

**Joint Meeting of the  
Western States Land Commissioners Office  
and the Eastern Lands and Resources Council  
April 9-12, 2000 Washington DC**

**Draft Synopsis**

**Monday, April 10, 2000**

**Update on Bureau of Land Management (BLM) Policies**

Introducer: Paul Thayer, California State Lands Commission  
Speakers: Sylvia Baca, Assistant Secretary, Lands & Minerals Management, Interior  
Tom Fry, Acting Director, Bureau of Land Management

Mr. Fry discussed BLM's role as steward of our landscape, and as a national agency, how BLM can fill a niche on the landscape. BLM is expanding their role in the eastern United States, with possible acquisition of land in Virginia and Maryland. Fry also discussed BLM's plan of action with regard to policies and guidance for Off-Highway Vehicle (OHV) use on Public Lands targeted for release later this year.

Ms. Baca encouraged continued partnerships with States based on mutual issues such as the (1) Oil Valuation Rule which should go into effect in June. Operators will have about 90 days to accommodate the changes to the rule. Royalties should start being paid to States later in the year; (2) Creation of an Office of Special Areas in the BLM to manage areas or programs such as the National Conservation Areas (NCA), wilderness, wild/scenic river program, etc. The concept has not been fully developed; all BLM offices are considering what and how much acreage should be managed through this office. The Secretary has asked for additional funds in the Budget for this Office. BLM is committed to resolving all in-holding issues whenever monuments are created and will be asking for support from affected States. (3) BLM supports CARA and awaits the final version from the Congress.

**Strategies for Collaborating on Habitat management while Meeting Revenue Objectives**

Moderator: Steve Planchon, Executive Director, Alaska Mental Health Trust Land Office  
Panelists: Tom Schultz, Forest Management Bureau Chief, Montana Department of Natural Resources and Conservation  
Sean Skaggs, Special Assistant to the Director of the USFWS  
John Turner, President & CEO, The Conservation Fund

Mr. Shultz's power point presentation provided an overview of Montana DNR's approach to management of State public lands which has increasingly involved the public and has resulted in implementation of alternative management practices by the State. Shultz discussed habitat requirements and biodiversity standards that were developed for resources such as watershed, old growth, silviculture, fisheries, roads, grizzly bears, big game, grazing, weed management, etc.

Skaggs represented the Federal perspective. Through the Safe Harbor Bill, T&E species have

become a marketing ploy—developers are luring potential home buyers with “come live with the scrub jays.”

In dealing with T&E issues on Trust Lands, Turner advised:

- a. Be aware of new programs or incentives
- b. Use good science
- c. Avoid Litigation
- d. Plan for species issues (use landscape approaches)
- e. Use multiple-species philosophy

### **Working with States to Achieve Land and Wildlife Preservation Initiatives**

Introducer: Ray Powell, New Mexico Commissioner of Public Lands

Speaker: David Hayes, Deputy Secretary, Interior

Mr. Hayes sees more appreciation for the land today than ever before. There is an increased recognition of land and how it plays an important role in the quality of our lives. During a ten-year time frame (1982-1992) more than 52 million acres of farmland was lost to development. Today, people are seeing the value of open space. However, the Federal Government receives much criticism to their owning or buying more land. There are factions who believe that(1) it costs too much; (2) the Feds already own too much land; (3) public lands should be sold to American citizens for whatever use they want. Through Fed/State partnerships, we can take advantage of the renewed interest in our lands.

### **Partnering with States to Optimize Joint Ecosystem Management**

Introduction:

Speaker: Jamie Rappaport Clark, Director, U.S. Fish & Wildlife Service

Ms. Clark reiterated some of Deputy Secretary Haye’s remarks about the public’s renewed interest in nature and concern over urban sprawl. The Safe Harbor Bill has private citizens encouraging the propagation of listed species, i.e. they are opening bed & breakfast inns in areas where they can invite and benefit from the T&E species being on their private land.

Courts are ordering USFWS to designate T&E critical habitat areas. Although, the designation affects only Federal land, there’s so much Federal/non-Federal overlap that in reality the designation affects all lands. It is imperative that we all work together on each issue—policy reform comes from all arenas: local, community, and state levels.

### **Integrating Tools to Implement the Endangered Species Act (ESA)**

Moderator: Paul Silver, Senior Policy Advisory, Washington State Department of Natural Resources

Panelists: Myra Hyde, Director Environmental Issues, National Cattlemen’s Beef Association  
Margaret Lorenz, Endangered Species Policy Coordinator, National Marine Fisheries Service (NMFS) Department of Commerce  
Martin Miller, Deputy Chief, Endangered Species, USFWS  
Gary Taylor, Legislative Director, International Association of Fish & Wildlife Agencies (IAFWA)

As the representative for the private sector, Ms. Hyde explained the landowners’ perspective on

the importance of land and wildlife conservation and their differing views on implementation of the ESA.

