

Summary Minutes
NEW MEXICO RESOURCE ADVISORY COUNCIL
September 21-23, 2005
Socorro

RAC Members Present:

Philip Don Cantu
Bill Chavez
Mickey Chirigos
John Hand
Rachel Jankowitz
Meade Kemrer
Mark Marley
Raye Miller
Bob Moquino
Bob Ricklefs
Joanne Spivack
Don Tripp

RAC Members Absent:

Matt Ferguson

Designated Federal Official:

Linda Rundell

Chairperson:

Sally Rodgers

BLM Staff:

Arthur Arguedas, DOI Solicitor's Office
John Bailey, Taos FO
Brian Bellew, Socorro
Doug Burger, Pecos District
Ron Dunton, NMSO
Don Ellsworth, Socorro FO
Joel Farrell, Farmington FO
Jeff Fassett, Socorro FO
Tom Gow, Albuquerque FO
Tony Herrell, Carlsbad FO
Theresa Herrera, NMSO
Mark Lane, Socorro FO
Frank Lewark, Socorro FO
Ed Roberson, Las Cruces FO
Hans Stuart, NMSO
Brenda Wilkinson, Socorro FO

Scribe:

Karen Meadows

SEPTEMBER 21, 2005

FIELD TRIP

PUBLIC COMMENT PERIOD

Raye opened the Public Comment Period at 6 p.m. He asked whether any members of the public wished to speak. No one responded.

Don Kearney introduced himself. He formerly worked for Ron and Linda in the Las Cruces FO and is now the prescribed fire specialist for US Fish & Wildlife. He said he tries to include BLM land in prescribed burns, and to share staff.

Ron and Linda reported that about 600 acres were exchanged for public works and school buildings in Alcalde.

No action was taken on watershed chemical treatments around Socorro. Opinions on chemical treatment vary broadly geographically.

Raye spoke at length about the current state of O&G prices. He said during Hurricane Katrina his southwest NM O&G company had no production problems and produced 8,000-9,000 crude oil barrels per day. But the day before the RAC meeting, the Merck price was \$66+ per barrel. He believes prices are a function of supply, demand and NY speculation.

Hurricane Katrina did some platform damage so a good deal of gas and oil in that area was not back on line. There are three refineries in the Houston area. One refinery was already shut in and another was shutting in that night. There was no place for them to pipe gas to be processed.

Some of those problems agitate the price. It is important not to panic. Europe offered crude but there were not enough ships available and the US did not have capacity for processing liquefied natural gas. Production also depends on work force availability. Prices do not necessarily reflect local supply.

Joanne asked Don Kearney whether Oryx populations are increasing. He said White Sands and NMSU do most Oryx management. There have been depredation hunts on three wildlife refuges, but the Oryx are doing well and getting savvy.

No members of the public asked to speak. Raye closed the meeting at 6:52 p.m.

SEPTEMBER 22 RAC MEETING

CALL TO ORDER & WELCOME, OPENING STATEMENTS

Raye called the meeting to order at 8:05 and welcomed those attending.

APPROVAL OF RAC MINUTES FROM JUNE 7-9, 2005 (Attachment 1)

Sally asked to reread and make corrections to the ZERI presentation. John Hand requested corrections on page 2. Under *Call to Order & Welcome*, paragraph 4, first sentence, the word is chartered rather than charted. In paragraph 5, agriculture was spelled incorrectly.

Motion

Don moved and Joanne seconded to approve the minutes with the requested changes. Motion approved.

Linda spoke about Hurricane Katrina's impact on BLM. A few dozen employees were in the Gulf providing support—including engineers estimating repairs, dispatchers and incident commanders. Absent staff impact BLMNM's ability to close out the fiscal year. She thought it would take time for budgetary impact to be assessed, and effects would be long-term.

Congress passed the 2006 budget weeks ago, but has already been informed to expect rescission—on top of a very tight budget addressing war and federal deficit. The immediate effect on BLM is inability to fill positions, e.g., Don Ellsworth who lives in Rio Rancho, had been working as Socorro Acting Field Office Manager for 75 days. The position was advertised but management needs a more robust list of applicants, and hopes to find a manager within the next three months. Brain drain is beginning to occur on the national level. Number of staff leveled at 10,000-11,000, with a bubble of those hired after FLPMA in 1976 now retiring. Two state director positions and two associate state director positions are vacant, and more will be vacant by end of year. Since there are only 11 directors nationwide, that has a big impact. BLMNM is involved because it has to send people to fill in, e.g., Jesse Juen in Wyoming.

Linda asked Ed Roberson to update the RAC on the rock quarry near Las Cruces they had toured, where a limited amount of blasting was requested.

Ed said neighbors filed an appeal and requested a stay on blasting. The court's decision was not to allow a stay, so the quarry could proceed with plans to blast. That bodes well for the

long run. The FO is going back to Congress to explain, because neighbors did a lot of lobbying. BLM clarified facts and corrected misunderstandings for all involved.

Linda said there is recent interest with newspaper coverage and the governor's support in a spaceport south of Truth or Consequences. BLM notified the NM Economic Development Department of the process needed and asked them to meet with BLM and consider options because the approval process would take considerable time and expense.

With the energy bill and perception of an energy crisis, there's pressure on BLM and legislators to take steps on decades-long issues like potash mining, which was on the RAC agenda (Attachment 2).

The national BLM office concluded that litigation increased 660% over the last four years, a reflection of opposition to the administration's energy policies. Every lease sale in NM in the last four years has been protested. For Otero Mesa, attorneys representing BLM, the state and environmental groups worked out an agreement to seek an expedited hearing in early 2006. BLM is working with the Department of the Interior's Solicitor's Office to put together a record of 22,000+ pages. Linda reviewed some issues rising in other states, and said NM set a good stage for looking at those issues with Otero Mesa.

