

EASTERN LANDS AND RESOURCES COUNCIL

HIGHLIGHTS – FALL CONFERENCE 2003

Point Clear, Alabama

Representatives from state land agencies throughout the Eastern U.S., along with key leaders of the U. S. Bureau of Land Management, Eastern States office, convened October 5-9 for the annual meeting of the Eastern Lands and Resources Council, hosted by the Alabama Division of State Lands.

James Griggs, Alabama state lands division director, presented the goals for the meeting and explained that each of the sessions was designed to illustrate a specific “take home lesson” that each state might be able to adapt. Commenting on the budget challenges facing all states, he suggested the informal theme for the meeting would be: “DOING MORE WITH NOTHING.”

This was a humorous reference to the fact that every one has been doing more with less for years – now is time to get really creative. He suggested several guiding principles for state land programs:

- Strategy 1. Strive to embed a sense of continuity in state programs (as defense against employee turnover and generational change).
- Strategy 2. Infuse your program with institutional knowledge. This will help avoid reinventing the wheel, especially as personnel and administrations change.
- Strategy 3. Develop partnerships with everyone you can – even those that don’t seem obvious at first. Alabama Parks Division partners with local communities and economic development programs which help pay for construction bonds with local tax revenue for park facilities in their community. Likewise, Alabama’s natural gas program is a partnership with industry.
- Strategy 4. Ask others to help you. There are a lot of resources out there – and many institutions, entities, etc. willing to help if they just knew what you needed. Examples include getting the universities involved in practical problems land managers face (invasive species, historic preservation, etc.) or students to help with interpretation. Invite uses and users to your facilities that might not be the traditional ones you always think of. They can become tomorrow’s new partner.

Case Study of state land programs – Host State Alabama

Richard Liles, Deputy Director, Alabama Department of Conservation and Natural Resources, presented the first case study to provide insight that conference participants might transfer to their state. He outlined the recent reorganization of the Alabama Department of Conservation and Natural Resources. He stressed their prime goal is to build a sense of purpose throughout the organization.

Alabama has same budget challenge as all states. It is facing the worst financial crisis since the Great Depression. By innovation, DCNR has been successful in moving its program goals forward.

- ?? ADCNR has no general funds, which has been a blessing during budget cuts.
- ?? Oil and gas revenues are constitutionally protected. A portion goes to the “Forever Wild” program. In 10 years they have protected 87,000 acres through Forever Wild.
- ?? They proactively seek alliances with NGOs
- ?? They bought 32,000 acres with timber rights reserved, which saved a lot of money
- ?? They are building a conference center at Gulf State Park
- ?? They work with cities and tourism bureaus who provide tax revenue to pay debt service on the construction bonds
- ?? Visitor centers and education programs are a priority.

Role of resource managers in public discussion of natural resource issues.

Curt Jones – Founding member of ELRC when he was Eastern States Director for BLM. He saw the need to have a forum where states could learn from each other, improve resource management by sharing information and serve as a communication vehicle for dialog with federal land agencies. He spoke of the responsibility state land managers have to communicate the issues of public land management to elected officials. He stressed this is especially important now, as it is becoming more common with the changing nature of everyday life, that elected representatives are losing touch with the natural resources that enabled America to reach the prosperity we enjoy. The pressure on public lands will increase as people want second homes (often near or within public lands) and want to be near family, thus increasing development.

The issues are becoming more complex. He described a number of situations in Congress where having effective relationships with congressional delegations played a major role in the desirable outcome of important land policy legislation. It is easier to solve problems if you know each other.

He advised the audience to:

- ?? Mentor each other and your employees
- ?? Take risks and do things that need to be done
- ?? People will resonate to you if you step up and do what needs to be done
- ?? Budget pressures restrict meetings and travel, but the dialog can save more than the meeting cost
- ?? Public wants to see public agencies work together
- ?? Public managers should do more to make it known that you are working together and make what you are doing visible
- ?? Maintain the non-partisan operation of ELRC. He outlined the history of ELRC and gave the rationale for why it was set up so that appointees or elected officials do not serve as President.