Ms. Lorenz suggests developing partnerships for consistency in implementing ESA. She discussed permits as a way to give private landowners freedom from the rising costs associated with land. Predicts NMFS will be more vocal when it comes to managing private land for T&E.

Mr. Miller discussed the importance of incentives for non-federal landowners such as the Safe Harbor incentive that allows the landowner to keep the species and benefit from doing so. With Safe Harbor the existing habitat is identified; the Feds promise not to subject the landowner to additional restrictions under the T&E Act; the landowner provides Conservation benefit for a specified period of time. Another incentive for private landowners to partner with Feds include Candidate Conservation Agreements (CCA), which can be designed with flexibility on a specific parcel or a group of parcels. The President's Budget contains funds to implement the Safe Harbor Incentive and the CCAs.

Mr. Taylor also discussed incentives from the IAFWA perspective. Most landowners want to do the right things for conservation. However, there has to be a tangible benefit to the landowner. With the passage of Conservation and Reinvestment Act (CARA), financial resources will be available to the FWS and to the private landowners. States should take the initiative on CCA to involve landowner by choice not by regulation.

### **Improving the Dialogue on Endangered Species**

Moderator: Doug LaFollette, Wisconsin Secretary of State  
Panelists: Paul Cleary, Director, Oregon Division of State lands  
Brock Evans, Executive Director, Endangered Species Coalition  
John Kostyack, Counsel, National Wildlife Federation  
Heather Weiner, Assistant Legislative Counsel, Earthjustice Legal Defense Fund

Mr. Cleary discussed Oregon's plan for watershed and salmon restoration that resulted in many improvements to the aquatic habitat because the Plan included full participation of landowners, legislators, Feds, and local interests. Advises bringing landowners into process early to educate, invigorate and offer them incentives to get into the T&E recovery program.

According to Brock Evans, the Endangered Species Act is a very powerful law that makes a morale statement reflecting the character of the American people. We continue to try to improve or change the law as long as the changes are enforceable.

The National Wildlife Federation views the Endangered Species Act as a tool that works to put things on the ground. They see an educated public who realize that conservation of the T&E Species will be accomplished at the private level, not the Fed/State levels. NWF believes in incentives—funds to assist landowners.

The Administration has a 5-point plan for T&E:

- Biological Goals

- Monitoring Plans
- Adaptive Management
- Permit duration Limits
- Citizen Participation

Ms. Weiner was critical of the USFWS policies on T&E. Designation of Critical Habitat is essential to restoration of T&E species—of approximately 1,200 T&E listed, only about 120 species have officially designated critical habitat. There's an ongoing need for public education.

Regardless of the points of view, the goal is the same—partnerships should be developed early to lessen impacts of resource shortfalls.

**Tuesday, April 11, 2000**

### **Impact of Proposed Water Pollution control Regulations on Forestry, Agriculture, Mines and Recreation**

Moderator: Jeff Hagener, Montana DNRC, Trust Land Management Administrator  
 Speaker: Hazel Groman, Total Maximum Daily Load (TMDL), Team Leader, Environmental Protection Agency (EPA)

Ms. Groman discussed one of the requirements of the Clean Water Act for States to develop a TMDL for each pollutant for each listed water body. TMDL is the calculation of the maximum amount of a pollutant that a body of water can receive and still meet water quality standards.

### **Increasing Cooperation Between States and the U.S. Fish and Wildlife Service on Land Administration**

Moderator: Kevin Carter, Assistant director, Utah School and Institutional Trust lands Administration  
 Panelists: Jeff Donahoe, Chief, Realty Division, USFWS  
 Ed Meadows, Manager, Exchanges and Special Services, Michigan Department of Natural Resources  
 Paul Pajak, Land Specialist, USFWS Northeast Region

Mr. Donahoe described the authorities and responsibilities of the USFWS Realty Program. Most of FWS funds for land acquisition come from the Land and Water Conservation Fund or the Migratory Bird Conservation Fund. Donahoe showed a slide of significant National Wildlife Refuges and special real estate projects.

Mr. Pajak administers grants to State agencies for land acquisitions and fisheries issues. Pajak explained the legal constraints involving spending grant money, and described where states can use discretion in spending the grant monies. He discussed issues and trends that monitoring and review of wildlife management areas have discovered, such as incompatible uses, rights of way disputes, income production problems, lawsuits.