She concluded with comments on ethics. In the past, individuals have made unfavorable public statements about business that occurred during their terms on the RAC. It was her expectation that RAC members would speak up about issues brought before the RAC at the time they were discussed, and leave with good feelings and awareness that decisions made were the consensus of RAC members.

John Hand asked what happened to the Las Cruces OHV park that NMSU wanted BLM to take over. BLM is working out issues with the university, and asked for funding to put in a fence, entry facility, parking lot and picnic tables—believing that the public is less likely to abuse sites that look well managed. Because it involves underground mineral rights, the OHV park will probably be incorporated into a larger piece of legislation

Bob asked what complaints had been filed about the quarry near Las Cruces. Ed said dust, noise and truck traffic were addressed in preferred alternatives. BLM even put in a yearly production cap of 20 trucks/day 5 days/week at a certain speed. A NM Tech engineer made a presentation to neighbors. Plans limited blasts to 12/year, monitored and publicly announced. Still, some neighbors wanted no blasting and feared unintended consequences. A NM Tech engineer will set electronic sensors and sit in the home of the nearest neighbor during the first blast. No date for blasting had been set.

Rachel said the Las Cruces FO did an excellent job addressing both production and concerns. She agrees that the appeal has no real basis. Reclamation and other environmental concerns, particularly the possibility that huge piles of material in arroyos would wash downstream, were addressed sketchily in the lawsuit. Post-mining land use was also considered. The area would be excellent for recreation, open space and education. While those aren't immediate issues, neighbors asked that they be considered.

Ed asked the Army Corps of Engineers to return and meet with staff. He sees the area potentially as a scenic overlook for the canyon going toward the Rio Grande, site of paleontological treks and OHV territory.

Don asked how increased litigation balances with reclamation, drilling sites, etc. Linda said litigation has become a significant problem. Some western states have had to add staff. No money is being given for reclamation, so BLM works with industry and ranchers to pool

resources. Good programs are rolling, but BLM would like to put what's going into litigation response into reclamation. The Solicitor's office is asking for funds for another attorney.

Arthur Arguedas said plaintiffs including the governor and the NM Wilderness Alliance consolidated and reached a stipulated agreement that would provide for an expedited Otero Mesa hearing. The first step—to compile an administrative record of 6-7 compact discs—had a September 1 deadline. The next step was for plaintiffs to agree or disagree with the administrative record sometime in October, then file a brief. BLM would respond. By December 15 plaintiffs would file a reply. The next deadline was up to the judge, but if there were no judicial decision by February 15, 2006, BLM could execute the O&G lease that was awarded to Hayco in July. If BLM did that, plaintiffs could go for injunction.

Mickey asked about the NM State Land Commissioner's role. Arthur said the land commissioner filed a motion to intervene so he could submit a brief—which anyone can do if the court agrees.

Ed said 70,000-80,000 leases were put into suspension in 1998 and letters went out to say suspension would end October 1. Lessees were not required to pay rental fees during suspension, and their termination dates were extended. Some leases will expire very quickly. Leases can be held by production.

Raye said time and expense responding to requests for information are significant even before litigation.

Sally distributed a packet of information (Attachment 3) about NM's national climate change efforts. NM is the first state in the country to address those issues with broad-based inclusive advisory groups. She encouraged RAC members and staff to read the Draft *New Mexico Greenhouse Gas Inventory and Reference Case Projections* from The Center for Climate Strategies, and to check out listed websites. That information is particularly pertinent right now. It includes citations from federal documents and an international panel, and an article about new coal technology, as well as a brief easy-to-understand overview. She referred to a graph of NM's greenhouse gas inventory that she circulated. NM has twice the national average of greenhouse gases. A first step is to identify sources.

She also recommended several books, particularly *God's Last Offer*, a gold mine of information following worldwide trends in healthcare, economic development, etc. She hopes to make the RAC and BLM staff aware of what state government is doing in the bigger picture.

Raye thanked field managers for good information and insights.

It was determined that there was not a forum so the RAC could not vote on officers or make decisions.

INTERIOR BOARD OF LAND APPEALS (IBLA) PROCESS

Arthur Arguedas, Solicitor's Office

Arthur has been with the Solicitor's Office, the legal branch of the Department of the Interior, for 26 years, working in OK, AZ and now Santa Fe. His office staff has shrunk from six to two attorneys working for BLM and the US Park Service. He reports to the Albuquerque Regional Solicitor's Office, which covers US Fish & Wildlife Department, BIA, USGS and others. He oversees almost all BLM legal work in NM, although BLM managers and employees do a great deal of support work for him.

Arthur's work concerns the Interior Board of Land Appeals (IBLA)—the adjudicative body that reviews appealed BLM decisions. By statute, only the Department of Justice represents BLM when a decision goes to federal district court, so he is closely involved in those

cases but not the solicitor. IBLA's purpose is to decide appeals by a BLM manager in respect to the use of public lands—including minerals.

BLM decisions have always been appealable through chain of command, which appellants did not consider a real review. IBLA was established in 1970 independent of BLM, and so gives people an objective review. Because it handles the same sort of public land decisions over and over IBLA has had considerable experience.

When a BLM manager makes a decision, an appellant has 30 days to file an appeal with the manager, with IBLA and with Arthur's office. Then BLM has 10 days to put together an appeal file and send it to IBLA. Within 30 days the appellant has to follow up with a statement of reasons. Then Arthur's office has 30 days to respond. Three years is about the average length of time for a decision. Often there is a question of status of the BLM decision while it is under appeal. Normally BLM decisions are not in effect during the first 30-day appeal period, but then become effective unless IBLA determines not and issues a stay of decision.