Very thoughtful and inspiring comments, that gave the audience pause for reflection on how best to carry out their mission of sound stewardship of the public trust.

Perspectives on Public Resource Managers

BLM Eastern States Director Michael Nedd discussed leadership principles and vision for public land managers. He outlined the important distinction between leadership and management. Leadership includes the vision to “look around the corner” - to see what needs to be solved. He called on the group to determine where they want to be as leaders, and as an organization, in 10 years.

Mr. Nedd discussed “Four C’s” that would enable resource managers to meet the growing challenges:

- ?? Communication
- ?? Cooperation
- ?? Consultation
- ?? All in the service of conservation

He noted to be successful resource managers need to ensure:

1. They convene together to maximize knowledge and technical expertise
2. We maximize our resources and share leading edge data. He cited collaboration of BLM with the Sonoran Institute as example.
3. Ensure we collaborate to create partnerships and relationships that are sustainable.

BLM Eastern States is interested in working with ELRC because, like all state land agencies, BLM needs partners and volunteers. We all stand to gain by working together.

He called on ELRC to maximize its resources to solve the issues faced by states and to attract states that are not participating. He recommended ELRC prepare information on the “value added ELRC provides to state resource managers” as one way to demonstrate to supporters and non-participants the concrete worth of the association.

Alabama Trust Fund – Maintaining Support for Dedicated Funds

Jim Griggs presented an overview of oil and gas programs in Alabama. Bonus and royalty go to the Trust Fund. It will receive approximately \$200 million in royalties this year. The Trust Fund balance is \$2.5 billion. Ten percent of the interest on this Fund goes into a land acquisition fund – the Forever Wild Program. Annual interest is \$100 million – or 12% of the General Fund budget for the state.

Participants were treated to a presentation by AL State Treasurer Kay Ivey who offered insights into how Alabama has a proactive communication effort aimed specifically at maintaining public and legislative support for dedicated funds. This was begun after funds were diverted in a previous state budget crunch. Managing a public trust requires earning the trust of the public. It is imperative the public understands the benefit of the trust to them. If the program is out of sight, then it is out of mind. If it is out of mind, then people want to raid it. An informative paper was distributed describing how those royalties are dedicated and invested.

Treasurer Ivey outlined a theme of her administration: TEAM
Together Each Accomplishes More.

Current Developments in Production and Challenges of Offshore Natural Gas

This session was to provide perspectives on off shore natural gas issues. The national energy issue is affecting public land in every state – east and west – prices, pressures and opportunities to produce, national energy policy goals and other factors. Access and rights-of-way across public land for exploration and production, and royalty-in-kind are emerging issues again.

Alabama has off shore production for gas but not oil. Alabama's standard royalty is one-fourth. Alabama uses a "gross proceeds" lease with "no deductions." The state does allow costs of transportation. Severance tax is 6-8 per cent, depending on when production began.

Alabama won a 11.6 billion dollar civil judgment with Exxon over the gross proceeds issue. The issue involved Exxon not paying royalty on the amount of gas used to remove hydrogen sulfide. Alabama natural gas has a high concentration of H₂S and it requires a lot of energy to run the plant that removes it. The State's position is that Exxon owed royalty on the gas used for the sweetening operation. The state filed suit for fraud after negotiations to settle failed. The jury ruled that Exxon owed \$63.6 million in royalty on the gas used to run the plant. It was the charge of fraud that resulted in the multi-billion dollar amount awarded. The judgment is being appealed. This was the second trial won by the state over the issue.

The ELRC group visited the H₂S plant and the off shore rigs. They also visited and heard presentations on managing offshore light house stations, the Weeks Bay National Estuarine Research Reserve and the redevelopment of a former military fort into a waterfront park and Estuarium, an education center that highlights the marine ecology of the Mobile Bay and Gulf of Mexico.

Jim Griggs, discussed the respectful partnership with the natural gas industry, with both parties recognizing that their destinies are intertwined. He stated that when all the costs are factored in, the state realizes significant benefit compared with the return to the company per unit of production after the cost of capital investment, production, etc. is compared with royalties and severance taxes. Alabama state regulations are more stringent than federal. They have a zero discharge policy from the offshore rigs and other production facilities.

