

Tuesday, October 12, 2010

A special meeting of the Humboldt County Board of Commissioners was called to order on Tuesday, October 12, 2010, at 7:00 p.m. at the West Hall of the Winnemucca Convention Center, Winnemucca, Nevada. Those present were Chairman Chuck Giordano, Commissioners Dan Cassinelli, Tom Fransway and Mike Bell, Deputy District Attorney Gary Millward and Administrator Bill Deist. Commissioner Garley Amos was not present.

**PUBLIC COMMENTS:** Chairman Giordano asked for public comment, none offered.

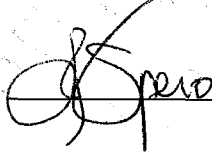
**PUBLIC REVIEW AND PRESENTATION OF RECOMMENDATIONS OF PINE FOREST WORKING GROUP RELATED TO THE BLUE LAKES AND ALDER CREEK WILDERNESS**

**STUDY AREAS:** Jim Jeffress, Back Country Lands Coordinator, Sportman's Conservation Project, Trout Unlimited, provided a report of the Working Group's final recommendations (see attached). Mr. Jeffress utilized a power point to discuss each recommendation and answered any questions raised during the presentation. He also provided background on how this effort had occurred and where it would go from this point. Allowable uses in a wilderness area were discussed and included grazing, enhanced fire suppression and control of noxious/invasive species.

Following Mr. Jeffress' presentation, Chairman Giordano asked for input to the Commission regarding the process and the recommendations. The only input came from Sharon Netherton, a member of Friends of Nevada Wilderness and of the working group, who stated that it was a good process.

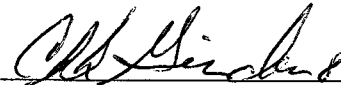
**ADJOURNMENT:** Chairman Giordano adjourned the meeting at 8:18 p.m.

ATTESTED:



Clerk

APPROVED:



Chairman

10/12/10

Page 1

**Meeting Report**  
**September 21, 2010**  
**Pine Forest WSA Working Group**  
**Final Recommendations Meeting**

Ladies and Gentlemen:

Twenty working group members met this past Tuesday, September 21. The objective of the meeting was to review, revisit and finalize the draft recommendations in association with the twelve issues identified within the Blue Lakes and Alder Creek WSA's during the August 31 meeting. The template below is the outline report form the August 31<sup>st</sup> meeting and indicates progress on each issue and those that needed additional work. The modifications to the issues and **final recommendations from this meeting are in bold font**. Any modifications or additional rationale involved in reaching a modified decision will be in colored font. The working group made positive headway with some compromise by all participants. Yet a solid set of recommendations was developed with unified group consensus. All the issues discussed were outlined in the e-mail support material sent out on August 27<sup>th</sup> and will serve as a template to identify the issues carried forward from this point. For those areas involving either increases or decreases in acreage for wilderness, topographical maps were finalized and presented to the Winnemucca BLM Field Office the morning of September 22. *The BLM office is preparing a map to depict the old WSA boundaries and the new modifications as recommended by the working group.* As such time that the map is completed, I will forward to everyone. It is our hope to have a draft map with all the new information by later this coming week (9/27--).

**Blue Lakes WSA Issues:**

1. *South fork of Big Creek land exchange:*
  - Issue: Alder Creek Ranch would like to exchange 720 acres in the south fork of Big Creek, bordering the current WSA boundary, for BLM lands adjoining Alder Creek Ranch. Another 880 acres of private lands north of Big Creek ranch in association with mule deer winter range has been offered in the proposed exchange with the BLM.
  - Level of Consensus: The group agreed the issue should move forward.
  - With that recommendation, more information will be gathered as to exact acres involved in the exchange and what lands are being sought by Alder Creek ranch.
  - **Recommendation: More forward with this recommendation.**
  
2. *Upper Leonard Creek land exchange:*

- Issue: Leonard Creek Ranch would like to exchange approximately 660 acres of land in upper Leonard Creek, bordering the current WSA boundary, for BLM lands further down the drainage toward the base ranch.
- Level of Consensus: The group agreed the issue should move forward.
- With that recommendation, more information will be gathered as to exact acres involved in the exchange and what lands are being sought by Alder Creek ranch.
- **Recommendation: More forward with this recommendation.**

