Success Stories

TRANS-TEXAS CORRIDOR

The first leg of the NAFTA Superhighway is DEAD, according to the Federal Highway Administration's on the environmental study for the Trans-Texas Corridor - 35.
In June, the Eastern Central Texas Sub-Regional Planning Commission, formed by five towns, their school districts and a local businessman in Central Texas, sent a petition to the Council of Environmental Quality (Council) concerned that a critical loophole was still open that would allow the Trans-Texas Corridor – 35 to be revived. They asked the Council to step in and require the Federal Highway Administration (FHA) to withdraw the study in its entirety.
Instead of withdrawing the study, the FHA stated eight different times in what otherwise should have been a typical ROD that the TTC 35 project had ended. They even went so far as to state that the environmental study could not be used as a basis for any further study.
The petition written by Fred Kelly Grant, stated:
"The Federal Highway Administration has pounded the final nail in the coffin of the Trans-Texas Corridor-35. The Agency's final Record of Decision, issued on July 20, 2010 selected the No Action Alternative, but went further in ordering that "a study area for the TTC-35 Project will not be chosen and the TTC-35 Project is concluded." Twice, the ROD states that the "project is concluded," and six times it states that "the project ends."

"If TXDOT attempted to revive the 35 Corridor project and use the same EIS, this ROD would provide the base for issuance by a United States District Judge of a Declaratory Judgment prohibiting the action," Grant concluded.

This is an unprecedented action. The $80 billion international superhighway project is dead.

The corridor concept was unveiled by Governor Rick Perry in 2003 as the way to build infrastructure in America. His plan would have confiscated 586,000 private acres in Texas alone and displace over one million people and their families.

The superhighway was to contain four passenger lanes, two truck lanes, high

speed rail and freight rail, all charging a hefty toll for the next 50 years that would go to the international contractor Cintra-Zachry. But that's not all. The right of way was to be a quarter-of-a-mile wide so that land within the corridor could be leased to restaurants, hotels and gas stations. Perry's plan would take land from Texans and generate revenue for foreign companies.

As grand as Perry's plan was, it was only the first part of a much larger scheme – the NAFTA Superhighway – an international highway that was to efficiently connect the Chinese-owned ports in Mexico to the Canadian markets, by way of America's heartland.

The first major security check for cargo coming into America was a "Smart Port" in Kansas City where trucks could drive through without stopping.

The TTC battle is the first time the coordination process was invoked for an issue that didn't involve federal lands. Texas is 97% privately owned. Still, the coordination requirement in the National Environmental Policy Act and a unique

Texas state law brought both federal and state agencies to Holland, Texas to resolve the inconsistencies between the TTC and local policies.

October 2009, the Texas Department of Transportation announced they would be recommending the "no build" alternative. Eastern Central, while happy with the decision, also recognized that there was a serious loophole still open. If the study was approved with the "no build" alternative, the agency could change its mind later and select a new alternative without going through the level of analysis

Eastern Central was requiring.

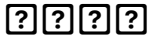
In an unprecedented move, they petitioned the CEQ to right the wrong and require that the study be withdrawn so that it could never be used in the future.

FHA didn't withdraw the study, but did one better. They marked it for dead.

Never to be revived, referred to, or relied upon again.

There are still three Perry-driven Trans-Texas Corridor plans in the works: I-69, La Entrada, and Ports-to-Plains. Lincoln, Colorado sits in the path of Ports-to-Plains and has taken the lead of the Eastern Central planning commission by beginning the coordination process with the Colorado Department of Transportation on related issues.

Planning Commissions exist on the other two routes in Texas as well. People along these routes throughout the U.S. should take a closer look at the impressive path blazed by Eastern Central. They made coordination work and achieved our greatest victory to date.



