

**Summary Minutes**  
**NEW MEXICO RESOURCE ADVISORY COUNCIL**  
**April 12-14, 2005**  
**Roswell**

**RAC Members Present:**

James Bailey  
William Chavez  
Michael Chirigos  
Matt Ferguson  
John Hand  
Rachel Jankowitz  
Meade Kemrer  
Mark Marley  
Raye Miller  
Robert Moquino  
Robert Ricklefs  
Joanne Spivack  
Don Tripp

**RAC Members Absent:**

Philip Don Cantu  
Max Cordova

**Designated Federal Official:**

Linda Rundell

**Designated State Official:**

Sally Rodgers

**BLM Staff:**

Dan Baggao, Roswell FO  
Mike Bilbo, Socorro FO  
Doug Burger, Pecos District  
Sam DesGeorges, Taos FO  
Ron Dunton, NMSO  
Jerry Dutchover, Roswell FO  
Rand French, Roswell FO  
Jim Goodbar, Carlsbad FO  
Paul Happel, Roswell FO  
Steve Henke, Farmington FO  
Tony Herrell, Carlsbad FO  
Jon Hertz, NMSO  
Mike Howard, Las Cruces FO  
Buzz Hummel, NMSO  
Tim Kreager, Roswell FO  
Howard Parman, Roswell FO  
Ed Roberson, Las Cruces FO  
Ed Singleton, Albuquerque FO  
John Spain, Roswell FO  
Hans Stuart, NMSO  
Dan Wright, Roswell FO

**Scribe:**

Karen Meadows

**APRIL 12            FIELD TRIP**

**PUBLIC COMMENT PERIOD**

Chairman Raye Miller opened the Public Comment Period at 6 p.m. and welcomed members of the public.

**Tim Jennings, NM Senator and Rancher**

Mr. Jennings spoke as a rancher with Penasco River ranch allotment #9419 south of Roswell between Mayhill and Hope. His ranch is 2/3 deeded and 1/3 BLM land. He has 835 animal units, and cut back 40% because of drought. He's cutting his livelihood away for water and minerals that game animals are eating and NM Department of Game & Fish (NMDGF) is increasing herd sizes. It is not fair for NMDGF to increase number of animals without consultation with ranchers involved. It's not economical to raise sheep—between mountain

lions and coyotes he's almost out of business. For him to quit running sheep and turn to cattle is the worst thing for the land, but he has no choice.

With all the rules on intermingled lands it's impossible to sustain predator control. He prides himself on raising lambs that average more than 90#. With two employees and himself, two 1980s pickups for a 45-section ranch, he makes \$1,000/month. Agencies need to look outside the box, and give people a chance to make a living. He started with 14 windmills, and is down to two with 50-60 miles of pipeline. All that stuff's expensive. It gets to a point where when he moves animals out of a pasture, he'll have to turn off the water. When the creek is dry, wildlife will have no water.

As Duncan Fire Department chief, he had 35 members. Now they work four days a week in town and three on their ranches, and need 32 hours training to be firefighters. "We're land rich and dirt poor," he said. He can't afford labor costs, propane and diesel, and lost the agricultural exemption for workman's comp. It's time for NMDGF and BLM to look outside the box. Think of something we can do to enhance the land and we all win. Ranchers need a lot of changes to make ranching economic and protect land and wildlife. Look at demo projects, alternative livestock and crops.

He would appreciate anything the RAC could do for Otero Mesa. There are jobs down there in O&G, and people need to make a living. O&G industry has come a long way. They are good neighbors and good stewards of the land, with restrictions to keep things right.

### **Question/Answer/Comment**

- Does BLM staff stay in touch with NMDGF policies and changes? By and large they act independently.
- Mr. Jennings said he's not anti-hunting but there have been hunters on his land and no one to enforce state laws. There're not enough game wardens to prosecute trespass laws and a rancher has to prove they went by a sign.
- Raye said hunters now need landowners' permission to hunt on their land. NMDGF is setting up to make hunting an economic benefit for ranchers. He recommended speaking directly to NMDGF.
- Predator control programs are drying up fast. Jennings' neighbors worked together to hire a trapper but he finished in July. NMDGF will come out to trap a lion but rules make it not work, and the limestone hills are too rugged to drive a vehicle through. That's why it's not suitable for cattle.
- What influence does BLM have with NMDGF? Linda said they meet and try to agree on issues. BLM has tried to convince them it is beneficial for some ranchers to raise elk or deer rather than cattle if they can sell permits, but NMDGF is not ready for that idea. She understands that ranching economy gets more difficult every day and is very sympathetic, but not sure what is in her control to do.
- Mr. Jennings said BLM controls what he can put on his land. He'd rather raise deer than calves—it's easier on the river bottoms. The constitution says you can't use private property for public benefit and that's what they're doing. Ranchers ought to be compensated for feeding wildlife.

### **John Gavi, Outdoorsman, Hunter, Roswell**

Mr. Gavi asked members of the RAC to introduce themselves. One of his main concerns is that he asked to be put on BLM's mailing list and the Roswell FO is the only region he gets mail from. Carlsbad FO seems to have forgotten about him. He wonders why he and others

can't be put on a mailing list for the whole state. He wants more information on exchanges and what's going on that would affect hunters. He doesn't know where he'll hunt next year or the year after. People interested in public lands should get statewide information, especially on land exchanges. His family hunted in the Chaves County bootheel out of Carlsbad FO. They lost their hunting spot in 1996, one of the best in the US. It was exchanged for property with O&G activity and rattlesnakes. The last stage of that exchange was the area where a pipeline explosion killed people. If he had known ahead of time about that exchange maybe they could have done something about it.

Concerning predator control, NMDGF has control over the whole state and BLM says it has little control over them, but wildlife grows on BLM land. Why don't the BLM or RAC have more say? NMDGF recently sent out notice of a NM Game Commission meeting in Raton on Monday at 3 p.m. How are working people going to get up there and state what they want done?