Mike Leach, ExxonMobil Operations Superintendent spoke on energy trends. Key notes:

- US has produced more gas than it consumed in last 35 years

- That is changing and the lines now are crossing

- Prices have nearly doubled: were \$2.80/Mbtu; now \$5.00/Mbtu

- Liquid Natural Gas is the future of natural gas

- Several LNG terminals are proposed for US ports

- He gave statistics for LNG transport, storage and safety factors.

Coordination of acquisition funds for synergy – plus, new fund sources

The focus of these presentations was on ways to apply new sources of land protection funds that not every state has been using. Examples include:

- NOAA coastal impact funds
- carbon sequestration funds
- clean water funds
- wetland restoration funds
- CZM
- NAWCA

Greg Lein, assistant director, Alabama state lands division, spoke on recent successes in large scale land protection projects. Several states have had great success combining these funds to a single large landscape scale conservation effort. He described its Forever Wild program and the contribution it has made to protecting land in the state.

The Mobile Delta Wetland Conservation project is a prime example where they obtained \$11 million of state and federal funds through a special initiative to coordinate diverse programs and target numerous fund sources to a designated priority area. In this project Alabama used wetland and state funds to protect the bottomland hardwood complex and Forest Legacy funds to protect the upland buffer. Alabama obtained a \$3.3 million dollar Legacy appropriation for this one project. They will use EPA restoration funds to plug drainage ditches and restore the water cycle. Several state agencies pooled land acquisition funds: lands division, state parks and wildlife and freshwater fisheries division. Federal assistance included NAWCA and U.S. Army Corps of Engineers. The project also involved funding from NGOs including The Nature Conservancy and the Historic Blakeley Foundation. Ducks Unlimited donated land. The synergy, and the results to date, show the power of what can be achieved when several funding programs are teamed up.

Other states described how they are using these funds on non-acquisition efforts (such as partnerships with land trusts and conservation easements), while counting the state's contributions as match for fund requirements (such as NAWCA).

There was discussion of how states are using the new Coastal Impact Assistance funds. Alabama is using its funds to acquire and remove hunting camps and leases in the Mobile Delta project.

All these are examples of how they were able to pull off a large, expensive conservation initiative in less than 3 years, despite a poor economy and state budget shortfalls.

Forest Legacy

Representatives of states successful with the Forest Legacy Program projects described how they manage the program with involvement of landowners, interest groups and their congressional delegation. They stressed the importance of states attending the Legacy program managers meetings.

There was brief discussion of administration of FLP by USFS. Suggestions were made for streamlining the lead time between application cycle, project selection by USFS and funding. The importance of state participation at the annual program managers meeting was stressed.

ELRC President Ralph Knoll (Maine) reported ELRC will consider appointing a “Legacy Working Group” to explore offering specific recommendations to USFS.

A number of states have assigned FLP to their real estate division after initially having it as part of the forest management program. However, some states retain certain functions within the forest division, particularly where the Stewardship Advisory Committee also functions as the FLP Advisory Committee.

Historic Sites – and the importance of building support of non-traditional partners

An extremely interesting and motivating speaker from a private foundation highlighted the challenges of protecting historic sites. Her key points were of utility to other issues as well as historic sites:

- ?? Historic sites are a non-renewable resource.
- ?? There is always a gap between the interest of the public and legislative support.
- ?? It is important to find ways to bridge that gap. Effective communication is essential.
- ?? Make friends for your cause.
- ?? But, sometimes “it helps to have a real good enemy,” too. That can mobilize friends.
- ?? Often in public policy on natural resource matters, the enemy is apathy.
 - Frequently, legislators and public just plain don’t know of the issue or why it is important. So WE have to tell them.

The site of the presentation was the battlefield of the last major fight of the Civil War. It was actually fought after the official cease fire, but word that the war was over had not yet been received. The site is being conserved by foundation and grants because the public cannot afford to, or as was observed in line with the points outlined above “the interest of the public is lagging behind the public support for protection.”

