

## **Public Lands Coordination Commission**

### Meeting Minutes Jan 18, 2011

Commissioners present: Drew Gordanier, Frank Green, Zane Odell, Dennis Atwater, Rob Yates

Commissioners absent: none

Approximately 14 citizens were also present.

6:35 PM Meeting was called to order.

The Pledge of Allegiance was recited & Ground rules established.

First Item of business was approval of agenda & minutes. Agenda & Minutes were approved.

The coordination process was reviewed and updated.

Commissioner Chappell noted that the most important thing to come out of today's meeting was the fact that coordination was mandated by congress and something we do not need an MOU for it is something that is supposed to happen between Government entities. The other good outcome is that we have eased some of the feelings of some people that felt they had a threat or retaliation from the Forest Service for expressing their opinion. It was good to bring that out in public and the Forest Service expressed that such a reaction was not their policy and that would not happen. That eased some feelings there. I think some thought that that was the reason PLCC members dropped out. Maybe some did but I think that some dropped out because they felt like the issues here were not concerning their livelihood but if you look at the big picture every issue that comes up with public lands will eventually affect everyone be it cattlemen, recreationalists or loggers you name it will affect them some way or another and I think that getting the open dialog with the different Government entities especially BOCC that can represent the public more directly than agencies that only represent what their superiors tell them to do. At least that give the public more direct dialog and I think that will help. And I might say that it is reassuring for the commissioners to have a group like you men that will gather data and rub shoulders with ranchers and the like that will bring concerns/ information directly. I think that's good. I think that just to have direct contact with us and to have an open meeting I think some good is really going to come out of this. And another thing that I appreciated was the work that some of you have put in on finding these roads from the past. It is important that we find these roads and designate them so that they can be used by the public. If it is 50% that we can use well then at least they will be there for future generations and they won't be closed by some mandate or management, they will be open because they are declared such and we appreciate that kind of work. Maybe some of you had a different perspective from the meeting but I felt a lot of good from the meeting. I think as we work through the roads issue with the FS it think we will come to a consensus on what we can do there. It will be good.

Zane Odell asked if there was any further direction for the PLCC from the BOCC.

Commissioner Chappell responded that all I can say is that I appreciate your work. It doesn't matter to the BOCC how often you meet. If you have no issues we don't mind it if you take time off but if there is any issue with any entity regarding public land then meet bring us a recommendation and that's so that we can form an agenda so that we can go to a meeting with the FS/ BLM and make comments. That's a help to us it takes a load off us because we may not always know what all the issues are. I don't necessarily know what someone who is cutting wood or hunting in the mountains needs but an outfitter would or recreationalist would. I really don't know why anybody would be discouraged to be on the PLCC because eventually it is going to affect you one way or the other.. anything that is done on public lands that is. I think we have yet to come to an understanding about the disabilities act. I don't see how we can eliminate some travel by the disabled if they want to hunt or use activities in our public lands. That is an issue we will probably continue to pursue.

Zane Odell asked.. Will your meetings with the FS and Dolores County going to continue?

Commissioner Chappell responded.. I think the consensus today is that we will separate and would only meet with the FS when we have an agenda and an issue. I don't think it is necessary to meet every month unless there is an issue that is pressing. I would like to continue on this road issue of course.. the road that your guys have established as RS 2477 and whenever we feel like we need to meet and discuss this further we will.

Frank Greene asked.. How is the consensus after they talked about the RS 2477 roads.

Commissioner Chappell responded.. It was pretty encouraging because we could see where those roads lined up with some that are already established roads. There is a spot or two where cross private land and that will be an issue we will have to deal with involving particular landowners or if we can move the alignment to meet up with a FS road that is close... which they are we will go that route. I am sure there will be some give and take because the old maps didn't have a surveyor or GPS and when they drew the map out in the 1800's they were close and back then close was good.

Frank Greene responded.. When you look at the maps it is pretty evident that the roads were there.

Duane Likes added that the Forest Service offered their maps today which have many other roads and trails. There is a tone of stuff up on the high mountain mining claims it is something the commissioners can coordinate with them and work out the issues and get some of the stuff opened up.

Rob Yates asked... Do you want the PLCC to establish our own items of importance?

Commissioner Chappell responded... Yes it is not up to the BOCC to say lets look at this issue this issue and this issue. That is why we tried to form a committee out of different sectors of the community so that we would have different representation that was pretty well rounded. We thought we had that but we seem to have lost the logging industry etc.

Rob Yates added that there are so many issues but when the committee was formed it seemed like everyone want us to work on all of the issues at one time. It is too hard to work that way. We have to get them in order. If someone is # 8 on the list then they are

mad because they weren't #1. I guess my question is who establishes priorities? If it is a consensus amongst this group I guess we can do that.

