

## Implementation of the Local Planning Process

This section highlights a few examples of how four counties, Modoc County, California, Owyhee County, Idaho, Wallowa County, Oregon and Grays Harbor County, Washington have utilized the local planning process to develop working relationships with federal agencies and to engage local county residents in the work of protecting the stability of their community.

### **Modoc County, California**

1. In the mid-90's the Fish and Wildlife Service consulted with the Modoc National Forest on grazing management on allotments that had streams containing the threatened and endangered Lost River, Short-Nose and Modoc suckers (fish). A grazing strategy was devised and for the next three years both the MNF and the F&WS carefully monitored the results. The data clearly showed an upward trend toward desired condition and increased recruitment of juvenile fish. However, the F&WS wanted to increase the restrictions, particularly on stream bank alteration, going from twenty percent to ten percent. Ten percent would render the allotments economically unviable for grazing 2000 cattle and 6000 sheep. Modoc County, using the section in the Endangered Species Act that allows for adoption of a local recovery plan, adopted the MNF Biological Assessment (the document that allowed 20 %) as its local recovery plan and then filed a notice of intent to sue F&WS. The ESA says F&WS should not develop their recovery plan without showing that any local plan is not working (the MNF monitoring showed that the current plan was successful). Three days after the filing, the Department of Justice called the county and suggested this could be worked out on the ground. A subsequent meeting that included the Regional Forester and Regional Director of F&WS determined that the current standards were adequate for protecting the fish.

2. In 1995 the Lava Bed National Monument reworked their management plan and called for the closing of the south entrance, a modest road across the Modoc National Forest. This road, for which the Monument had a special-use permit, was responsible for funneling 50000 vehicles a year through the small, unincorporated community of Tionesta. Tionesta lays 2 miles off the main highway on the county road where the south entrance road dead ends. Closing the road that the Monument said they could no longer maintain would have destroyed thirty residences and three tourist-dependent businesses. The existing land-planning forum was able to broker a deal in which the Monument would continue to plow snow, the MNF would provide material and the county road crew would do the maintenance work.

3. The Big Valley Wildlife Area was purchased by the California Department of Fish and Game in the 1980's. Through several additions it had grown to over 12000 acres by 1995. In 1996 the department proposed another addition of over 2000 acres. Using the local land-planning forum, the county was able to reduce the acquisition to 700 acres and get agreement to return to private ownership 400 acres from previous acquisitions that occurred prior to the implementation of the planning process. This was a nice savings for the tax role. This effort has lead to a MOU being signed between the county and CA Fish and Game. Among other things the MOU requires the department to consult with the county whenever a potential acquisition is in the works.

4. When the Forest Service began their planning for the regional (11 forest) Sierra Nevada Framework, Modoc County was quite concerned. In addition to the normal things wrong with a one-size-fits-all approach to regional planning, this document was going to impose strict standards and guidelines on a landscape (Modoc National Forest) that was different from the actual Sierra Nevada (MNF is in a separate bio-region) in ecology, climate, geology and economy. It would have ended many of the MNF's award-winning programs. Engaging the Forest Service through the land planning process, the county developed their own alternative (we are unaware of any county having done this before at the regional planning level) to be displayed in the DEIS. It emphasized local decision-making in a way we hoped would allow many of the cutting-edge programs taking place on the MNF to continue. This involvement led to the county being offered a seat on the inter-agency team made up of government agencies (F&WS, EPA, CA Fish and Game, Water Quality Control Board, etc.) whose role is to offer advice and feedback to the FS during the drafting of the document (another first for a county, we believe). Although our influence failed to affect the selection of our preferred alternative when the Record of Decision was published, seven of the nine programs exempt from the Sierra Nevada Framework standards and guidelines are located on the MNF.

## **Owyhee County, Idaho**

### **1. Prevention of setting of minimum in-stream flows**

One of the advantages of having an employee state planning process with an active committee is that all members of the committee are constantly watching news and official sources as well as unofficial sources for items of vital interest. One member of the Owyhee County Committee saw a small notice in the Idaho Statesman (a Boise newspaper which has very limited distribution in Owyhee County) announcing a meeting before the water board to discuss and set minimum stream flows in the Owyhee River. The issue of minimum stream flows was before the water board on a petition filed by Idaho Rivers United, a water conservationist group. The notice gave limited time for preparation, but the committee and the Board of Commissioners sent a representative to object to the hearing because the county had not been advised in advance and had not been given adequate opportunity to prepare. In addition, the commissioners sent a letter to the Water Board complaining about the lack of notice and about the lack of coordination with the county. In response, the Water Board set a new hearing with substantial advance notice. The committee discussed the issue and three members of the committee prepared themselves to appear before the Board and oppose the setting of minimum stream flows on the basis of failure to comply with the statutory burden of proof. At the conclusion of the public hearing, the Water Board denied the petition and dismissed it. Had the planning process not been in place, no doubt the minimum stream flows would have been established, to the detriment of all farmers and ranchers who use water from the river as well as other counties in the immediate area.