3. *Inclusion of the Snow Creek drainage into any special land or wilderness area designation*

- Issue: A proposal has come forward to include the Snow Creek drainage south to Sage Hen creek inside any wilderness designation. The lands are not part of the WSA. If, included, it would expand the WSA by 2500+ acres. The east boundary would continue down the Leonard Creek Road to Sage Hen Creek and follow the drainage up to the southwest corner of the current WSA.
- Level of Consensus: Some reluctance to move forward with this issue was rooted in any expansion of wilderness acreage in the area, cleaning up some mining claim information and a “wait and see” approach until all the issues have been acted on.
- With that recommendation, more information will be gathered relative to the mining claims and their level of activity as well as impacts from wilderness designation to the area.
- The mining claims above T43N have been abandoned with the primary reason being limited and protracted access to those claims around private lands. Attempts to obtain information from Cantex Mining Company (British Columbia) about their claims into the area south of T43N did not result in any information as to the exact location and status of those filings. After considerable dialog, the group recommended to clean up the current boundary by lowering the boundary to the T43N township line. That action would reduce the size of the initial recommendations by approximately half the acreage, but would help define the south boundary. That action would also involve a smaller acreage land exchange with the Montero family (down to approximately 30 acres).
- **Recommendations: Drop the current boundary so all the south boundary follows T43N to the frontage road from an area just north of Cappallo Camp to Chicken Creek.**

4. *OHV incursion into WSA via a closed road through the upper portion of Snow Creek.*

- *Issue:* OHV access into this portion of the WSA has been steadily growing in both number of unauthorized vehicles and ingress distance into the WSA.

Traditionally, a road was built into a small cabin (McCully Camp) with a short jeep/OHV trail moving past that point up Snow Creek. Close the unauthorized road at either the Rodeo Flat juncture or past Snow Creek.

- *Level of Consensus:* After considerable discussion, a recommendation was made to put barriers and signs at both locations. After people realize they cannot get past Snow Creek, the Rodeo Flat access point will diminish accordingly. Also, the group had full consensus on moving the Rodeo Flat road, below the Snow Creek junction, off the meadow to the east in the sagebrush (approximately 40-50 yards).
- **Recommendations:** A recommendation was made to put barriers and signs at both the Rodeo flat and Snow Creek locations. Also, the group had full consensus on moving the Rodeo Flat road, below the Snow Creek junction, off the meadow to the east in the sagebrush (approximately 40-50 yards).

5. *Enlarging the open portion of the Blue Lakes trailhead.*

- The Blue Lake trailhead needs to be enlarged to accommodate more parking, larger turn around area, encompass the restroom facility and two campsites slightly removed from the current withdrawal area.
- *Level of Consensus:* The group agreed, but to expressed a desire review two options with better topographical map analysis. Option 1: Enclose all the areas in question within an expanded "bulb." Option 2: Enlarge the parking area and "cherry stem" the access to both camping sites.
- Topographical options will be developed and presented at the next meeting.
- Antidotal suggestion brought forth: Have volunteers work to remove old Blue Lakes road scar north of Blue Lakes.
- **Recommendations:** Enlarge the parking area and "cherry stem" both camp sites.

6. *Eliminate the limited access incursions on the old Blue Lake road (off Theodore Basin).*

- *Issue:* Some occasional incursion past this gate at the north end of the WSA. How to manage to permanently close access?
- *Level of Consensus:* The group met full consensus on making recommendations to remove the current gate entirely and potentially build a new fence barrier (possibly "buck and rail" for the segment most exposed to OHV access).

