**Constitutional Defense Council**

**Public Lands Policy Coordination Office**

Utah State Capitol Complex

Olmsted Room

**June 14, 2017**

9:00 a.m.

**Minutes**

**Attendees:**

**Members: Staff:**

Spencer J. Cox, Lt. Governor (*via* conference call) Kathleen Clarke, Director, PLPCO

Mike Noel, Rep., Utah House Anthony L. Rampton, Public Lands Section Brian King, Rep., Utah House Director, Attorney General’s Office

Keven J. Stratton, Rep., Utah House Kathy Davis, OAG

David Ure, Director, SITLA Carmen Bailey, Assistant Director, PLPCO

Bridget Romano, for Sean Reyes, OAG Sindy Smith, RDCC Coordinator, PLPCO

Mike Styler, Executive Director, DNR Megan Garrett, OAG

Kevin Van Tassell, Senator, Utah Senate Jake Garfield, Attorney, PLPCO

Curtis Wells, Council Member, Grand County

Leland Pollock, Commissioner, Garfield County

Tammie Pearson, Commissioner, Beaver County

Stan Summers, Commissioner, Box Elder County

LuAnn Adams, Commissioner, UDAF

Nathan Ivie, Commissioner, Utah County

**Guests:**

Dirk Clayson, Commissioner, Kane County

Shawn Welch, Holland & Hart

Alex Wilson, LFA

Steve Erickson, GBWN

Mark Whitney, Commissioner, Beaver County

Gordon Rowe, U of U Law Student

Judy Fahys, KUER

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**Welcome and Introductions**

Kathleen Clarke, Director, Public Lands Policy Coordinating Office (PLPCO), on behalf of

Lt. Governor Spencer J. Cox, called the meeting to order at 9:00 a.m. After roundtable introductions, Kathleen welcomed everyone.

**Approval of the Minutes**

Members, by unanimous vote, approved April 27, 2016, minutes.

**Decisions**

* ***A Plan for R.S. 2477 Rights-of-Way***: **MOTION** and **SUBSTITUTE MOTION:** the CDC approved the Plan with the condition that the Plan may be modified, if requested, within two months. The modified Plan shall be submitted to the CDC for final approval.
* ***Kane County Reimbursement Request for R.S. 2477 Expenses for FY2017***: **MOTION:** Kane County’s request for reimbursement of $270,000 is approved.

**Action Items**

* The Client Committee will review the Plan for R.S. 2477 Rights-of-Way and make any changes to the Plan it considers necessary by August 14, 2017.
* A modified Plan for R.S. 2477 Rights-of-Way shall be submitted to the CDC for final approval.
* Agenda items suggested for next CDC meeting:
  + Budget Discussion
  + PLPCO—support to get beyond one-time funding
  + Executive Session

**R.S. 2477 Rights-of-Way Plan**

Anthony L. Rampton, Public Lands Section Director, Attorney General’s Office, made available the FY2017 *Plan for R.S. 2477 Rights-of-Way* (the Plan). He explained that every year PLPCO is required to submit an updated R.S. 2477 Rights-of-Way Plan to the CDC for approval and provide copies of the Plan to the Legislature’s Natural Resources, Agriculture, and Environmental Interim Committees by July 1st. Anthony Rampton reported on the R.S. 2477 Rights-of-Way litigation and answered questions. Informational items included:

* The Plan reflects the current and ongoing statewide litigation work. The R.S. 2477 activity is primarily focused on preservation depositions.
* A new Case Management Order (CMO), effective January 1, 2017, allows the State to take preservation depositions of any witness 60 years of age or older. The State can continue to take preservation depositions as long as witnesses exist whose testimony is needed.
* PLPCO requests the CDC approve the *FY 2017 Plan for R.S. 2477 Rights-of-Way.*

**Discussion**

* Representative Mile Noel requested that the Client Committee review the Plan before the CDC approves the Plan.
* Kathleen Clarke pointed out that the statute requires the Plan be approved by July 1st and suggested a conditional approval of the Plan that would allow for modifications if requested.
* David Ure made a **MOTION** to approve the Plan as written with a condition that the Plan be modified if considered necessary. Commissioner Leland Pollock seconded the motion. Representative Keven Stratton made a **SUBSTITUTE MOTION** to include a two month time-frame for revisions and a final approval by the CDC of any Plan revisions. Commissioner Leland Pollock seconded the motion. The **MOTION** carried by unanimous vote.

**Kane County Reimbursement for R.S. 2477 Expenses for FY2017**

Representative Mike Noel asked members to approve Kane County’s request for reimbursement for R.S. 2477 expenses for FY2017 in the sum of $270,000, which amount represents 75 percent of $360,000, Kane County’s outside legal fees for FY2017. Anthony Rampton and Shawn Welch, Kane County’s outside legal counsel, reported on the R.S. 2477 Rights-of-Way litigation and answered questions.

**Discussion**

* Anthony Rampton stated the expenditure is justified; Kane County has borne the entire R.S. 2477 effort in terms of developing the law that will be used to resolve all of the R.S. 2477 claims.
* Shawn Welch indicated his law firm coordinates with the State to build a base of law to be used to advance the cause for all counties. He said an added benefit for the Bellwether trial is Kane County is separately represented from the State of Utah, which gives the counties two briefs to match the Federal Government’s brief and the environmentalists’ brief, affording the counties more court options, time, and pages to make the arguments to the court.
* **MOTION:** Commissioner Leland Pollock made a MOTION to approve and fund Kane County’s request for $270,000. Commissioner Stan Summers seconded the motion. The **MOTION** carried by unanimous vote.

**Other Business**

Discussion of Grand Staircase-Escalante and Bears Ears National Monuments

**Public Comment**

No public comment.

**Adjourn**

The meeting adjourned at approximately 11:20 a.m.