### **2. Establishment of local sage grouse working group**

The Idaho Fish & Game Commission, in concert with similar commissions through the western states, had developed a series of sage grouse "guidelines" which if implemented, would destroy

the grazing industry in Owyhee County as well as other counties throughout southern Idaho. The Idaho Fish & Game Commission sent a notice to the Board of County Commissioners stating that local working groups would be established throughout the state to develop local plans for protecting sage grouse habitat. The Board was requested to nominate someone to serve on the local working group. Because the county planning process had been in place for so long, the Board advised Fish & Game that the Natural Resources Committee should become the focal point for development of the local working group. The county also contended that a local working group plan should be consistent with the county plan because of the involvement of federal agencies, such as Fish & Wildlife and the BLM, in sage grouse rehabilitation. The county maintained pressure on Fish & Game until finally Fish & Game signed a memorandum of understanding with the county agreeing that the local working group be a sub-committee of the Natural Resources Committee and that the sage grouse local plan would be consistent with and become part of the Owyhee County plan. As a result, the local working group plan for sage grouse for Owyhee County is the only plan in southern Idaho, which was fully developed without identifying grazing as the main enemy of the sage grouse. The local plan is an example of the type of plan that can be developed that looks at the real issues instead of simply focusing on an anti-grazing agenda.

### **3. Local involvement in development of TMDLs**

The Department of Environmental Quality of Idaho established local and regional groups for providing local input into development of a TMDL plan. The WAG (Watershed Advisory Group) included the nominations submitted to DEQ by the Natural Resources Committee. The format for development of the plan used by DEQ did not provide any real local input from the WAG, but was designed simply to have WAG members comment on the draft plan when completed by the department. Thus, agency personnel would have prepared the draft plan. The WAG members, well trained in the planning process in the county, objected to this process and requested that the Board of Commissioners insist upon involvement in the actual writing of the plan. The state director of DEQ and the regional director in charge of TMDL planning appeared before the Board of Commissioners. Before the meeting ended, the state director agreed that because of the long planning experience in Owyhee County, members of the WAG had sufficient expertise and involvement to participate in development of the plan. Thus the draft of the plan was withdrawn, the WAG comments were considered, members of the WAG met with DEQ staff and the draft plan was revised to include the comments and input provided by the county. None of this would have been possible without the planning process in place in the county.

### **4. Successful coordination of species research**

When conservation groups began to exert pressure for the listing of the spotted frog, particularly in Owyhee County, the BLM began research to identify the location and population of the spotted frog. Their research was conducted mainly in the desert areas upon which BLM grazing is located. Because of the existence of the Natural Resources Committee and the planning process, US Fish & Wildlife was aware of the county's involvement in planning. They had become aware of the county's involvement during the litigation involving the Bruneau Hot Springs Snail. A representative of Fish & Wildlife contacted the chairman of the board of county commissioners to request assistance of the county in obtaining research information as to the

location of the spotted frogs. The federal representative was referred to the Natural Resources Committee. His presentation to the committee was that Fish & Wildlife knew that if the frogs were to be found, they were to be found in the higher elevations in the county where there were sufficient streams on private land to provide the most desirable habitat. The Natural Resources Committee scheduled a meeting of the ranchers in the area and invited Fish & Wildlife representative to speak to the ranchers who owned the private property in question. Fish & Wildlife believed that they would find sufficient population of the frog and sufficient suitable habitat for them to avoid a listing. The ranchers cooperated because of the involvement of the Natural Resources Committee, and Fish & Wildlife did, in fact, find suitable habitat and sufficient numbers of the frogs to cause them not to list the frog. To this day, the BLM continues its search for frogs and continues its emphasis on the special status of the frogs even though Fish & Wildlife did not list the frog. The planning process provided facilitation to the federal agency to coordinate its activities with the county and conduct research essential to a non-listing. As a result, no federal management restrictions are available on grazing allotments to the BLM because of frog habitat or lack thereof.

