



## Garfield County Commission & Kane County Commission Coordination Meeting With BLM

### MINUTES

November 18, 2022

11:00 AM

Kanab Center Ballroom C

#### Attending

**Kane County Commissioners:** Andy Gant, Wade Heaton.

**Garfield County Commissioners:** Leland Pollock, Jerry Taylor, David Tebbs.

**BLM Representatives:** Ade Nelson-Monument Manager, Scott Whitesides-Planning Manager, Shawn Stewart-Range Management, Clay Stewart-Outdoor Recreation Planner.

**Staff & Other Support:** Clayton Cutler-Kane County, Taylor Glover-Kane County, David Dodds-Garfield County, Margaret Byfield-American Stewards of Liberty.

#### Call to order

Andy Gant

**Motion:** Commissioner Heaton made a motion to approve and adopt the agenda. Commissioner Gant seconded. Vote was unanimous. Agenda for the meeting was approved by Kane County.

**Motion:** Commissioner Tebbs made a motion to approve and adopt the agenda. Commissioner Taylor seconded. Vote was unanimous. Agenda for the meeting was approved by Garfield County.

Margaret Byfield briefly discussed the intent of the meeting. Counties need to have a clear understanding of the planning process while the BLM understands the counties plans and policies. The BLM have 3 processes to follow when they do this type of planning. Collaboration process that involves the public. Cooperation that involves agencies working together on the NEPA process. Then the coordination process, which on a local level is probably the most important process. Coordination falls under FLPMA, to make sure that the federal plans are in line with local plans. Congress has put the responsibility of coordination on federal agencies to make federal plans consistent with local plans. This meeting is a coordination meeting and part of that process.

Commissioner Gant asked representatives from the BLM to give an explanation of where they were in the planning process.

Scott Whitesides summed up the early planning process. In July the Notice of Intent (NOI) was sent out to initiate the planning process. However, when the Proclamation was released in October they began planning for that planning process. The NOI also initiated the BLM's scoping period. It included in-person and virtual meetings that were well-attended by participants. They are currently working on the scoping report to identify issues that have arisen from the public. The report will be available to the public on the eplanning website in December. The BLM has completed three cooperating agency meetings so far and has sent out the Analysis of the Management System (AMS). The AMS looks at the range of alternatives and is available on the eplanning site as well. The range of alternatives are decided on by trying to reach the purpose and need of the planning.

Commissioner Pollock wanted to establish the position of the counties through this planning process. He gave a review and short history of the original Proclamation to establish the GSENM. The negative impacts to Garfield County by that designation continue to this day. The county was not part of that planning process and because this new plan could be the final plan, this coordination process needs to happen. Commissioner Heaton agreed with Commissioner Pollock and restated the need of the BLM to work with the counties.

Margaret wanted clarification on the object and values that the Proclamation is protecting. Scott clarified stating that the Proclamation is associating a value with an object as part of the NLCS directive. It could be religious, or a geological object. For clarification, Margaret mentioned that when there is conflict in planning, the proclamation language trumps and the directive is to follow the Proclamation. However, the Proclamation is only allowed to protect what the Antiquities Act allows it to protect; it doesn't allow for protection of values.

Commissioner Heaton asked if they had a draft list of inventories of the objects.

Ade Nelson said that they are working on that right now, noting that it is an ongoing process that will continue to grow. Commissioner Pollock stated when the BLM finishes the draft that should be part of the coordination process and brought to these meetings. As a follow-up, Commissioner Tebbs asked if the AMS is public, and does it list the range of alternatives.

Scott replied stating the AMS is public, but the range of alternatives are not.

Counties cannot adequately plan, without publicly knowing the range of alternatives because they are not public. Commissioners are not allowed to gather as a quorum without publicly noticing the meeting. It was discussed how it is a conflict.

Commissioner Tebbs wanted to make sure that the line of cooperating agency and coordination meetings are not blurred. Stating that they want to try to get this coordination portion of the planning right. The coordination portion is very important, and it is important that the counties get that information as soon as possible so they can discuss them publicly.

In speaking to the range of alternatives, Margaret asked why they were not public. Some things in the range of alternatives could be made public, and Scott mentioned there were alternatives that they were still doing analysis on. It was reiterated by Margaret that the decision of what is made available to the public is up to them (BLM) and that the more that they share the better chance they have for positive feedback.

Commissioner Taylor brought up the lack of involvement of communities and local mayors and how they should be a part of this process. Ade responded, mentioning they are all welcome to reach out to the BLM and request to be a cooperating agency. Commissioner Tebbs wanted to make sure that the BLM will review the local counties plans and that they will reach out if they find a conflict. Ade said they would do so and recommended that counties send the BLM a list of conflicts if there has been any so far. That could help streamline that process.

It was explained that the counties will have a hard time providing a list of conflicts because of the lack of public information. In the coordination process, the governments cannot discuss these conflicts openly and to the public without properly noticing meetings.