USFS SETTLES WITH JERRY BROWN: FORESTS WILL COORDINATE ON ROADLESS PLAN
By Teri | December 27, 2010
From here on out, dismiss naysayers who insist local government has no "special" role in USFS decision-making beyond the public comment process. Local government officials, representing the interests of their constituents, got a Christmas present from Jerry Brown: the USFS has agreed to coordinate with the state under the very same federal statutes that require them to coordinate with local government and Indian tribes. Here's the scoop from Idaho attorney, Fred Kelly Grant:

In September, 2009, federal judge Marilyn Hall Patel ruled that the Forest Service had failed to comply with a element of coordination required by the National Forest Management Act and the Forest Service's own 1982 Planning Rules.
The Judge ordered the parties to brief the issues as to what the proper remedy would be. On Christmas Eve, the Attorney General of California announced that the Forest Service had settled on the remedy of reconsidering "its plans regarding wilderness lands in the four national forests."
Fred Kelly Grant has cited the case, California Resources Agency v. Secretary of Agriculture, as a pre-eminent case decision holding that the statutory and regulatory requirement that federal agencies coordinate its decisions with State and local governments is MANDATORY and cannot be dodged by the agencies.

The Court ruled that the Forest Service violated the law by not including in its final Environmental Impact Statement the California roadless area policy and pointing out the inconsistencies between the State policy and the proposed policy to be included in the revised Forest management plans. It was the only element of coordination as prescribed by statute and rule that the Service failed to obey. It was enough. Calling the failure to be far more than merely procedural, the Court pointed out that the failure deprived the public of the opportunity to weigh the inconsistencies and what the Service planned to do about them.
The Attorney General made it clear in the lawsuit and in the press release that the State intends to derail the Forest Service plans to add roads and trails for additional motorized vehicle travel and other uses in at least thousands of acres. According to the Christmas Eve release, the Forest Service had planned to allow "roads to be built through hundreds of thousands of acres of wild lands in the Los Padres, Angeles, Cleveland and San Bernardino National Forests."
The Secretary of Natural Resources for California, Lester Snow, said the State had achieved its goal of ensuring that "California's national forests remain pristine."
Local governments were not involved in the lawsuit. Environmental groups had joined the State in the lawsuit and now will be involved in the settlement proceedings. Local governments will not be involved in the settlement because they were not parties to the lawsuit.
If local towns, cities, counties and/or taxing districts favor additional roads and trails for their constituents, they must assert their statutory and regulatory authority to coordinate with the Service in the revision of the plans.

It may be that the Service will resist coordination efforts by local governments at this point. But, the settlement of the remedy to the Service's violation of law is not the only source of mandatory coordination. Local governments impacted by the national forests and their management have the same independent statutory and regulatory right to coordination exercised by the State in the federal court. Independent of litigation, the local governments have the right under the National Forest Management Act and the 1982 Planning Rules to require the Forest Service to engage in coordination with them. Below is an article with more details about the decision and the settlement agreed to by the Forest Service, but what it ultimately means is that local governments in other areas of California have in the settlement one more encouragement to move ahead with their own coordination efforts with the Forest Service.
Fred Kelly Grant, Director of Trademark America
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FOREST SERVICE MUST RECONSIDER ITS FOREST MANAGEMENT PLANS FOR FOUR SOUTHERN CALIFORNIA FORESTS IN COORDINATION WITH THE STATE OF CALIFORNIA. FOREST SERVICE SETTLED AT REMEDY STATUS OF CASE IN WHICH FEDERAL JUDGE RULED FOREST SERVICE VIOLATED THE LAW BY NOT COORDINATING WITH THE STATE.
December 27, 2010, by Fred Kelly Grant
In September, 2009, a federal district judge ruled that the Forest Service failed to "coordinate" with the State of California in revising forest management plans. Finding that the National Forest Management Act and the Service's own 1982 Planning Rules mandated coordination, the Court ruled that the Forest Service violated the law. Judge Marilyn Hall Patel directed that the parties submit briefs regarding the remedy for the violation.
In a Christmas Eve news release, California Attorney General, and governor- elect, Edmund G. Brown Jr. announced that the Forest Service has settled on a remedy that requires it to go back and reconsider its plans. After 7 years in the works, the forest plans now must be reconsidered in coordination with the State. Other plaintiffs, environmental groups, will also be involved in the settlement coordination, even though the coordination mandate applies only to government entities.
Local governments impacted by the Forests and Forest Management Plans are not included in the settlement because they were not involved in the lawsuit. But, towns, cities, counties and taxing districts had the same standing for suing as did the State. The statute requiring coordination relied on by the State requires