#### Key Features of Land Acquisition Grants:

- C user pays;
- C Permanent appropriation;
- C Only for State Fish & Wildlife agencies;

- C Must be approved by USFWS;
- C Unobligated funds revert to the USFWS

Land Acquisition Grant Process:

- C eligibility (must be for birds/mammals);
- C substantiality (good science);
- C compliance (subject to review for NEPA, EA, etc.);
- C approval/annual cycle;
- C reporting
- C field reviews; audits
- C training & coordination

State Discretion

- C using Federal funds
- C purposes
- C objectives
- C locations
- C approaches
- C partial interests

Legal Constraints

- C eligibility
- C diversion
- C appraisals, relocation
- C management control
- C continued purpose
- C NOT for income purposes
- C useful life
- C disposals
- C NEPA, ESA, NHPO

Mr. Meadows advised States to exercise caution in how they use grant monies. Land purchased has potential to become Federal land if a percentage of the funds used are Federal monies. Michigan has considerable experience in dealing with Federal agencies and utility companies relative to rights of way, exchanges, acquisition. Meadows advises ensuring that State and Federal policies are compatible before applying for Federal monies.

In regard to how better to work together, Meadows suggests more accessibility to Federal GIS records; authority to decide on a request for right-of-way should be delegated to the States; get approval for an exchange or acquisition prior to doing an appraisal.

**Setting Values for Utility Easements on Public Lands**

- Moderator: Bob Jenks, Assistant Commissioner, NM State Land Office
- Panelists: James R. Baarda, Attorney, The Ackerson Group  
 Ray Brady, BLM Lands & Realty Group Manager  
 Thomas A. Rogers, Director of Communications, Kansas Turnpike Authority

Discussion revolved around the value of the land affected by rights of way or easements. Mr. Baarda advises agencies to understand what is being bought and what is being sold, the resource value to the land owner, and the resource value to the purchaser. Baarda provided past litigation experiences with utility companies and how the affected land was valued.

Mr. Brady talked about the BLM's obligation to get fair market value for use of public land. However, with about 86,000 rights of ways on public lands, BLM can't always take the time to negotiate or bargain for best deal even though the process has been streamlined as much as possible. The rental schedule currently used for Rights of Way is updated annually. Fiberoptic companies are being charged at this rental schedule because of political pressures. To establish a new rental schedule, BLM would have to go through a lengthy, formal process. The burden of the EA/EIS is on the Federal agency, however, BLM does require the utility companies pay cost recovery fees.

Mr. Rogers spoke about his experiences with utility companies and the Kansas Turnpike Authority. Rogers suggests creating a partnership with the utility company—understand what they want and what they can offer and vice-versa. Consider renewable lease options because technology is changing and improving by the minute. Before signing any rights-of-way agreements, Rogers advises a discussion with other entities who have had experience with same type of utility.

### **Forest Service Policies and the Memorandum of Understanding with the ELRC/WSLCA**

Introduction: Curt Johnson, Commissioner, South Dakota Office of School & Public Lands  
Speaker: Mike Dombeck, Chief, Forest Service

MOU between ELRC/WLSCA and USFS signed by Mike Dombeck, Jeff Hagener, and Jim Lawler for purposes of working together on common issues affecting adjoining or intermingled public lands to promote the health, diversity, and productivity of public lands for present and future generations.

Chief Dombeck's remarks dealt with the redirection of the USFS, specifically in the recreation and land use programs. He stressed the importance of working together with states, local communities, and other Federal agencies on common issues to benefit society.

### **Effective Strategies and Tools for Resolving Encroachments and Trespass**

Moderator: John Andrews, Legal Counsel, Utah School & Institutional Trust Lands Administration  
Panelists: Ray Brady, BLM Lands & Realty Group Manager  
Peter D. Coppelman, Deputy Assistant Attorney General, Environment & Natural Resources Division, Department of Justice  
Gerald McDonough, Real Property Administrator, Maryland Department of Natural Resources

Brady provided a perspective on the population growth in the West and the how this growth is impacting the public lands that surround our western communities. He stressed the importance of State and Federal counterparts to work collaboratively to address urban interface issues to prevent conflicts before they occur. Suggested collaborative programs include public lands signage, land exchanges, Public Lands Day activities, environmental education opportunities with local communities. Brady also discussed how trespass/encroachment issues are handled, how they are prioritized, and what factors are

considered in the resolution of the conflict.

Coppelman discussed how Federal agencies deal with violent situations on Federal lands.