### **Lunch Break 12:00 pm**

**Call to order:** Commissioner Gant welcomed everyone back from lunch, meeting resumed at 1:00 p.m.

Commissioner Pollock discussed the valid and existing rights. Water, economic activities, cutting firewood, access across lands, and grazing are part of those rights.

Clarification on the interim guidelines and how it pertains to those rights were mentioned by Commissioner Gant. The interim guidelines specifically calls those rights out and could not be allowed on the monument. Ade spoke to the guidelines stating it gives the BLM guidance until the RMP is completed, and will be working on how those uses affect the resources on the monument.

The right of hunting was brought up by Commissioner Heaton. The monument has a mule deer herd that is one of the most sought out herd in the nation. He explained that hunting is a culture of people that live here. Hunting needs to be considered as one of those existing rights.

Rangeland health and projects on the health of the rangeland have been halted. It was mentioned by Commissioner Pollock that they are often on hold until the completion of the RMP. Counties have offered to do a lot of the work of the BLM on rangeland to get these projects completed. Because of some of these regulations, and the changing plans for the monument, it is very hard to get some of these projects done.

Commissioner Gant wanted to know about AUM's and how it relates to valid and existing rights. He asked if grazing was a valid and existing right. Scott started to break down the rights into three categories. First were socioeconomic and cultural. An example would be impacts, environment justice, and heritage. They then look at discretionary uses of those categories, and grazing falls under discretionary. Rights-of-way would fall under a valid and existing right clearly defined by the language of the law, including some mining. To clear it up, Commissioner Gant then asked again if grazing is a valid and existing right. Scott said that grazing is discretionary.

There was discussion on the conflict of retirement of AUM's. The Taylor Grazing Act (TGA) does not allow for the retirement of AUM's. Commissioner Gant wanted to know if that has been

changed by the BLM because the TGA does not allow them to be retired. The Proclamation states and will allow for that. Scott said that is what they are following.

Margaret came back to her question before wanting further clarification as to what the Proclamation protects according to valid and existing rights. Ade followed by stating, if it is something that requires the BLM to permit, then it is discretionary. Margaret then gave a history of how someone obtains a grazing permit explaining it was a right to obtain, although the BLM mentions grazing is discretionary and not a right. Stating that is a conflict.

Scott explained that the BLM is in a planning process because they are bound by the Proclamation. Followed by Commissioner Heaton stating the BLM is also bound by counties plans.

David Dodds brought up how important it is for the counties to know what is a protected object and what is a valid and existing right. By not knowing what is protected there is no real way for counties to plan. Margaret suggested the BLM should also identify these issues before they move forward with the plan. The RMP will not cover implementation level decisions regarding grazing. It will just clarify what is available or not to grazing. In the old plan, the BLM had their own grazing management plan, and plan to do so with this plan according to grazing. Scott said that in this RMP they will have outlined what will be available and not available to grazing according to the different range of alternatives.

Taylor wanted to make sure that the BLM would be considering the county RMP as it pertains to grazing. That should be considered while developing the range of alternatives. The reduction of AUM's is not something that the counties plans say or support. The discussion went on how the BLM will try to validate those existing rights. Specifically to grazing, if that will ever be known if it is an existing right.

Commissioner Heaton wanted to address positions of the counties pertaining to cultural and religious rights. The founders and ancestors of Utah were afforded rights, and that should be something that needs to be highly considered into this plan.

Margaret wanted to be clear that the counties position be in the draft EIS. The BLM should consider getting more information out to the counties so they can discuss those positions.

David talked more about the timeline of the planning process. He asked what the intent of the RMP was. He clarified stating it was a directive to protect objects on the monument, but that the BLM doesn't have a list of objects to be protected. Then requested the BLM put the planning on pause until those objects are defined. Referring to grazing, David asked if those standards have been updated for this plan. The BLM said there have been ongoing standards for many years they are considering while developing the plan.

The Commissioners as a group wanted to know when the counties could expect a draft EIS so they could actually discuss it, mentioning if it isn't released as public, commissioners cannot discuss behind closed doors and are bound by public meeting laws.

Margaret asked if a science plan is being worked on. Ade said that it has not been done yet, but they have had direction on how the BLM will get a science plan going. There has been no direction on timeline of the development of a science plan. So it was suggested by the counties that they try to get those plans in place before the RMP.

Margaret emphasized the duty of the BLM to fully and properly coordinate with the counties in order to follow the law in the planning process. Commissioner Taylor agreed stating that the plans affect our local citizens the most because they are the ones who live here.

Commissioner Pollock and Commissioner Heaton spoke to the importance of getting the plan right so they can avoid litigation. The information previously discussed should get out to the public and to counties so that they can properly plan, discuss, and prepare. Scott said that he will find out what information he could get so that the counties can be better informed.

Meeting was adjourned at 2:45 pm



Andy Gant

Kane County Commission- Chair



Leland Pollock

Garfield County Commission- Chair