coordination not only with the State but with local governments. The 1982 Forest Service Planning Rules requiring coordination relied on by the State require coordination not only for the State but for local governments.
Those local governments impacted by the Management Plan revisions that will take place in coordination with the State must either insist on their statutory and regulatory coordination rights now or go unrepresented in the revision process. The Forest Service may resist entering into coordination with local governments at this juncture. The State is seeking to require the Service to cancel plans for adding roads and trails for off-road vehicles. Local governments that might want to represent its motorized constituents will no doubt be unwelcome in the negotiations.
But, local governments do have the statutory and regulatory right to have the Service coordinate with them as to any revisions, even though not parties to the lawsuits. The standing of local governments is based on the National Forest Management Act and the 1982 Planning Rules, not on the lawsuit decision by Judge Patel.
For several years Fred Kelly Grant and his staff has presented information regarding the “coordination” communication process that federal agencies are mandated to engage in with local governments. The organization also has assisted local governments in implementing the process by which they can pursue consistency between local plans and policies and those of the federal agencies.
One of the case decisions that the organization has cited as legal base for the mandatory nature of “coordination” is California Resources Agency v. United States Department of Agriculture. The decision was entered by United States

District Judge Marilyn Hall Patel in the Northern District of California on September 29, 2009.
The Judge found that the Forest Service had failed to implement every element of the “coordination” process in its relationship with the state of California regarding revision of forest plans for four California National Forests. Specifically, the judge found that the Forest Service had not included the California policy on “roadless areas” in the final Environmental Impact Statement. The Court ruled that this failure deprived the public of the right to compare the inconsistencies between California’s policy and that of the Forest Service.
The National Forest Management Act applied by the Court requires the Forest Service to coordinate with the State, the Tribes and local government. Only the State and some environmental groups challenged the Forest Service’s process. No local governments filed a challenge. The Forest Service contended that it had indeed “coordinated” with the State. But, the Judge decided that the Service had failed in one aspect of “coordination” as described in the 1982 Forest Planning Rules. She outlined four major components of “coordination”:

1.
2.
Consideration of the objectives of other federal, state and local governments, and Indian tribes, as expressed in their plans and policies;
Assessment of how the state, local and Tribal policies interrelate to federal plans and policies, and the inter-related impacts of the various policies [It is through this assessment that inconsistencies between federal, state, local and Tribal policies are detected and assessed as to their impact on each level of government.];

3. Determination by the Forest Service as to how its plan should deal with the inter-related "impacts" of the various policies. [This is the determination through which the Service would decide how to deal with the inconsistencies discovered during the assessment of the various policies and their inconsistencies.]; and
4. Consideration of alternatives that would resolve the inconsistencies and/or conflicts that are determined to exist through the assessment and determination; in the Court's words: "Where conflicts with Forest Service planning are identified, consideration of alternatives for their resolution." (Page 16 of Opinion, emphasis added)
The Court found that the only element of the coordination process not followed by the Forest Service was a requirement that it discuss the California policy as to "roadless areas" in order to demonstrate the inconsistencies between the Forest Service proposed plan and the California policy:
"Even if the Forest Service's review of California's policy was impeded by California's failure to fully engage in the planning process, the rule nevertheless required the Forest Service to display the results of its review, however impeded. . . .The results of the Forest Service's review of state input should have been displayed in the FEIS, even if part of the discussion would have consisted of noting that the State had not fully engaged in the process...."
"The failure to provide any discussion of input from the State, or at least of the State's failure to fully engage in the planning process, was a violation of the NFMA . This is more than a merely technical violation, as it significantly inhibits the public's ability to

understand the competing priorities of the Forest Service and the State."