IBLA evaluates BLM decisions similarly to a district court, using the Administrative Procedures Act, which sustains a manager's decision unless it is capricious, arbitrary or against the law. The Adobe Ranch land exchange, e.g., involved a difference of opinion on what was in the public interest. That is not sufficient for a decision to be set aside. BLM wins the vast majority of cases. Losses are usually procedural. IBLA evaluates the decision the manager articulates in writing, so if a good basis is not well articulated, it can get stuck.

Arthur said if the decision stands on its own he is not required to file a response, and if he does file, he depends on BLM expertise.

Some exceptions to the process, as with Otero Mesa, include appeals of RMPs and do not go to IBLA. Normally there are no hearings before IBLA and no taking of evidence. Something new to IBLA is alternative dispute resolution, which is not always a good idea. IBLA's slowness is a problem.

Question/Answer/Comment

- IBLA is located in Arlington VA and has 12 judges, of whom three have to form an opinion. If a hearing is required, IBLA assigns cases to the Salt Lake City Hearing Unit.
- How is your office able to do all this work? Probably 30-40 new IBLA cases are appealed per year. His office is not allowed to contract work out. A small amount of work, e.g., water, fish and wildlife work, has been shifted to the Albuquerque or Lakewood CO offices. Arthur doesn't give legal advice to BLM. He only responds to appeals. BLM has offered to fund a DOI Solicitor's Office attorney.
- Potash is handled by the Albuquerque Regional Solicitor's Office.
- Many of the increased litigation cases are not handled by the Solicitor's office.
- Even where legal fees are recovered, which is few and far between, those funds go into the US Treasury. The government decided not to go after legal fees in most cases to avoid a killing effect on citizens' ability to file a legitimate protest.
- Raye had personal experience with an O&G protest over potash that resulted in a 254-page decision. That involved expense and time; and many times the court system still doesn't clarify the decision or bring you what you thought you wanted, he said.
- Linda said on the national level the agency prevailed in 75-85% of cases.

NEW MEXICO OIL CONSERVATION DIVISION (OCD) OVERVIEW

Raye Miller, RAC Chairman

Sally explained that the scheduled speaker, OCD Director Mark Fesmire, was at a conference that because of the current Gulf crisis he was unable to leave.

Raye said he would give a brief overview.

OCD is part of the Energy, Minerals & Natural Resources Department, with district offices in Artesia, Hobbs and Aztec, and a Santa Fe office. District offices have geologists, managers and a host of inspectors. In Santa Fe, petroleum engineers render decisions and there is a full environmental department. OCD is legislatively mandated and was funded originally by a designated production tax. The NM Legislature changed that to having tax dedicated to particular areas. Now OCD goes to the legislature for appropriation as part of its agency budget.

OCD has a legislative mandate to prevent O&G drilling site waste from polluting ground water. There are setback standards and acreage designations for wells. OCD engineers are responsible for determining what area is appropriate for a pro-ration unit. They also look at level of production allowed. OCD is notified of spills, and monitors site cleanup and remediation. Location of wells on the surface has become ever more an issue, and O&G companies have to apply to OCD for nonstandard locations. OCD inspects pits, monitors injection wells, and assigns numbers that allow tracking. Work in the past year focused on pits under a theme of “no new contamination.”

Raye says OCD needs to continue focusing on down-hole inspection, because it is the only regulatory authority for abandoned or plugged holes on state and private land. OCD is in a massive review of its rules and regulations. There is cooperation between OCD and BLM.

Carlsbad had incidents of hydrocarbons coming into water wells. OCD undertook extensive study, reviewed every well bore, concluded that a 1940s well might not have been plugged properly and re-plugged it. Raye’s only criticism is that OCD didn’t educate the public about having done that. They need to let people know what they’re doing.

Question/Answer/Comment

- Meade asked whether studies are being done on methodologies. Ask Mark at the next meeting.
- Maybe if OCD is upsetting Raye they’re doing a good job.
- Are new requirements needed? And are there requirements that no longer apply? Technology continues to change. Discussion continued.

NEW MEXICO TECH PRESENTATION ON A SPECIAL PROJECT TO HELP RESOLVE THE POTASH/OIL & GAS CONFLICT (Attachment 4)

Ron Broadhead, NM Tech Principal Petroleum Geologist

Patrick Walsh, NM Tech Subsurface Fluids Geologist

Linda said after a hearing in the mid-1990s a decision was issued in 2003 that made no one happy. All asked for reconsideration. She wants to resolve this conflict and put some things into motion, e.g., improving the foundation of scientific data, so she asked NM Tech to analyze O&G data. That analysis is underway by Ron Broadhead and Patrick Walsh.

Ron said NM is the principal potash mining area in the US with 700-800 square miles covered by working potash mines. When that historic territory was developed, there was no O&G production in the area.

Potash occurs in a rock layer originally thought to have no O&G resources, but it's now known there's lots of O&G potential. The problem is that O&G has to drill through the potash layer to get to O&G. Peripheries of the historical potash area are being fully developed by O&G, and it's obvious that there are extensive reserves within the potash area. Linda asked Ron to come up with a scientifically based appraisal. Potash leases are federal, and the state gets production taxes and 50% of royalties plus the benefit of employment.

Patrick said the study began in March, with deliverables due in January, so they are about 2/3 through. He showed a map of the potash area.

Project goals:

1. Develop a database of O&G exploration and development wells.
2. Identify and map geologic trends associated with O&G production.
3. Designate map areas with high or low potential for future O&G development.