**Question/Answer/Comment**

- A website shared by agencies with interacting issues could post such information.
- BLM has reorganized the Carlsbad and Roswell FOs as the Pecos District under Doug Burger, so visit with him. The RAC gets a foot-deep packet of information from statewide FOs at great mailing expense.
- The land exchange Mr. Gavi referred to was discussed by the RAC, and FOs are now looking extensively at land exchange issues for loss of access to hunters and ranchers. Land exchanges now are so tough that even in areas where it's clearly a good thing they haven't gone through. We're learning from our mistakes.
- Mr. Gavi said he'd like a checklist where he could get information on land exchanges only. But he's keeping a careful eye on what's going on and has lost some trust.
- Rachel Jankowitz said she works for NMDGF, but is not part of wildlife management decisions. She said NMDGF does not make decisions in a vacuum. They have annual coordination meetings with other agencies in areas where they co-operate, and with biologists from other agencies. The other forum for public comment is public hearings of the game commission held in different parts of the state several times a year. Those meetings are listed on the agency website. As one responsible for mailing information to interested public, she said the agency wants to interact with those who are interested, but is understaffed, so keep bugging them to get the mailings you need.
- Mr. Gavi asked her how she felt about the recent changes to increase trophy hunts. Did she think that kind of system would help the population?
- She said she was not sure because that's not her field but believes NMDGF is trying to help family ranching and balance the interests of private landowners with the interests of the public. It's not easy.
- Permits are taxable.
- Raye suggested writing to game commissioners. There was discussion on the public's experience with commissioners and their meetings. They don't publicize things well. Not everyone has a computer. Didn't know about the Delaware exchange until it was partway done. The game commission is changing the rules and putting new taxes on people—like the habitat stamp. You'd think that would bring in a lot of money to improve habitat but we haven't seen that.

- Put notice of meetings in daily newspapers and not in small print. In the bootheel, where several areas of interest to campers and hunters were under discussion, the announcement was a little caption.
- Discussion on locked gates. Citizens don't know whose land it is.

### **Aron Balok, NMFB, Roswell**

The public and federal standpoint that less livestock is the solution to land deterioration is a limited short-term fix. These ranching individuals feed a lot of wildlife. Some have gone from a decent full-size ranch to hobby ranches. As a sportsman he sees the damage firsthand. Why should he maintain a well when he's not making a profit? We all like to hike in the woods and look at the mountains, but few of us pay a fee to do that. Ranchers are paying extensively.

### **Question/Answer/Comment**

- Linda reminded him that they're in the sixth year of drought and BLM managers understand.
- Many people, including BLM, are trying to make things work for livestock, ranchers and wildlife. We want things to be good.
- Traditionally, wildlife has not been managed for numbers. Population estimates are broad; public opinion affects decisions. Some effort is made to control number of hunters for damage to roads and pastures. Restrictions are targeted to increase quality of hunting. NMDGF manages wildlife even on federal lands, while BLM manages livestock. When BLM takes a concern to NMDGF they're sympathetic but limited by politics, game commission and response to hunters. The agencies have different mandates that sometimes can't successfully be put together, but both seek balance.

### **Mike Casabonne, NM Federal Lands Council, Hope**

Mr. Casabonne said he was not completely in agreement with the way NMDGF has hunters draw permits but is also concerned that ranchers might issue too many. Ranchers want to see deer on the land and not to see all the quality bucks killed off in one year. So there might be benefit in managing hunting on a rancher's land. "If I can possibly limit the hunters on property that I control," he said, "then I'll control quality."

### **Question/Answer/Comment**

- Taos FO decided it is impossible to set numbers. The real issue facing Taos is tree density, so the FO is burning and thinning to increase forage base.
- Ranchers have lost over 50% of livestock on public lands in the past 10 years. That affected counties through loss of farm and ranch improvement funds. Head tax is gone, and we're losing predator control. It's a vicious circle spiraling downward. Drought is the primary factor but until the spiral stops, there will be more and more problems. The predator program lost a plane, a pilot and three trappers. Ranchers are going out of business at a high rate, and that's the worst thing that can happen to public land and wildlife.
- People were invited to come to the RAC meeting and agendas were distributed.
- John Hand said he donated 10 acres to a nondenominational Christian group but needed 100' access to his land across BLM land. The FO told him it would be a category 2 road and he questioned that—because there's \$200 difference between categories 1 and 2, but an appeal goes to Washington and costs \$200. He started in November. In March BLM did the EA and cultural and archaeological surveys and okayed his permit. When he went to sign the

agreement, the FO wanted \$3.87 for five years' rent on that 100' of road. FOs should have more leeway to make decisions and keep the process from taking four months.

- Couldn't there be more flexibility for something that small?
- Linda said BLM did everything by the book and that's what staff has to do. But BLMNM has been reorganized and managers do have some discretion, so go to the FO manager.

**Gordon Yahney, HEYCO, Roswell**

Mr. Yahney would like to be notified when someone is on the property he's leasing. That's not happening routinely on federal lands. His company has extensive potash holdings dating back to the 1960s, and wants to know at what point they will be able to get back to those suspended leases. HEYCO is about to get two approvals. Gordon said they drilled a directional well and were turned down when they wanted to suspend operations. Then they were turned down for drilling the potash mine and told they could put it in suspension. So why did BLM run them through that in the last 6-9 months? He wants to see active reclamation of potash mines, e.g., where they will never be used again. He's having trouble getting rigs, facing delays of up to six months, so having problems meeting deadlines. BLM could work with them to extend deadlines. Raye recommended getting that topic to the RAC's Energy Working Group.

**Question/Answer/Comment**

- Raye said he would investigate how O&G operators are notified that someone is on property they're leasing.
- Linda said O&G operators will be able to get back to suspended leases when BLMNM gets the department secretary's orders. This is regulated to protect potash.
- Steve Henke said FO managers have discretion to grant extensions, so talk with the local FO.
- We thought the Otero Mesa Area of Critical Environmental Concern (ACEC) designation was temporary and BLM would go out and alleviate/mitigate so it could be returned to multiple use.
- Linda said it was not necessarily temporary. Some areas with sensitive plant species or cultural resources will remain ACECs in perpetuity.
- That was never the intent of federal legislation. It might change at times of plan revision or amendment. Carlsbad/Roswell FOs are looking at such issues, e.g., Beargrass Draw was designated a special management area because at that time Carlsbad FO had no closed roads. The RMPA will change road designation to closed unless designated open. ACEC is a management tool in the planning process. The public can take part in the review process when the plan is amended.
- Management tools need a sunset clause. These plans add ACECs but don't remove them.
- An article by an environmental group said most ACECs do not have management guidelines. FOs are not aware of them or of the original reason for designation, so it is a good idea to include them in plan revisions.
- Steve Henke said some ACECs in FFO have O&G activities. Through the planning process they apply restrictive stipulations that provide the protection the ACEC was established for.
- Leasing is discretionary. That is the law. Lessees can participate in the planning process and comment on restrictions.
- Raye closed the public comment period at 7:55 p.m.