The Court ordered the parties to file briefs describing their views of what process should be followed in compliance with her decision. On Christmas Eve the California Attorney General, and Governor elect, Edmund G. Brown Jr. announced a settlement through which the Forest Service is required to “reconsider its plans regarding wilderness lands in four national forests.”

Brown said: “With this settlement, the state of California will now play an active role along with the Forest Service in determining which areas of Southern California forests will be preserved as wilderness.”

According to Brown’s news release, the state’s basic complaint, in addition to failure to coordinate, was that the Forest Service was planning to allow new roads and trails for off-road vehicles and other uses. California opposed the new road and trail openings. The Court did not rule against the Forest Service on any issue except the failure to coordinate.

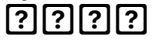
The Settlement reached by the parties “requires the Forest Service to consider designating as many as 37 new wilderness or roadless areas.” Brown’s release states: “While the plan is being redone, the Forest Service cannot allow new roads, and it must undertake restoration efforts. The state and environmental groups will collaborate with the Forest Service to make sure the forests are protected in the revised management plans.”

According to Lester Snow, Secretary for Natural Resources in California, “By working together, we’ve achieved our goal of helping to guide the forest management plan to ensure that California’s national forests remain pristine.”

The news release concludes with the statement: “Once completed, the Forest Service plans will be presented to Congress to permanently protect designated areas as undisturbed wilderness.”

Even though local governments did not involve themselves in the lawsuit, each county in which any of the affected forest lands are located would have been entitled to the same result. The laws that require coordination with the state require the same with local governments—cities, towns, counties and special taxing districts. If any local government has an interest in the roadless nature of the Los Padres, Angeles, Cleveland and San Bernardino national forests, it must act quickly in asserting its coordination rights.

Now that the Settlement has been signed, if local governments do not assert themselves, their voices will not be heard as the parties go forward to enlarge wilderness areas to be undisturbed by off-road vehicles as well as other multiple uses by citizens that require trails or roads.



OWYHEE COUNTY, THE FIRST COORDINATING COUNTY
By Fred Kelly Grant
Over two decades ago now, Owyhee County took a chance -- a big chance -- and began to exert local authority typical of that known best to our forefathers. The Commissioners Dick Bass, Hal Tolmie, and Chet Sellman made what has become a rather historic decision. They invoked authority granted to a county by the Congress to require that federal land management agencies “coordinate” with them by coming to the table for even-handed negotiations.
Through the years since, all Owyhee County Commissioners have held firm to that authority and have exercised it to the benefit of the County, grazing permittees, farmers and water users, and the wildlife and landscape of the County.
The story of this emergence of authority began when Owyhee County ranchers dependent upon federal grazing lands, were staring down the barrel of a Bureau of Land Management plan that called for a 40 percent reduction in grazing. The plan, a Resource Management Plan, which governs planning and management actions of the agency, was in draft form, but was scheduled for release as a formal decision in the near future. Hardly a rancher in this southwestern Idaho range county could survive the reduction. For many of them, due to the seasons of use allowed by the BLM, the 40 percent reduction would result in 100 percent reduction in parts of their allotments. They would be out of business, as would any business suffering a minimum of 40 percent loss to their operation.
It is not the purpose of this article to chronicle the details of “coordination” as asserted and implemented in Owyhee County. That story has been told in

conferences and prior articles. Rather, this article takes on the focus of telling how the commissioners of that county, and the people they represented, decided to exercise their authority, and how they have continued to successfully exercise that authority.
It is a story that can be repeated in any county or unit of local government in which the people and their locally elected leaders have the passion to defend their rights and to take an active role in protecting their livelihoods and their way of life. All it takes is a bit of knowledge, the will to work hard, a determination to carry on the job once it has begun, and the ability to develop and implement strategy to maintain an equal seat at the table of management.
To fully understand the reason for the determination of the citizens of Owyhee County, one must understand the nature of the relationship among the Bureau of Land Management, a federal land management agency, ranchers, and the local government which is responsible for the economic stability and public safety and welfare of its citizens.
There is an “urban myth” that ranchers in the arid western states are wealthy and can tolerate losses better than small business people. Many folks do not understand how a rancher can be on a finite economic edge when his ranch consists of thousands of