- **Recommendation: Remove the gate and post in front of a new fence or barrier.**
7. *Adjust the extreme north end boundary southwest of Adams Mine. Retain the current boundary or adopt the BLM recommendations to move the boundary slightly south to the ridgeline. Also, how to deal with unauthorized vehicle travel on a small road out of Theodore Basin, through the WSA, to the ridge south of Adams Mine.*
- Issue: See above
  - Level of Consensus: The group met full consensus on maintaining the current WSA boundary. Also, maintain the road out of Theodore Basin as closed (potential volunteer project among a number of groups).
  - **Recommendation: Use the current WSA line as the permanent north wilderness boundary.**
8. *Close the road separating Alder Creek and Blue Lakes WSA's (Cove Creek to Little Onion reservoir)*
- Issue: Retain current access.
  - Level of Consensus: Consensus was not met with one of the primary groups. Backcountry Hunters and Anglers (BHA) took a strong position on closing the road. The positives and negatives of each position were discussed in length with no mitigation or compromise reached on this issue.
  - The issue will be held over for the next meeting to give people time to think about the points brought forth by BHA). At that time, consensus may well be reached or the issue moves forward to the Humboldt County Commission with the complete set of recommendations.
  - Considerable discussion centered on this issue with one group advocating for this road to be closed. However, in order to move forward with full consensus and assurances the route would be managed to avoid excessive erosion or exploratory roads off this route, full consensus was attained.
  - **Recommendations: The road is to remain open with additional management recommendations to reduce erosion and eliminate any new spur roads off the primary access.**

#### Alder Creek WSA Issues:

1. *Continuous incursions into Little Onion reservoir Basin (camping, vehicles and OHV's).*
- Issue: Uncontrolled camping and access within Little Onion basin, inside the WSA.
  - Level of Consensus: Complete agreement in carving a large portion of this basin and reservoir out of WSA. However, everyone was in

consensus that management options need to be imposed that will keep vehicles off the wet meadows. Regardless of land status.

- With that recommendation, topographical maps will be prepared with some boundary examples for the group to review at the next meeting.
- The boundaries provided were high enough to the east to include all campsites with the west boundary basically following the north road to Little Onion Reservoir, below the dam and up the south drainage to the road. It was suggested a minimum of 100 ft. be available below the dam for maintenance or reconstruction.
- **Recommendations: Go with group recommendations to remove the area described above from any wilderness designation (maps are being developed).**

2. *Unregulated access up the bottom of Alder Creek from the north boundary stream crossing.*

- Issue: Access beyond the current stem road into lower Alder Creek basin.
- Level of Consensus: Complete agreement in retaining the entire area within the WSA and closing the road at the Alder Creek crossing above the campsite.
- Note: In our haste to complete all the issues, we were moving fast and forgot to discuss the lower country in this basin and vulnerability to wildfire and needs for restoration or seeding efforts. This will be revisited at the next meeting.
- Fire rehabilitation within the lower elevation reaches of Alder Creek and limitations of those activities was discussed in length. Group consensus called for the lower elevation sites, with potential to be rehabilitated after any fires, to be removed from wilderness designation.
- **Recommendations: Remove those lands below 6000 ft. in the Alder Creek drainage from wilderness designation. Secondly, close the access road up the bottom of that drainage in order to protect that intact habitat from fire.**

3. *Camping and access onto the flat bench and meadow north of Knott Creek Reservoir (base of steep road/ hill into Knott Creek).*

- Issue: Use inside the current WSA.
- Level of Consensus: Complete agreement to carve out the western portion or dry meadow type for expanded camping use. Possibly build a permanent barrier across the meadow to control use beyond area delineated.
- With that recommendation, topographical maps will be prepared with some boundary examples for the group to review at the next meeting.
- **Recommendations: Remove that area identified on the topographical maps to be excluded from wilderness designation (maps are being developed).**

4. *Realignment of boundary along the east side of Knott Creek Reservoir to allow for more camping, access and negate the current problem of unauthorized activity inside this portion of the WSA.*

- Issue: Current roads and camp sites are within the WSA.
- Level of Consensus: Complete agreement to realign the current boundary east to the rock face and avoid future conflicts with access and camping.
- With that recommendation, topographical maps will be prepared with some boundary examples for the group to review at the next meeting.
- **Recommendations: Remove those areas identified on the topographical maps to be excluded from wilderness designation (maps being developed).**



## How Coordination Plans Work by Fred Kelly Grant

Local governments that have implemented “coordination” status with federal management agencies are successfully fighting erosion of private property rights in their communities. The “coordination” status is authorized by almost every federal statute relating to management of land, resource, and environment. All the local government has to do is formally accept the congressional invitation to “coordinate,” and federal agencies have no choice but to agree.

