



STATE OF NEW MEXICO, COUNTY OF CHAVES  
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Dave Kunko, County Clerk

**JANUARY 10, 2017**

The Board of Chaves County Commissioners held a Special Commission meeting for the purpose of Coordination of the Carlsbad Resource Management Plan. Chairman Corn called the meeting to order at 9:04a.m. Commissioner Duffey led the Pledge of Allegiance and Commissioner Bilberry led in prayer. Those present were Commissioners Duffey, Bilberry, Ezzell, Corn and Cavin. Also present were County Manager Stan Riggs, Flood Control Manager Dick Smith, Public Services Director Bill Williams, Former County Commissioner Kim Chesser, Margaret Byfield, Dan Gerrand, Ty Bryson, Chuck Schmidt, media, staff and County Clerk Dave Kunko.

#### **CARLSBAD RESOURCE MANAGEMENT PLAN (RMP) UPDATE - BLM**

Ty Bryson, BLM Fire Management Officer and acting Field Office Manager for the Carlsbad Office stated that currently the draft RMP is in Washington, DC for their review and comment. Once that is completed there will be a notice of action posted in the Federal Register, which will open it up to a 90 day public comment period. During those 90 days there will be public meetings for additional comment. Once the 90 days is over they will close out the RMP. Then an additional notice of action will be posted in the Federal Register, followed by a 30 day public review period and a 60 day Governor's review. After that the field office will work to resolve any issues or protests from the Governor or the public. Once those final issues are resolved the approved RMP will be made available to the public. Chairman Corn asked if there was a timeframe as to when this would be published in the Federal Register. Mr. Bryson said he did not know and added that the Federal Register was about 6 weeks behind due to the change in administration. Chairman Corn asked if BLM viewed the proposal in Washington DC as the final draft. Chuck Schmidt, BLM Field Office Manager of the Roswell stated he was standing in for Jim Stovall the District Manager who was unable to attend. Chuck Schmidt stated this whole process began in 2010 and this is the tail end of the process. We are currently at the stage where the draft plan goes through the Washington Office. It was agreed that a 6 week turn around was very optimistic.

#### **LANDS WITH WILDERNESS CHARACTERISTICS (LWWC)/ CONFLICT WITH LWWC 813, 902 & 909**

Bill Williams projected some maps on the wall to assist with the discussion of LWWC. Mr. Schmidt explained the map and what the different colors signified on the map. There was discussion about some of the private land and State land being land locked.

Chairman Corn asked how people would get in and out of parcels they own if this was considered LWWC. Chuck Schmidt stated this was the process of inventory for LWWC, which means the lands must first be identified and then managed according to their designation. He stated access would not be denied if there is an existing road or trail. There was discussion about the permitting process.

Margaret Byfield mentioned that at the last meeting the County asked for the detailed inventory sheets. She asked how the land changed designation when they were inventoried in the 1980's to when they were most recently inventoried. Chuck Schmidt mentioned that there are 4 criteria that are looked at when the team looks at the land. Three of the criteria are size, naturalness and improved structures. Margaret Byfield stated this was in the report, but the report did not mention what had substantially changed in the land. Mr. Schmidt stated he was not on the team that looked at the property so he is not sure what is substantially different. Margaret Byfield then mentioned that the BLM Policy Manual stated the minimum standard that new information must meet in order for the BLM to consider the information during the Wilderness Characteristic process requires the submission of the following information from the BLM; 1) Is a map with detail and 2) a detailed narrative that describes the Wilderness Characteristics of the area and documents how that information substantially differs from the information in the BLM Inventory of the Land with Wilderness Characteristics. She stated there was no documentation as to what is substantially different. Chuck Schmidt stated he would not be able to answer this directly but technology and GIS substantially aided the ability to evaluate these lands. He said he would make a note and see if he could provide what the substantial differences include.