He showed an image of Delaware Basin strata—with rock units 250-300 million years old, 4,500' -14, 000' below the surface. Circles represented O&G-producing formations.

Progress:

- Database of over 3,000 wells with as many as 180 data fields each—delivered in July.
- Brushy Canyon, Lower Brushy Canyon and Bone Spring correlations for about 500 wells.
- Preliminary thickness maps for Brushy and Lower Brushy canyons.
- Channel systems identified for Lower Brushy Canyon.
- Preliminary structure maps.

Patrick showed data structure online that can be downloaded, with data he has added, including both well sites and surrounding areas.

Turbidity deposition is like a coastline where layers are deposited. Looking at channel deposits showed sediment transport direction, where O&G deposits might lie and O&G companies are most likely to want to develop. He showed Lower Brushy Canyon channel systems, applying wells over deposition lines to show the sequence where development followed channel systems. Some did not correlate so he is going back there to look in more detail.

Patrick showed a Bone Spring structure map of surface-to-6, 000' and a turbidity deposition model—to be used to predict where O&G might be sought.

Moving forward:

- Correlate Lower Brushy Canyon zones on select wells to find individual channels.
- Correlate and map other producing strata, focusing on Atoka and Morrow trends.
- Create GIS layers highlighting trends of likely and unlikely O&G potential.

Question/Answer/Comment

- O&G companies do this kind of work on a smaller scale, looking for channels to determine which way to lease and drill.
- There was allowance for some well drilling during this period, but other wells drilled were the result of litigation that BLM lost.

- Tony Herrell said the second order under the current version called for concurrent development set up under three criteria: drill wells outside potash enclaves, bearing zones within enclaves and drill islands within enclaves.
- Ron said he identified old wells that were drilled through potash zones before enclaves were set up and identified them as obvious sites for drilling islands.
- New wells could also be set up around older wells in production.
- NM Tech has a complete record of wells with unique files that provide detailed coverage, e.g., files donated by geologists from surveys in 1930.
- What does potash abstraction look like? The RAC needs a field trip. The geology 4,000'-6,000' underground is immensely complex, although people might drive through and see nothing. Potash mining is solid rock mining with no blasting, processing plants on the surface and tailings piles.
- Ron added that because of time and data constraints Patrick is projecting the major currently productive trends, not all trends.
- For safety, potash mining is limited to ¼ mile around oil production and ½ mile around gas. The conflict is worker safety. If gas gets into a mine, it affects humans and equipment.
- Why can't they negotiate a settlement? It's rare for litigation to go on this long. Linda said both industries believe they are right and want exclusive rights to extract their minerals. They have not been willing to give. One of the two major potash companies is willing to allow drilling on a case-by-case basis. There is pressure to allow more concurrent development, and BLM is striving for that. BLM wants a scientific foundation for decisions they will ultimately make.
- Personalities involved over time remain polarized.
- There's opportunity in areas where potash has been exhausted in the north. But some shafts are interconnected with still-active mines so a gas leak would put workers at risk.
- John thought when you leased the minerals, you leased the minerals. Raye explained that O&G producers lease specifically for one mineral. Leasing in that area is complex because O&G leases are old. The original 54,000-acre enclave is now almost half a million acres, and in some places expanded into existing O&G leases—escalating the conflict.
- Any subsurface water issues? Tony Herrell said there are playa lakes with sub-surface aquifers and a high level of salt in the southern end of the potash basin. Salt content in some areas is so high there has been duck mortality. In the north the playa lakes have more freshwater content.
- Raye said his company has productive wells in that area. He commended Linda for getting someone from outside BLM to gather information. In cases where potash mines could be converted to solution mining, workers would no longer be underground.
- Potash is used for fertilizer, and there is a resurgence of interest from places like China. One company invested \$40 million in a new mine. Canada is having production problems because of depth of potash deposits and water contamination.
- Discussion continued on specifics of potash mining.

ENERGY BILL UPDATE

Doug Burger, BLM Pecos District Manager

Nationwide in 1999, 1,803 wells were approved. In 2004, 6,399 Applications for Permit to Drill (APDs) were approved—a 255% increase. Budgets went up 62% and staff went up 21%—showing that needed dollars and staffing haven't matched the APD increase. Five states account for 95% of APDs—NM and WY have the most, followed by UT, MT and CO.

The Energy Bill, PL 109-58, is 550 pages single-spaced with 1,840 sections. It was signed August 8, 2005 in Albuquerque and is full of time frames.

Section 365 Pilot Permitting Offices

- National MOU is to be developed in 90 days between DOI/DOA (USFS), COE/EPA.
- 30 days after the MOU, personnel from those agencies who would report to BLM would be selected.
- 90 days later they report to BLM.

The eight Pilot Permitting Offices will include Farmington and Carlsbad. Of the 2000-2004 APD workloads for the top five states, NM had 2,441 APDs in Farmington and 2,144 in Carlsbad. The biggest producers reside in NM and WYO.

Section 366 APD Processing

- Within 10 days of APD receipt, must notify applicant if application is complete, or identify what is incomplete.
- Within 30 days of receipt of a complete application, permit shall be issued if NEPA and other legal requirements are complete. If not complete, BLM tells applicant what steps need to be taken so the permit can be issued.
- The applicant has 2 years from receipt of notice to complete all requirements.

Section 1835 Split Estate

- In consultation with private surface owners, industry and interested parties, the Secretary of the Interior shall review current policies and practices of management of federal subsurface O&G activities and their effects on private surface ownership.
- Within 180 days the Secretary shall report results to Congress.

