

Summary Minutes
Farmington District Resource Advisory Council Meeting
February 8, 2012
Farmington, New Mexico

RAC Members Present:

Keith Ashmore (Category 3)
Anthony Benson(Category 3)
Kellie Campbell (Category 1)
Betty Haagenstad (Category 2)
Barbara Kiipper (Category 2)
Myke Lane (Category 1)
Kathy McKim (Category 3)
Everett Oldham (Category 2)
Mario Ulibarri (Category 1)

BLM Staff Present:

Sam DesGeorges, TFO
Ernesto Hurtado, TFO
Dave Evans, FD
John Bailey, TFO
Brad Higdon, TFO
Maureen Joe, FFO
Janelle Alleman, FFO
Scott Hall, FFO
Bill Papich, FFO
Jeff Tafoya, FFO
Gary Torres, FFO
Hannah Kligman, TFO Intern
(afternoon only)

Visitors Present:

Martha Brown
Harvey Haagenstad
Mike Halona
Jim Dumont
Cal Curley
Ryan Boetel

Morning Session (10:00-11:30)

Bill Papich of the BLM-FFO called the meeting to order at 10:05 a.m., with nine members of the Resource Advisory Council (RAC) present.

Announcements

- March 12 is the deadline for the submission of applications for three RAC positions. Barbara Kiipper and Kathy McKim are on a one-year RAC term because the initial appointments are staggered. Future appointments will be for three years. (Refer to Section 5 of this meeting's binder of materials for additional information).
- Section 10 of the binder contains information on the Recreation Resources Advisory Committee that was noticed in the Federal Register on February 1, 2012. This may be on the agenda for the next meeting.
- Tomorrow's field trip will be short, returning by approximately 12:30.
- Each attendee introduced him/herself and indicated their affiliation, which included RAC Category 1, 2, and 3 members, employees of the Farmington Field Office (FFO) and Taos Field Office (TFO) of the BLM, and visitors.
- Dave Evans, Farmington District Manager, provided two action items from the last meeting. The first was a handout to RAC members. The second concerned the BLM using social media, including blogs, Facebook, Twitter, and UTube.

Correction to Minutes of the November 16, 2011 Meeting

On page 3 of the minutes, the bullet point that reads "Betty Haagenstad noted that rock art with potential world-class values has been recently identified on Taos Mesa" should read "Betty

Haagenstad noted that rock art with potential world-class values has been recently identified on Black Mesa.”

BLM Disposal of Public Land under the Recreation and Public Purposes Act

Gary Torres provided an overview of major points of the Recreation and Public Purposes Act of 1954 (revised 1969), which guides the means to low-cost land acquisition by specific organizations and individuals through the sale, lease, and transfer of land to school districts, city/county government, and nonprofits. It does not authorize sale to private individuals and for-profit groups. (Section 8 of this meeting’s binder of materials contains the act).

The major points are summarized in a handout provided to RAC members. The handout also includes a listing of FFO conveyances and leases both past and pending.

- Different regulations cover conveyances (patents) and leases.
- The law sets the amount of land that can be sold and the amount and requirements differ between state agencies and other government agencies and nonprofits.
- Rate schedules include “special pricing” for land to serve the community; and “regular pricing” for nonessential use for the government or general public (e.g., a dragstrip for the county).
- There are reduced discounts for restricted uses (e.g., golf course for a private club vs. city golf course).
- Leases can be done at no cost to government for recreation purposes. “Special pricing” and “regular pricing” occur in leases as well.
- Lands must be used in perpetuity for the purpose conveyed.
- “Restricted title” means that the land may be taken back if it is not used for the specified purpose.
- In conveyances, minerals are reserved to the U.S.
- Certain uses, such as landfills and shooting ranges (anything that might require a cleanup later) go straight to patent.

Questions and Comments

- Keith Ashmore asked if land can be patented to the government at no cost? Scott Hall answered that it could be done at no cost but special pricing is more likely. Uses that are allowed at no cost to government entities are specified to some extent in the act.
- Sam DesGeorges commented that an office’s land use plan describes which lands might be available for sale or lease.
- Keith Ashmore followed up by asking what “disposal” means. Disposal means that the land has been identified as available for use for recreation and public purpose through conveyance or lease.
- Barbara Kiipper asked if there are sufficient guidelines for protection of land that is not used as proposed. Scott Hall answered that yes, it is written into the law.
- Anthony Benson asked if churches were nonprofits. Churches must show they have paperwork as registered nonprofits.
- Myke Lane asked about the NEPA process associated with disposal. Is it required? Who funds it? Scott Hall answered that NEPA must be met, including 106 and EAs. Often it is funded by the developer, although it depends on who the applicant is.
- Myke Lane observed that the list of FFO leases shows a landfill lease in 1985; public liability exists for a number of landfills. Sam DesGeorges noted that yes, there is a legacy when it comes to landfills.