Commissioner Ezzell understood this process is to inventory lands that have Wilderness Like Characteristics, then the Field Office will make a determination as to whether they will be managed as such? Mr. Schmidt said that is correct. Commissioner Ezzell then asked what the management practices

were if the Field Office determines to manage them as wilderness? Chuck Schmidt stated that in the draft reviewed by the County, Unit 813 or the South unit is going to be removed from consideration and will not be managed as LWWC. He stated Units 902 and 909 have 2 alternatives. He stated 902 and 909 are the units next to the Felix River. Commissioner Ezzell stated to become LWWC the resources have to be substantially different than the last inventory, which has not been proven so under the law and your policy it cannot be inventoried as LWWC. Mr. Schmidt stated the RMP states how these lands will be managed. Mr. Schmidt said he could go through the table in front of him which describes the multiple alternatives. Alternative A is the most restrictive while Alternative C is what the BLM has as their preferred alternative. Under Alternative A, units 902 and 909 would close use of minerals like oil and gas. Alternative C would be open with major constraints, which would be a no service occupancy scenario. For saleable minerals like sand, gravel and caliche these would be closed under Alternatives A and C. For renewable like geothermal, solar and wind Alternatives A and C would be closed. Travel would be limited to existing routes. Grazing would be unchanged under Alternatives A and C. New rights-of-ways would be excluded. Commissioner Ezzell asked if Chuck Schmidt understood his concern over unit 813. Mr. Schmidt said he did. He also asked what could be done at this point in the process to have it not inventoried as LWWC. Chuck Schmidt said the inventory is complete and he doesn't know how to undo it. Commissioner Ezzell stated the amendment had not been adopted so the inventory could change because this land was not inventoried as LWWC at the last inventory. There was discussion about the meaning of inventoried. The entire Carlsbad Field Office has been inventoried. Since this is a draft and the comment period will still be open the County would be able to weigh in for some consideration for the final plan.

Commissioner Cavin wanted to know why the land would be inventoried as LWWC but not managed as such. So 10 years down the road you could decide to do whatever you want to do with the land. Chuck Schmidt stated he wished he was more familiar with this process, but he believes they had public meetings for this vary purpose. As the team moved through the planning process something must have been identified that made the Carlsbad Office not move forward on managing it as LWWC. We will take note of this and bring the answer back to the next coordination meeting.

Commissioner Ezzell said it was his understanding that when the Wilderness Act was passed public lands were inventoried to determine what areas had the characteristics that met the definition of Wilderness in the Act. Then it was up to Congress to make the designations. Mr. Schmidt stated the Wilderness Act was passed in 1964 and BLM was not given direction to move forward until FLITMA passed in the 70's. So FLITMA directed the BLM to start inventorying these lands. This district has a handful of "Wilderness Study Areas", which came out of FLITMA. Under FLITMA Congress is allowed to set these aside and manage as Wilderness. Congress can decide whether to release these lands or consider them for Wilderness designation. Part of the BLM responsibility we are required to maintain what lands are still out there. Are there substantial differences? Things can be identified better now due to technology. The BLM is required to carry out the policy. Commissioner Ezzell said after FLITMA inventories were conducted and LWWC were identified. Then Congress decides whether to make a Wilderness designation. If 813, 902 and 909 were not inventoried as Wilderness or Wilderness Study Areas in FLITMA, what has changed that makes them LWWC now? Chuck Schmidt stated in the most recent inventory the team determined these parcels met the 4 criteria. He can't explain why it wasn't caught the first time or mapped the first time. Commissioner Ezzell said the policy states there has to be a substantial difference from the last inventory. Chuck Schmidt said that Section 201 of FLITMA requires the BLM to maintain on a continuing basis an inventory of all public lands and their resources and other values which includes Wilderness Characteristics. Commissioner Ezzell said he understands that if a tract does not have 5,000 acres and through acquisitions or land exchange it now does, then that would be a substantial difference from the prior inventory. This is not the case here. Nothing has changed. So how can it be considered now when it was not considered originally? Mr. Schmidt said he could not answer that because he did not have in front of him what was substantially different. The evaluation team compared the land to the set of criteria and the lands did meet the criteria.

Commissioner Duffey asked if the evaluation team stated it is substantially different now than it was 30 years ago? Mr. Schmidt stated the team did not say that. They said it meets the criteria.

Commissioner Bilberry asked if the criteria was the same 30 years ago. Mr. Schmidt stated it was the same. Commissioner Bilberry said "if it didn't meet it then how could it meet it now. Mr. Schmidt said the criteria has not changed and either has policy, he doesn't have the answer as to why it meets it now.

Commissioner Ezzell said it appears that the Policy substantially changed and not law.

