in a series of outreach/scoping efforts planned prior to a decision being made. USFS Medora District has talked of raising their fees, too. The NDFO previously had issues at the site due to long term camping by oil workers, the result of the housing shortage. Day use is significant, yet no fees are collected for such.
- Ray: The fees should be increased so as to break even for maintenance costs.
- Ron: Doubling the fee isn't too much to ask for given the circumstances.
- Discussion: Doubling the fee isn't really that much given the amount is from the 1990s and worth considerably more back at that time. Medora charges \$20 for electric hookups and camping. The horse facilities at Schnell are unique features at Schnell. Instead of \$20, \$15 might induce more compliance. Collected fees go back to the site; recreation fees stay with the recreation program. There are no grazing fees collected at Schnell as that is a program executed in cooperation with the North Dakota State Extension Service for the purpose of ecological grazing. Some haying takes place periodically.

**Motion: Ron moved that the fees be increased to \$10. Kevin seconded the motion and all voted in favor.**

#### **North Dakota Field Office Update: (Loren Wickstrom)**

- So far, 437 APDs have been approved.
- Average is 225-30 APDs received per month.
- The NDFO continues to process the APD workload.
- 868 APDs were approved previously and are in the hands of companies who are being selective on drilling and focusing on the "sweet spots" instead of exploring about.
- APDs have a shelf life of 4 years; the fee per APD is \$9,500.

#### **Coal:**

- BNI and North American Coal projects have been subject to the coal moratorium and requests for waivers are in process.
- BNI has secured a waiver and are proceeding; N.A. Coal's waiver is expected soon.

#### **Pipeline Projects:**

- Construction on Bakkenlink is slated for next year; The 3 Affiliated Tribes have appealed.
- Bakken Oil Express: the Cultural 106 process is underway; there will be some mitigation and rerouting as a result.
- Paradigm: 18 miles south of Lake Sakakawea on BLM, USFS, and private land. It follows an existing Right of Way.
- All applicable draft Environmental Assessments are under review.

#### **Other:**

- Working on several position vacancies, and the NDFO has not lost any more staff to recruitment by industry lately.
- NDFO has been focusing Inspection and Enforcement on abandoned wells (about 100) on various land estate.
- Have been getting 50-60% inspections overall on new spuds.
- The rigs currently operating in the NDFO are the "top" rigs.

- Production and surface compliance inspections are ongoing.
- NDFO is working with the USFS on coordinating inspections and required actions.

**Discussion:**

- Drew: is someone monitoring bankruptcy issues? Loren: NDFO has been coordinating with the state on this; one issue is active in South Dakota, but several operations have been bought out. NDFO has been working on South Dakota inspections recently. Ray remarked that he has bankrupt operations on his land.
- Kevin: has the downturn in oil helped focus other BLM staff onto other projects such as recreation? Loren: Staff has been busy dealing with AFFMS 2 bugs and other administrative backlogs so the extra time has been spent there.

**South Dakota Field Office Update: (Chip Kimball)**

- The SDFO travel management inventory is under way and public scoping will be conducted in the near future.
- The Fort Meade TMP inventory is complete.
- Butte and Meade Counties have isolated tracts of BLM land and the SDFO is working public access issues there.
- Horses: SDFO is working the long-term pasture issue for these animals which have to find a place after the ranch where they were previously pastured was sold and the new owner sought to terminate the previous agreement for these unadoptable horses.
- A grazing lease contract has been drafted with another private ranch owner.
- Unadopted wild horses cannot be kept/pastured/released onto any other federal lands.
- The adjoining landowner next to the contracted pasture has protested, citing a possible conflict between her horses and the incoming horses.
- The BLM will build a double fence on the contracted ranch to prevent contact between the animals.
- The complaining landowner is going to appeal the new fence.
- The local county commissioners have recused themselves from the case and consider the problem to be a private land ownership issue.
- There are 1,022 geldings that comprise this unadoptable horse herd.

**Discussion:**

- Ray: He has received negative phone calls on the horse topic.
- Deb: There are local fears that the BLM is going to lease land for these horses.
- Chip: the BLM Wild Horse and Burro lead, MT/DKs State Office and Billings Field Manager Jim Sparks have been part of the staff discussion on this issue. The other option is to send the geldings to a BLM horse holding facility in Reno, Nevada at \$4 per horse per day.
- Ryan: There is a lot of pressure on the BLM to resolve and handle the Wild Horse and Burro topic. There is a lot of local gossip on the BLM moving the horse pasture elsewhere.

**SDFO Report continues:**

- The Sturgis motorcycle rally was smaller this year.
- The Ft. Meade Backcountry Byway was quiet.
- BLM Law Enforcement Officers got to spend more time talking with non-motorcyclists recreating on Ft. Meade this year.

- Some felony arrests were made.
- Ryan Larson is now a full time recreation planner and travel management specialist and office organizer for the move into the new building sometime in October.

