**Constitutional Defense Council**

**Public Lands Policy Coordination Office**

Utah State Capitol Complex

Copper Room

**July 13, 2017**

2:00 p.m.

**Minutes**

**Attendees:**

**Members: Staff:**

Spencer J. Cox, Lt. Governor Kathleen Clarke, Director, PLPCO

Brian King, Rep., Utah House Carmen Bailey, Assistant Director, PLPCO

Keven J. Stratton, Rep., Utah House Jake Garfield, Attorney, PLPCO

Mike Styler, Executive Director, DNR Sindy Smith, RDCC Coordinator, PLPCO

Nathan Ivie, Commissioner, Utah County Redge Johnson, PLPCO

Leland Pollock, Commissioner, Garfield County Stephen LeFevre, Lt. Governor’s Office

Tammy Pearson, Commissioner, Beaver County

Curtis Wells, Council Member, Grand County

Stan Summers, Commissioner, Box Elder County *(via conference call)*

Ralph Okerlund, Senator, Utah Senate *(via conference call)*

Bridget Romano, for Sean Reyes, OAG *(via conference call)*

**Guests:**

Steve Erickson, GBWN

Judy Fahys, KUER

Jennifer Dobner, Tribune

Mark Ward, Balanced Resources

Meredith Baker, Stirba PC

Brandy Grace, UAC

Doug Heaton, American Land Council

Alan Gardner, American Land Council

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**Welcome and Introductions**

Lt. Governor Spencer J. Cox called the meeting to order at 2:00 p.m. and welcomed everyone.

**Approval of the Minutes**

Members approved, by unanimous vote, June 14, 2017, minutes.

**Decisions**

Lt. Governor Cox recommended American Lands Council (ALC) secure an appropriation from the Legislature for the grant request of $115,000 for the proposed Federal Land Policy Reform Project.

**Action Items**

* Brian Head Fire: Lt. Governor Cox recommended Garfield County work with the Department of Environmental Quality to find solutions to improve water quality conditions of Panguitch Lake.
* Brian Head Fire: Lt. Governor Cox recommended Garfield County team-up with the Office of Economic Development and the rural residents to discover what resources may be available for the business owners surrounding Panguitch Lake.
* Federal Legislative Jurisdiction: PLPCO will distribute to council members copies of Mark Ward’s report, *Status of Federal Legislative Jurisdiction over Federal Lands in Utah*.
* Commissioner Stan Summers will provide PLPCO a copy of an Idaho county’s Resolution. PLPCO will distribute copies of the Resolution to CDC members.
* Lt. Governor Spencer Cox will provide a copies of a letter to CDC members he received from Steve Erickson, Great Basin Water Network.

**Brian Head Fire**

Commissioner Leland Pollock reported on the social and economic impact of the Brian Head fire. He said the water quality of Panguitch Lake is compromised from fire pollution. Commissioner Pollock requested immediate State assistance to prevent the fire pollution from merging with the lower level area of the lake; otherwise the water could become toxic and unusable downstream for crops and cattle. Commissioner Pollock also requested immediate State financial assistance for business owners, surrounding Panguitch Lake, who, as a result of the fire, have lost revenue, and fear they could go bankrupt.

**Discussion**

Main discussion items included:

* Representative Brian King asked what monies are currently available in the budget to address these kinds of concerns.
* Director Mike Styler indicated that no budget exists, but many resources are available. He talked about and distributed copies of a resource booklet titled, “*Utah Interagency Coordination Guide*, *Working with Communities and Private Landowners Before, During, and After Wildfires.*” The booklet, assembled by DNR and its partners after the Milford Flat fire, contains a list of resources from agriculture to wildlife to water. Director Styler called attention to the work of the Burned Area Emergency Response (BAER) team. He said the BAER team is on the ground right now evaluating the burned areas and prescribing emergency stabilization treatments. He said once the ground is reseeded the water quality should improve.
* Commissioner Pollock pointed out that Panguitch Lake had problems prior to the fire from years of drought: the water storage no longer exists and the water level remains low with a lot of algae. However, now, he said, fire pollution has made the condition of the lake unhealthy for downstream water users and a catastrophe for business owners surrounding the lake.
* Director Styler explained that the water may not be good for fish, but it would be all right for crops.
* Lt. Governor Spence Cox recommended Garfield County work with the Department of Environmental Quality to find solutions.
* Representative Keven Stratton asked if any funding existed in terms of grants or financial assistance for business owners. He suggested setting up a contingency fund.
* Lt. Governor Cox recommended Garfield County contact the Governor’s Office of Economic Development and the rural residents to find out what resources may be available for the business owners.
* Commissioner Pollock suggested Governor Herbert meet with the Secretary of Agriculture, Sonny Perdue, to pursue federal support.