**APRIL 13, 2005      RAC MEETING**

**CALL TO ORDER & WELCOME**

Raye called the meeting to order at 8 a.m.

**APPROVAL OF NOVEMBER 2004 RAC MINUTES (Attachment 1)**

Mark Marley and John Hand asked for the following corrections to the minutes.

- P. 2, 4<sup>th</sup> bullet, Bingaman, not Benjamin
- P. 3, 2<sup>nd</sup> line, Mr. Baros, not Barus
- P. 6, 1<sup>st</sup> paragraph after the bullets, what are minor acts?
- P. 9, 2<sup>nd</sup> bullet, Chaves County Public Land Advisory Committee reviews road closures as requested by the county. It doesn't have a policy.
- P. 13, 3<sup>rd</sup> bullet, clarify "Raye and his company are helping BLM track what BLM those wells."
- P. 15, Lands Working Group Report, RS2477 not RS2277.

### **Motion**

Meade Kemrer moved and John Hand seconded to accept the minutes as corrected. Motion approved.

### **OPENING STATEMENTS (Attachment 2)**

Linda introduced BLM staff in attendance. She gave lesser prairie chicken pins to RAC members. BLMNM this year is highlighting the seismosaurus out of Ojito, the longest dinosaur ever found in the US. BLM faces a challenge nationwide: 50% of staff is eligible to retire in the next 3-5 years. Also, tax cuts and the war make the federal budget very very tight. Funding cuts are accompanied by a disproportionate measure of pressure. BLM estimates that purchasing power, including labor, will decrease by 18-20%. Many vacant positions will not be filled, so BLM will lose capability at field level.

Senator Burns from Montana added an amendment to the budget bill directing BLM to sell 8,300 wild horses and burros either over the age of 10 or having been through three adoptions. Many will come from OK and KS long-term holding areas; 1,800 have been sold under that program. Once sold they are no longer covered under that bill. There is public concern that horses will appear on dinner plates. BLM is supposed to have this done by end of fiscal year, and is carefully checking buyers. Range revisions are going through a multitude of reviews, but hopefully will be completed within the next few months. The vegetation treatment EIS scheduled to come out in May addresses tools available on the national level.

With increased attention to controversial issues nationally, BLM tracked litigation and found in the past four years a 636% increase in protests—coinciding with President Bush's terms, and a more than 200% increase in appeals. Results of a bill introduced last year to make the Ojito WSA into wilderness and allow Zia Pueblo to purchase surrounding BLM land with a conservation easement is not perfect but as good as BLM could make it. BLM anticipates that it will be approved. Cooperating partners plan a celebration this summer and hope RAC members will take part.

Reflecting on public comment, multiple use is difficult to achieve because everyone has a different idea of what that means. The RAC will continue to hear conflicting opinions.

The easement around Ojito will be held in trust, managed by BLM. BLM land will be the wilderness area itself. Cabezon Rd. will have one side maintained by BLM, one deeded to Zia Pueblo, a very clear delineation for restrained public use. BLM has to work out regulations to implement public access on the trust land because that's not a typical use of Indian lands—it's subject to negotiation. Hunters want access, primarily to upland bird hunting on BLM land. One permittee in the north has all his rights assured. With the road as a boundary no easement is necessary. A conservation easement will be put on the land to prevent development.

Sally thanked staff for the field trip. She mentioned that Jim Bailey will leave the RAC and she will miss his work there and on a committee of stakeholders working on a proposal for what NM can do with land conservation to benefit a wide variety of stakeholders. NM is beginning to protect areas that contribute to the state's economy and ecological health. For more information she encouraged the RAC to look at NMDGF and NM Energy, Minerals & Natural Resources websites.

Linda thanked Jim for his work with the RAC and gave him a print of a lesser prairie chicken.

## **OTERO AND SIERRA FLUID MINERAL LEASING & DEVELOPMENT PLAN IMPLEMENTATION STRATEGY**

### **Ed Roberson, Las Cruces FO (Attachment 3)**

Leasing decisions were enumerated with number of acres and percentage of development for each. In the Record of Decision (ROD) signed January 24, 2005, the lands closed to leasing numbered about 66,000 acres—the most intact areas with best remaining habitat for aplomado falcons. A total of 1.4 million acres are open with standard stipulations. The old land use plan had almost two million acres open with standard lease terms and conditions, so more than half a million have been removed from that. Acres short-term disturbed as a result of this plan number 1,489; and less than 900 will be long-term disturbed to conduct operations on productive leases. Stipulations will go out with all new leases in the area, reminding lessees about the extent of environmental disturbance allowed. When the limits of disturbance are approached BLM will reevaluate.

Desert grassland habitat stipulations apply for controlled surface use on about 400,000 acres of the best grassland. Combined unreclaimed unvegetated areas cannot exceed 5% at any one time. Lessees operating in the grassland have to participate in exploratory units that disturb no more than 5% of the area. One unit of 8,800 acres exists. BLM will track reclamation.

Any lease that contains historic or cultural resources is protected under acts, statutes or executive orders. At the leasing stage, BLM will contact tribes to find out whether they have cultural properties, and if not, or if no answer is received, BLM will ask again when operators approach drilling, and work to move operations away from those properties.

Ed showed a map of Sierra County with areas closed to leasing, open with stipulations, and open with standard lease terms. He pointed out grasslands, protected areas and one existing unit with two wells eligible for production. Appendix C of the ROD gives best management practices for operators. Restoration is required, not just reseeded. Native plants used for reclamation should have gone to seed once before approval.

