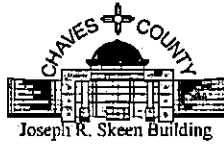


**CHAVES COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**Jeff Bilberry, Chairman  
T. Calder Ezzell Jr.  
Vice Chair**



**Dara Dana, Member  
Richard C Taylor, Member  
Michael J. Perry, Member**

**William B. Williams, County Manager**

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**SPECIAL MEETING MINUTES  
MONDAY, APRIL 10, 2023  
CHAVES COUNTY ADMINISTRATIVE CENTER – JOSEPH R SKEEN BUILDING  
#1 ST. MARY'S PLACE, ROSWELL, NM 88203**

**CALL TO ORDER**

Chairman Bilberry called the meeting to order at 2:06 pm.

**PLEDGE OF ALLEGIANCE**

Commissioner Perry led the pledge and Kim Chesser led in prayer.

**DETERMINATION OF QUORUM**

Those present were Commissioners Bilberry, Ezzell, and Perry. Commissioner Dana and Taylor were absent.

Also present were County Manager, Bill Williams, Public Services Director, Mac Rogers, IT Director, Andrew Rey, Sheriff, Mike Herrington, and County Clerk, Cindy Fuller. Also present were the media, staff, and guests.

**INTRODUCTIONS AND OVERVIEW**

Margaret Byfield – Executive Director, American Stewards of Liberty  
Kim Chesser – Arizona/New Mexico Coalition of Counties/Former Chaves County Commission  
Bronson Corn – NM Cattle Growers' Association  
Tim Jennings – Roswell Mayor  
Harlan Vincent – Rep. District 56  
Candy Spence Ezzell – Rep. District 58  
Todd Proctor – Lincoln County Commission – District 1  
Mark Fischer – Lincoln County Commission – District 5  
R.B. Nichols – Otero County Attorney  
Gerald Matherly – Otero County Commission – District 1  
Amy Barela – Otero County Commission – District 2  
Vickie Marquardt – Otero County Commission – District 3  
David Black – Otero County Sheriff  
Jason Burns – Eddy County Public Works Director  
Mark Cage – Eddy County Sheriff  
Tina Dixon – Roosevelt County Commission – District 4  
Dean Jackson – Lea County Commission – District 1  
Will Cavin – former Chaves County Commission – District 4  
Diane Prather – Forest Service  
Travis Mosley – Forest Supervisor, Lincoln National Forest  
Wendy Jo Haskins – Forest Service, Regional Office

**DISCUSSION OF COORDINATION AGREEMENT**

***Presenter: Margaret Byfield, Executive Director, American Stewards of Liberty***

Ms. Byfield stated the first coordination meeting was held a year ago on the Lincoln National Forest plan. There was a lot of input and discussion. We had discussed meeting every quarter and we're a year out from that. The purpose of this meeting is coordination. The Forest Service is required to coordinate the development, maintenance, and revision of a plan with local governments. Local Governments have planning and taxing authority and their position should not be ignored in the planning process. They believe the initial coordination effort was missed and through these meetings are trying to resolve the issues that will impact and harm the counties if they move forward. The purpose of coordination is to harmonize the federal, state, and local plans

so the policies are vertically aligned and don't conflict with each other. The Chaves County plan was in place before this revision went forward and hopefully, we'll get an update on what Mr. Mosley has incorporated since the last meeting.

## **US FOREST SERVICE UPDATE ON THE STATUS OF THE DRAFT LINCOLN NATIONAL FOREST PLAN**

*Presenter: Diane Prather, Forest Service*

Ms. Prather stated since they last visited, they have closed the comment period and are analyzing the letters for various issues. They have identified 480 issues that all require a response and will be in an appendix of the EIS. They are still editing. There has been some corresponding plan reorganization. Some rules have been moved to guidelines to give more flexibility. Based on public comments they have developed a modified B alternative that removes three of the polygons in the Sacramento District. They were provided with additional information on mining shafts and oil and gas wells as well as other features on the land. Moving forward, they are hoping for a final EIS in July once the editors get through with it. It's a requirement that they brief the Washington office and are hoping for July. The Notice of Availability will be in September and would include a draft record of the decision. This will go into the objection period, September through November. Following this will be resolution meetings and hopefully this time next year, a signed decision.