As with all the presentations at the entire conference, the site was carefully selected to illustrate in real terms the “take home lessons” being shared in the presentations.

Community Land Bank – one model of early land trusts – Fairhope, AL

This town was founded over 100 years ago as a land bank. People could rent, but not buy, land to build businesses, homes, etc. One result has been preservation of waterfront open space. It has withstood several court challenges. Now economic pressure for operating support is forcing the town to look at alternatives. Requiring developers to reserve a portion of development areas as green space and recreation area has produced fragmented, small protected areas. These are not connected and there is no community system of green space being achieved. Therefore they are starting to experiment with

requiring developers to pay 10% of project value into a land acquisition fund that will be used for targeted acquisitions to attain more well-defined land protection goals.

NGO Strategies for Land Acquisition

Jeff Danter, Executive Director for The Nature Conservancy in Alabama, spoke of the work of TNC in Alabama, outlining the ways they are partnering with the state, corporations, landowners and federal agencies. He described the recent conversion of a former military base into a wildlife refuge as an example of innovative reuse of land already owned by the government that can be dedicated to protection of natural values.

NGO Strategies for Stewardship Enhancements

Grady Harzog of Ducks Unlimited national board of directors spoke about partnerships with NGOs. He said working with others is the only way to go. He described numerous ways DU assists the states via DU programs:

- MARSH program

- Mitigation funds

- Mitigation banking

- WRP and Habitat Restoration funds

One advantage of having DU involved with state land protection programs, is that often DU can get the funds faster than states can.

He also spoke about non-acquisition approaches to land conservation outlining the work DU is doing with farmland protection easements and management agreements with public agencies, such as road commissions. Another example was how DU is working with farmers to encourage them to convey conservation easements.

Carbon sequestration. He outlined work they are doing with carbon sequestration where DU signed a contract with a utility. DU will plant trees, ensure the project meets the conditions for the credits, then deed the property to the state. This concept has significant potential. It is just now starting to be widely adopted.

He described an example where DU is acquiring marginal land, restoring the wetlands with grant funds, then selling the restored wetlands to the state for \$100 per acre. He noted this was below the cost the state would have paid for the land directly.

Federal Update on Land Management Issues

Elinor Schwartz, Washington, DC representative for the Western States Land Commissioners Association, and coordinator for the ELRC-WSLCA joint spring conference, provided information on current issues in Congress and federal agencies.

She mentioned that proposals were still pending in the Department of the Interior affecting land exchanges. States will have an opportunity to work with BLM on its update to the Land Exchange Handbook. Interior expects to consolidate all of its

appraisal functions in a single office under the Office of Policy, Management and Budget.

She encouraged states to provide comments on administrative actions:

- ?? pending proposed regulations enlarging deductions from federal royalties for crude oil transportation and marketing costs that could reduce the State share of federal mineral revenues. Proposed regulations are also anticipated that would affect deductions from royalties on natural gas produced on federal lands.
- ?? pending proposals to revise Endangered Species Act conservation agreements.
- ?? expected proposed regulations on isolated wetlands and Total Management Daily Loads (TMDLs).

Ms. Schwartz noted legislative actions to:

- ?? reduce the level of the Land and Water Conservation Fund (LWCF) in the Interior Appropriations bills considerably below previously negotiated levels and inclusion of several conservation programs along with land acquisition funding.
- ?? limit requirements for environmental reviews through a variety of pending bills, including those affecting fire suppression and the Alaska Gas Pipeline.
- ?? allow the 2005 round of military base closings. As a result of the 2003 Defense Authorization Act there are opportunities for States and land trusts to protect buffers around military bases by selling conservation easements or by obtaining surplus land from bases for conservation purposes.
- ?? continue below market rates for utility rights-of-way crossing BLM and Forest Service lands.

She also reviewed recent decisions in federal circuit courts of appeal that would limit the effect of the Supreme Court's decision to remove federal jurisdiction over isolated wetlands.

Roundtable of State Programs

Maine is conducting an "economic analysis of state parks." It also continues an active program of acquiring conservation easements on large tracts of forest land, especially on riparian corridors. MeadWestvaco Corporation recently sold its entire land holdings in Maine, 650,000 to one buyer, retaining a 50 year wood supply agreement. Managing ORV use is emerging as an issue again.