Another map indicated nominated leases and suspended leases (70,000-80,000 acres) in southern Otero County within the Bennett Ranch unit. All lessees will be advised that stipulations required for new leaseholders would also apply to them. BLM intends to give lessees 4-6 months to plan so they can compare those plans with what BLM anticipated.

Of 101 wells drilled in the last 100 years in Otero and Sierra counties, only two are eligible for production. Other leasing considerations include whether the State Land Office (SLO) has leases in the area and whether they need right of way.

Coordination with the state was critical throughout the planning process and will continue to be. Otero Mesa is 3-4 hours from Roswell/Artesia, and two hours from Las Cruces. OCD is responsible for inspection and enforcement. When BLM approves, operators go on to OCD for approval. NMDGF will coordinate on specific status species. NMDGF wants to reintroduce desert bighorn sheep in the Caballo Mountains, which may be an issue.

Otero County is considering adopting a Lovington ordinance on protecting water. Stakeholders will form a committee to determine what's needed, what's redundant, etc. The



county wants to assure its rights under this plan. County involvement is integral to reclamation and grassland research. Policy is in place for including the ranching community on surface and water issues.

The conservation community has asked to be advised of permit applications and would like to take part. It is critical to have all involved along the way, partly to avoid protests. When people don't know what's going on, there's fear. BLM will lease the 1,500-acre Bennett Ranch tract at the next sale in July. Meeting and doing a NEPA document on the ground with lessees brings best results. O&G operators do surface manipulation all the time and can bring a mixed creosote/grassland site back to what it should be, when BLM or ranchers couldn't afford to. BLM can use its funds to make broader changes based on operators' successes.

Jornada Research Range is researching fungi that grow around the root systems of plants, and moving the fungi from one plant to another to see what they do. This is so unique that they are patenting the process. Jornada is working with BLM this year to put irrigation and fencing on McGregor Range and raise black grama grass to seed. NMSU will harvest the seed, apply the fungi to increase root mass, and potentially help grama seed outgrow creosote and other invasive species.

BLM received notice of intent to sue from environmental groups over Section 7, but is legally confident because the plan is not likely to adversely affect the aplomado falcon.

### **Question/Answer/Comment**

- Sending letters to Bennett Ranch lessees for a Plan of Development (POD) will take longer than 30 days, because there are multiple proposals.
- If leases are taken out of suspension and BLM starts the clock with just a few years left, lessees in frontier areas may think they need more acreage but not be sure when additional acreage will be up for sale. Extend suspension if lessees indicate that's needed.
- The 5% disturbance area is within exploratory units. Different companies might be involved and sign on under the stipulations, allowing more creative use of spacing than in past.
- In the first round of leasing with sales in July, how many wells do you think will be out there? There are existing nominations, but BLM can't predict development. Linda clarified that lease sales are held quarterly, however it is highly unlikely that another parcel in this area will be offered in the October sale. The point is to get more information to determine if and when another parcel will be put up for sale.
- BLM anticipates 140 wells.
- Companies will publish PODs. The 5% disturbance limitation includes everything incidental to operations within lease areas.
- The plan defines successful reclamation as mature plant species compatible with adjacent or existing ecological sites. BLM will prescribe the seed mix. That will be discussed in the EA after a POD is received.
- H.L. Brown leases are not in suspension. Suspensions were voluntary, and some producers didn't request them.
- Is SLO implementing the same plan as BLM? The state's charge is different. However this land commissioner is particularly sensitive to environmental concerns and state land adjacent to leased BLM land would fall under the same stipulations that BLM sets. The two agencies work extremely closely. The more uniform management is, the better objectives are reached.

### **FIELD OFFICE MANAGERS' UPDATE ON PLANNING STATUS (Attachment 4)**

Field managers supplemented their written reports.

**Ed Singleton, Socorro FO**

The Socorro plan is underway, with the new draft out this fall. The FO is in discussion with Catron County over differing opinions on the county's role as a cooperative agency. The county intended to bring new alternatives to the table, but BLM informed them that this is not the time in the process for doing that. The Salt River Project seems to be dead, interest in CO<sub>2</sub> is low, and many things have changed since issuing the plan. The Tent Rocks RMP is due to go to draft by end of September, in coordination with tribe and state. There is some interest in an accelerated Rio Puerco amendment.

**Steve Henke, Farmington FO**

There's not much movement on lawsuits, the parties are exchanging administrative records, and BLM had a call for briefs. Staff is concentrating on implementing the recently completed RMPA, particularly in assessing 13 road management units to determine open/closed roads for OHV use.

**Sam DesGeorges, Taos FO**

Sam spent the winter looking at planning, and proposing an amendment with completion in 2007 of issues including land ownership, land tenure and special designations.

**Howard Parman, Carlsbad & Roswell FOs (Attachment 5 )**

Howard pointed out red bars on his handout representing alternatives. Alternative A, developed by the Lesser Prairie Chicken Work Group, includes 17 habitat areas to be evaluated over the next 2 1/2 years. If not leased, decisions would be made in response to evaluation. Alternative B is a refinement of the work group recommendations, applying sand dune lizard protection and reclamation at the same time. Any decision made would be applied across all alternatives. Alternative C is interim management presented last August for the areas four zones: all current management would apply. Anything that might be developed as a mitigation measure or restriction would apply only to occupied habitat. ACEC nomination must analyze at least one alternative.

The other two issues are livestock grazing—handled under current standards and guidelines; and OHV use. Carlsbad FO roads are currently almost entirely open, as planned in 1988, so change is needed.

**Ed Roberson, Las Cruces FO**

Las Cruces FO held public hearings on the McGregor Range RMPA/EIS that was issued around Christmas resulting in very little controversy. BLM meets quarterly with Fort Bliss military personnel. Additional time was needed to develop a management analysis and resolve long-term conflict. They agreed on corridors, and that long-term BLM management of grazing was good for the public. The environmental community was happy with the plan and ROD. The tri-county RMPA includes a request for an ACEC. All will be affected by the Otero Mesa plan. Notice of intent to plan was released January 28, and four scoping meetings held with about 140 people attending in Las Cruces. A consultant helped channel energy at public meetings into productive input. BLM got positive feedback for the scoping, and wants to maintain that productive, inclusive, moving-forward environment. Former RAC chairman Tony Popp helped set up ways to better include public input. An RMPA is underway on rerouting the Continental Divide Trail on the east side of the bootheel. Jesse Juen is working with a team to improve the BLM planning process, which congress funded.