acres of land. Their doubt can be understood by the fact that most Americans live in a house or apartment with little or no ground as a base. Urban folks know the price of land in the urban and suburban areas, and that is the only comparison they have.
But, as those of us in the west know, the rancher most often “owns” only a small portion of the total acres he grazes. His base property, that is, the property he “owns,” is usually just large enough to provide food during the summer months

to feed his cattle during the winter. During the summer, the herd is fed on land owned by the United States on which the rancher has a “preference” to graze. He pays a “grazing fee” for federal acres which do not have ample water, and are often desert range lands where forage is not plentiful. The combination of his base private property, where his home and ranch buildings are located, and the federal acres on which he has his “preference” is called his “allotment.”
When settlers moved west, they naturally settled on land where there was water, land where they believed they could raise stock and crops. As their herds of livestock grew, they let them out to feed on land surrounding that on which they had settled. Because of the conflicts between users of this “open range,” the government which owned the “western lands,” as they were called during the debates leading to the Articles of Confederation and then to the Constitution, adjudicated the range lands by assigning portions of them to the owners of base properties which had both adequate water and forage to support a herd. When those lands were adjudicated, the rancher gained a preference, in his mind a “right,” to graze that portion of the federal range.
Usefulness of the federal lands is dependent upon the rancher who owns the support or base property. He provides water to the arid federal acres. That water not only helps support his livestock, it also nourishes wildlife of all kinds. The grazing by his livestock keeps the forage eaten down to a point that protects the landscape from hot, catastrophic range fires. Through the years, his trimming and cutting back invading juniper trees has increased the flow of what little water benefits the rangelands. Junipers consume enormous amounts of water, and as they invade the range, they take over the land from all kinds of shrubs and brush that provides support for and cover for wildlife. They simply suck up the water needed by surrounding shrubs and wildlife, and soon only the junipers remain.

But also, the usefulness of the privately owned base property is dependent upon the federal lands which are part of the allotment. The privately owned acres are not sufficient to feed a herd large enough to make a profit to continue in business from year to year.

Shortages of water make regular farming of the ranch ground impossible. There is enough water, and enough land to produce enough food during the summer months (while the cattle are on the range of federal acres) to support the herd when it is brought back from the range to the home ranch in the early to late Fall.
The inter-dependence of the home ranch land and the federal allotment lands is so critical that the regulations issued by the Bureau of Land Management (BLM) affect the fate of the rancher on a day-to-day basis. The BLM governs the federal range lands under statutory authorization from Congress which is charged by the Constitution with management of the lands.
With this background in mind, it perhaps becomes clear why the proposed 40 percent reduction in grazing on the federal acres would have decimated the ranching economy of Owyhee County. The federal government owns 73 percent of all the land in the County. Only 17 percent of the land is private, and the remaining is owned by the state. So, the economy of the County and the economic stability of its citizens were on the line, as the proposed Owyhee Resource Management Plan was about to be rolled out to the public.
My very dear friend, Dick Bass, was the chair of the County Commissioners when the Bureau of Land Management's planned reduction was threatened. Dick was married to one of my best friends from High School, Karen Owen. We didn't see a