Commissioner Chappell responded.. I think you set your priorities as to what you think the communities most pressing need is and inform us of that and we will take that agenda and run with it. That is why we want representation from different sectors so that we know what everybody is feeling in those different areas.

Dennis Atwater added.. I would like to offer a different perspective on today's meeting. I came away it happy on some issues and disgusted on others. I think that what was established was a good starting point and having said that I also want to throw right out in the beginning that I have probably studied these issues a lot harder than a lot of folks have in the community. And so I am deeper in the weeds so I have a higher level of expectation probably. Having said that I felt we finally have a good starting point. However what I would have liked to have seen in the meeting was that that was also on the record that we have come a long way in the last two to three years in this process without coordination and that's why we are where we are and that why a number of the public are showing up that have these concerns is that we have basically been left out up to this point. Sure there have been public comment and so on. The other part I was very disappointed with was that I had submitted a list of inconsistencies and violations and that those were not covered and I think that they were very pertinent. I think that those should have been covered. There were issues that were stated in the meeting like the government owns that land. Which constitutionally the government doesn't own land they can't. Some of the issues on RS 2477 were not accurate were and I know that not having studied some of those issues I know that some of the opinions were guessed at. Many of those answers were in that material I submitted on RS2477. That is what was disappointing to me. One of the folks handed me some things that were of concern. One of the comments that was made on coordination is that letters were sent in the beginning and notifications to the public. Those are two different things I felt that should be established. Coordination and Public Input are two distinctly different issues. So public notifications are not coordination. I suggest that the Commissioners write a letter to the FS saying that they want to get together saying that they want to get together to work out an agreement to open up the historic road and right-of-ways. That is something that we can discuss here and recommend to the BOCC if everyone agrees. Game retrieval for the elderly and handicapped was brought up today and I think it is a big issue on the table that needs to be worked out. The letter to the EPA on storm water permits is a question that has not been answered yet but that the FS has been notified I believe by the EPA and it is an issue they are working on. That's a pretty big issue that needs to be resolved. Why can the FS open up some areas for wood hauling & x country travel but say the original plan says no cross country travel. The freshwater permit they indicated that they did not have it. Aside from this during the discussion on the intimidation fear of reprisals and so on Mr. Beverlin indicated that he had read the letters and didn't see anything in there that represented that threat to him. I wondered who copied those letters to the Forest Service or how he came about getting those letters.

Steve Beverlin responded .... They were sent to me personally by the authors. Without my solicitation. They felt that I deserved a copy and they sent them to me. One followed up with a phone call about his rationale for why he resigned and that is feedback that I gave at that meeting. I didn't talk to all of them but that is how I got those letters.

Zane Odell noted that he had one question where we had some vacancies. Do you want us to work it to fill the vacancies.

Steve Chappell responded.. If you could send a letter to us with the names that you feel like would represent some are where you think you lack representation in and if we have a list of those names we will consider them and place someone on the committee.

Zane Odell asked.. Is there anything else for Commissioner Chappell?

Commissioner Chappell responded.. We will continues to work for the public that's why you elected us and hopefully we stand strong. Dennis we will try to articulate everything. Like you say you are in the weeds more than we are because we are taking what information you give us but it is sometimes hard to get it all out there and in perspective. If you have some inconsistencies or things that you think that the FS did not do according to their own rules and regulations if we can get that to them and have them respond and see why it wasn't done I think that would be good.

Commissioner Chappell asked if everyone had the SOPA yet. It was agreed to have the SOPA e-mailed to everyone. Commissioner Chappell added that it was important to review the SOPA so that we do not get caught like we did the last time with the Travel Management Plan where we did not have the local governments involved. I went to the public meetings but didn't know that we could work more directly with the FS. I made comments but like you it was on deaf ears. I asked if they would allow game retrieval and they said no. Right there I knew that public comment was no good because it was already established they were not going to have that.

Frank Green added that it the PLCC is a good idea so that we can over things beforehand.

Zane Odell added that it will help to keep us from getting into the trap we are not in which make it tough on the Forest Service as well as the public.

Commissioner Chappell added that it is comforting to know that we have Scott Tipton up there in Congress now and we can access him.

Dennis Atwater thanked Steve Chappell for wearing the hat to the meeting noting that it was the most representation we have had from the DOW for a long time.

Zane Odell asked for public input. None was offered.

Next Item of business was an update on the RS 2477 process.