There has been discussion on the land management plans. In preparing the Forest Land Management Plan, the Forest planning team reviewed the themes and objectives in the Chaves, Eddy, Lincoln, and Otero counties' comprehensive plans and land use policies. These and other area land management plans will be presented in an appendix of the EIS. For the most part, the Forest Plan corresponds with the county planning efforts. The Forest is located in four counties including Lincoln, Otero, Chaves, and Eddy. The Forest also shares boundaries with state land, the Bureau of Land Management, the National Park Service, and the Department of Defense.

The 2015 Chaves County Comprehensive Plan, as amended in 2016, establishes goals, objectives, and actions to guide decision-makers, particularly in regard to land use, capital improvements, enforcement of zoning, and growth management issues. The Chaves County Plan includes themes that focus on promoting sustainable agricultural as the statewide drought continues, preventing contamination of surface and groundwater, and the overall desire to make decisions that will sustain or enhance the environmental quality of Chaves County. These themes are complemented by Forest Plan direction on the management of natural resources, sustainable livestock grazing, watershed health, water quality, and landscape restoration. The collaboration, partnerships, education, and relationships section of the Plan recognizes the value of local economies and communities. The Forest Plan aligns with the "custom and culture" ethos of Chaves County's comprehensive plan.

The 2017 Eddy County Comprehensive Plan includes goals and strategies to promote sustainable water management, reduce the potential for wildfires, maintain safe roadways, and enhance or create new recreation opportunities. In compliment, the forest plan provides for the management of water resources, including streams, groundwater, water quality, water yield, and watershed condition. The forest plan addresses wildfires, including unplanned ignitions and prescribed fire on Forest lands, while considering lands adjacent to the Forest boundary. The collaboration, partnerships, education, and relationships section of the Forest plan recognizes the uniqueness and values of communities as well as opportunities to collaborate.

The 2018 Lincoln County Comprehensive Plan guides county and municipal growth. It's primary focus is the community's physical characteristics, especially land use, but it also considers housing, environmental features, transportation, and other resources. This Forest plan contributes to the themes outlined in Lincoln County's Plan in many ways, including encouraging coordination for natural resource management, invasive species and weed management, and fire and fuels management. Additionally, the Forest plan emphasizes the management of water quality and quantity, timber, and range resources.

The 2020 Otero County Comprehensive Plan describes the community's vision for its development and management. The Otero County Plan has themes consistent with the Forest plan, including natural resource management, coordination with State and Federal agencies to promote forest and watershed health, groundwater management, sustainable livestock grazing, and timber production. Otero County promotes recreation, tourism, and the conservation of important cultural

and historic sites. The Forest plan contributes to these in many ways. The Plan has components for sustainable natural resources management of terrestrial ecosystems, timber, forage production, sustainable livestock grazing, and protection of cultural and historic resources. There are components for soil and water resources protection, watershed health, and water quality. The collaboration, partnerships, education, and relationships section include plan components that recognize the uniqueness and values of local economies and communities.

#### Decision Space

Federal regulation and policy require coordination and consultation between Federal and local governments, but regulations do not require the Forest Service to adopt or be entirely consistent with local plans and policies. The Forest Plan is consistent with Forest Service policy and guidance. The counties' plans, assessments, themes, and strategies were considered in the development of plan components to ensure as much alignment as practicable. However, some county policies are inconsistent with Federal policy and regulations, particularly those related to the evaluation of management or designated areas, which are directed by Federal regulations and not the Forest Supervisor.

#### Examples of inconsistency:

- Requirements for the Forest Service to reach consistency with the County plans.
- Prohibitions on the withdrawal of Federal lands for wild and scenic rivers, wilderness, and roadless areas.
- Limiting the Federal government from restricting or reducing grazing levels.
- Restrictions on road management, requiring full open access to Forest lands for local purposes.
- Requiring county concurrence to conduct specific actions on Federal land.
- And, directing land ownership adjustments, on the acquisition and disposal of lands by the Federal Government.