What is this “coordination” factor, which elevates the involvement of local government in federal planning and management actions? The foundation for the concept is found in the Federal Land Policy Management Act, i.e. commonly known as FLPMA. Section 1712 of Title 43 of the United States Code requires that the Bureau of Land Management must coordinate its “land use inventory, planning, and management actions” with any local government which has engaged in land use planning for the federal lands managed by the federal agencies.

Congress did not leave the definition of the word “coordination” to chance, or to the whim of the federal management agencies. Congress defined the word by specifying the duties and responsibilities of the BLM regarding local plans. The statute **REQUIRES** the following:

1. BLM must keep apprised of local land use plans;
2. BLM must assure consideration is given to local plans when federal plans are being developed;
3. BLM must attempt to resolve inconsistencies between federal and state local plans;
4. BLM must provide “meaningful...involvement” of local government officials in the development and revision of plans, guidelines and regulations;
5. The Secretary must, finally, compare local and federal plans and make sure they are consistent “to the maximum extent...consistent with federal law.

BLM regulations set forth a very clear process by which the local government, which has developed a plan is able to “coordinate” with the BLM, and this process includes an elevation of the participation level of the local government to a point of notice and “meaningful” participation above and ahead of “public participation.”

Note that the statute does not limit mandatory coordination to “counties,” but rather extends it to “local government.” That language includes any unit of local government, often identified as any separate tax raising unit of government, i.e., school districts, road districts, fire districts, irrigation districts, and cities and towns. So, in a county where county commissioners or supervisors refuse to develop a local plan for coordination status, any school board or other tax-raising unit of government can gain coordinate status for itself. The ideal goal for local government would be to develop a plan by which the county, towns



within the county, school districts, irrigation districts, fire districts, could all participate in the same coordination activities.

Other federal land management agencies are also required to deal with local governments on a higher plane than they do with the general public. This applies to those which operate under and implement the National Forest Management Act, Endangered Species Act, Clean Water Act, Clean Air Act, the Wild and Scenic Rivers Act, the National Preservation Act, Soil Conservation district statutes, and the National Environmental Policy Act.

Two of the most important elements of coordination are prior notice and necessity of seeking consistence. First, prior notice of planning and management actions gives local government the opportunity to make its analysis, to make its recommendations, and then monitor the consistency of federal action to local plan throughout the process. The local government must receive notice even before anyone else in the general public. Second, the federal agency is required to make every practicable effort to make the federal and local position consistent. If consistency and agreement cannot be conceived, the issue of consistency goes to the Secretary of Interior.

To gain maximum impact from coordination status, a local government must develop and adopt a local land use and management plan, which defines the natural resource priorities in terms of the economic, social, and political customs and culture of the community. In those areas in which livestock grazing is critical to the economy, priorities must be set with the economic backbone centralized. All local industries and uses that make up the economic strength of the community should be prioritized with regard to their dependence upon and impact upon the natural resources and environment. Each area's plan should be written specific to the area, taking into account the adverse impact on the economy if federal agencies restrict and reduce natural resource use. An existing plan from another area can be used as an example of format and of methods of establishing priorities, but each area must develop its own plan, specific to the area and its citizen's needs.

An effective path to development of a plan takes one of two forks:

1. Where county supervisors or commissioners, or the governing body of the particular taxing district, want to implement a coordination status, they can achieve that status by appointing a natural resource council which will put together the local plan and its priorities. They present it to the Commissioners/Supervisors for adoption, and then serve as advisors on natural resource issues to the governing board.
2. Where the Commissioners/Supervisors are not of a mind to develop and adopt a plan, then those of you seeking protection take up the process of developing the plan, independently. When you have finished the plan, it is up to you and your supporters to use all your persuasiveness to convince the governing board to adopt the plan.

Once the plan is adopted, the council should be appointed by the Commissioners/Supervisors to monitor actions of state and federal agencies for the purpose of making sure they maintain consistency with local plans, and of making sure that when new issues arise they take on the work of presenting amendments to the local plan to cover the new issues.