**Discussion:**

- Kevin: Need to consider human waste disposal and access to water for recreationists so they don't have to leave their bikes, etc. so far away to get to the facilities they need.
- More discussion about campground closures during the rally, opening for day-use only, what Sturgis city has for park restrictions during the rally; installation of access gates for cyclists to get to drinking water at the campground.

**Public Comment Period:**

**Kelley Huemoeller from QRP Resources, Inc., (Denver Colorado) addressed the RAC:**

- The proposed Methane and Waste Reduction Rule comment period was too short to respond to.
- There is industry uncertainty about the ability to operate within the bounds of the regulations.
- This has a significant impact to development.
- Infrastructure/retrofitting costs will impact production and get passed to consumers.
- N.D. state and federal regulations duplicate and conflict with each other.
- BLM is overreaching on air quality regulations; conflict with state regulations. The BLM should defer to state regulations in place.
- Each basin is different; no such thing as a 'one size fits all'.
- ND pipelines are touch to implement; especially through the BIA; some are two years pending.
- The rule focuses on alternative capture technology which isn't economic nor is realistically functional. There are safety concerns as well.
- There is concern that new well production will be limited or stopped.

A discussion followed on implementation, protest periods, later phases, variance options, and concerns on finalization prior to the next administration change, "standing" as per the protest period and the numbers of comments received during the comment period.

**Chris Friez, representing the North American Coal Corporation addressed the RAC:**

Regarding the lease by application (LBA) submitted by the Falkirk Mine:

- 320 acres are involved.
- The application has sat for 13 months before there was an acknowledgement of receipt from the BLM.
- The company held monthly meetings with the BLM.
- Long delays for approvals have impacted the timeline which had to be continually changed.
- The January coal pause is in effect, with exceptions.
- We qualify for the exceptions clause.
- We have contacted the BLM in 2016 with no acknowledgement from D.C., even though the BLM Montana/Dakotas State Office has recommended that the permit proceed.
- We will have to bypass federal coal tracts soon.
- A continual delay exacerbates uncertainty and results in significant cost to the company and customers.

- ND doesn't have a competitive lease process as exists in other states; ND has set rates.
- The private coal associated with this lease cannot be mined without the federal lease and will impact private persons who should be able to develop their mineral interests.

Drew Combs:

- The RAC should draft and send a letter of support to address this issue.
- Jay Volk seconded the motion.
- A vote was held, all voted in favor of the motion.
- Jay will draft the letter and forward the draft for RAC member edits and approval and the chairmen will sign the final copy.

Discussion ensued on the coal pause and the nature of its exceptions; and whether or not other coal companies are also applying for exceptions under the stipulations.

### **Eastern Montana/Dakotas District Report (Diane Friez)**

- The RMP effort for the NDFO RMP was held off previously but the needed funding has been secured to hire a project manager who will start work in 2017.
- Planning 2.0 is still a draft proposal and some offices RMPs are implementing the 2.0 process, so the NDFO RMP would also use 2.0 in the creation of their draft.
- The Dakotas RAC will be involved in the RMP process, to include the public input phases.
- The EMDD year-end wrap up is in process right now.
- We are planning for FY 2017 work and projects.
- It was a busy fire season in both eastern Montana and South Dakota (less so) with over 100 fires on federal, state and private lands.
- Diane will be on a 60-day work detail as the Director of the BLM National Operations Center in Denver, effective October 2.

### **RAC member briefings:**

Jay Volk:

- A ND-based power plant has announced its closure due to the federal coal regulations.
- N.A. Coal Corp is similar to BNI in its coal regulation challenges.
- Companies have to make decisions and the increased costs go to the consumers and taxpayer losses on undeveloped federal coal impact taxpayers.
- The delays are costing everyone.
- Stream Protection Rules: Blanket regulations are unsuitable and degrade the state's primacy on regulation of such.
- Associated costs amount to \$50 million per year.
- Industry comments weren't reflected; this was another political push to get regulations out and in place.
- Bonding: ND has an exceptional state bonding policy.

Kevin Forrester:

- Ryan Larson has been good to work with; and it is good that he has been promoted.

- USFS Chief Tidwell: The USFS will make special recreation permits easier and more streamlined.
- Recreation produces \$13 billion to the U.S. economy and produces equivalent jobs to support it.
- Making recreation improvements on federal public lands helps local economies.

Drew Combs:

- Planning 2.0: Has concerns with the process and has info he'll be sending to the RAC.
- Other RAC members from other states also have concerns with 2.0.
- RAC were removed from the process.
- Eco regions are another form of "one size fits all".
- The BLM circumvented its own system in creating 2.0.
- Waste prevention rule: The RAC should have standing to comment. Drew will get an email discussion going so the RAC can provide input.