Section 343 Marginal Well 5% Royalty Relief

- Oil wells producing less than 15 barrels/day when price drops below \$14/bbl.
- OR
- Gas wells producing less than 90 billion BTUs/day when the price drops below \$2/million BTUs.

Cost recovery

Congress requested a cost recovery report that came out in June. Then the new Energy Bill came out in August and changed things. Before the Energy Bill, Congress proposed \$1,400/APD, which has gone up to \$4,000/APD. Section 365 says no cost recovery.

Alaska National Wildlife Refuge is not in the bill. There's rumor that a new energy bill spurred on by hurricanes would include anything left out of HR 6, including a directive for BLM to repurchase a lease when the government fails to authorize development.

BLM's biggest concern is that it creates expectations that BLM will permit even faster. There is a provision to fund agencies with 50% of O&G rentals.

Question/Answer/Comment

- Raye said when he sends in an APD, he already gets a response within 10 days. The struggle may be to deal with batches of APDs at certain times of the year. If complete, BLM would be able to render decisions, which involves looking at BLM internal process.
- BLM is already working on internal process, in discussion about aspects of streamlining and issues like partnering agencies with different processes working together.
- Is the patch of ground tied up in the two years that an O&G producer has to respond? It is under lease, but the clock continues running. Raye said the two-year period is a non-issue because all lease terms are still in effect and companies will respond quickly if they want to get projects done.
- Concerning timelines, is there a penalty? This bill doesn't give provisions for penalties. A number of issues are outside BLM control.

NM DEPARTMENT OF AGRICULTURE (NMDA)

CONTINUED RELATIONS WITH BLM (Attachment 5)

Bud Starnes, NMDA Wildlife Resources & Policy Specialist

Bud outlined what's happening in the NMDA. Agricultural products, e.g., soybeans, are the next oil industry, moving faster than ever imagined. Yet in NM 100,000 acres/year are being taken out of agriculture, mostly due to development around major cities.

The aim is to mix large and small producers and city folk without the strife encountered now. NMDA particularly wants to assure that farmers and ranchers remain a vital part of the mix. Referring to the 2004-2008 NMDA Strategic Plan, Bud listed programs, including a new Office of Agricultural Biosecurity. Their largest department—Agricultural & Environmental Services, covers pesticide use. NM has the toughest pesticide controls in the US. NMDA has staff actively marketing NM products all over the world.

NMDA is changing. It has a new director and new university president with very different ideas from the past. They are moving quickly to handle the problems and changing constituents of today, e.g., indicators that Albuquerque will look like Phoenix in less than 20 years, while keeping the same values.

How can NMDA move into the future with BLM? The two agencies have had a cautious adversarial role. But passage of federal and state laws that are a good deal for ranchers (under Section 8, Public Law 95-514) has helped. BLM signed an MOU with the governor's office in 1980 for a good working relationship. That law and the MOU are getting old and we need to look to the future. Bud pointed out the closeness of the two agencies' goals. How can they strengthen their combined roles to work easier and smarter?

He said cooperation is exactly what NMDA aims for in watershed management. NM needs a statewide priority system for watersheds. There is not enough money to put small individual projects together. All agencies need to be prioritizing statewide. The NMDA plan was finalized and is being printed, but didn't get BLM buy-in—which he thinks is a mistake. He wants to bring the agencies' partnership closer, making cooperative RMPS that are locally driven. He distributed a sheet RAC and staff could use to request documents.

There should be a direct MOU between NMDA and BLM. Things are accomplished smarter and better at higher levels, e.g., state-level rather than FO-level. His boss is ready to do

that at any time. NMDA likes the way soil and water districts work, because they start projects at ground level, work through the legislative process and bring money back to the ground. That doesn't work very well in government right now, but partnerships with the state could make it work better. They have to gain a little authority to allow that. For watersheds we have to trust each other more to get the whole job done. Not one single watershed is finished.

Question/Answer/Comment

- What does it mean that not one watershed is finished? He meant weed control from top to bottom of a watershed is not complete.
- Will one ever be completed? There's always maintenance; but in linear planning, they will work through all the levels. It's a matter of setting reasonable goals.
- The NMDA weed control plan is done and would be sent to those who request it.
- Responsibility for weed control lies with all involved.
- NMDA is partnering with NM Department of Transportation on a practical committee-written plan.
- Raye said Bud made many working-group meetings on lesser prairie chickens and sand dune lizards and was a great resource on Carlsbad's RMP amendment.
- Bud's remaining handout gave names and numbers of USDA contacts. He invited the RAC and staff to call and ask for information when needed.

INVASIVE PLANTS UPDATE (Attachment 6)

Ron Dunton, BLM Deputy State Director, Resources

Ron distributed pages showing efforts around the country to notify the public of the dangers of invasive weeds. There is significant increase of noxious/invasive weeds across the board in most places where there are disturbed sites, and an explosion with the rainy spring this year. They crowd out native species, degrade watersheds and provide no forage benefit for livestock or wildlife. In fact many are poisonous. Spotted knapweed is even a human carcinogen. Russian knapweed is spreading across NM particularly in the San Juan Basin. Knapweed roots emit a chemical that suppresses any other growth. University of MT is looking for species that can withstand knapweed, but so far has found nothing.

Control methods are growing but limited. BLM is concentrating on highway rights-of-way, including pass-through dollars for counties and O&G company partners, but losing the battle. BLM needs a landscape-scale approach, and has consulted with soil and water conservation groups. Debbie Hughes' group is aggressive with tamarisk control for significant improvement in watersheds down south. BLM needs to develop programs to discover where noxious weeds are, and develop control programs, usually chemical—which will be controversial.

