

Western Slope No-Fee Coalition

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Arizona State Director Raymond Suazo
U. S. Bureau of Land Management
1 North Central, Suite 800
Phoenix, AZ 85004

Dear Director Suazo:

This is to formally object to the recently imposed policy of conducting closed meetings between the Arizona Resource Advisory Council working group on recreation fees and representatives of the Forest Service and/or BLM. Such meetings should be open to the public for observation and comment, and records of them should be made available for public review.

Until June 2015, meetings of the recreation fee working group were noticed in the Federal Register, agendas and minutes were posted at the Arizona RAC website, and the public was allowed to observe the entire meeting and to submit comments either in writing or during the official public comment period that was part of each meeting.

This policy changed abruptly and without explanation with the June 4, 2015 RAC meeting. The FR notice did not mention a preliminary meeting of the working group the day before, as typically had happened in the past. I asked the committee's BLM coordinator, Dorothea Boothe, whether a working group meeting was going to be held, and if so, expressed my desire to participate in whichever meeting included the Tonto National Forest's presentation and discussion because their fee proposal was my primary interest. She responded,

“The RRAC working group is meeting on Wednesday [June 3], but it's not open to the public. There will be an opportunity to interact with the working group members and the Tonto representatives on the business day.”

I reasonably inferred from her response that the June 3 meeting would be among working group members only, and would not include representatives of the Tonto National Forest. Accordingly, I attended the full RAC meeting on June 4. However it was announced at that meeting that the Tonto had made a full presentation the prior day, had received feedback from the working group, and had made amendments to their proposal in compliance with specific suggestions from the working group, for a total of 2.5 hours of presentation, discussion, and decision. The proposal presented and approved on June 4 incorporated these amendments, which had been arrived at entirely behind closed doors.

The proposal was approved on this Motion:

“To accept the proposal as it was given to the RAC *with the amended changes.*” [emphasis added]

Because the public never had the opportunity to hear the proposal before it was amended, this demonstrates that the working group had not only met privately with agency representatives, they had taken independent action by recommending specific amendments to them.

That should not have happened except in an open meeting. The GSA's Final Rule for implementation of the FACA allows subcommittees to hold closed meetings only when they are not empowered to take independent action and do not provide advice to the President (through his delegated representatives) but only to the parent committee. In this case the subcommittee took independent action and provided direct advice by requiring specific amendments from the Forest Service as a condition of their favorable recommendation to the parent committee. In any case, although the Rule *allows* closed meetings in certain narrow circumstances, under no conditions does it *require* them, nor does it anticipate that this would be a routine practice.

Had this been a one-off occurrence, I would have let it pass without comment. However an even more egregious example occurred at the most recent meeting, one that leads unavoidably to the conclusion that BLM policy has shifted in favor of closed meetings and curtailed public access.

A Federal Register notice published on March 11, 2016 stated that the RAC's agenda for April 28, 2016 included a BLM recreation fee proposal. No recreation fee working group meeting was mentioned in the notice. I inquired of the chairperson of the recreation fee working group, who told me that they would be meeting on April 27th. She invited me to submit a written comment and/or attend the working group meeting if I could. She expressed her group's interest in hearing what I, and other members of the public, had to say, and I told her that I would attend the meeting. But about two hours before the working group meeting was to start, she called to tell me that the BLM had just informed her that the meeting was closed to the public and I would not be allowed to attend. I confirmed with her, and she double-checked with her BLM contact, that I was not allowed to even be in the room to observe.

Besides giving the distinct appearance of conducting public business in private, this policy appears to violate the RAC's own protocols, which state:

“REA Work Group. The work group should:
-- if needed due to significant public interest or controversy, convene REA Work Group meetings in public forum to hear agency fee proposals and public comments (preferably at locations that best facilitate participation by the local public most affected by the agency fee proposals).
...
-- assist in contacting knowledgeable members of the public and recreational users when additional input is needed, e.g., for recreation sites that are unfamiliar to the Work Group.”

Closed meetings are also potentially in violation of the Federal Advisory Committee Act's open meetings provisions, as well as the Government in Sunshine Act, which states:

“...every portion of every meeting of an agency shall be open to public observation”

The exceptions to the open meetings requirements in these two federal statutes are few and narrow and do not apply here.

Since its inception in 2007, the recreation fee working group has routinely met to do a preliminary review of fee proposals in advance of their final review by the full RAC. At these working group sessions they decide whether to recommend approval or denial by the full RAC, or to send the proposal back to the agency for further work. Importantly, *the full RAC has never rejected the recommendation of its working group, they have always voted to accept it.* This demonstrates clearly that the “real” meeting, at which the public could give input that might affect the outcome, is the working group

meeting.

At the most recent RAC meeting, there were numerous members of the public who came a long way to object to the controversial proposal, only to learn that the working group had already decided on a recommendation. The public had organized around the April 28 meeting, unaware that the actual discussion and consensus-building had occurred the day before at a meeting which was not noticed in advance and from which they were excluded.

This back room decision-making makes a mockery of public involvement. Open meetings are a bedrock value of democracy that has been enshrined in law and policy. All 50 states and the District of Columbia have open meetings laws, and open meetings are a fundamental requirement of the Federal Lands Recreation Enhancement Act, the Federal Advisory Committee Act, and the Federal Government in Sunshine Act.

This policy should be reversed immediately and open public access to the Arizona RAC's working group meetings and records should be restored. Should you choose to continue the current policy, please specify exactly what legal authority allows these meetings to not be announced in the Federal Register and to be closed to the public.

Sincerely,



President

cc:

Cal Joyner, Regional Forester, USFS Region 3

Bill Brake, Chair, Arizona Resource Advisory Council

Maggie Sacher, Chair, AZ RAC Recreation Fee Working Group

Ken Fussell, Senior Policy Advisor, GSA FACA Secretariat