

DATE: March 10, 2009

TO: DAC Members, Dumont Dunes and ISDRA Subgroups

FROM: Don Maruska, consultant to BLM

SUBJECT: **Recommended Actions to Establish Subgroups to the DAC**

Recommended DAC Actions

In order to comply with the Federal Advisory Committee Act (FACA) and federal regulations, the ISDRA and Dumont Dunes TRTs need to be reconstituted as Subgroups of the DAC. This can be accomplished through the DAC's actions as follows:

1. Approve specific revisions to the DAC Bylaws
2. Approve templates for the Dumont Dunes Subgroup and ISDRA Subgroup
3. Approve membership application and communication guidelines for Subgroups.

In light of the important ongoing roles of these subgroups, I encourage final action on these items at the March 21, 2009, meeting.

Background

- The California office of the U.S. Bureau of Land Management is committed to engaging stakeholders in collaborative efforts to enhance the agency's management of resources.
- There is a rich and productive history of collaborative results upon which to build.
- Over time, field offices within the California Desert District have created seven or more Technical Review Teams (TRTs) to address current and ongoing issues.
- The Federal Advisory Committee Act (FACA) and CFR Title 43, subpart 1784 specify requirements for stakeholder groups constituted to offer advice to BLM management.
- The Desert Advisory Council's Charter and Bylaws offer additional parameters on the form and operation of Subgroups and Technical Review Teams (TRTs).
- CA-BLM seeks analysis and recommendations about how to enhance collaborative effectiveness and ensure compliance with relevant laws, regulations, and DAC procedures.

Steps Taken to Assess the Situation and Develop Recommendations

- Interviews with BLM State Director, CDD staff, Barstow staff, and El Centro staff.
- Meetings at Barstow and El Centro BLM offices.
- Interviews with ISDRA TRT and Dumont Dunes TRT members and ASA leadership.
- Visits to ISDRA and Dumont Dunes and discussions on site.
- Attendance at Dumont Dunes TRT meeting.
- Review of FACA, CFR, and DAC Charter and Bylaws and discussions with BLM about history, interpretations, and application.

- Discussions with BLM staff about ways to enhance communication collaboration with stakeholder groups.
- Feedback on draft recommendations.
- Presentation at ISDRA TRT on December 12, 2008.
- Review of discussions with BLM State Office.
- Presentation at Dumont Dunes TRT on January 20, 2009
- Discussions with leadership of BLM’s El Centro and Barstow field offices, CDD, and State Office to refine details.
- Preparation of final recommendations.
- Discussion with Subgroup leadership about BLM financial reporting to Subgroups.

Summary of Recommendations

- a. Stakeholder advisory groups (such as the ISDRA and Dumont Dunes TRTs) need restructuring with focused missions, revised membership, and guidelines for constructive communication between BLM and such groups.
- b. In terms of the Imperial Sand Dunes Recreation Area TRT and the Dumont Dunes TRT, the recommendations appear best accomplished by reframing these groups as Subgroups of the FACA-approved Desert Advisory Committee to review and advise on broad budget parameters, infrastructure and project priorities, and operational improvements.
- c. Collaboration on specific projects occurs currently and should continue through friends groups or comparable user-initiated organizations, which exist independently of BLM.
- d. Information exchange about operational practices, law enforcement, and emergency medical issues should continue through enhanced use of email, web site, and user-group publications to serve user needs.

DAC Actions Needed to Implement the Recommendations

1. Revise Section II of DAC Bylaws Addressing SubGroups

In order to conform with FACA and CFR 43.1784, the DAC Bylaws need to be revised. The Bylaws in place for the Resource Advisory Councils of Central California, Northeastern California, and Northwestern California provide language that is a starting point for the revision and will help in maintaining a consistent framework across CA-BLM areas. I have copied that Bylaw language below and made a revision to permit participation by residents of Arizona and Nevada as well as California as befits the CDD users.

[proposed revision]

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Section II: Subgroups: Membership in any subgroup formed for the purpose of providing general advice to the council on grazing administration or any other issue, should be constituted in accordance with paragraph 7a. of the council’s charter.

Such groups may gather information, conduct research, analyze relevant issues and facts, and draft proposed position papers and/or recommendations for deliberation by the full Committee. These groups will be established by the Committee Chair with the concurrence of the Designated Federal Official, as their role is to provide information and recommendations for consideration by the full committee. All meetings of the subgroups are subject to approval by the DFO.

a. Subgroups: Council provisions for forming subgroups are as follows:

Specific subgroup requirements include:

- (i) The Desert Advisory Council may select subgroup members from nominees who are users, stakeholders, neighboring communities or who qualify by virtue of their knowledge or experience of the lands. Selection and appointment of subgroup members is by the Desert Advisory Council with the concurrence of the Designated Federal Official;
- (ii) All members of council subgroups serve without salary. Only members of subgroups who are also members of the council may be reimbursed for travel and per diem expenses when on Council (subgroup) business; and
- (iii) Members of council subgroups will be required to disclose their direct or indirect interest in leases, licenses, permits, contracts, or claims that involve lands or resources administered by the BLM, or in any litigation related thereto. No subgroup member will participate in any matter in which the member has a direct interest.