##### **5. County involvement in BLM planning for the Birds of Prey area**

Located in Owyhee County is the National Birds of Prey area, which is a special-use area set aside for preservation and protection of identified birds of prey such as hawks, falcons and eagles. In the early development stages of the activities of the Natural Resources Committee, the BLM issued amendments to the Birds of Prey land-use plan. The amendments to the plan were drafted by the BLM without local input and then submitted to the general public for comment. One of the troublesome provisions of the draft plan was a closing of a strategic road on the Owyhee county side of the river in the Birds of Prey area. A road along the Elmore County side of the river directly across from the Owyhee County road was also closed. The rationale for closing the roads was to prevent damage to archeological drawings and writings in the rock formations along the road. The Natural Resources Committee protested the issuance of the draft to the general public without having involved the county through the coordination duties of the BLM. Acting on the recommendation of the Natural Resources Committee, the Board of Commissioners protested the issuance of the plan for public comment to the BLM. After two conferences with the manager of the Birds of Prey area and the resource area in which the Birds of Prey is situated, the county was able to justify its position that the coordination requirements of the federal statutes had been violated. As a result, the BLM withdrew the plan and requested comments from the county. The committee made recommendations to the Board and those recommendations were made to the BLM. After a meeting at which the recommendations were discussed, the BLM agreed with the county that it was unnecessary to close the Owyhee County road. As a result, the final draft of the plan closed the road on the Elmore County side of the river, but not on the Owyhee County side. This change, which was critical to sportsman and to those ranchers who needed access along the Owyhee County road to their pumps, occurred because the planning process was in place and allowed the county a tool to effectively counter BLM's decision.

##### **6. The county successfully required BLM to coordinate establishment of wildlife exclosures**

When a new resource manager came into the Bruneau resource area within the county, she issued for general public comment proposed decisions, which would establish certain enclaves for

wildlife enclosure throughout the Bruneau resource area. These proposals were based upon Fish & Game Commission recommendations, which had never been reviewed with the county or with the ranchers involved. The Natural Resources Committee opposed the proposals and the county commissioners, acting on that recommendation, called for the BLM to withdraw them until the coordination requirements of the statute had been met. The resource manager met with the board of county commissioners, the commissioners pointed out the coordination requirements of FLPMA and after review of those provisions, the resource manager withdrew the proposals and then went on a series of tours throughout the resource area discussing with the ranchers the Fish & Game proposals. The result was little or no conflict with grazing activities.

### **7. Successful contest of hunting restrictions in the county**

Idaho Fish & Game department proposed a restriction on deer hunting in Owyhee County for the year 2001 which would have allowed only bow hunting. The deer-hunting season in Owyhee County is an important season to hunters and particularly to hunters who are also residents of the county. The Natural Resources Committee studied the proposal by Fish & Game and countered it with objections to limiting the hunting season to bow hunting. The committee members appeared and testified at a public hearing held by Fish & Game and, based upon the many presentations made by the committee on behalf of sportsmen as well as ranchers, Fish & Game abandoned its proposal to so restrict hunting.

### **8. Participation by county in an appeal of grazing decision helps attain range improvements**

Permittees of the Hardtrigger allotment in Owyhee County filed an appeal from a decision, which would have reduced their grazing by 30-40%. The county also appealed the decision on the basis that it would have adverse impact on the county's environment and the county's planning process. Both the permittees and the county requested a stay of the decision, and an administrative judge granted the stay. Being unable to show any range improvements in the resource area because of other pending litigation, the BLM exercised its coordination responsibility under FLPMA to approach the county to discuss releasing the stay in order to allow range improvements. The permittees had no objection but were not in any position to afford legal representation in negotiating the release of the stay. The county, through its planning process, negotiated the release and the language of the release. As a result, while the stay is still in place as to those elements that would reduce grazing, range improvements were specifically excluded from the stay and on that allotment the only improvements for water development and fencing were accomplished during the year 2001.

### **Wallowa County, Oregon**

Wallowa County has attempted to do a lot of things to aid in the harvest figures, the watershed improvement projects and the stewardship projects in the county. One of the steps is to pursue what the federal agencies will let you do on the ground. They may allow a stewardship project (Stewardship pilots were created by Congress in 1999 to allow forests to experiment with new contracting authorities designed to improve implementation of forest projects and meeting the

needs of rural communities. The stewardship pilot legislation has three parts: land management goals for restoration, new contracting authorities and multi-party monitoring) that cuts trees but not allow a timber sale that would cut the same trees because of the process you go thru to get to the action.