- Keith Ashmore inquired about a pending FFO request by the COF for open space parks. No EA and no cultural resource inventory have been done. The City is requesting more acreage than BLM wants to give for this use.

Unauthorized Occupation

Gary Torres and Maureen Joe, FFO, provided an overview of unauthorized occupation of public land in Indian Country and proposals to resolve the issues of unauthorized occupation. Mike Halona, Director of the Navajo Nation Land Department, provided additional information.

- In the FFO, unauthorized occupation occurs primarily in the checkerboard area and there are some 40 to 50 documented homes built on federal surface. Residents of these homes cannot get water or electric service because they are considered to be in trespass.
- Maureen Joe noted that the Eastern Agency consists of a variety of different land statuses, which can be further confused by the boundaries of chapters in the Eastern Agency.
- Phase I, II, and III land exchanges with the Navajo Nation some years ago took care of some of the problems, but people are moving again as the area develops.
- The BLM and Navajo Nation are working together through meetings with council delegates and chapter officials.
- One early-stage proposal involves examining an occupancy area with an eye toward an exchange to capture a family cluster. A 160-acre track could be sufficient to cover future movements of families. Currently 13 tracts are identified.
- In return, the BLM seeks to acquire land of varying status (PLO 2198, Tribal Trust, etc.) in the vicinity of Chacra Mesa to designate an ACEC (Area of Critical Environmental Concern).

Questions and Comments

- Keith Ashmore wondered how additional exchanges will solve the problem if the checkerboard still exists and there continues to be confusion regarding land status in the area. Maureen Joe noted that Ester Willetto does outreach with community members specifically on this issue. Gary Torres commented that the goal is a plan that will eliminate the need for future exchanges, but reemphasized the human factor for families currently unable to obtain power and water. He noted that when the homesite lease process is followed, a family is much less likely to end up in a trespass situation.
- Mike Halona noted that these exchanges are only Band-aids for families. Another initiative involves legislation at the Navajo Nation Council level to address consolidation in the Eastern Agency; a plan to ensure that the issue won't come up in the future. He noted that the State of New Mexico dealt with this five years ago through the concept of residential leases. Additional information from Navajo Nation President Shelley will be presented to the RAC by a delegation later today.
- Mario Ulibarri asked if exchanged land is transferred to families or to the Nation? It is transferred to the Nation.
- Mike Halona prefers the term “displaced” to “unauthorized occupancy” because court decisions show prior rights of individual families who have historically lived in what is now the checkerboard area.
- Brad Higdon noted that there was no incentive for people to check land status with the BLM.
- Betty Haagenstad pointed out the need to remember that there had been no compensation for land taken in the past.
- Everett Oldham spoke to the practicality of the issue, noting that the checkerboard area has growth potential and that people will continue to settle there. More than 34,000 housing units will be needed in the future and many existing units are in need of substantial repairs. It needs to be

taken into account that people want housing with access to schools and roads and proximity to infrastructure (such as the waterline that will go through the area).

- Gary Torres noted the potential for administrative solutions to “unintentional occupancy,” while legislative aspects are bigger.
- Betty Haagenstad asked if the public would have access to a Chacra Mesa ACEC. Gary Torres responded that yes, there would be public access.
- Kathy McKim asked if unauthorized occupancy was specific to the checkerboard area? Were there other areas that had historically long family occupancy? Maureen Joe responded that similar situations exist for parcels of land down to I-40.
- Dave Evans noted that providing land status maps to chapters will help ensure that they have current information when making homesite choices.

Lunch 11:30-1:00

Afternoon Session (1:00-5:15)

Public Land Cleanups

This topic was moved forward on the agenda and was briefly discussed. There is authorization for overtime for BLM employees to assist with these projects and a strong BLM presence is needed. The FFO will work at the Pinon Mesa Recreation Area in September.