lot of each other, but both Dick and I were known to imbibe together on occasion and share the usual stories and lies. One day he called to see whether I could help the County with the BLM problem. Dick and Karen operated a very successful ranch, and knew firsthand what the proposed reductions would do to ranchers.
Skeptically, I agreed only to look into it. Having worked as a federal prosecutor, and then as compliance counsel to two Idaho governors, I knew how federal regulators worked and I had serious doubt if there was any way to counter the management agency.
To keep my promise, I had to learn first what the BLM was and did. Many years earlier, I had met two of my wife, Lodice's uncles, who ranched in southern Utah (Emery and Carbon counties). The only thing that I knew about the BLM was that both of them referred to it as the "go#&amn BLM" so often that I thought perhaps the curse word was part of the name.
When I studied the Federal Land Policy and Management Act (FLPMA), looking specifically for some tactic, I found the language that ordered the BLM to "coordinate" with local government in its planning and management actions. Well, I thought, that's a start. The following subsections of the statute spelled out what the Congress meant by "coordinate" and "coordination." They made it clear that the agency was to involve the county commissioners in their planning and management actions from the earliest point possible. The agency was ordered to apprise itself of any local plan/policy regarding natural resource use and care, to become aware of any inconsistencies which existed

between the planned federal action and the local plan/policy, and to make every effort consistent with federal law to arrive at consistency with local plans/policies.

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The dictionary definition of “coordinate” is “equal; not subordinate.” Court decisions uniformly, federal and state, hold that a word of common usage is to be given its common, dictionary definition, unless the legislature provides a different definition. Congress did not define the word, so the dictionary definition applied.
What’s more, the elements of mandate which Congress did include in the statute make it clear that Congress did intend the dictionary definition to apply. All the statutory elements point to a joint, equal negotiating effort. When one understands the interdependence of the private lands which provide the tax base of the County with the federal lands which provide no tax base, but do provide the basis for revenue from Congress known as payments “in lieu of [property] taxes,” it is clear why Congress mandated coordination: both governments, county and federal, have a vested interest in use of the lands being productive and economically and environmentally successful.
So, I met with the Commissioners and quite a large group of ranchers in Murphy and explained a strategy I thought worth trying. I warned them that the work would be difficult and long. I warned them that there was nothing I could do for them, other than assist them with planning and legal strategies; that they would have to develop their own plan and policies; that if they didn’t have a “real” plan - - a “planning sound with solid principles of use, internally and externally consistent in terms” -- the strategy wouldn’t work. I also warned them that the strategy was not a silver bullet (a warning I have repeated hundreds of times since), but that if they really worked at it, I could probably promise them two or three years of administrative and judicial “tie up” time on implementation of the BLM’s destructive plan.

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I used another of my favorite phrases about the federal government that day. I told them that once they took on the federal government, the effort could never be stopped. As I said, “the federal government is like Frankenstein’s monster, it just keeps on coming and coming.” Once the battle line is drawn, the effort must be made continually, for once taking on the government, if that effort ends, the government takes more than it would have otherwise. Federal governmental institutional memory is stronger than that of an elephant, and exertion of extra- special regulatory restrictions go on long after any agency personnel remember why. As an assistant U.S. attorney in Baltimore, many times I would ask why the agency went after certain people or businesses more vigorously than others. The answer usually was “I don’t know, but we just do and always have since I’ve been here.” This attitude I shared with the commissioners and ranchers that day.

One rancher in the audience wanted to ask a question of the commissioners. He said to them, “Before I commit my time and work to this, I want your word that you‘re committed to this and that you won’t drop us like a hot potato when things get hot, or expensive.” When the commissioners didn’t respond instantly, he asked “Well, are you committed, and you won’t leave us in the lurch?” Probably because they weren’t used to being asked a direct question in a meeting like that, the commissioners just nodded affirmatively, and the rancher persisted “I want to hear it, Dick?” After commissioner Bass said “yes,” he asked “Hal?” and after a “yes,” he asked “Chet?” and after a “yes,” said “well let’s get at it.”

That was a tough, determined group of ranchers in the room. They formed the first Natural Resources Advisory Committee of Owyhee County, and spent hundreds of hours, working at night and into the wee hours of the morning developing their plan and policies to recommend to the Commissioners.