Once the local plan is adopted, the governing body must advise the Federal and State agencies that the local government is involved in land use planning within the terms of the federal statutes and

regulations relating to federal-local coordination. The advisory letter should invite the agencies to send personnel to meet with the governing body to discuss the procedure through which coordination will be implemented. That procedure should be decided upon and reduced to a written agreement in order to avoid future disputes as to how and where coordination took place. The procedure should set forth all the elements of coordination set forth in FLPMA: advance notice, opportunity for early comment and persuasion, and consistency review.

Even though FLPMA itself may not be involved in the land management issues you face, the other federal statutes have like requirements. For example, the Secretary of Interior must give local government advance notice of any listing decision that he intends to make, and he must take into account any local plan relating to species before he makes a listing decision. These duties put local government at the table with U.S. Fish and Wildlife. The Clean Water Act also requires that consideration be given to local plans as to water quality, so this requirement puts participating local governments at the table with EPA and the state environmental quality agencies.

In the world of coordination, Owyhee County, Idaho and Modoc County, California (both of which have been using coordinate status to protect their citizens for the past ten years) can offer a long list of success stories about situations in which local government has brought state and federal agencies to the table for solutions which are not harmful to ranchers, farmers and water users.

Development of the group of citizens who are interested enough to work tirelessly on development of a plan and persuasion of commissioners/supervisors is the first step to achieve coordinate status. It is highly recommended that the this group consist of representatives of the industries of the area, Tribal representatives (if possible), business people, school board or district representatives, fire department, water users, and health districts be invited to participate. The broader the group, the more inclusive will be your plan, and the more persuasive will be the presentation to the governing board for adoption.

It is highly recommended that anyone interested in pursuing the coordinate approach for local government should attend a seminar offered by Stewards of the Range, taught by Fred Kelly Grant, on the process of developing, gaining passage of, and then enforcing a coordinating local plan.

**FLOYD W. RATHBUN**

CERTIFIED RANGE MANAGEMENT CONSULTANT

**(775)423-4267**P.O. BOX 1612  
Fallon, NV 89407  
rathbun@phonewave.net**Humboldt County Board of Commissioners  
October 4, 2010****COORDINATION WITH COUNTY PLANS****FEDERAL AGENCIES ARE REQUIRED TO RESOLVE INCONSISTENCIES****NEVADA AUTHORITY:**

Federal laws require that Federal agencies coordinate their activities with plans prepared by state and local units of government in nearly every situation. In general, federal agents must either avoid taking action that is inconsistent with a policy of local government or clearly explain why they are taking actions that do conflict.

First, however, the local community must write a natural resource plan or strategy that describes what their environment is like. Most of the local plans have been prepared by a committee selected by a County Commission, although some are being prepared by other local units of government such as Conservation Districts.

A local environment consists of the natural features such as air, water, plants and soils; it also includes farms, ranches, mines, retail business, industry, and recreational pursuits. The local strategy describes the current custom, culture, and economy and what changes are acceptable to the community. Once it is written, the local government must notify the federal agencies that an officially approved plan has been adopted and usually that includes providing the agency with a copy of the plan.

Authority for local Natural Resource Strategies in Nevada was established over twenty years ago with the passage of SB40. Several Nevada counties established a Public Lands Advisory Committee and completed what were called public lands plans. SB40 is codified in the Nevada Revised Statutes within NRS321.

**FLOYD W. RATHBUN**

CERTIFIED RANGE MANAGEMENT CONSULTANT

**(775)423-4267**P.O. BOX 1612  
Fallon, NV 89407  
rathbun@phonewave.net**October 4, 2010**      **page 2**

If the local government has no plan or policy then it (the County) becomes one more voice that the federal agents may ignore in the clamor of public input. On the other hand, an official local plan or strategy can be used to limit the government agency employees to the scope of their authority and the County may provide the preferred course of action. Compared with the regulatory methods of federal and state agencies, a local planning committee is much more likely to find real solutions for real problems.