Stan Riggs asked if 813 is not managed as LWWC could a pipeline go across it and could it have wind and solar on it as well. Mr. Schmidt said no restrictions would be in place due to the designation. Stan also asked since it is inventoried as LWWC would it take an RMP amendment to change how it is managed? Chuck Schmidt said that is correct. An RMP is designed to set the stage for the next 20 years. Mr. Riggs said his concern was that Unit 813 could get fast tracked to being managed as LWWC since it is inventoried as LWWC. Chuck Schmidt stated this draft plan started six and a half years ago. There is no possible way to fast track an action like this because it must go through this entire process.

Commissioner Ezzell stated he went to a meeting in reference to 902 and 909 and Mr. Stovall was present and they said once it is inventoried as LWWC it was up to the field office manager to determine if the lands would be managed as wilderness or not. Commissioner Ezzell wished to know if this was right or does it take an RMP amendment to determine how it is managed. Mr. Schmidt said what we are talking about right now is an RMP amendment. A manager can make the decision but it would have to be carried forward in this process. Commissioner Ezzell stated if these 3 units did not receive a designation of LWWC through the inventory process then in an RMP the District Manager is not authorized to make a decision to manage them as wilderness. Chuck Schmidt said that was correct. Commissioner Ezzell asked what we could do to keep these lands from being designated as LWWC. Mr. Schmidt said the public record created from this meeting explains the County's position. Commissioner Ezzell stated at the meeting over Units 902 and 909 Mr. Stovall was asked if the BLM had considered the Military Operating Areas (MOA's) for Holloman Air Force Base in this specific area. The answer was BLM had not considered it and did not know anything about an MOA and the requirement of a LWWC was solitude. Commissioner Ezzell stated these cannot qualify as LWWC due to the MOA. There was some discussion over jet traffic.

Dan Gerand mentioned that he was at the meeting in Artesia and numerous questions were raised about the ability of the land to meet the criteria. There are activities in these units that would specifically not meet the criteria. We are told that we are allowed to make comments, but this does not seem to be true coordination. Chuck Schmidt said the BLM values their relationship with Counties. He felt the BLM does a fair job of balancing land use. He mentioned that they are 7 years into this process and we will continue to move forward. Mr. Gerand said we are hoping for more than just comments. It is his understanding we should sit down together and go over the land use.

Margaret asked when the draft RMP comes out will unit 813 be identified as an LWWC? Mr. Schmidt said he does not believe it will be listed on the draft, but he would need to validate that and let her know. Based on what Chuck Schmidt has seen it does not even show up on a map. Margaret stated things can get changed or pulled in Washington. She mentioned that FLITMA requires BLM to coordinate inventory of BLM land and this was not done. She said she is not convinced that these 3 units would qualify or meet the definition of the Wilderness Act. Also it has not been established that there was a substantial change from the last inventory which is required in your policy. There is cause to pull back the plan and take a new look at LWWC.

Chairman Corn wanted to know what happened between the October meeting and now that determined Unit 813 would be pulled from the RMPA. Chuck Schmidt stated he was not able to answer that question.

Kim Chesser stated that many of the people in the room had been part of the scoping meeting a few years ago and a lot of today's comments were made back then. It appears as though prior comments were not taken into consideration, so what will happen with comments made today? The comments seem to get lost which is very frustrating.

Mike Casabonne stated that he appreciated this opportunity. He has a grazing permit on Unit 902. This plan will have a significant impact on those of us that operate in this area. He stated the land has not changed in the last 40 years. There actually is probably more human contact in this area with Military Operations which include low level jets, helicopters and pre deployment training. These proposed areas also include private land. He felt that it was real curious that the coordination with the Commission for input into the Draft RMP was not done.

The next rancher lives right between units 902 and 909 along the Felix River. There are extensive Military Operations in this area. Last year there were approximately 100 days of Military usage of the land. He stated they are very proud of the Military Operation in this area. Most of the training is for pre deployment. He did not see a need to change land designation, because nothing has changed in this area. He pointed out on the map where most of the Military training takes place.

Commissioner Ezzell stated the Wilderness Act definition includes "the imprint of man is substantially unnoticeable". It also states the area must have outstanding opportunities for solitude. In the first meeting Mr. Stovall stated there must be extremely limited access.

Sterling Hendricks stated he and his family have cattle on Unit 909. He stated they work the cattle from ATV's and not on horseback. There were 25 trespassing complaints to game and fish during the hunting season while they were just trying to locate their cattle. If this area was managed as LWWC they would have to switch to horseback which would be much more costly. Margaret Byfield asked questions about the use of motorized vehicles and the fact that you do not stay on roads. There was discussion about streams and washed out water gaps. They have replaced windmills with solar arrays and they have 3 more of them in the works.