Unauthorized Occupation (continued from morning session)

The group continued the discussion of unauthorized occupation until approximately 1:30 p.m.

- Kathy McKim asked if the areas currently experiencing unauthorized occupation are designated for anything else (hunting, habitat)? Dave Evans replied that no, there areas are not used by a lot of other people.
- Unauthorized occupation occurs both east and west of Hwy 550 in the checkerboard.
- Kathy McKim noted that in general and from a law enforcement perspective if a person chooses to live on public land, they can be arrested and their property seized. Dave Evans noted that with regard to unauthorized occupancy in the checkerboard, there is greater sensitivity because families have a documented historical presence, prior to Anglo presence, in the area.
- Mike Halona added that incorrectly placed cadastral monuments are the reason that some families have homesites on BLM land.
- Myke Lane asked about the process for getting a homesite. Mike Halona responded that the process can take two to three years from start to finish. On Tribal Trust land, the Navajo Nation identifies customary use areas (those used by families prior to the Fort Sumner incarceration of 1860s). The homesite lease process requires an application, identification of grazing permittees by the chapter grazing officer and obtaining permittee consent to the application. The lease requires a cadastral survey, cultural resources inventory, and sometimes a biological survey. The paperwork package is then approved by the Land Department, and finally by the BIA in Albuquerque.
- The homesite lease is a prerequisite to receiving water and electricity, and depending on where a homesite is located, the tribe may provide utilities or the individual family may pay to have service connected.
- Everett Oldham asked if a homesite lease was the only way to establish a legal lease? How many illegal homes are there? Mike Halona answered that his office meets with two to five people a week regarding disputes, and that lineages and clanship were considered in the resolution. He

noted that less mediation takes place at the local level than in the past, and that chapters are developing land use plans that help guide homesite selection.

- Everett Oldham noted that the formal homesite process is time consuming and costly. Is it fair to say that people are the victims? Mike Halona agreed to a point, but noted that if it was really a serious problem there would be 1,400 displaced families, not 14.
- Kellie Campbell asked how close the BLM was to surveying their boundaries? Dave Evans answered that there are still several townships to be surveyed. The BIA is focusing on cadastral survey inside the reservation, not in the checkerboard. He added that the BLM is working more closely with chapters in the checkerboard and with the Navajo Nation Land Department to make sure that decision makers have all the information that they need when making homesite decisions.
- Kellie Campbell asked if signage would help? Dave Evans answered that signage is unfortunately impractical in the area and that outreach is more effective.
- Kellie Campbell asked if the BLM was coordinating the potential 160-acre transfer parcels with Fish and Game? Not yet; the project is in the early stages and BLM wanted to provide the information that is currently available so that RAC members could answer questions from the public.
- Anthony Benson asked whether the unauthorized occupancy problem was growing or getting smaller. Dave Evans answered that the goal of a comprehensive plan is to keep the problem from growing.

Update of Taos Field Office Resource Management Plan

Brad Higdon's update of the TFO RMP was to inform the RAC on the following:

- items protested by the public
- implementation challenges and priorities

The proposed RMP and final EIS was released on December 2, 2011 and included a 30-day protest period. Twenty-seven protests were received. The following summarizes the major points of protest and implementation strategies, and captures RAC questions and comments. For detailed information, refer to the PowerPoint presentation.

Perceived conflicts in five areas:

1. San Pedro Mountains: mining vs. recreation
2. El Palacio area: OHV recreation vs. the potential for land exchange with Ohkay Owingeh Pueblo

Myke Lane asked if the change in the plan allowed for an offset of land lost by OHV? Brad answered that no, it did not. The final only identified what the Ohkay protest noted. There is no commitment to exchanging land, although some OHV users see it that way.

Everett Oldham asked if the Ohkay Owingeh had indicated what property they might exchange? Brad answered that had not yet been discussed.

Kellie Campbell suggested that during the discussion of exchange it might be prudent to look to compensate for what OHV users stand to lose. A key point in exchange is value for value, not necessarily equal land. Compensation may be of another type entirely.

3. Santa Fe River Canyon area: traditional water use vs. riparian range management

Everett Oldham asked whether the study of beaver dams (which have increased as a result of riparian management and resulted in less available water for traditional use) included hydrographic studies of stream flow? Brad answered they had not. There are other upstream use effects as well, from activities that take place above the area where the riparian treatment occurred.