#### **STATUS OF RELEVANT ISSUES NOT INCLUDED IN THE DRAFT EIS DISCUSSED AT MARCH 2022 COORDINATION MEETING**

Margaret Byfield stated that the inconsistencies they found are very general and asked which inconsistencies apply to each plan. Ms. Prather does not have that information broken out. Commissioner Ezzell asked for some background information on why they are revising the Forest Plan now and what the process is. Ms. Prather stated it goes back to the 2012 planning rule that requires Forests with old plans to revise them. Around 2014, all the forests in this region received a schedule to revise their plans. They did an assessment in 2015. The assessment looks at the existing condition of the resources. Once the assessment was done, they start looking at things that need to change and in 2019 wrote a "need for change" statement along with a preliminary draft plan to show desired conditions. They developed standards and guidelines to get to the desired conditions. Next, they received comments and feedback on their draft plan and then they made modifications. The old plan was broken. Ms. Byfield asked when they started the inventory process. Ms. Prather stated the inventory was started in 2019 and they followed the handbook with the criteria as well as speaking with other agencies. The handbook includes a ranking system from low to high to rank inventory findings. There was further discussion on the Forest Service manuals and handbooks.

Jason Burns asked if their manuals and handbooks provide guidance on how to correct problems that are found during the assessment. Ms. Prather stated the Plan does not restate law, regulation, or policy but does make reference back to different sections. There is a lot of language in there for collaboration and working with counties.

Vickie Marquardt asked if once land is designated wilderness no one can go in there and there won't be any grazing allotments. Ms. Prather stated they only recommend they don't designate. Only Congress can designate. Their plan has access written in for permittees, maintenance and improvements, the addition of improvements, and you can go in there with a chainsaw and heavy equipment but there's a process to do it. There is no harvesting of timber, but burning is allowed. Mr. Mosley stated there is a minimum requirements analysis that is predicated on looking at the wilderness values and how they are achieved. They always look at the minimum tactic used to achieve the objectives in relation to the balance between the wilderness values. Timber harvesting is not easily justified. They also look at the use of primitive tools. Ms. Marquardt asked if they

could treat a beetle infestation or would it have to just run its course. Mr. Mosley stated they would have limited tools and part of the wilderness is allowing nature to run its course, including fire.

Mayor Tim Jennings stated that only 17 Western states are involved in the 30x30 plan and asked why it doesn't include the Eastern states. When we started this country, everyone was supposed to get their land back except those that were kept out for military reservations and national parks. This thing gobbles up more of the 17 western states. If this isn't fair in every state it becomes a land grab. We don't dump trash in the ocean but go look what they've done in New York. It's very unfair. This saddles us for economic development. Otero County is 92% federal land and they can't even build schools.

Bronson Corn asked if the Forest Service has gone out and physically looked, laid eyes on, each area that has been found to have problems. Ms. Prather stated she has not. She could only speculate. Mr. Corn stated if watersheds are being destroyed by erosion, they will destroy it further if they designate it wilderness. It will only be able to be fixed mechanically. The only way these areas will be able to be managed or maintained is by people on the ground. The people in this room have been taking care of the land a lot longer than the Forest Service.

Walt Coffman from Weed stated he's turned in over 50 pages of comments and doesn't feel there's good faith on the Forest Service side to coordinate. He is a firefighter and listened to the Little Bear Fire. The helicopter asked for a bucket of water which was denied. Fires don't stop at wilderness boundaries, access is blocked, and it gets out of control. It's not unusual for fires to run 20,000 acres.

Representative Candy Spence Ezzell stated there has been a lack of communication which is causing many people to get upset. It's causing distress and there is a lack of common sense in the federal government. Unless we thin out the forest we will have catastrophic fires, they are taking away allotment owners, and they need to remember they work for us. We must stop the overreach and they need to transfer this message to Washington DC. This is people's lively hood and some of these allotments have been in place before New Mexico was even a state. She passed a bill that dealt with feral pigs. We must take care of business here. The Lincoln area has a problem with feral horses. The Forest Service can't tell us how many of the cows they killed out of helicopters were branded because you can't read a brand from a helicopter. They did not kill all of these cows but wounded many and they were left to die. How many calves were left out there to be food for the wolves? Ecological impact, you're damn straight it was. The people out there have boots on the ground. The Forest Service is limited by the people that work there but needs to protect those who are doing what is right to protect our forest. Fire is necessary but when we're having catastrophic fires because the trees are so thick you can't even walk through there we have a problem. A healthy forest should have 50 trees per acre. Write letters to your congressional delegation so we can get common sense back here.