Larry Connolly mentioned more helicopter training was approved and he wondered how many more days would be added to the 100 the military already uses.

#### **AREAS OF CRITICAL ENVIRONMENT CONCERN (ACEC)/ CHAVES COUNTY COMPREHENSIVE PLAN**

Chairman Corn stated there are pilot training routes for the military in these areas. He had Bill Williams put up a new map which shows routes used by the Air Force and Navy pilots. Chairman Corn mentioned 2 training squadrons transitioning to F-16's. Mr. Schmidt stated to the best of his knowledge there had been no direct communication with the Navy or Air Force. There was additional discussion on Raptors, discussions with the Military and their operations, Migratory Birds and the ACEC designation. Chuck Schmidt stated the goal was not to increase the Raptor population. Chairman Corn stated if the goal was not to increase the population why have a restricted designation on the land? Mr. Schmidt said the area was nominated by an outside entity which requires them to follow a process in their BLM Policies. Commissioner Cavin asked who the outside entity was that nominated this area? Mr. Bryson stated he believed it was the Chihuahuan Desert Alliance. Kim Chesser stated that originally when this plan was introduced it was his understanding there was approximately 550 thousand acres nominated for the ACEC. Now it appears that it is 350 thousand acres. What was the process to downsize the ACEC? Chuck Schmidt stated it was the range of alternatives. Each alternative in the plan will show the difference in acreage. The preferred alternative is a smaller amount of acreage. Mr. Bryson said under alternatives A and B it is 350 thousand acres and under alternative C and D it is not considered.

Margaret said that once an area is nominated it is the job of the BLM to figure out if the nomination qualifies. So now we just have to see what the BLM decides. Your evaluation does state there is habitat and resources for birds of prey and other birds. Under importance and relevance in your evaluation is to protect the birds of prey. She said FLITMA states the requirement to designate an ACEC is that you designate an area that would be irreparably harmed if it is not designated. What is the irreparable harm that is going to occur if not protected? Chuck Schmidt introduced Glen Garnand the Planner out of the Roswell Field Office. Glen Garnand stated that the birds of prey are the concern in this area. There is a unique ecosystem for those birds of prey. Mr. Garnand stated this is part of the process required by BLM. Each application for a special use in the area would have to go through the process to see if it would fit with this unique ecosystem. Margaret Byfield said the question isn't about relevance and importance because you could argue that with every piece of land. The question comes out of FLITMA because it talks about the irreparable harm. Margaret said it states that a separate notice

of intent is required to be published if an ACEC is being proposed and in that notice BLM must define the restrictions. Is that notice being prepared? The BLM representatives were unable to answer.

A short recess was taken at 11:30a.m. The meeting reconvened at 11:45a.m.

Dan Girand stated there were 27 species of birds on the list. Do you know if the Carlsbad Office researched each of the species to determine if they should be on the list? Chuck Schmidt stated the office would have been required to go through that process. Mr. Girand stated that research exists that shows one of the birds on the list does not occur south of Clovis. Mr. Girand went on to state there was no sufficient evidence to determine this land should be designated an ACEC. Mr. Schmidt stated the preferred alternative by the BLM in this area is Alternate C which takes out the ACEC designation for Birds of Prey in all of Chaves County.

Commissioner Duffey moved that the Chaves County Commission finds that the Birds of Prey ACEC does not comply with the Chaves County Land Use Plan. Commissioner Cavin seconded the motion. A voice vote was unanimous and the motion carried.

Kim Chesser stated there were already 4 Birds of Prey ACEC's in the Carlsbad District at this time. Mr. Bryson was not sure of the exact number. Mr. Chesser stated he would like to see the study of these areas for the last 20 years. This should help us answer management questions if this land is designated as an ACEC.