In answer to a question from Kellie Campbell, Brad noted that there has been no repositioning of the BLM on a local level yet. The protest is being handled in Washington. Sam DesGeorges added that because that language was about water rights it is different than the kind of study required of industry for something like culvert installation.

Anthony Benson asked if the protests are from acequia organizations? Yes, La Bajada protested but so did some small communities and at least one ranch.

4. Ojo Caliente ACEC: expansion of ACEC boundaries vs. mining opportunities

In answer to a question from Betty Haagenstad, Brad noted there had been one protest letter.

5. Old Spanish Trail: plan lacks specific management

Sam DesGeorges noted that the route is neither specific nor long lived.

Anthony Benson asked if the Taos Historical Society had looked at the issue. Brad indicated that they had.

Brad noted that once the protest resolution was complete and the RMP approved (planned for April 2012), the plan implementation will begin, and this is where the RAC will come in, when it is time to begin area-specific management plans.

Public Comment Period

Navajo Nation representatives addressed the RAC. Heather Claw, legal council to President Ben Shelley, read a letter from President Shelley concerning the issues of Navajo occupation in the checkerboard area of the Eastern Agency. Each member of the RAC received a copy of the letter.

Larry Rogers, Executive Director of the Eastern Navajo Land Commission, Crownpoint, thanked President Shelley for the letter, which Eastern Navajo supports. He stated that the commission is concerned about a comprehensive settlement and this letter is the basis for such a settlement. In 2000, Eastern Navajo had 35,000 residents; 95 percent Navajo.

Betty Haagenstad asked if the Nation is willing to make land swaps or is just interested in the return of land? Heather Claw clarified that Congress had made a decision regarding the return of land, but it was not carried through by the administration. While the land should be returned, it is not likely to happen, so the Nation is willing to work it out.

Betty Haagenstad asked if Chacra Mesa became an ACEC, would there be restrictions on public access? Larry Rogers answered that the Navajo Nation wants Chacra Mesa protected, and that if the BLM can do that then the Nation supports it. He discussed the planning that needs to go into a protection plan. He indicated that a hiking permit from the Navajo Nation in Window Rock would be required for public use. There followed a short discussion of the activities allowed by permit on Navajo Nation lands. This ended the public comment period.

Taos Field Office Activity Plan

John Bailey, TFO Assistant Field Manager, presented the Comprehensive Activity Plan, which will implement part of the RMP. The plan combines the El Palacio and Sombrillo transportation areas and will provide detailed guidance for ACECs and recreation areas. The following summarizes some of the key issues and captures RAC questions and comments. For detailed information, refer to the PowerPoint presentation.

- The El Palacio/Sombrillo is regionally significant for motorized recreation. The plan will change much of what had been open areas for riding to designated roads only. Inventories will include over 200 miles of roads and will be conducted during the first year of planning.

The per-mile cost of these inventories was discussed, as were the advantages and disadvantages of having the surveys done by contractors, users, or the BLM. Specific points with regard to transportation guidance in this combined area were presented.

- ACECs in the Activity Plan include the Sombrillo ACEC, which has cultural, paleontological, and scenic resources; and the Pueblos ACEC that contains cultural resources.
- Recreation areas include Santa Cruz Lake, which will be expanded, and the newly designated La Puebla Paleo Park in Santa Fe County; and Palacio Arroyo (formerly Fun Valley OHV area), which will have over 15,000 acres managed primarily for motorized recreation.
- There is a need for roadside tables and roads to connect historic communities that have been broken apart by paved roads.

Questions and Comments

- Betty Haagenstad asked if specific areas would be set aside for target practice? No, because it brings up issues of contamination. Recreational shooting has not been addressed at the BLM's national level yet. Barbara Kiipper's question on how one identifies a contaminated area led to a discussion of recreational shooting and potential conflicts with riding, hiking, and ATV activity.
- Kellie Campbell asked about impacts associated with closing land off to OHV activity. John Bailey stated that he did not perceive a problem, as riders embrace new locations. Sam DesGeorges noted that there is a balancing act in the area between OHV and Okhay Owingeh cultural concerns.
- Myke Lane asked if there exists a strategy for handling offenders who misuse or abuse an area. If there is a violation, are the violators held responsible? This led to a discussion of law enforcement on BLM lands. Sam DesGeorges responded that TFO has three law enforcement rangers. John Bailey noted that BLM volunteers in Colorado and other areas exert peer pressure that helps keep violations down. Betty Haagenstad noted that there are some problems that locally aren't dealt with because there isn't enough money for law enforcement.