**Allotments**

Commissioner Pollock introduced Redge Johnson. Redge Johnson assists the Grazing Working Group for the Governor’s Office. Redge reported on the impact the Brian Head fire has had on the public land grazing allotments. Main discussion items included:

* The fire damaged 10 percent of some allotments and 100 percent of a large number of allotments, affecting approximately 2,000 head of cattle.
* Allotment permittees contacted Redge because they had not heard from the Forest Service in regard to management direction of the allotments after the fire. Permittees need emergency guidance as soon as possible so they can make decisions on whether to sell part of their herds or to transport herds to other pastures, as well as how much winter feed to purchase.
* Vacant allotments are held as grassbank allotments. Most grassbank allotments have neither had NEPA done nor maintenance, such as water improvement and fencing. The current vacant allotments available for cattle have space for only 68 head of cattle, a huge shortfall.
* Redge recommended the State scrutinize management of the grassbank allotments so when a crisis occurs again, grassbank allotments can be used to preserve permittees’ cattle. Long term grassbank allotments not only improve public lands, but they can also improve grazing opportunities; a conservation benefit, if they are allowed to be used.
* The Department of Natural Resources and the Division of Wildlife Resources have been helpful in finding forage solutions.

**BLM Streamlining Planning & NEPA Process**

Commissioner Tammy Pearson reported on BLM’s current actions to improve the NEPA and planning processes. She stated the BLM notified the counties asking for feedback on how BLM can work better with the counties and help local governments. Commissioner Pearson expressed her appreciation of BLM’s outreach, and looks forward to working with the federal partners.

**American Lands Council**

Commissioner Tammy Pearson introduced Doug Heaton, Chairman of the Board, and Alan D. Gardner, Chair Elect, of American Lands Council (ALC). Doug Heaton gave an overview of ALC and the proposed Federal Land Policy Reform Project. Doug pointed out that ALC has quickly become a nationally recognized leader in the advancement of constitutionally sound solutions for Utah’s public lands. Alan distributed a brochure titled, ‘*Proposal to State of Utah, Constitutional Defense Council*.’ Doug stated the total estimated cost of the project to be $275,000 and requested a grant in sum of $115,000 to help ALC with a portion of its costs to develop a strategic action plan, generate publicity, and implement the plan.

**Discussion**

Main discussion items included:

* Representative Brian King expressed his support for a more collaborative and effective relationship with the federal government, and agreed that the State needs better management of public lands. Representative King also suggested further discussion at the CDC level, if not at the legislative level, to reevaluate how the State allocates and designates resources and to strategize a new determination as to whether the CDC should provide new resources given the current political climate.
* Commissioner Nathan Ivie asked if ALC had identified specific and targeted bipartisan policy shifts that it believes it can win on and would advocate for.
* Doug Heaton replied that once jurisdiction is understood, the goal is State management of public lands.
* Alan Gardener stated that it is important to keep moving and pushing the effort forward considering all the resources the State has spent.
* Councilman Curtis Wells expressed his appreciation for the work put forward by ACL and also his concern that the message of what ‘State management’ looks like is not effectively articulated. He expressed his support for a long term strategy for some kind of transfer. Councilman Wells pointed out that the grant request is a small considering the battle for hearts and minds of people as it pertains to public lands. He stated he would like to see some collaboration and coordination between entities that are working to educate people and pushing policy reform.
* Doug Heaton talked about ALC’s work with other likeminded entities. He indicated that ALC has a good messaging team and a good strategy development team, and is open to strategy development input.
* Alan Gardner mentioned ALC’s Facebook page and, depending on the topic, it has the ability to reach 25,000 to a million people.
* Commissioner Leland Pollock supports moving forward with the proposed Federal Land Policy Reform Project.
* Lt. Governor Cox asked about the funding accounts.
* Kathleen Clarke pointed out that there is no funding available at the present time for grants to counties or other entities such as ALC. She explained that typically the Legislators appropriate money into the CDC Restrictive Account, which resides in the Office of the Governor, followed by a request brought forward before the CDC.
* Lt. Governor Cox recommended ALC secure an appropriation from the Legislature on this issue to make sure the money is spent appropriately.
* Representative Keven Stratton expressed his appreciation of ALC’s efforts and supports the proposal, and the notion of working with the current administration.
* Representative Brian King stated that the State has appropriated millions of dollars towards the transfer of public lands issue. He said, in his opinion, that part of the process should be to go through the legislature to change the focus.
* Doug Heaton indicated that ALC will move forward. He explained that it takes money to move a message. ALC has done a lot of messaging with little money and will continue, but he said a bit more money would be helpful. He thanked the CDC members for their time.

**Other Business**

**Report on Jurisdiction**

Mark Ward, President of Balanced Resources, discussed the jurisdictional report that he had authored and submitted to the CDC October 16, 2014, in regard to the status of federal legislative jurisdiction over federal lands in Utah. Main discussion items included:

* Mark Ward explained that there are three basic types of federal jurisdiction: exclusive legislative jurisdiction, concurrent jurisdiction, and proprietary jurisdiction. The term proprietary jurisdiction applies to those instances where the federal government has acquired some right or title to an area in the state, but has not obtained any measure of that state’s authority over the area other than to enforce their own laws and regulations that are meant to protect that area.
* Mark stated the conclusion reached in the “*Report to Constitutional Defense Council:*”

*Nowhere in the Utah Code has Utah ever ceded or shared with the United States any*

*jurisdiction over Forest Service and Department of Interior lands. The 1969 Department of Justice Report conclusion that virtually all such lands in Utah are held in the category of proprietary jurisdiction remains accurate at the present time.*

is supported by federal documents: a 1969 jurisdictional report prepared by the U.S. Department of Justice (DOJ), as well as some DOJ training material.

* The vast majority of Forest Service and BLM lands in Utah are held in proprietary jurisdiction. The acreage breaks down as follows: 7.9 million acres of Forest Service lands are held in proprietary jurisdiction; the DOI lands includes not only BLM, but also U.S. Geological Survey, Bureau of Mines, National Park Service, Bureau of Reclamation, and Bureau of Commercial Fisheries. Of those lands, 5.2 acres are held in exclusive jurisdiction (BLM administrative site in Cedar City), 5.0 acres are held in concurrent jurisdiction (Bureau of Mines), and 27,124,000 million acres are held in proprietary jurisdiction.

**Budget Discussion**

Commissioner Leland Pollok discussed the good work PLPCO has done for the counties. He said counties do not have the funds for the type of work PLPCO provides. Every year Kathleen Clarke grapples over the budget. Commissioner Pollock recommended the Legislative help to support PLPCO to get beyond its current, one-time funding.

**Great Basin Water Network**

Lt. Governor Cox mentioned a letter he received from Steve Erickson that was too late to get on the agenda for this meeting. He explained that Steve Erickson is a board member of the Great Basin Water Network (GBWN). GBWN is a coalition of ranchers, farmers, small business people, rural residents, conservationists, and Native American Indians. The letter is a request for $50,000. Lt. Governor Cox indicated that this request has come before the CDC previously, and concerns the legal fight over Nevada taking water from the Great Basin. Lt. Governor Cox said he would provide members with a copy of the letter.

**Public Comment**

No public comment.

**Adjourn**

The meeting adjourned at approximately 3:43 p.m.