MT figures it has lost one million acres to weeds. ID is second in land lost to weeds, with leafy spurge and knapweed invasions. NM has a chance to get in front of this problem. Cheat grass has exploded through northern NM like never before. Long-term grazing alters the fire cycle, shortening it so that some native species cannot withstand fires. Experimental projects are underway in Farmington after fire cycles. After a sagebrush burn, cheat grass will come in. BLM is looking at pre-emergence herbicides and getting other species established first—on a landscape basis. Bud suggested talking to Jim Lanstall and getting information that USDA is gathering.

Question/Answer/Comment

- Landscape approach is exactly right. It takes all land management agencies to do this. The highway department used to control weeds but now is understaffed and doesn't.
- NM doesn't realize what a firestorm this could be. ND has lost more than five million acres and is losing a million acres a year to leafy spurge. ND implemented a weed-free hay law. There has to be an integrated program including chemicals. One silver bullet is a beetle the size of the head of a pin that attacks leafy spurge. Native plants come back after the beetles retard the spurge.
- There are biological remedies and spraying, but no one group can do it. All have to work together. ID puts responsibility for controlling noxious weeds on private land on the landowner. Landowners get a letter every spring saying, "If you don't control the weeds on your land, we will, and here is what it will cost you."
- In NM people don't necessarily know they have invasive species on their land. Agencies have a huge education program ahead.
- Further discussion. Even hunters and firefighters spread weed seed.
- Rachel works on mine reclamation plans that do not require weed management. It would be good for agencies to change policies to address weed management on leased lands. Many FOs require cleaning and spraying but there's pushback because it represents a cost. A national weed representative has talked about weeds to the cattle industry since 1993. This is very difficult.
- Rachel said there is a federally listed endangered thistle that needs to be identified and protected.
- There is a Noxious Weeds Working Group that has not gotten enough public or agency attention.
- It would be good to have a governor-appointed state commission. Sally said it is being broadly discussed in her agency.
- It would also help for NMDOT to know more about life cycles and other particulars, e.g., to schedule mowing plans.
- Would RAC consider a resolution? They need a quorum. Bud suggested contacting Jim Lanstall and other university professors—the states lead people—to get advice about steps to take. Put this on the agenda.
- Las Cruces FO uses a pocket-size invasive weeds booklet from NMSU.

SOCORRO RMP

Don Ellsworth, Interim Socorro FO Manager

The current RMP was written in 1989. The draft new one, underway for two years, was scheduled to be sent to Linda in November. Major issues include follow-up on WSA management, route designation and OHV use—more and more prominent as Las Cruces and Albuquerque grow. The FO will put together activity plans and route designations over the next five years. Nomination of Areas of Critical Environmental Concern (ACECs) is primarily based on cultural, wildlife and watershed values. Special recreational management areas include Gordy's Field and lands available for mineral leasing. Issues with Threatened & Endangered Species will result from this RMP. Catron County and the Zuni Tribe are cooperating agencies.

The FO is working with the county manager and commissioners. Socorro County will also be kept apprised.

Question/Answer/Comment

- Do you anticipate suits when the RMP is filed? No, although Don could think of issues with Zuni. The RMP is not broadly contentious and the FO has plans to deal with issues.
- NM Tech property to recommend for exchange has been identified.
- Congress designates ACECs. And only Congress can designate wilderness areas or remove them from WSA status.
- The WSA process took place in the 1980s. The only state that has acted on all of theirs is AZ. Others have acted on some. NM has a couple of BLM WSAs.
- RAC members should have an acronym index.
- Don distributed a NM Cattlegrowers' Association booklet. He had 500, and would like to find funds to print and distribute more.
- What about noxious weeds in wilderness areas? Congress can customize bills for wilderness areas, so weed control could be specified.
- The third-party contractor writing the Socorro RMP slowed the process. Cooperating agencies did not slow the process.

MEDIA CONTACTS & PUBLIC PERCEPTION (Attachment 7)

Hanson Stuart, Office of External Affairs Chief

BLM wants to make the upcoming 100th anniversary of the Antiquities Act a big deal, so it can spread good news about what BLM does, and get word out about the broad range of resources on public land. He pointed out a brochure of BLM recreation sites. The communication plan includes highlighting heritage resources and a new website featuring them. BLMNM is developing a lot of information to put on the web, fashioning articles, and inviting the press to visit sites. The Secretary of the Department of the Interior is planning a tour of western heritage sites next year and hopes the first lady will accompany her for part of that tour.

Hans showed the *Adventures in the Past* heritage resources website and encouraged the RAC to visit. The home page is reproduced on a color handout, with ways for the public to take part. There are materials for teachers and students, virtual site visits, opportunities to volunteer, maps, links, research and collections. Human habitation in NM goes back 13,000 years. Agency partners are developing itineraries, including one following the old Spanish trail from Santa Fe to Los Angeles, with special events and brochures. BLM probably has more than four million cultural heritage sites on public lands.

Organizations are already making plans to be involved. BLM is planning joint promotions and links with NM Department of Tourism. It's a tremendous opportunity.

BLM staffers write press releases, send them out and call media. Hans pointed out sample press releases for a Carlsbad FO project that won a national award, for what BLM did after Hurricane Katrina and for the El Camino Real.

He showed Otero Mesa coverage in several newspapers, with different headlines for the same story that show how the media guides public perception. He pointed out opinion pieces written by Linda to counter other opinions and offer balance. Overall, BLM takes the high road and stays factual to inform the public. Hans is working with Joanne and the USFS on a statewide OHV brochure.