Commissioner Ezzell asked if under the current Carlsbad Resource Management Plan if there were any ACEC's already designated in Chaves County? Mr. Schmidt stated he did not think so. Commissioner Ezzell asked if this is designated an ACEC what kind of restrictions could be expected? Chuck Schmidt stated what they manage is the habitat. You examine the whole ecosystem cycle. BLM looks at what needs to be done to make sure the habitat stays in place. If the ACEC went through there would probably be some restrictions on large scale future development. Commissioner Ezzell asked if it would affect grazing? Mr. Schmidt stated he did not see that there would be a reduction of grazing leases because that is not mentioned in the RMP. Mr. Schmidt stated the Pecos District has done a very good job of maintaining the grazing program and may be the only District in the West to still have the first generation of a native grass. Commissioner Ezzell asked if Mr. Schmidt agreed that the criteria of irreparable harm must exist for there to be a designation of an ACEC? Mr. Schmidt answered yes.

#### **LIVESTOCK/GRAZING**

Chairman Corn asked if BLM saw potential increases or decreases in grazing leases. Mr. Schmidt stated that would be determined by long term monitoring. Chairman Corn asked if this land is designated would Mr. Hendricks be able to continue using ATV's to round up cattle? Mr. Schmidt stated the current Carlsbad RPM of 1988 leaves it wide open. The Roswell 1997 plan states existing roads and trails. If it were designated as LWWC it would be existing roads and trails.

Margaret Byfield asked if there would be provisions in the preferred alternative to allow for an increase in grazing if there is increased forage? Mr. Schmidt stated he did not believe there would be provisions for increases or decreases. Margaret stated grazing should be considered as a positive management tool that controls vegetation. She also stated that historically grazing numbers on BLM leases have decreased nationwide. The purpose of FLITMA is to keep people on the land.

Commissioner Ezzell asked if they could revisit agenda item #2. Commissioner Ezzell moved that the Board of Chaves County Commissioners make a finding that Units 813, 902 and 909 did not meet the statutory requirements under the Wilderness Act to be classified or inventoried as LWWC and the Carlsbad RMP Amendment does not comply with policy action 3.1.1C and 3.1.1D of the Chaves County Comprehensive Plan. Commissioner Duffey seconded the motion. A voice vote was unanimous and the motion carried.

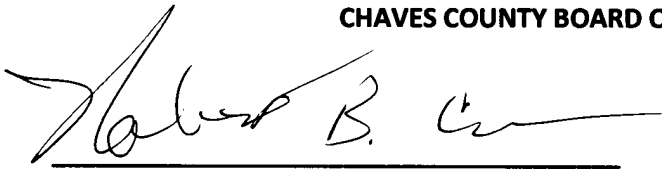
#### **SET DATE FOR NEXT MEETING**

Chairman Corn mentioned that the 60 day Legislative Session would end on March 18<sup>th</sup>. The meeting was then tentatively set for March 21<sup>st</sup> at 9:00a.m. Chuck Schmidt requested that the County

summarize the information asked for in this meeting. He also stated he would invite the State BLM Director.

Commissioner Ezzell moved to adjourn the meeting at 12:18p.m. Commissioner Duffey seconded the motion. A voice vote was unanimous and the motion carried.

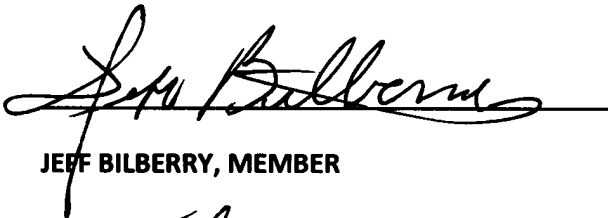
**CHAVES COUNTY BOARD OF COMMISSIONERS**



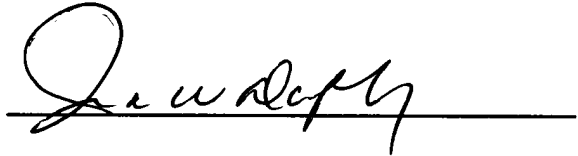
**ROBERT CORN, CHAIRMAN**



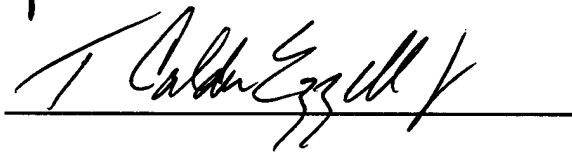
**WILLIAM E. CAVIN, VICE CHAIRMAN**




**JEFF BILBERRY, MEMBER**



**JAMES DUFFEY, MEMBER**



**T. CALDER EZZELL JR., MEMBER**

ATTEST: 

**DAVE KUNKO, COUNTY CLERK**