R.B. Nichols asked Ms. Prather if their assessment was that the county plans were mostly in conjunction. Ms. Prather stated there is a lot of complimentary stuff in there and there is an appendix. Mr. Nichols pointed out in "customs and cultures" in Otero's plan it includes timber harvesting and is probably in the other county plans as well as preventing catastrophic wildfires. These aren't compatible with wilderness and would be inconsistent. Ms. Prather stated in their EIS they have an alternative that has no wilderness, one that has a little wilderness, and one that has a lot of wilderness.

Alternative A has no wilderness.

Alternative B has 40,000 acres and then they came up with a modified Alternative B plan where 15,000 acres came out.

Alternative C has large chunks of wilderness. Mr. Williams stated this plan is 403,000 acres.

These are all based on public comments.

Mr. Mosley stated they haven't identified a preferred alternative yet. It's a matter of evaluating, public comments, analyzing, and recommendations.

Todd Proctor asked what plan they are currently using. Ms. Prather stated 1986.

Commissioner Ezzell stated the Forest Management Act was from 1976 and it required an inventory process to be done. Ms. Byfield stated FLPMA requires the inventory. Commissioner Ezzell asked if it wasn't wilderness 20 years ago how is it now? Mr. Mosley stated they were directed to inventory based on criteria developed in 2012. Any time they go into a forest planning process they are going to inventory. He was not part of the rule-making process.

Ms. Byfield stated if it doesn't meet the criteria it doesn't advance. Ms. Prather agreed. Ms. Byfield asked to go to page 9 of the forest handbook, 1909.12, #8, "power lines with cleared rights of way, pipelines, and other permanently installed linear right of way structures should not be included in the wilderness inventory." In the last meeting, the ranchers brought forth a lot of information to show there are pipelines all over these areas that are advancing as wilderness. They should never have made it into the draft. Ms. Prather stated they presented to the public for comments and are going to exclude the six-inch diameter pipelines but will not exclude the small plastic poly pipe that might be on the surface or buried. She did checks to make sure the large infrastructure was removed. Ms. Byfield stated the only way to maintain these pipelines is with big, heavy equipment. Ms. Prather stated they are allowed to maintain their pipeline. Ms. Byfield stated it's only by permission and that is revocable. Mr. Mosley stated another alternative was created. Ms. Byfield stated the areas with pipelines cannot advance and need to be taken out. Mr. Mosely said they will consider this.

Ms. Byfield called attention to page 12, lines 5 b and c, "Legally established rights or uses within the area", this would be all the grazing rights and water rights. "Specific Federal or State laws that may be relevant to the availability of the area for wilderness or the ability to manage the area to protect wilderness characteristics". A lot of these pipelines were put in with federal plans and the ranchers are obligated for up to 20 years to maintain them. That is a federal law and another reason why these areas should not have advanced. Page 13 – if it doesn't meet the criteria it doesn't advance.

Comments were made by Sterling Spencer, a resident.

Mr. Mosely wanted to discuss the MOU.

The USDA Office of General Council advised the Forest Supervisor to not sign the proposed "Guidelines for Coordination" document. The Lincoln National Forest may voluntarily enter into agreements to work with local counties to address various concerns if the Forest Service determines that such agreements will be beneficial. The "coordination" does not require a broad or ongoing coordination with local government agencies in general; rather the coordination focuses on a local agency's established land use plan or similar plan (e.g., a zoning ordinance). Coordination under the NFMA does not include project planning and implementation processes under the Forest Plan, only the development and revision of the Forest Plan. The "coordination" that will occur consists of the Forest Supervisor reviewing the local government agency's plans and documenting the findings of that review in the EIS being prepared for the Forest Plan development or revision. The review, as presented in the EIS, will consider five specific factors:

- The objectives of respective plans
- The compatibility and interrelated impacts
- Opportunities for the plans to address the impacts
- Opportunities to resolve or reduce conflicts
- Opportunities for the plans to work across boundaries