Vermont, after a decade of aggressive acquisition of land and conservation easements, is "taking a pause" and concentrating on reviewing its land goals and strategies. Pressure is building to require public lands to be open to ORV use. Wind energy is a hot topic – the state is looking for input and advice on how best to deal with this use.

Michigan is reviewing its land boundaries and identifying critical inholdings, as well as potential surplus parcels to use in exchanges to consolidate state parks, wildlife areas and forests. Payment-in-lieu-of taxes on state-owned land is a front burner legislative issue, especially with local governments looking at all revenues as they deal with their budgets.

Arkansas has new leadership in its Tax Forfeited Lands program, as former Lands Commissioner (and ELRC founder) Charlie Daniels has been elected Secretary of State for Arkansas. They are reviewing opportunities to streamline the tax land program.

Wisconsin reported on recent activities of the Board of Public Lands and indicated the state faces the same budget challenges as other states. The Board of Public Lands is holding its own despite the challenges.

Minnesota is facing a growing issue of how to control inappropriate ORV use which is damaging bogs and riparian areas. They discussed the 2004 ELRC meeting and entertained recommendations on locations and issues the states want to have on agenda.

Mississippi continues to deal with significant submerged lands issues including eroding coastline and offshore casinos.

Tax Reverted and Tax Forfeited Lands

States shared updates on various efforts to streamline handling of forfeiture and redemption of land reverting to states due to nonpayment of property taxes by the owner. Interest was expressed in the Michigan “fast track” legislation as one approach to streamlining the process.

ELRC 20th Anniversary Recognition

Terry Lewis and Peggy Riek of BLM presented an animated power point show, with soundtrack and music, of highlights and humorous reminiscences of ELRC meetings over the last twenty years. In that time, ELRC has held annual meetings in 17 states, providing opportunity for professional development and interaction to hundreds of state land officials. A Special Edition summary of the annual meetings was distributed.

BLM distributed a report of the ways in which the Eastern States office and the states have worked together to enhance management of public land resources in each of the 31 states bordering on and east of the Mississippi River. BLM has worked on specific projects in each of these states. The goal of these partnerships is to foster sound stewardship of public lands and minerals, on both state and federal lands. ELRC provides a vehicle for facilitating these partnerships.

Founding members Ed Leary (Vermont) and Michael Paus (Wisconsin) outlined the ways ELRC had contributed to their careers and enhanced land programs in their states. They referred to existence of ELRC as the “glue” for state resource programs as individuals

come and go over time. ELRC is there as a source to be tapped when resource managers, new to their position, are seeking sources of information and contacts.

Bottom Line

This meeting continued the tradition as an outstanding learning experience that reenergizes public land managers and connects us with our peers who are facing the same challenges we face. It was illuminating, educational and very worthwhile. Participating in these meetings helps state land officials get rededicated to their work and fires up their energy and enthusiasm to tackle day to day challenges.

The states have a 20 year investment in ELRC – we should continue to invest in, and harvest, the benefits of our mutual association. This would include continuing to reach out to all states and allied organizations to share with them the benefits of the professional network that ELRC represents.

Spring Meeting 2004

The Spring conference with the Western States Lands Commissioners Association will be March 28-31 in Washington, DC. The theme will continue on budget challenges: “Meeting Economic Challenges for Public Land Managers.” Elinor Schwartz presented a draft outline of topics and asked for suggestions on “A List” speakers to address topics that the states want covered at the meeting.

Fall Meeting 2004

The next Fall ELRC conference will be Oct. 3-7, 2004 in Minnesota.

SAVE THESE DATES!

For more information about ELRC, visit ELRC website www.elrc.org or contact: Ralph Knoll, ralph.knoll@state.me.us

This summary prepared by Ed Meadows, MI DNR (meadowse@michigan.gov) and Peggy Riek, BLM Eastern States (Peggy_Riek@es.blm.us).

All states are welcome to become members of ELRC and participate in ELRC events.