Duane Likes reported that he felt like the process of research was nearing completion on the first two historic road and we just need to see how the commissioners respond to that. I also have all of other research material in hand but I won't spend a lot of time on it until we move forward with what we have. As Dennis has already said I would like the committee to write a letter to the FS and invite them back to the table and see if they can work out something on getting those roads opened back up. A question that come up today is how wide is the ROW? Well it is 66'.

Rob Yates asked... after the meeting today and seeing what was presented should we can continue to work and get an outline that we can possibly feel strongly about but should this be like a trial balloon to see how the process is going to go forward.

Dennis Atwater responded that the trial balloon is floating and that they picked those two roads because there was a substantial amount of documentation and it was clear that were RS 2477 roads. Dennis further that for the good of the Forest Service and the County and the public that we need to move forward because there is no point in quarreling over a lot of these things if we can determine what is what as quickly as possible then some of these roads do not have to go through the trouble of being closed by the FS and the public does not need to be concerned about them because they will be designated or asserted as RS2477. Dennis then read a letter from the State of Colorado to the DOI that highlighted the basics of 2477 which basically defers to the State Laws regarding RS 2477 criteria. Under Colorado State Law established by public use rather than standards of what constitutes construction or a highway.

Dennis Atwater noted that many of the old roads are over grown and that the land is healing itself but it is still a right of access that no agency has jurisdiction over. And it is against Federal Law for them to determine validity of the ROW.

An audience member asked what document gave the FS authority to close roads down.

**Steve Beverlin responded that it would be the National Travel Rule 36 CFR 212. And it was mandated by Congress that the FS come up with the rule, and the FS authored the rule into the regulations of the FS. That is just a FS travel rule not BLM.**

Dennis Atwater responded that that was a misstatement today is that it is not a congressional mandate that the roads be closed. There was a presidential order 12088 that gave direction to establish a travel management policy or regulation. That was given to the DOI and to the DOA. BLM is under DOI and FS is under DOA. At that point the FS developed the Travel Management Regulation. It is a regulation not a law.

An audience member asked if we have to abide by it?

Dennis responded yes if it is put in place following the legal requirements and meeting the full extent of the law and the rule itself.

An audience member state that he takes exception to that statement stating that being a rule it is not law and we are not bound by any rules in fact there are over 10,000 rules submitted to congress everyday and therefore congress cannot possible read them to accept or deny them. So the FS and other agencies just submit rules and then assume because they don't hear anything that they are valid. That does not make them binding on us. In the second place according to the constitution none of this is allowed. The federal government is not allowed to own the Forest nor are the allowed to make these rules.

Rob Yates responded... Let me play devils advocate. If the federal government does not own these lands? Who is mandated to maintain the rules and regulation for us? It is kind of like a sheriff we have given him the power to enforce rules and regulations. These agencies the FS, BLM, DOW etc. we put in place to manage these resources for

us otherwise everyone would be doing whatever they want to with it with no management. There has to be some way to manage these lands.

Zane Odell commented that they are to manage the lands for Congress and according to their wishes.

Dennis Atwater forwarded that that the lands are public lands and that there is a dominate estate holder and a subservient estate holder. The public is a dominate estate holder and the Federal Agencies are the subservient estate holder. The dominate estate holder cannot damage the land unreasonably but the subservient estate holder cannot deny you access to your land.

The difference between regulations and laws was discussed further but it was pointed out that the PLCC does not interpret Constitutional law. The audience pressed the PLCC on enforcement, whether the BOCC were taking a firm enough position and the role of the County Sheriff. The PLCC responded that their sole purpose was for the BOCC only. The purpose is to take them (BOCC) information and to play a coordination role with the agencies not to make these sort of Constitutional determinations.

Rob Yates pointed out that with the meeting there today it was a Government to Government coordination process. We as citizens do not have that luxury we can go talk to the FS but only the local government has come to the table say so. You need to take these questions to the commissioners and they can go government to government to discuss it. We cannot interact with the forest service on that level. We are advisory only and can take comment from the public to forward to the BOCC.

Zane Odell asked if there were any other items to discuss on the RS 2477.

Duane Likes noted that the 1882 maps were just a rough draft. The actual physical location is still to be determined. We are ready for the BOCC to move forward on the process.

Dennis Atwater noted that there are more map resources coming in and that we need to move forward with identifying more RS 2477 identification.

It was moved and seconded to continue on with RS 2477 research & identification.

Duane Likes noted that the BLM GLO record show many old land claims etc. Rob Yates added that this brings up a good point as people bring forward roads we could be inundated with information and sheer number of roads. We need to prioritize.

Frank Green added that we discussed that problem at the last meeting and decided to move forward on these two roads right now. But that we need to keep compiling information on other roads.

Rob added that we need to designate some specific meeting time to the process and try to work of a priority list.