One night as I drove home, nearing 2 a.m., I felt sorry for myself because I had to be up early for work on a capital case brief. Then I thought of the Bracketts who had a four or five hour drive across the desert to get home just in time for their morning chores. The elderly patriarch of the family had been a hard working Owyhee County legislator years earlier when I served Governors Andrus and Evans. Even at his advanced age, he accompanied that family in their multi-hour drive, kept alert and urging us on.

Gene and Don Davis were there. Gene would later tell me only a little, not much, about his days as a prisoner of war during the days of the “death march at Bataan” in the Pacific war zone. Don battled health problems, but stayed right with us and didn’t miss a meeting. Bill Lowry, who served in Europe during World War II, was there, pushing us on. He would later tell a hearing on rangeland reform that: “When I was serving our great United States of America on the shores of Europe, it never occurred to me that one day my own government would be fighting me, trying to take from me everything I have worked my whole life for.”

The events of those next few weeks will be with me during all my days. What a turn-around in career, to move from my criminal practice in Baltimore, through serving governors on a high political level, back to criminal appellate work, and then to helping good, decent, hard-working, Americans like these. I hoped that I could get for them two to three, maybe four years.

So that is the way it started. The committee finished a preliminary plan, developed some grazing management policies, recommended them to the commissioners who held a public hearing and adopted them as official county documents. The commissioners served notice on the BLM, and other agencies

that they intended to implement coordination for the County pursuant to FLPMA.
At first, the BLM personnel balked because they said they didn't understand what the County wanted that it wasn't getting. The Commissioners explained, through detailed letters pointing to the statutory language about consistency, and pointing out the inconsistency of the reduction with the County plan calling for using grazing reductions as a very last resort after all other management systems had been tried. Several weeks were spent in writing letters back and forth with BLM personnel believing they were doing what the law required, while all the time negotiating with anti-grazing organizations on a daily basis, but ignoring the County's position.
When I cited the statute to a Resource Area manager, he stunned me by telling me that "statutes are for lawyers, we go by the BLM regulations." With this particular guy, I truly believe that he was so arrogant and so ill informed, that he actually believed that the Congressional mandates had no impact on him. When I cited Section 1712 of FLPMA, title 43 in the Code, this same manager replied that there was no such section in the Act. He wasn't even familiar with the United States Code in which the Act is codified.
Finally, a year after the County first announced that it was implementing coordination, no progress having been made except that the plan had not been issued with the severe restrictions; I spoke to the Owyhee Cattleman's mid-winter meeting attended by the District Manager of the BLM. I told the Cattlemen that on the following Monday I was going to recommend to the Commissioners that they file suit against the BLM to force them to coordinate. I told them that I was sure that Judge Edward J. Lodge, coming from a cattle ranching family as he did,

would be able to read the clear language of the statute and force the coordination process to begin. Later during the meeting, the District BLM manager spoke and said that they had been planning to coordinate all along, and would so advise the Commissioners at their Monday meeting.
When the BLM met with the commissioners and me, they offered to begin coordination sessions, and suggested that the County put together an alternative to their proposed plan. They said our alternative would have to address all goals and objectives stated in the draft BLM plan. They did not think the County could put together as complicated a plan as that would require. Neither did I, but I was willing to help them give it a try.
So, the long nights of work began again, on a new County plan, this one far more detailed because it had to meet every topic, goal and objective in the BLM format. The folks who had spent so much time on the first plan came back to the drafting table: Tim Lowry, Mike Hanley, Dennis Stanford, Mike and Jeanie Stanford, Vern Kershner, Tony Black, Quay John, George and Donna Bennett, Connie and Richard Brandau, Ted Blackstock, Elias and Inez Jaca, and many, many more spent hours driving to and from the meeting room and hours in poring over prior drafts and in drafting new sections.
Our taskmaster was Cindy Bachman. She took to heart my admonition that the plan must be internally consistent. After going over a section for seemingly the hundredth time and believing we could finally move on to a new subject, Cindy would say "I hate to

ask this, but could we look back to page 32 and compare it to page 23." Almost invariably there would be an inconsistency which we need to reason through and alter.