Ryan Brunner:

- The State of South Dakota submitted six pages of comments on Planning 2.0 during the comment period.
- The RAC should draft a letter on the Waste Prevention Rule.
- The motion was seconded by Jay.
- Prairie dogs are a problem in some places (South Dakota).
- State of South Dakota is involved in a land exchange regarding acreage for a state park.
- Land exchanges would make sense in some locations with isolated, scattered land holdings.

Ron Waterland:

- There are small BLM tracts in Lawrence County, South Dakota that are the result of 1800s era survey errors. The Wharf Mine contains some of these. The tracts create excessive administrative work for both the BLM and Wharf Mine.
- Options available are to either purchase or exchange.
- The tracts only add up to a total of nine acres spread between 14 separate parcels.
- The process of exchanging out has commenced and assessments will proceed shortly.
- The SDFO has some higher priority rights-of-ways to complete first and will begin on the Wharf associated tracts, next.

Vern Bleich:

- Vern has been working with the ND Game and Fish on bighorn sheep projects in western North Dakota.
- There has been around 300 observed individual sheep over the last 16 years as part of an ongoing study.
- Survivorship averages 92%.
- There will be a North Dakota bighorn sheep season this year, the first for many years.

- Will there be any transplant efforts for Greater sage grouse into North Dakota this year? Loren: yes, there will be 30 pairs of Wyoming grouse will be trapped and translocated to North Dakota.

Mike (John) Kain:

- Yellow Creek Shooting Range Update: Lawrence County has decided they don't want the range.
- Deadwood City has been approached and they are considering taking over the administration of the range.
- The South Dakota Department of Game, Fish and Parks and the National Rifle Association may/can provide grant assistance.
- The Deadwood City Police Department is interested in the range, too.
- Much more coordination will be following as this topic proceeds forward.

Chip Kimball gave the RAC a refresher on the nature of RMPP leases; duration, expiration, renewal. The SDFO previously requested reconsideration; for renewing the RMPP lease on the range but was denied. Discussion ensued on local government concerns with liability and the current usage taking place on the range in spite of its non-maintained/administrated status.

Debra Brown:

- Continues to hear concerns from local constituents about Greater sage grouse policy.
- The American Prairie Reserve in central Montana is still a concern.
- Has received compliments from the residents in the vicinity of Calf Creek about the BLM response to wildfire this summer.
- Question: Are BLM firefighting resources focused more on structures and infrastructure protection rather than timber and wildlife resource protection? Chip: The media focuses on houses and structures due to the dollar value of property; if life and property is involved it is of a higher priority than natural resources. Diane: BLM wild land firefighters are not trained as structural firemen. Some discussion followed on agency fire agreements and priorities.

Ray Gilbert:

- People are concerned that the BLM is more concerned with recreation interests than grazing interests as allotments are getting cut back due to more recreation. Diane: Recreation is under a different funding category and is a different priority. Recreation isn't replacing grazing as a legitimate public land use.
- There are concerns that recreationists that use state and BLM lands don't ask permission from grazing permittees when they use public land.
- He has had bad experiences with hunters who disrupt livestock grazing on public lands.
- South Dakota walk-in public access areas don't require hunters to ask permission from adjacent landowners when using section line access to get to public land.
- Some hunters are carrying a bad attitude onto the private land when hunting public land.
- The South Dakota Department of Game, Fish and Parks won't accommodate landowners who want there to be a requirement to ask permission of landowners before accessing public land where the permittees have livestock.
- State land isn't public land; it is trust land and has a different purpose than federal public land.

Bruce Bowman:

- Spoke with BLM Central Montana District Manager Mark Albers about the American Prairie Reserve Flat Creek allotment.
- Forgot to ask about the tax status of lands bought by the APR and how it relates to an organization with 503C non-profit status.
- Mark said that year-round livestock grazing is present in other BLM allotments.
- Doesn't like the idea of year-round grazing.
- A lot of sentiment is against the APR locally and he has spoken with others who share a concern.

Discussion: An EIS is being drafted on the Flat Creek allotment proposal and RAC comments would be welcome in its formulation.

The RAC adjourned for lunch, then toured BNI lands and facilities and wrapped up with a tour of the co-located Minnkota Power Plant.

#### **Post-tour discussion and meeting wrap up:**

Drew: Will send emails to the rest of the RAC on the topics he spoke to; would like to schedule a phone conference to discuss such, allowing about two weeks for all to digest the material.

A RAC conference call was planned for September 26, 1:00 p.m. MST. Call-in details will be sent.

**NEXT MEETING: Thursday, February 16 at the new South Dakota Field Office building in Belle Fourche.**

Agenda ideas:

- Unadoptable former wild horses
- Travel Management Planning in the SDFO
- USFS Buffalo Gap campground fee increase proposal
- BLM Oil and Gas, Coal regulations updates
- Planning 2.0 updates
- USFS range research briefings on woody draw in grasslands evaluations—based on eco-site descriptions.
- USFS management plan updates

The RAC adjourned the meeting at 5 p.m. CST.