The National Stewardship Pilot Program<sup>1</sup> allows pilots to test five contracting authorities:

**Best Value**—The U.S. Forest Service (USFS) has the authority to consider best value to the government when awarding procurement contracts. Pilot authority allows the USFS to award timber sales based on best value, not just highest bid.

**Multi-year contracts**—Pilot authority allows the USFS to issue contracts for up to ten (10) years, twice the current limit.

**Retention of receipts**—The USFS must send timber sale receipts (less deposits to trust funds) to the Federal Treasury. Congress must appropriate funds for service contracts. Pilot authority allows income from positively valued contracts to be used on part of the project or another pilot project.

**Designation by Description/Prescription**—In a service contract, the USFS may describe required actions or desired end results. In a timber sale contract, the USFS must either indicate trees to be removed or provide descriptions that would lead any two people to choose the same trees. Pilot authority allows the USFS to describe the desired end results in a timber sale contract.

**Goods for services**—Generally, the federal government is prohibited from trading goods for services because it cannot augment appropriated funds by exchanging something of commercial value for work. Pilot authority allows a single contract in which commercially valued timber is exchanged for work the USFS would normally have to hire.

We have also begun initiating planning processes with the USFS so we can help design the projects that get done on the ground. Specifically, we have done the following:

1. The Carol Creek fire occurred in September of 2000. We met in late September with the USFS district ranger who is on the NRAC; we had asked her if we could sell the timber from the fire area. She brought a broad group of folks together, including NRAC and the local HCPC (an environmental organization) representative. She proposed a project to attempt to sell the salvage timber, and then we made massive changes to the proposal that made it much more inclusive of watershed improvement actions. We encouraged her to find additional money and staff to aid in the planning so the regular work could go on as well as this special

<sup>1</sup>Information on the National Stewardship Pilot Program is provided from Volume 4 Number 1 of The Stewardship Chronicle.

project. We supported her in D.C. to get the additional help. We requested that much of the work be contracted to aid in the employment. These are just some of the actions and steps we did. We sold the project in July; it was harvested in August, just 11 months after the sale started. The timber volume was about 3 million board feet, which made it 3 million more than

the whole county sold the previous couple of years. Much of this was accomplished because of the relationships we had already in place through the NRAC, the cooperation we got from the USFS and the political support given the local district ranger in the requests for more funds and staff. Although it was appealed by the HCPC, the appeal was expedited by Region 6 and denied, particularly because they had been at the table and had had the opportunity to give input.

2. We requested pilot authority on some of our projects to start a new planning process on the ground.

3. Stewardship contracting allows for different rules on how projects are done and who does them. By utilizing this program of the USFS we can develop projects that we would otherwise be unable to do.

4. We are starting a planning process for a whole watershed so that we can get some larger areas "planned" with less cost and less time. To do this we the county, through the NRAC, are the lead on the process even though the USFS is doing much of the coordination. To accomplish much of the actual planning we hope to receive funds to have it done by private contractors that will cut several years off the process.

### **Grays Harbor County, Washington**

In 2000, the United States Fish and Wildlife Service (USFWS) proposed to list the coastal cutthroat trout as threatened under the Endangered Species Act. Because the impacts on the citizens of Grays Harbor County had not been taken into consideration prior to this decision, the Grays Harbor County Commission wrote a letter to USFWS on June 26, 2000, asking for joint lead or cooperating agency status under NEPA.

The commission also wrote to the state supervisor for USFWS in Oregon asking why the coastal cutthroat trout was being considered for listing in Grays Harbor County when information compiled by National Marine Fisheries Service (NMFS) indicated the populations of coastal cutthroat may be threatened in the lower Columbia Basin but not in Grays Harbor. The commission used the Freedom of Information Act to request specific information about the potential listing, including data specific to Grays Harbor about cutthroat populations, habitat and genetic information to indicate differences between one ESU and any other within Washington State. In this letter the commission further requested a public hearing in Grays Harbor County to consider the possible listing.

Through the diligent work of the Grays Harbor commissioners and a one-year moratorium on new listings, the coastal cutthroat trout listing was delayed until 2002. Review of research data in 2002 indicated sufficient numbers of cutthroat trout in Grays Harbor to deny the threatened status for this fish under the guidelines of the Endangered Species Act.