Tim Lowry and Joe Aman, publisher of the Owyhee Avalanche, were the taskmasters for tying us to bed-rock principles of private property. I was hesitant to spend much time on the philosophy of the origins of private property concepts. Joe would bring them up at the beginning of a meeting, and I would sidestep the concept, knowing that private property concepts were not going to impress or impact federal personnel. And, in most courts other than the Supreme Court, to raise and pound on the Constitution gets one nowhere.

But, toward the end of each meeting, Tim would speak up in that calm, quiet voice and start to discuss the John Locke principles that guided the drafters. He wouldn't belabor the point, just bring it up each meeting, until I finally listened, paid attention, read the Locke treatises one week-end and decided that they were right, we needed to set the concepts as the lodestar of the planning effort. By the deadline, set by the BLM, we produced a final copy of our draft Alternative much to the shock and dismay of the Resource Manager.

The rest is history. The 40 percent reduction plan never was issued. The imminent Resource Management Plan that sparked the Owyhee County emergence into exercising local authority was not released for six or seven years because the BLM had to back up and re-do much of the work in order to comply with the Congressional mandate.

When it was issued in 1985, it did not activate automatic reductions in grazing. The ranchers who were threatened with imminent economic disaster are still in the business if they choose to be. Some simply grew frustrated with continual governmental regulatory skirmishes, which, on top of the dangers of bad markets and drought, made life just too plain difficult. Those few decided to sell and enjoy

their lives free of the BLM, Fish and Wildlife, Idaho Fish and Game and other regulatory agencies.

The successes have taken place because the commissioners, true to the word of those first three, have remained committed to protect the county's economic base as well as the economic stability and social cohesiveness of the citizens. A string of commissioners have stayed the course: George Hyer, Dick Reynolds, Chris Salove, Dick Freund, Jerry Hoagland (now the Chairman) and George Hyer for a second turn in office. Their strength, and the strength of the advisory committee which continues in service, is what allows coordination to work.

The members of the ranching community, who attended that first meeting, started the engine for coordination. While active membership has changed, as more recreation users and other multiple users have joined in the effort, to this day, if an urgent issue arises, most every one of those at the pioneer meeting, who are still living, show up to help the county move forward. Their effort is volunteer, as is much of their service to their communities.

What many may not realize is that in a rural, range and farm county like Owyhee, the ranchers and farmers don't just contribute to the economy of the County. They provide the cohesiveness which allows rural communities to survive. They serve as volunteer firefighters, volunteer members of sheriff's posse, teaching assistants, coaches and coaching assistants, school board members, irrigation board members, cemetery district members, soil conservation members, emergency medical technicians and assistants, volunteers to help neighbors in need -- the list goes on and on and on.

The University of Idaho has studied the economic and social structure of Owyhee County and concludes that the social cohesiveness of counties such as Owyhee is far stronger than in urban counties.

By having established a coordination role, Owyhee County positioned itself to be able to undertake the collaborative Owyhee Initiative effort which is discussed in another article in this edition. That effort has resulted in a history making Agreement binding the interests of conservation groups, recreation groups, ranchers and farmers together to strive for maintaining ranching and farming as viable businesses, providing meaningful recreational experiences while at the same time protecting private property, protecting natural resource values throughout the landscape, and protecting the natural beauty of the County's vistas, mountains, and canyons. And, by the time this article is read, the Owyhee Public Lands Management Act should have been enacted into law.

The Owyhee County experience, and the documents which have moved that experience, have been shared with counties and units of local government all over the Nation. Owyhee County's story has been told at national and regional conventions and conferences throughout the Nation. But, I never tire of telling it, because it is story of the American spirit -- of people who will not go quietly into the night when their rights are threatened. It is the story of what Americans at the local level can do through their local government -- regardless of the size of their community or their population.

In Congress, in the Idaho legislature, in trade and industry conferences, the voices of the 10,000 citizens of a rural county, whose county seat's population is 50, have been heard.