b. Technical Review Teams (TRTs): Technical review teams may be formed at the option of the BLM on an as-needed-basis to gather and analyze data and develop recommendations to aid the council. The council may request that a TRT be formed. Members will be selected by the BLM based upon their knowledge of resource management or familiarity with the specific issues for which the TRT is formed, and will be limited to federal employees and federally paid consultants. The TRTs will terminate upon completion of the assigned tasks.

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2. Adopt Templates for the Dumont Dunes and ISDRA Subgroups

The templates provide a basic framework for the Subgroups. In submitting these recommendations, I have sought approaches that are consistent with the provisions of FACA and CFR 43.1784 and provide a foundation for effective working relationships among the Subgroups, the DAC, and BLM. In light of the ongoing work of these Subgroups and their advice on seasonal operational issues, the templates include an expedited method for conveying the Subgroups' recommendations through the DAC to BLM. In order to maintain linkage with the DAC, I recommend that each Subgroup have

1 or more DAC members. [Note: The DAC may create other Subgroups to address different topics and modify the template to fit the objectives for those Subgroups.]

An issue for both Subgroups is the form and detail of financial information BLM provides. It is important to note that CFR 43.1784.6-1(b) explicitly limits the role of advisory groups in the following way:

(b) A resource advisory council advises the Bureau of Land Management official to whom it reports regarding the preparation, amendment and implementation of land use plans for public lands and resources within its area. Except for the purposes of long-range planning and the establishment of resource management priorities, *a resource advisory council shall not provide advice on the allocation and expenditure of funds. A resource advisory council shall not provide advice regarding personnel actions. [emphasis added]*

With regard to financial information, I recommend that BLM, DAC, and the Subgroups agree upon the following objectives:

- information that is at an appropriate level of detail (that is, it enables Subgroups to fulfill their roles with regard to advice on “long-range planning and the establishment of resource management priorities” without diverting the Subgroups’ attention into precluded activity (particular advice on the allocation and expenditure of funds or personnel actions).
- accurate information that provides information on a consistent basis from year to year for comparison purposes, and
- standardized format that can work across BLM's user fee areas and be supported by BLM's new SAP accounting software.

As I've learned, CA-BLM has been going through a difficult conversion of information systems. That conversion is still underway. In fact, it appears to be months away from completion. This is thwarting immediately achieving the full set of objectives outlined above.

I recommend that BLM and the reconstituted Subgroups address the specifics of this issue in the coming months as the information systems come into place and concrete solutions become possible.

a. Adopt Template for Dumont Dunes Subgroup

At its January 20, 2009, meeting the Dumont Dunes Subgroup, developed a draft template for its work going forward. I've incorporated some revisions to reflect final comments from the BLM State and Field Offices. [See Attachment A]

b. Adopt Template for ISDRA Subgroup

At its December 12, 2008, meeting the ISDRA Subgroup discussed the issues but did not conclude action on a draft template. Subsequently, I received a proposed draft on behalf

of the Subgroup from its leadership. My recommendation for the ISDRA Subgroup is Attachment B. It acknowledges some differences in needs and interests for ISDRA in comparison with Dumont Dunes. The principal modification that appears in my recommendation as compared with the Subgroup's request is in the fourth bullet point under Mission. I have made it less prescriptive to clarify that the Subgroup has an advisory rather than directive role and to recognize that the constraints of CFR 43.1784.6-1(b) require changes from the manually created spreadsheets currently in use and that the provisions of BLM's new financial information system will provide a foundation for consistent financial reporting in the future.

3. Approve Membership Application and Communication Guidelines for Subgroups

The Subgroups have an important role for the DAC and BLM. Their insights and expertise to advise BLM are valuable. A key to good working relationships will be developing clarity about the mission for each Subgroup and the distinction between authorized advice to BLM and BLM's management responsibilities.

a. Communication Guidelines

I have discussed these with the ISDRA and Dumont Dunes Subgroups and have subsequently modified them to conform with CFR 43.1784.6-1(b). They provide guidance suitable for both Subgroups and other Subgroups that the DAC may form. [See Attachment C]

b. Membership Application Template

This template provides a format for applicants to provide information for BLM and DAC to consider in receiving nominations and selecting members. [See Attachment D]

These are the recommended formalities for moving forward effectively. Another critical component is the quality of working relationships among the Subgroups, DAC, and BLM. The guidelines and framework offered here will help, but the understanding and goodwill among the parties will be what creates ongoing success.

I appreciate the time and dedication of the Subgroup members in working to resolve these issues in order to move forward with their important roles.