### **Question/Answer/Comment**

- What are planning criteria for species? BLM plans to prevent species getting on the endangered list.
- There's been talk of a Baja-style race from Chihuahua to Albuquerque. BLM informed the governor's office that were this race to cross BLM land an EIS would be required, BLM would not pay for it, and the process would take three years. There are sensitive species on the proposed lands that would be threatened by fragmented habitat.
- Carlsbad is limiting OHV use to existing roads and trails as part of the special species plan. Terminology for existing roads and trails is challenging—once you've driven across the land, a road exists. Limited staff makes designation difficult, because the FO has to inventory, map, and then designate. The national plan encourages road designation. The tri-county area is using airplane mapping followed by ground proofing as a basis for planning. Fort Stanton had a plan and a plan amendment, then a route designation plan took four more years. It is now fuzzy and difficult to enforce. It's a phased approach. With 30,000 wells in that area, signage alone is difficult to do. It is very difficult to define a road or trail so Doug Burger came up with a how-to document and a brochure to help the public understand. Only two rangers cover the entire 7-county area. One heavily used OHV area is scattered sand dunes connected by established roads, some of which is sand dune lizard habitat. Noise is a factor during lizard breeding season and suggestions have been made for limiting hours of use, size of vehicle and noise levels.

### **THE FEDERAL LANDS RECREATION ENHANCEMENT ACT**

#### **Joe Hummel, BLM Outdoor Recreation Planner (Attachment 6)**

BLM has had an experimental fee program since 1996. Congress recently passed a new act to continue fee demonstration for a 10-year period, using funds raised to fix trails, replace picnic tables, improve rest rooms, etc. It requires that 60-80% of fees collected must be reinvested at the site of collection for on-the-ground improvement. The intent is to guarantee a steady source of income for maintaining campground quality.

Ten areas in NM charge fees, including the Rio Grande Gorge and Haystack and Mescalero Sands OHV areas. The act applies to the National Park Service, BLM, US Fish & Wildlife Service, Bureau of Reclamation and US Forest Service. The act is so new that agencies have no guidance yet on how to implement it.

#### **Key Provisions**

- Sites have to have amenities, and the fee charged must reflect services provided. Agencies need to consider aggregate effects of recreation fees, assure that they are comparable to fees charged elsewhere, consider whether management objectives are served by charging a fee, and create and obtain input from recreational RAC teams or existing RACs.
- Standard amenity fees apply to national conservation areas, national volcanic monuments, destination visitor or interpretive centers, and developed areas.
- Expanded amenity fees allowed for specialized facilities, e.g., campgrounds.
- Special recreation permits and fees replace similar authority under the Land & Water Conservation Fund Act.

#### **Agencies are not allowed to charge fees**

- Without providing an amenity, e.g., not for parking at a trailhead

- For persons under 16 years of age
- For schools or noncommercial educational outings
- For permittees

Public participation is assured by establishing special RACs or using existing ones to recommend implementation or elimination of recreation fees, expand or limit the program.

Public notice is required for new fee areas, new fees, changes to fees, or use of fees for improvements. The act requires development of guidelines for public involvement.

Joe enumerated what fees can be used for, including habitat restoration, law enforcement and visitor information. Only 15% may be used for overhead. Fees cannot be spent for biological monitoring under the Endangered Species Act, or for employee bonuses.

The act allows for a new *America the Beautiful* \$10 lifetime pass for citizens over 62, free for the disabled. Money will be pooled and distributed among agencies involved. Agencies may establish site-specific agency passes or regional multi-entity passes to cover standard amenity fees. Fee collection and processing, and medical or law enforcement services can be contracted. Revenue sharing with cooperators is allowed. The agency secretary is required to consider and respond to county proposals to provide services. Law enforcement is clearly defined.

States are already conducting initial assessments of fee sites to determine conformance. There is a moratorium on designation of new fee areas until guidance is established.

#### **Question/Answer/Comment**

- The act does not mention tribal lands or tribal citizens.
- A lot of BLM campgrounds are losing money because it costs more to maintain than is collected. A national card has potential to harm.
- Most sites currently are on the honor system with a box for fees. Taos FO found that Santa Cruz Lake collected 90% when staffed, 10-15% when not.
- Money carries over year-to-year and can be accumulated for a large expenditure.
- Some of this could be applied in as little as 90 days, e.g., if staff does the EA.
- The 10-year cap was set because this is still considered a test. It was very controversial with Western delegates. Hope to address a backlog of repairs and maintenance.
- Alternatives to pumping toilets? No water at most sites. The two composting toilets available have to be hand-cranked every few days, need an underground vault; and users need to put wood chips in.
- Linda asked the RAC to consider overseeing BLMNM's application of the Recreation Enhancement Act. Joanne Spivack volunteered to work with Buzz Herman and report back at the June RAC meeting. Buzz congratulated Joanne, and she included Don Tripp, for their work with the NM OHV Alliance and BLM to get a team together and get word to the public.

#### **LAND EXCHANGE UPDATE (Attachment 7)**

##### **Jon Hertz, BLM Land Exchange Coordinator**

With Jon's new position that started in December, there will be countless opportunities to solve land management concerns. Priorities will be:

1. Exchanges with NM State Land Office (SLO)
2. Baca and non-Baca sales
3. Private exchanges

## Land Exchanges

### State land exchange efforts

- Complete the Acoma split-estate mineral exchange that is about 90% done
  - Received approval to issue a decision; and cultural archival research will be completed by end of April with decision mid-May followed by a 45-day comment period.
- Initiate BLM/SLO Land Consolidation Exchanges.
  - Identify priority areas.
    - Manzano, Roswell FO, heads the list of 25.
    - BLM has to figure out exchange criteria, and how to narrow down what's needed to properly manage an area. FOs will require justification to acquire state lands outside priority areas.
    - A new Land Tenure Steering Committee (LTSC) was established, including district managers and both deputy state directors.
    - BLM will try not to trade high-value land, in order to avoid complex potentially controversial land appraisal issues.
    - BLM may pursue acquisition of state lands within or adjacent to existing congressionally designated areas.
    - The Department of the Interior mandated completion of the Continental Divide National Scenic Trail by 2008, which Jon will help facilitate.
    - If the SLO wants to acquire 2/3 of the public land in a grazing permit, BLM will attempt to have them take it all. Small isolated parcels require as much management as larger ones.
    - Once BLM states what it wants, the SLO will state what it wants, and FOs will review recommendations and make their proposals.
    - The LTSC will review and modify FO lists then determine which parcels to acquire.
    - Steve Henke recommended giving copies of BLM's plan to the SLO as was done in the past.