Break 3:50-4:00

Update to the Glade Run Recreation Area Management Plan Amendment to the RMP

Due to time constraints, the presentation was removed from the agenda and will be given during tomorrow's field trip.

Update on Visual Resource Management (VRM)

Barney Wegener, FFO, presented an update on the RMP amendment to the VRM, which began in June 2011 and will take six to eight months to complete. Refer to the PowerPoint for specifics.

- The presentation laid out the basic principles of VRM, BLM's responsibilities under FLPMA, and the need for the RMP amendment.
- The process entails the following steps: conduct VRI, analyze VRI in relation to valid existing rights and RMP commitments, propose management classes, analyze potential impacts, define implementation strategies, and complete the Amendment EA process.
- The VRI completed in 2009 was simply an inventory that did not take into account valid existing rights and resource allocations established in the 2003 RMP. During the assignment of VRM management classifications, these rights and allocations are reflected.
- Much of the presentation dealt with how to both preserve existing characteristics and allow changes mandated by the concept of multiple use, all within best management practices.

Questions and Comments

- Myke Lane asked about the kind of features that are considered in VRM. Is there such a thing as a temporary impact (e.g., a drill rig)? He suggested that BLM be prepared to define what constitutes a temporary visual impact.
- Anthony Benson asked how range restoration was handled in VRM. The answer was that this type of project goes through the same process of consideration. For example, sage removal may occur in wavy lines to reduce visual impact of the restoration.

Wild Horse Roundup

The purpose of this presentation was to bring the RAC up to speed on the current situation. To this end, this meeting's binder of materials contains newspaper articles related to the horse roundups. Refer to the PowerPoint background information.

- The area under discussion is just north of Bancos Canyon and includes the Caracas Mesa Herd Management Area and Jicarilla Wild Horse Territory, estimated to have a population of between 320-390 horses, of which between 247-262 must be removed to meet an appropriate management level (AML).
- Surveys of the number of wild horses in this area have been conducted sporadically since 1924 and annually since 2000.
- To achieve AML, BLM will administer helicopter gathering (target date July/August 2012 with possible change to December 2012), for which an EA is in preparation, and will be made available for public review and comment.

Questions and Comments

- The group discussed why Caracas Mesa area can handle so few horses. Relevant considerations include wildlife, grazing and drought, all of which impact carrying capacity.
- Betty Haagenstad asked how many horses were lost to stress during roundup? Two percent? Myke Lane suggested placing performance criteria on contractors involved in roundup to reduce the number of horses lost to stress. Kellie Campbell suggested that less stress is incurred when contractors feed, water, and trap. Why is this method used more often? Barbara Kiipper said her perspective has changed since owning a mustang. She is not in favor of helicopter roundups. If 2 percent of the horses die on the day of the roundup, how many die in the days following? There was more discussion concerning the use of helicopters, and also the role of terrain in the choice of methods.
- There was a discussion of potential advantages of trapping during winter, as well as why fall trapping doesn't work.
- The question of how many horses are lost to predators came up. The answer was not many; horses are big. Mountain lions eat more deer.

Other Items

Dave Evans suggested that the RAC meet tomorrow to decide what they want to work on. In answer to a question, Dave verified that the RAC could meet as a group without adherence to open meeting requirements. Meeting via conference call is also an option.

Gary Torres asked the group to consider whether the format of the meeting was working. RAC members noted that they lacked clarity on what the BLM really wanted feedback on. It was suggested that perhaps a better process would be to have a presentation or briefing on a subject, pause the meeting, give the members an opportunity to interact, come to resolution, then move on.

One day does not seem like enough time to do this. Perhaps the second day should be used for the RAC to talk.

The RAC requested that if the BLM has specific items that they want the RAC to consider, they should be listed on the board in the meeting room in the morning.

The RAC agreed to meet tomorrow morning at 9 a.m.

The meeting was adjourned at 5:15 p.m.

Meeting minutes taken by Kristin Langenfeld, Scaleable Editing Services, Farmington, New Mexico.

Note: RAC members can contact Bill Papich to request the PowerPoint presentations used at this meeting.