Question/Answer/Comment

- The Valley of Fires looks nice. Is information dispersed about that upgraded site? Local press used news releases. Staff has significantly updated the BLMNM recreational website and finished the brochure Hans distributed.
- Roswell FO has sponsored sky watch nights with telescopes and astronomers. They talked to campers and everyone gave it highest reviews. Word needs to get out about all of these jewels.
- How should we fight Wilderness Alliance inaccuracies? Joanne spoke about a free *NM Wild* quarterly with a column called "OHV Update." The current issue refers to the "menace of ORV" under the new OHV law. The Wilderness Alliance had nothing to do with getting the bill passed but takes credit. They're just posturing, but they slammed her organization.
- You cannot win the media war. Respond with facts to inform the public.
- Hans has gone to editorial board meetings with several papers, as has the Secretary of the Interior. It helps to have a relationship with reporters and editors. Discussion of media trickery and proper approach continued. Maybe we need to pick some fights so we aren't thought of as guilty. Best to be proactive.

The RAC reviewed remaining agenda items.

Linda said names for proposed new RAC members and alternates were sent to the national office, and BLMNM awaits a response.

There was no new business for working groups, so no meetings were held.

ELECTION OF NEW OFFICERS

Bill Chavez joined the RAC meeting, so there was a quorum.

Motion

Joanne moved and Philip seconded nomination of Bob Moquino for the position of vice-chair. There were no other nominations. Bob was nominated and elected by consensus.

Motion

Don moved and Meade seconded nomination of Joanne Spivack for chair. There were no other nominations. Joanne was nominated and elected by consensus.

SEPTEMBER 23 RAC MEETING

The meeting reconvened at 8:05 a.m.

GORDY'S HILL OFF-HIGHWAY VEHICLE AREA

Mike Bilbo, Outdoor Recreation Planner, Socorro FO

Four miles outside Socorro is a highly scenic area with pueblo and turn-of-the-century ruins and petroglyphs. It was named Gordy's Hill after a pioneering dirt bike rider who started using it 30 years ago. The area encompasses about 6,000 acres with challenges for everyone. It is used for rock crawling, mountain biking, fat tire races, and the Socorro Valley ATV/dirt bike race. Mike showed a topographical map and photographs.

An O&G pipeline shows bare in some areas and Mike envisions a Carlsbad-type incident.

Gordy's Hill is sandwiched between two WSAs of about its size. Mike showed a photo of Joanne, who is one of the FO's OHV volunteers. Kids volunteer too, one of whom is a state champion dirt biker. He'll be a role model peer in upcoming school programs about safety. There have been more OHV fatalities in the last two years than ever before. In January a new law goes into effect that kids under 18 have to take safety courses and wear helmets. Parental supervision is required. Education is needed all over the state and BLM will be heavily involved. Under the new law any law enforcement officer, including BLM staff, can cite. The FO meets with police, the sheriff, the Bosque Task Force (which wants to keep dirt bikes out of the bosque), and others. Their idea is to make Gordy's Hill a magnet so unauthorized areas are not used.

There are three grazing allotments in the area and after the RMP is finished there will be an alternative resolution with facilitated meetings for all users to work out a reasonable workable plan. The plan proposes visual zones class 3, 4 and 5, calling for creative design. They have good GIS data and are working toward a circulation pattern. Mountain bikers are adapting old horse and bike trails. A volunteer makes cattle guards designed to be good jumps for dirt bike riders that are being put in alongside gates.

Riders of all kinds are working together. Gordy made a bracket to attach GPS units on vehicles so riders could help BLM develop maps. Mike invited the RAC to tour the area. Curvilinear terrain and vegetation disguise the trails, blending them into the landscape.

Joanne said this is for the most part what OHV use looks like. There is no huge impact. It's not a scene of mass devastation like people sometimes think.

BLM is recording everything on the land including a homestead and an archaeological site. Mike showed a group of volunteer ground proofers getting oriented to hike with GPS units. All these volunteer efforts have resulted in national recognition.

The FO has sponsored two public lands workdays. On September 10, 40 people signed WSA boundaries and collected 1 ½ tons of trash along a 50-mile stretch, with \$3,000 worth of benefit to BLM. A county commissioner who lives out there was impressed. The NM Four-Wheeler organization put up a welcome sign. Trails are being mapped and interested parties are discussing which trails to use for which types of activity. Volunteers will act as backcountry rangers.

Question/Answer/Comment

- How do you separate mountain bikes from motorized traffic? They use the same trails and bikes just stay out of sand. All are working on agreements about trails, and BLM is beginning to put names and numbers on routes on the GIS map. They will eventually have a nice brochure with a map and explanations.
- The WSA to the north has a fence that works pretty well, although it's sometimes cut. BLM is working with a private landowner whose boundary has been signed. The OHV community reports intrusions. But Gordy's Hill users have everything they want, and local volunteers have influence.
- There are still things to work out. They need money to use the alternative dispute resolution process for resolving conflicts. They will designate routes based on already-established trails. It will not immediately be a fee area but may become one as facilities are added.
- For races, permittees have to provide porta-potties.

- Each RMP draws up regulations with statewide guidance based on the national OHV memo. Specifics come from local FOs working with users.
- There is a state OHV coordinator. Joanne is president of the NM Off-Highway Association. She mentioned a recent meeting of 100 people involved with these issues, primarily BLM and USFS staff.
- Development and maintenance of systems goes through NEPA and EA processes, usually in-house.
- Liability for races involves coinsurance with the permittee. In NM and some other states insurance can be challenged. The USFS has researched safe trail design and BLM follows their lead. Mike and Joanne are advocates of land-use ethics.
- Linda said case law holds that if someone is doing something inherently dangerous, they take responsibility on themselves. However, often the government is sued.
- All events' participants sign waivers. Races are very well organized, with rules and people at checkpoints to disqualify anyone who breaks the rules.
- Rachel said among mountain bikers the number one consideration in building trails is not to cause damage.
- The exposed pipe is an old Chevron line. The RMP will put that right-of-way off limits, and will call the company to cover it when the plan is complete.