The LTSC will be a valuable tool for assuring equality between FOs, and working with district managers and the SLO to develop final exchange packages.

- Consolidate Lesser Prairie Chicken Threatened & Endangered Habitat
  - SLO is willing to pursue exchanges in prime habitat.
  - Pecos District has identified opportunities for acquisition.
  - The LTSC will work with SLO and Pecos District manager to approve the final package.
  - These can run simultaneously with other exchanges.
- Split estate consolidation exchanges
  - Acoma exchange nears completion.
  - New possibilities for split estate consolidation have been identified.
  - Final exchange packages will be prepared for the LTSC.

### Keys to success

- Trade like for like.
- Involve rangeland management specialists and grazing permittees.
- Streamline NEPA process by exchanges that show little if any change to current environment.
- Be aware of public concerns.
- Ensure that lessees' rights will be protected.
- Seek interest group involvement.
- Develop exchanges that maximize processing efficiencies—by consolidating manageable land patterns in the vicinity.
- Avoid exchanges that incorporate lands with significant cultural and/or mineral values.

### Question/Answer/Comment

- A package means one exchange of acreage of equal value that can be accomplished with one process. Exchanges can include cash up to 25%. Exchanges go back and forth to Washington several times. In the last five years there were 7—8 exchanges with the state, not counting minerals, and four more are underway. Jon thinks 50,000 acres exchanged is eventually possible. Money exchanged does not remain in the state.
- Most of the 25 priorities have areas designated for recreation.
- BLM's process is good because we have land use plans to refer to.
- SLO has to balance short-term and long-term financial and resource values. It's very complicated. Appraisers determine market value.
- There's no limit on how small a piece might be exchanged.
- The Acoma exchange involves state subsurface minerals under the reservation. BLM will acquire private mineral lands and put them in trust.

### **Land Sales**

“Baca sales” refer to the recent act that allows federal agencies to retain some of the proceeds of sales—which is preferable for BLM. The Baca Bill covers all former land use plans that identified lands for disposal. Jon listed Baca sales underway. One Las Cruces sale amounts to \$1.6 million. BLM is still developing MOUs for how funds will be distributed.

### Question/Answer/Comment

- Some grazing allotment holders may not want consolidation with state lands. BLM can work out ways to close grazing in one area and open it in others, but will not please everyone. Details are tough. Each case is different. Hope every FO involves range specialists and permittees.
- SLO charges twice as much as BLM per AUM but has fewer regulations. Keep the process transparent.
- NEPA documents address a lot of issues. BLM can reserve easements or acquire land fee simple. Make sure easements are for at least 30 years, best in perpetuity.
- Land sales are three types—direct, modified direct or competitive. Competitive sales are preferred but sometimes a piece obviously relates to one or two adjoining parties. Last night's public comment referred to that—a third party got ranchers to sign up to bid but there wasn't enough notice.

- John figured he pays \$448 per section to the state versus \$169 to BLM.
- Raye spoke about a MarBob proposal to acquire a caliche pit for disposal of rock, cement and salt.

### **FEEDBACK ON PUBLIC COMMENT PERIOD**

- Recommend establishing a NM natural resources site, where agencies could state what they do and provide links, so people can learn what each agency does before they look farther.
- Surprised about how much discussion on NMDGF. A lot of BLM people keep track of game and fish. Bothered by overall reduction of stock numbers. Difficult to justify stocking back up at this point. Programs like predator control face losses.
- Senator Jennings' comments about reductions were somewhat misleading. Drought has stimulated stock reduction but not on a permanent basis. As conditions improve, stock levels will rise, and most permittees reduced stock voluntarily.
- Bud Sparnes of USDA spoke about letting counties organize public meetings because they have contacts that agencies have no idea how to use. Counties were more than happy to do it, and attendance at meetings in rural AZ went from 10 people to 700. Engaging the public at different levels is a great asset. Go to county managers, coalitions of counties, and commissioners, and they will give you names to contact.
- Senator Jennings' underlying tone was doom and gloom. People are challenged, but not by BLM. If you have a grazing permit, you need to look at ways to make ranching viable and not things that chip away at it. Resources that ranchers provide, like water, do make a difference.
- Lions came in and ate goats up high and when they were gone moved down to eat the sheep. Deer population has declined on McGregor Range due to lions.
- Deer have declined since the 1990s due to multiple causes, including chronic wasting disease. BLM and others are researching why.
- With heavy predator control back 40 years there's high deer numbers.
- Rarely have we tried a scientific experiment to see whether we really control predators and how that correlates with deer population.
- Oregon's Heart Mountain Antelope Range studied predation and was sued by environmental groups.
- AZ did a study on antelopes with resulting aerial gunning of coyotes.
- Discussion continued.

### **FORT STANTON CAVE NATIONAL NATURAL LANDMARK SNOWY RIVER PASSAGE (Attachment 8)**

#### **Mike Bilbo, BLM Outdoor Recreation Planner**

Mike gave a brief introduction to Fort Stanton Cave, showing photographs of a discovery there by four cavers in 2001—the Snowy River Passage. It took till 2003 to complete the EA, partly because BLM closes the cave from November 1-April 15 every year to protect bats. He showed a topographical map indicating where the cave extends underground.

The cave is moist and muddy most of the time but was dry when found, and has a 600' crawl that would not allow rescue—with a large river of calcite at the end of the crawlway. BLM staff prepared snowshoes and other special gear to avoid contaminating the calcite and manganese coatings—in seemingly impossible juxtaposition, quite unusual. The calcite “river”

is about 200' down and two miles long. Its age is unknown, but the surface was dated at 50,000 years by a UNM mineralogist. This is a major discovery, unique on earth as far as they know. It may also rate as the longest calcite formation in the world.