If the counties would like the Forest Service to consider the perspectives and interests relative to "coordination" of our respective plans, it is incumbent on you to make those specific perspectives known in writing. Merely alleging unresolved inconsistencies is not enough. Our review plans show compatibility of objectives for land management or inconsistencies that are settled by preeminent federal law, policy, or regulation governing National Forest Management. The regulation clearly states that this coordination does not indicate or imply that the Forest Service will "conform management to meet non-Forest Service objectives or policies." For purposes of fulfilling the coordination requirement under the NFMA, 16 U.S.C. § 1604(a), the Lincoln NF has been reviewing local county policies in accordance with 36 C.F.R. § 219.4(b). The results of that review with or without specific County feedback will be included in the final EIS prepared for the Lincoln Forest Plan Revision. No agreement may create, waive, or modify existing law or legal requirements, nor can such an agreement create, grant, terminate, or otherwise modify existing legal rights and responsibilities of any party. The proposed "Guidelines for Coordination" MOU does this very thing. Lincoln NF may voluntarily enter into an agreement to work with local counties to address various concerns if the Forest Service determines that such agreements will be beneficial. Any such agreement will be limited to voluntary actions that do not infringe on the authority granted to the Forest Service by Congress.

Next steps: They are meeting with attorneys to discuss the draft "Coordination Guidelines". They agreed to work on an MOU that is mutually acceptable and focuses on regular meetings for information sharing.

Commissioner Ezzell pointed out that the slides presented say, "development and revision" but the law says, "development, maintenance, and revision". What happened to maintenance in their slides? Mr. Mosley stated this is his PowerPoint and asked what maintenance means to him. Commissioner Ezzell stated maintaining the relationship. The MOU should have been negotiated in 2015 not 2023 when the assessment process started. Ms. Byfield stated maintenance is the continuation and implementation of the plan. Mr. Mosley stated their legal counsel disagrees. Ms. Byfield said their definition of maintenance doesn't make sense and is troubling. It makes the term "maintenance" mean nothing. FLPMA is the sister statute. They were passed within one day of each other. Wendy Jo Haskins said she will talk with their general counsel. Ms. Byfield stated a lot of other counties hold these meetings quarterly, so they are always working on the issues and there aren't any surprises.

Comments were made by Walt Coffman, a resident.

**REVIEW OF NEXT STEPS, COMMITMENTS, AND DELIVERABLES**

Chairman Bilberry asked what a coordination agreement would look like. Mr. Mosley said he envisions quarterly meetings, defining topics of conversation, a joint agenda, and commitment.

Robert Barber, Chair of the Lincoln County Land and Natural Resource Advisory Committee, pointed out that when Travis signs the plan in September, the proposed plan on the web is Alternative B, but all 402,000 acres are still on the block. Congress can select from this for wilderness. Congress has to approve but the draft is pretty well set. Wendy Jo Haskins stated Congress can designate anywhere. All they do is show values.

Additional comments were made by those in attendance.

Mitch Hibbard, Community Affairs and Economic Development Manager at Penasco Valley Telephone Cooperative asked what the impact on telecommunications and broadband will be. Mr. Mosley stated this is how things were ranked from low to high. It's problematic to have community infrastructure in wilderness.

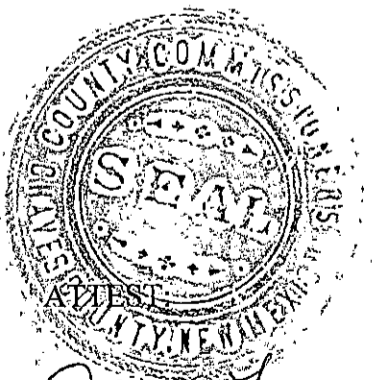
Mayor Jennings asked if affected people are going to be compensated. Mr. Mosley stated he is not aware of any. Mayor Jennings stated the government is taking without compensation.

Will Cavin stated the battle with the Carlsbad RFP, six years ago, caused them to pull back. The FS needs to go back to the drawing board and stop being influenced by environmentalists. Chairman Bilberry stated anything that doesn't meet the criteria needs to come off. This process needs to be done right.

**DISCUSSION OF NEXT MEETING DATE**

Chairman Bilberry stated they would like to set a meeting date in July. Mr. Mosley stated they are in agreement with that.

The meeting was adjourned at 4:35 pm.



*Cindy Fuller*  
Cindy Fuller  
County Clerk

**BOARD OF CHAVES COUNTY COMMISSIONERS**

*Jeff Bilberry*  
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Jeff Bilberry, Chairman

*T. Calder Ezzell Jr.*  
\_\_\_\_\_  
T. Calder Ezzell Jr, Vice-Chairman

*Dara Dana*  
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Dara Dana, Member

*Richard C. Taylor*  
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*Michael J. Perry*  
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