RECREATION ENHANCEMENT ACT

Joanne Spivack, RAC Member

Joanne said the new Recreation Enhancement Act (REA) determines that wherever there is a fee area, all or most of the fees collected go directly into that area. Another part of the law states the need for a RAC-type council. Raye, Joanne, Buzz Hummel and Dave Manson took part in a recent conference call with several states about recreational RACS (RRACs). Moderators explained that the RRACs could be organized as one umbrella national group, or regional or state groups. Most participants didn't want a national RRAC. A regional one had some merit, but some geographical areas would be overshadowed. An REA provision allows states to opt out of having a RRAC. Expense is one reason. It would cost about \$40,000/year, which would come out of fee area income. NM has few fee areas, so RRAC expenses would take about 1/3 of fees generated.

Joanne and Raye recommended to Linda that NM opt out of having an RRAC, but the USFS would have to agree. No one is sure whether BLM's current RAC could fulfill the requirements of an RRAC. Even establishing a RAC subcommittee on recreation would involve a great deal of planning and change.

Joanne and Raye have heard nothing more since the conference call. Linda heard that the Washington office wanted a national RRAC.

The purpose of the REA is to agree on how to set fees, and to avoid conflicts between agencies and communities/users. RRACs would be advocates. They would not be able to set or change fees. Since NM has more USFS fee areas than BLM, Raye suggested Linda talk to her USFS counterpart and let them take the lead.

Joanne said another problem on their conference call was that no one could tell them what the law meant. What could this RRAC do? Wording is so vague that it could be interpreted a number of ways. Linda said apparently the USFS has been charging multiple fees in certain areas, e.g., marinas and trailheads near campgrounds, and members of the public complained to legislators.

Figuring out how RRAC members would be chosen, who pays and whom they represent is difficult. Even if creative ways were found to address the REA, there might be lawsuits. Mickey reminded the RAC that the public complained when \$3 was charged for skiing in the Sandias, but now those areas have amenities. But he warned that fees could provoke backlash—like loss of participation or budget cuts. Fees could also lead to trespass, littering, and additional trails made by a resistant public.

FEEDBACK FROM OUTGOING MEMBERS

Don Tripp

Being on the RAC was more beneficial than he expected. Meetings gave him a lot of information useful as a legislator—helping him know more about issues that come before him. He urged RAC members to stay involved with legislators because they are each experts at what they do. Squeaky wheels affect government. He enjoyed being on the RAC, and thought great field trips were vital.

John Hand

It was a great three years. He has been involved with BLM permits for more than 50 years, but learned more in his three years on the RAC than ever before about how BLM operates. He enjoyed meeting great people.

Mark Marley

Mark served a partial term and didn't think the RAC accomplished a great deal. Things go slow. Members need to make sure that the RAC moves forward and is a benefit to BLM. Bring issues to BLM that they need to hear. He also has been a permittee for a while, focusing on his specific area, and the RAC opened his eyes to other regions of the state and other conflicts. His first field trip, looking at urban interface in Las Cruces, gave him new perspective. He complimented Raye for an outstanding job as chairman. He knew Raye from their membership in the lesser prairie chicken working group, and watched his ability in both groups as a levelheaded person.

Raye Miller

Raye praised the facilities for the Socorro meeting and thanked Don for hosting dinner. Looking at the RAC from his four-year perspective he suggested that if his prayers were answered BLM and the NM State Land Office would make land exchanges to resolve a lot of issues. That would provide tremendous opportunity to meet both agencies' goals and better manage land, e.g., establishing wilderness areas. Helping that happen would be the greatest thing the RAC could do. Mailings from the Taos FO showed him how much management is involved for small BLM tracts surrounded by other landowners.

Beyond members' education, the RAC must be a benefit to BLM.

Read the book *Good to Great*, about having the right people in your organization doing the right jobs. Both the beauty and the challenge is that BLMNM has the greatest team of federal employees in place that you could ask for. He is ecstatic about each and every manager and assistant manager. The problem is that they raise our expectations. So he challenged BLM staff to go forward and do great things in public land management.

Rachel reported on a three-year study of endangered nectar-feeding bats led by a USFS scientist. There was a known bat route on Grey Ranch but bats were foraging on BLM land, so for better management this study looked into their biology. They captured bats and put radio transmitters on them. Teams packed radios, antennas and receivers onto mountaintops and tracked where the bats went. They made several discoveries of significance, including a second bat species that had not been known in NM. Also, some bats flew out of the area and didn't show up for awhile. On the very last day of the study, researchers found the other roost on BLM land in natural caves in Hidalgo County. No cave exploration has been undertaken yet. Rachel highly recommended that BLM find some way to fund the remaining portion of the study, e.g., what the bats feed on.

Bob offered good luck and good health to departing members, saying he learned a great deal from each one.

NEXT MEETING & AGENDA TOPICS

Next Meeting Location

Carlsbad
Cloudcroft
Alamogordo
Albuquerque
Farmington

Next Meeting Agenda

BLM issues that RAC could help with, e.g., noxious weeds
Orientation of new members
A major NM State Land Office exchange
Something fun, e.g., archaeological or paleontological
Ojito
Bisti
Continental Divide Trail
Antiquities Act Centennial

Field trips

Potash mine
Otero Mesa

Setting a date for the next meeting awaits appointment of new members and budget approval.

The meeting adjourned at 10:25 a.m.