### **Question/Answer/Comment**

- Can seismic equipment be used to discover what else is there? They can do resistivity surveys to detect voids and passages below. The discovery of Snowy River resulted from following a heavy flow of air.
- How stable are the walls and ceilings? Rock piles of breakdown indicate stability—natural adjustment.
- Don't know yet when it might be open to the public or show up in *National Geographic*. The cave has had steady visitation since 1855, traced by historic signatures on the wall. But Snowy River has to be closed for its safety and for research. Biology, mineralogy and hydrology testing are needed, and BLM proposes a dig to provide safer access.
- Doug Burger is setting up an oversight committee including specialists from universities, US Park Service, US Forest Service and BLM to look at proposals for research and exploration, and to recommend management for future activity.
- Mike introduced and acknowledged the work of Buzz Hummel, the first BLM cave specialist, and Jim Goodbar, BLM's lead cave specialist. He also introduced Tom Zane, the videographer who filmed Arizona's Lecheguilla cave and wildlife biologist Tom Zannes, who was in the photos. He acknowledged Tim Kreager, Ed Roberson, Linda Rundell and Ron Dunton for great management of NM caves.
- The surface is BLM land.
- The cave has fresh air and natural convection. Sunrise, sunset and storms going by change pressure inside caves. Nearby Feather Cave, a ritual shrine occupied by early pueblo people, has a 21-meter shoulder-width passageway with evidence of prayer sticks and torches. Visitors have to wear respiratory protection in that area so it is closed to recreation.
- Punching through walls or digging in from the surface brings change. BLM pulls piled rocks out to follow airflow rather than going through solid rock, and uses objects like beachballs to fill in holes and preserve the environment. Protection is written into the EA.
- Joanne said Mike nominated the Socorro Off-Highway Vehicle Alliance for an award that they won. The alliance brought mountain bike, dirt bike and OHV users together to analyze potential of a 6,000-acre hill area that could be designated for their use.

### **APRIL 14 RAC MEETING**

Raye reconvened the meeting at 8 a.m. Linda expressed concern about some aspects of the public comment period and working group meetings. The RAC has traditionally limited public presentations to a specific number of minutes. That was not done, some comments were repetitive, and the meeting was scheduled for one hour but went on for two hours. And members of the public who want to speak are supposed to sign in.

Working group meetings are mentioned in the *National Register*, but having HEYCO visitors speak at the Energy Working Group meeting may be against FACA, because they could exert undue influence on working group members. She asked the RAC to keep in mind for the future that the public comment period is meant for public comment, and working group meetings while in a gray area, are not meant as a setting for public discussion. Pressure was put on Ed Roberson, and that's not the point of working group meetings. Raye apologized.



## **RECLAMATION UPDATE**

### **Doug Burger, BLM Pecos District Manager**

Doug showed a map of lesser prairie chicken (LPC) and sand dune lizard (SDL) habitat under Roswell/Carlsbad FO jurisdiction. Both were petitioned for endangered listing and the US Fish & Wildlife Service decided they were warranted but precluded by higher-priority species. On a scale of 1-10, with 1 most endangered, the LPC is listed at 8 and the SDL at 2. There is concern with mineral activity in their habitat on 6,000 federal acres with 29,413 active wells—resulting in fragmented habitat and disruption.

Regardless of ownership, BLM is undertaking to find abandoned wells. Some areas of reclamation around those wells approved years ago by past standards are not currently acceptable. BLM wants to reconnect and extend habitat so LPCs can not only exist but expand. The best approach is to remove caliche and reseed. And they are attempting to recreate dunes in some reclaimed areas, but don't know how successful that will be.

Reclaiming habitat calls for partnerships and funding. BLM proposes that ranking criteria on the LPC/SDL be applied to current plans using Natural Research Conservation Service (NRCS) Environment Quality Incentive Program (EQIP) funds for agricultural services on private and public land. NRCS set aside \$1 million for this area, 80% for projects on the ground—not to BLM but to ranchers. Some of the funding must be matched by private or public sources by July 1, 2005—in funds or in-kind. Donations go to the NM Association of Conservation Districts. A broad-based working group estimates that reclamation of roads will cost \$9,000 per mile, pads \$8,000, and pits \$4,000.

Doug listed funding requirements. BLM needs to remove infrastructure from some abandoned well areas, including lines and poles from electric coops. BLM asked companies to prioritize removing poles in LPC habitat and to consider burying new lines that intersect LPC habitat. Efforts are underway to propagate and release LPCs at the Brininstool Ranch near Carlsbad. BLM is working in partnership with O&G operators, DOE/WIPP, and the state.

### **Question/Answer/Comment**

- Species listed by USF&W impose constraints across agencies and private interests but it is gratifying and appropriate to express concern about preventing extinction. Isn't there restoration with shrubs like mesquite?
- Reclamation will be done in a way that supports LPCs, SDLs or other species, and will be monitored. They may use brush control; meanwhile are just trying to get something on the ground.
- Monitoring effectiveness is important. Get reliable information with an experimental design. Monitor number of chickens on lek sites. Select 10 leks with similar characteristics and randomly pick 5 to treat, with the remaining 5 as controls.
- EQIP funding can be used in many different ways, so it's unrealistic to expect a significant portion to go toward LPCs. Staff clarified that this EQIP funding is specifically for the LPC/SDL.
- NRCS money is a double-edged sword, because when that money goes to working groups it may intensify detrimental effects.
- Traditional BLM and ranching practices are 180 degrees from this—cattle ranged broadly, and now we want LPCs to have broad range. Not so simple.
- Have to be more conservative in grazing plans for LPC.
- This is year one of a multi-year initiative. Thousands of orphaned wells need reclamation and this is a starting point where BLM can build success and expand partnership.