**LOCAL PROCESS:**

1. Establish by ordinance a Natural Resource Advisory Committee (NRAC).
2. Select committee members as spelled out by ordinance. An example of committee member qualifications is provided by the Owyhee County, Idaho, ordinance that specifies that people will be appointed to the committee on the basis of: "...involvement in, an interest in, and expertise in the various multiple uses of the federally and state managed lands and the custom, culture, and economic stability of Owyhee County". This criteria, especially the emphasis on multiple use management, would serve the County well.
3. Write a land use and natural resource management strategy for The County, including lands administered by federal and state agencies, in order to clearly communicate the policies of your County to these other entities. This is intended to protect the interests of the County, whenever:
  - a) lands, waters, and other natural resources that are critical to the economic stability of the County are controlled by federal or state agencies;
  - b) private property is substantially affected by such agency actions;
  - c) and the customs and culture of The County are at risk.
4. Save time and effort by following the examples of communities which have been successful, including: Eureka County Nevada, Lyon County Nevada, Owyhee County Idaho, Modoc County California, Wallowa County Oregon, and Walla Walla County Washington. Copies of their plans and other materials are available for The County to use.
5. Follow the guidance provided by other groups such as Stewards of the Range.

**FLOYD W. RATHBUN**

CERTIFIED RANGE MANAGEMENT CONSULTANT

(775)423-4267

P.O. BOX 1612  
Fallon, NV 89407  
rathbun@phonewave.netOctober 4, 2010      page 3

6. As with other advisory committees, NRAC reports directly to the Commission about work completed and efforts that are being completed by various technical teams, subcommittees, contractors, etc.

7. Officially approve the completed strategy by ordinance, provide the material to various federal and state agencies, and be prepared to insist that the policies of the County be recognized in accordance with the various federal and state laws.

**FEDERAL AUTHORITY**

There are a number of laws and Executive Orders that give the federal agents authority to act and simultaneously limit the actions they can take. For example:

1. Federal Land Policy and Management Act (FLPMA) instructs BLM to resolve inconsistencies between the BLM proposals and local natural resource plans and policies (see 43 CFR1620.3).

2. National Environmental Policy Act (NEPA) documents (EIS or EA) must discuss any inconsistency between the proposed federal action and existing, officially approved, state or local plans and laws. NEPA requires the agency to describe what it will do to reconcile federal plans with the local ordinance. Locally prepared policy can often become one of the alternatives listed under NEPA, including the preferred alternative. NEPA does not require federal agents to change their plans because of comments made by individuals but it does require discussion of conflicts between proposed actions and local land use plans (see 40CFR1502.161).

3. Endangered Species Act (ESA) [see various paragraphs in 16 U.S.C. Sect 1533] requires decisions to list species be based on the "best scientific and commercial data available", otherwise the federal agency has very little accountability in the process of listing a species. Federal agency data can be challenged with locally obtained data and the local strategy should include studies and inventory techniques that provide scientifically sound data (rumors to the contrary, not all experts are employed by government agencies). Federal agents are required to notify local governments when a species is proposed for listing or designation of critical habitat is proposed [16USC1533(b)(5)(A)(ii)], failure to notify the local government nullifies the listing. Critical habitat designations must take economic impacts into account. Designation of critical habitat and initiation of recovery plans bring both FLPMA and NEPA fully back into play, it is only the actual listing process that gives the government agents slightly more autonomy.

**FLOYD W. RATHBUN**

CERTIFIED RANGE MANAGEMENT CONSULTANT

**(775)423-4267**P.O. BOX 1612  
Fallon, NV 89407  
rathbun@phonewave.net**October 4, 2010**      **page 4****GENERAL COMMENTS:**

Federal laws require Federal agencies to coordinate their activities with plans prepared by state and local units of government in nearly every situation. This is consistent with the meaning of the Tenth Amendment of the U.S. Constitution and has been supported by a number of court decisions. A number of laws intended to protect certain aspects of the environment were passed in the 1970's and seemed to provide benefits to society. However, along with the advantages has come an emerging form of governance that is damaging the principles of individual liberty on the basis of "public good" or "common good". What is for the good of the public is determined by government employees and force is used to obtain it. This process of establishing a locally determined natural resource strategy is one step towards the return of lost sovereignty of local government and reaffirmation of the personal property rights of citizens.

If the local government has no plan or policy then it (the County) is just one more voice that the federal agents will ignore in the clamor of public input. On the other hand, an official local plan or strategy can be used to require the government employees to act within the scope of their authority and often provides the chosen course of action. Compared with the regulatory methods of federal and state agencies, a local planning committee is much more likely to find real solutions for real problems.