### **Meeting New Expectations: Third Party Certification of Land Management Practices**

Moderator: Ralph Knoll, Director, Planning & Land Acquisitions, Maine Bureau of Parks & Lands  
Panelists: Dan Devlin, Chief, Resources Planning & Information, Pennsylvania Forestry Bureau  
John Heissenbuttel, Vice President, Forestry & Wood Products Division, American Forest & Paper Association  
Phil Janik, Chief Operating Officer, Forest Service  
Catherine Mater, Vice President, Mater Engineering

[Did not attend this session](#)

### **Setting a Price on Film Making**

Moderator: Ed Leary, Director, Lands Administration, Vermont Agency of Natural Resources  
Panelists: Kevin Carter, Assistant director, Utah School & Institutional Trust Lands Administration  
Paul Cleary, Director, Oregon Division of State Lands  
Mark Scheibel, Realty Specialist, Forest Service  
Dick Young, Service-wide Program Manager for Special Uses, National Park Service

[Did not attend this session](#)

### **Future Issues in Oil and Gas**

Moderator: Lynne Boyd, supervisor of Mineral Lease Management, Michigan Department of Natural Resources  
Panelists: **Reengineering:** Walt Rosenbusch, Director, Minerals Management Service  
**RIK: Texas Natural Gas/Electricity Program:** Walt Rosenbusch, Director, MMS;  
Bonn Macy, RIK Program, MMS;  
Spencer Reid, Senior Deputy Commissioner, Texas General Land Office  
**Oil Valuation & Duty to Market:** Lee Ellen Helfrich, Attorney, Consultant to STRAC;  
Albert Modiano, Vice President, United States Oil & Gas Association  
**Post Production Costs for Natural Gas:** Debbie ????, MMS, Denver, CO  
**Gas Supplies:** Bill Condit, Staff Director, House Energy & Mineral Resources Subcommittee  
**Removing the Deduction of Federal Administrative Costs from Federal Mineral Revenue**  
**Sharing:** John Northington, Senior Advisor to the Director of BLM

Panelists presented their views on varying issues within the industry. Texas GLO described their pilot RIK program for Natural Gas and Electricity. The RIK philosophy should be considered an opportunity and worth pursuing if it makes sense. Pros and cons of the FERC order 636 were discussed. The status of several Bills now pending on the Hill were also discussed.

### **Manifest Destiny Goes Cyberspace—Are Your Land Records Online?**

Moderator: Mike Paus, District office Administrator, Wisconsin Board of Commissioners of Public Lands

Speakers:           Gayle Gordon, State Director, Eastern States, BLM  
                          Jim Gegen, General Land Office Records Project Manager, Eastern States BLM

The BLM's expanded web site at [www.glorerecords.blm.gov](http://www.glorerecords.blm.gov) now offers information on historic land patents from all thirty public land states, east and west. Patent images and data for 12 eastern public lands states have been online for about 2 years. Recently, BLM Eastern States has automated the "serialized" patents—those post-1908 conveyances issued chronologically from the headquarters General Land Office/BLM in Washington, D.C. The data and images for about 160,000 "serialized" patents are now online. Over the next 3 years, additional serialized patents will be added.

The new web site also includes indexes to patents issued prior to 1908 from most western states. A special feature of the new site allows you to query the GLO database by name, whether the name belongs to the patentee, warrantee, assignee, or heir. Also, the image display capabilities have been expanded, permitting the user to choose among TIFF, GIF, and PDF file formats.

### **Update on the Conservation and Reinvestment Act (CARA)**

Moderator:        Dan Wisniewski, Secretary & Chief Executive, Wisconsin Board of Commissioners of Public Lands  
Speakers:         Michael Henry, Professional Staff, House Energy & Mineral Resources Subcommittee  
                          Mary Katherine Ishee, Minority Counsel, Senate Energy & Natural Resources Committee

Differing perspectives from House (HR 701) and Senate (S 2181) were presented on the largely non-partisan legislation.

### **Working Together on Fish & Wildlife Issues**

Introduction:     Ed Meadows, Manager, Exchanges & Special Services, Michigan Department of Natural Resources  
Speaker:         Max Peterson, Executive Vice President, International Association of Fish & Wildlife Agencies (IAFWA)

The IAFWA consists of members from 55 different State agencies. They are supportive of CARA; Peterson described their ideas for each Title under the Act. IAFWA recommends that state agencies serve on their committees or attend their regular meetings. The organization provides a good forum for exchanging perspectives and help all involved gain a better understanding of the issues. Suggests visiting their website at: [www.IAFWA.org](http://www.IAFWA.org)