- Even the \$1 million received goes out for statewide applications. Removing caliche is not a normal practice at this time. BLM is working with Texas A&M on experimental techniques.
- There is little information on whether LPCs return to their birthplace.
- There's more than one way to achieve goals. Once pastures meet a standard of stubble height, e.g., there would be habitat.
- There is overlap between species. Lizard habitat is embedded in bird habitat.
- All are trying to understand SDL dispersal patterns.
- BLM hopes to revegetate roughly 225 acres this year with projects that would generate more LPC habitat for less money.
- If the goal is to maximize habitat, there are better projects than reclaiming 45 well pads. LPCs live in other states, while SDLs are almost completely contained in NM, so we control the lizards' destiny, and emphasis should be on pads in SDL habitat plus removal or burial of caliche—which is very expensive. Current objectives may not give the best bang for the buck.
- BLM toured four wells within occupied lizard habitat, setting up a TX monitoring study in the northern triangle of SDL and occupied LPC habitat. Many variables affect results and are being factored in.
- In addition to acres treated, BLM might measure success by good information generated that leads to future reclamation.
- Decreasing fragmentation is essential to safe dispersal. Nesting typically goes out 1 1/2 miles from a lek. It's hard to know what the population should be. Drought, disease and predation all affect population. NM didn't survey the birds until the 1970s, so there is no historic data. Populations exploded in the 1980s with extended rainfall, but those numbers may not have been normal. O&G activity was happening then, but the more stressors the worse. To move the bird up the endangered list from an 8 to 9 would take increasing acres of habitat or population in the five-state area. The NM population is not declining, it's coming up 30-40 birds/year.
- Most LPC habitat in the other four states is privately owned, so there's another set of problems, e.g., conversion to wind farms in OK.
- NM is marginal habitat and has the smallest number of the species.
- EQIP recipients have to have specific plans. Hope BLM isn't taking the opportunity to reclaim wells when that might not be the most direct benefit to these species.
- Best approach is a combination of approaches. The agricultural community statewide competes for this type funding, and will not appreciate seeing it used for cleaning up wells. Ranchers look more at vegetative management.
- Emphasis of EQIP is on restoration of agricultural lands, and encouraging O&G partners—they have equipment and access to help restore lands. The alternative is to do nothing, which is not acceptable. Enhancing habitat benefits all. Cooperation is strong.
- Can O&G cooperators gain tax benefit? For in-kind work all expenses can be deducted.
- Creating cover helps LPCs. Protection from O&G development and chemical spray helps SDLs (e.g., tebuthiuron applied to kill woody species). Thirteen or less wells/section reduces lizard population by 25%; intense development may remove them entirely. We don't need research to know whether we can successfully reclaim habitat. Poison killed the shinnery oak and that caused the lizards to move. We may plan new vegetation in edge pastures to

eventually recreate habitat—it takes about three years for dunes to re-form. The SDLs would still be rated at 2 because we can't show USF&W that habitat can be recreated.

- It will take years to know how the blowouts work and whether the SDL will reoccupy them. A nursery is growing shinnery oak, but getting that vast area covered once again is a long expensive haul.
- Doug concluded that restoring land is the right thing to do for all of BLM's multiple users. Whatever the activity, when we're done, we need to clean it up.

## **WORKING GROUP REPORTS**

### **Lands Working Group**

Mark reported that the group considered access issues and Angel Mayes' technical report discussed at the November 2004 RAC meeting. They will send that report out to RAC members after the BLMNM director reviews it. The RAC may want to remind BLM when there are exchanges that access to hunting be taken into account. BLM is very careful but it's good to be reminded. The group wants to use Angel's report as a basis for working group recommendations on how to address access issues. RAC members will then review the report and decide whether it can be supported, for discussion at the next RAC meeting.

### **Energy Working Group**

Raye reported that the group spoke about Otero Mesa grasslands, and some that consider themselves environmentalists believe that one large unit makes sense. Some fear that what has resulted from the RMPA may penalize existing leaseholders if brought out of suspension without opportunity before exploration to lease more acreage. It seems unclear, although plans and the ROD are complete, what BLM's actual implementation will be.

### **Question/Answer/Comment**

- Linda said BLM staff with combined experience of 150 years have looked at the Otero Mesa plan, and they will come to the right conclusions. A lot of public input has been processed over 6 1/2 years of planning. BLM, in discussions with the SLO and OCD—who also have a stake—and with the expertise available, will proceed in a strategic, systematic manner. BLM has warned operators in this area for some time that it will not be business as usual. This decision will probably be tied up in court for a number of years. BLM made a commitment to the public and will abide by it.
- If that area had been leased in the past, wells would have been drilled and then plans made based on what was found. So much is unknown.
- Raye offered to provide energy-related research information to RAC members by request.
- Wind-power generation in LPC range is legal use of BLM land. No interest in that has been raised. Howard said there have been two proposals for experimental wind generation on state land just outside LPC habitat. Applications other than commercial solar or wind generation will be considered on a case-by-case basis.
- Sally said her agency has significant alternative energy information on its website. She would also serve as a conduit for information.
- PNM and others have been mandated to provide a certain percentage of their power from alternative energies.
- Wind generation means new power lines.

- Most are placed adjacent to transmission facilities.
- The state will need a lot more transmission lines. It's a hot issue in Santa Fe.
- The Roswell FO's RMPA addresses power lines.
- The public comment period indicated that the public does not understand specifics of Otero Mesa planning. Further discussion.
- Ed Roberson said his presentation and handout covered what BLM will do on Otero Mesa. He was not prepared to provide specific information for the Energy Working Group. The strategy was to react to what's learned and continue to develop strategy all along. He is willing to sit and talk with unit operators. They have agreements and an exploratory unit; and already knew the answers to some of the questions they asked. BLM has to spend some time working with these issues internally.

### **Future RAC Meetings**

- June 8-10 in Taos
- September 7-9 in Socorro

### **Agenda Topics**

- WSAs—how long listed, chance of moving them one way or another
- Biomass projects and forest initiative
- Economic development, especially using salt cedar and pinon—pilot project Sally knows about
- Opportunities for cooperative interactive projects with USFS and other state agencies

Raye recommended the book *Good to Great*. He thinks current BLM district management teams are outstanding. He thanked Jim Bailey for his service to the RAC. Meade thanked Linda for donating a BLM parcel for archaeological collections. The governor signed a bill for \$3.1 million to build on that parcel. Meeting adjourned at 10:45 a.m.