Duane Likes added that if we are going to work on RS 2477 we need to work on Boggy Draw as a priority. To try and get ahead of this thing.

Rob Yates noted that we are not going to have the staff time or resources to investigate every single road that someone brings in because it is special to them. It was suggested that we have members of the public bring proof in.

Dennis Atwater noted that we need to evaluate the information that is brought in how it marries into the priorities so that we can move through this process fairly quickly because there are a lot of roads that are fairly well documented. We should get these out of the way. Then work on the other stuff that makes sense as we go along.

Zane Odell closed the RS 2477 discussion and asked if there were names to add to the list of people wanting to serve on the PLCC.

Drew Gordanier suggested that people submit a letter of intent. It was suggested that we advertise in the newspaper so that we have as many people as possible to select from which will help with diversity.

Frank Green noted that the BOCC wants a diverse group.

Frank Green asked the FS if the SOPA was a public document?

Steve Beverlin responded that yes it was and that is available on the web or hardcopies are available at the FS office. It come out every quarter and you can get on a mailing list if you want.

Frank Green noted that we need to review it every quarter and discuss the relevant projects. Adding that it would help immensely if the public reviews it.

Dennis Atwater furthered that the SOPA needs to be studied and anything that seems significant can be brought forward so that the BOCC can coordinate with the agencies on. Without coordination the public has no voice. Without coordination the public can be heard in public comment but it cannot be reacted to. So if it does not work through coordination the public is left out. It is the only voice the public has left in these issues and it work through your local government in this case through the BOCC. If we get you input here or you go to the BOCC and give input then the BOCC can respond to the people.

Duane Likes added that Commissioner Chappell noted that much of the old wagon road seemed to match very well with the existing roads and that the PLCC take those section that we could like to have reopened and put that in the recommendation back to the BOCC because parts of that are already on the main road.

Dennis Atwater noted that one of the suggestions has been to ask that the BOCC write a letter to the FS saying that they want to get together to work out an agreement to open up historic roads and ROW. Commissioner Koppenhafer mentioned in the meeting today that he had personally asked the FS to put a moratorium on additional road closure until they can work out what should be closed and what should be open.

A motion was made to ask the BOCC to ask the FS to put a moratorium on road closures until such time as we can coordinate that issue. Motion was seconded and motion carried.

Dennis Atwater and Frank Green were nominated to draft a letter requesting the moratorium to the Commissioners.

A motion was made to recommend to the BOCC that they advertise for the PLCC board and that the advertisement include a request for a letter of introduction background and strengths that they bring to the table. Motion was tabled and a new motion was made to have the Federal Lands Program run the ad in the paper. Motion was moved and seconded. Motion carried.

The next meeting date was set for Feb. 1, 2011 at 7:00 pm.

Duane Likes noted that the FS had requested that we do a little more work on the map before bringing it to the FS for further discussion. Frank Green asked if that meant getting way points? Duane responded no not that level more just like mile of each section (distances and designation points) Dennis Atwater and Duane Likes volunteered to do the map work for the next meeting as part of a continuation of the RS 2477.

Public input was requested.

An Audience member asked for an update on what had been transpiring over the last year.

Zane Odell gave a brief update on coordination and how the travel management plan had been released and then the formation of the PLCC.

The audience member asked if the Travel Management Plan had to happen.

The FS responded that it was mandated through the Nation Travel Rule to designate a system of Motorized roads and Trails across all Forests in the United States. The FS described the process as follows; We go through a lengthy process of sending out a scoping letter to get input from the public then we go out with our draft proposed action and we get more input from that and then we use that to help develop what a range of alternatives is which are three different choices to analyze and then we send that back out to get more comments and then we have public meeting to gather input and then we come up with the final decision based on all of that process. Each plan is a year and a half to a two year process. We have three travel management plans on the FS land and we will analyze all of the BLM land as one plan from the Paradox Valley South to the Ute Mountain Reservation and almost to Lone Cone then to the Utah Line. Four different areas.

The audience member asked If it is all federal land why does each state have different rules?

Steve Beverlin responded it is because it is different regions within the Forest Service. Colorado is in Region 2 comprised of Colorado, South Dakota, Nebraska, Kansas, and Wyoming. So there is a small portion of the Black Hills maybe 100 hunting tags that allows game retrieval and the Rio Grande does but in the new plan they will not. Every other Forest in region 2 does not allow game retrieval. In Arizona's Region there is a little difference there although there is a movement, be it right or wrong, across all forest that they are eliminating game retrieval. In the east like all the Forests on the east Coast they don't even allow horses on trails.

Meeting was adjourned at 8:00 PM by motion.