

Federation of Cumbria Commoners

Affiliated with Lancashire & Northumberland
Newsletter Autumn Winter 2014/2015



**Annual Meeting General Meeting and Conference
Friday 6th March 2015
1.30 - 4.00 pm at Newton Rigg**

After a short AGM we will be examining the World Heritage Inscription in the Lake District and ask what is this about? And what effect will it have on commoners and our way of life?

We aim to expand our understanding of how we can use World Heritage Status to promote and protect hill farming in Cumbria.

Pease come and join us.

Looking Forward

Well here we are at the start of another new year with new challenges for 2015, including digital mapping on commons, moving from SPS to BPS and all the other changes that the CAP reform is going to bring. It is now even more important than ever that we all try and make some time to argue our corner on all these different issues. The more of us that put our case forward, the more weight our arguments will carry. It will also help all the other very good people that are arguing our corner already.

We have been involved in talks with United Utilities & RSPB over the last few months, in response to adjoining commoners concerns about how Naddle & Swindale fell-going flocks are being managed and the damage being done to neighbouring farms' hefts. We have more meetings planned for this year. Our aim is to reach an agreement that can work both for the neighbouring commoners, and UU and RSPB.

We have set a date for our AGM which is Friday 6th March. We have an expert to talk about the Lake District National Park's World Heritage Site Bid. If this bid is successful it could be very important for the future of hill farming and commoning in Cumbria. It gives us a powerful weapon that puts hill farming centre stage. We will be able to say that commoning in the Lake District makes it globally important... and UNESCO and 190 countries also agree. The same is true for the Pennines and the Howgill fells. We all need to learn more about how we can use this tool. So we would like to see you at our AGM in large numbers. We will be having a Question and Answer session, so make your views heard.

As at every AGM, we ask new people join our Committee. We only have five or six meetings a year and they are always interesting and even enjoyable! It would be good to have new faces to help the old faces along.

Over the last ten years the Federation of Cumbria Commoners has done a lot of excellent work. It is one of the first places that Defra and Natural England go to when they want to hear what the commoners think. In turn we try to find out what they are thinking and let them know if it works for commoners and common land.

Joe Relph, Chairman.

The work of the committee—your voice on the fell and in meetings

As usual there has been a lot going on behind the scenes.....

CAP reform

The CAP reform has taken much thought and time this last half year. In spite of our responses to Defra and Natural England consultations and direct talks with their staff we haven't got a really satisfactory result as far as Commons are concerned. Defra still hasn't worked out the rules on how to claim basic payments on commons. This is explained in more detail on page 13.

As far as Natural England are concerned, the new Countryside Stewardship appears so focused on biodiversity and the Water Framework Directive that there is little room for financially supporting the delivery of other public benefits from commoning such as maintaining iconic landscapes and associated cultural heritage and the wider ecosystems services produced by fell farming. This is not good news for commoners.

Meeting the CEO and Chairman of the Board of Natural England

In mid-January we met James Cross, CEO and Andrew Sells, Chairman of the Board of Natural England at Haweswater. We invited them to Cumbria to discuss our concerns about the lack of consistency across commons around how Natural England's Project Officers negotiate HLS agreements. To us it can sometimes seem like a "post code lottery". Some Project Officers are more flexible and have a broader vision of environmental sustainability than others. Some ask for radical changes to individual farmers' practices in order to get an agreement, others understand that small changes are more doable and deliverable. Some just don't seem to listen to, or appreciate, or take in to account farmers' local knowledge and experience. We made a request for more meaningful dialogue between commoners and Natural England Project Officers. Also a commitment to recognise, understand and work with local farming customs and practice.

We used the way RSPB is managing Mardale common as an example (for more detail see the next section) for discussion and staff from RSPB and UU attended as well. The most worrying part of the visit was when the Natural England Project Officer covering Mardale common told us that he is about to downgrade the Blea Water SSSI which forms part of Mardale common from favourable condition to unfavourable. It

appears that the goal posts can change without any need for prior discussion with the agreement holders. As you can imagine we were not happy with this state of affairs and made our views very clear in front of Natural England's CEO and Chairman of the Board. We hope we got our points across, time will tell. Please let us know if you find the SSSI on your common is downgraded.

RSPB

A big concern for us is the way RSPB is managing Naddle and Swindale farms. Since taking on the tenancies they have signed up to an HLS agreement with very low stocking densities on Mardale common, resulting in a significant reduction in the numbers of sheep grazing the common. They are also talking about removing an entire heft of sheep from an area known as the Waters at the far end of Haweswater. Last summer they trialled some additional shepherding to stop the sheep moving around so much. But local commoners are sceptical. Will RSBP maintain this commitment over the lifetime of the scheme and make sure the shepherding is effective over difficult terrain? Also will either RSPB or Natural England have the understanding and experience to know what is and isn't possible by shepherding and do it right?

If the heft of sheep does come off the Walters this is very likely to have profound long-term, damaging effects on the viability and sustainability of surrounding fell farms and the way these farmers manage their commons. The Federation does not lightly comment on what other organisations with interests in common land do, but in this case we couldn't sit by and watch.

Our first route was to talk to RSPB's Cumbria staff and we attended a couple of meetings initiated by Robert McCosh of Dalemain. But progress was slow and we didn't feel that we were making much headway. So we decided to go higher and send letters to the CEOs of RSPB and United Utilities (RSPB's landlords) asking them to consider the full impact of their land management on neighbouring fell farmers before they take decisions. We invited them to come to Cumbria to discuss these issues further.

To be honest, we didn't expect the CEOs to meet us, but we were not going to settle with meeting staff members who couldn't influence the farming practices at Naddle and Swindale. To date, we have met individually with senior RSPB and UU staff.

These meetings have been useful in setting the scene. We stressed that they need to understand and support the three principles of heaving, respecting custom and practice and good neighbourliness if they want to work with the farming community. We expressed our concerns about the rapid changes RPSB are making and we asked UU as the landlord to engage more actively with their tenant and to question what they are doing, where appropriate. Our next meeting is in early February when we meet with both organisations together.

Ravenstonedale Clouds fence – the ongoing story

You will have heard that Natural England's application for a fence on Ravenstonedale Clouds was rejected. In this article Harry Hutchinson tells the story from the graziers' point of view and updates us on current developments.

On a sunny summer afternoon the Ravenstonedale Clouds are bright and inviting, they are dark and foreboding on a November evening and threatening and unwelcoming when the storm clouds gather. These many moods, colours and shadows resemble the views and opinions put forward over the last 4 years in discussions between the Wild Boar Fell Commoners' Association and Natural England on how to manage this 100 ha SSSI of limestone pavement on Greenrigg Common, Wild Boar Fell. It was designated as a SSSI in 1986 and is deemed to be in unfavourable condition.

In 2010, Natural England initiated meetings and proposals about what to do with the SSSI. Our response as graziers was brief and to the point "what's wrong with it as it is?" This was dismissed by Natural England as they had targets to meet to bring it back into "favourable condition". They considered the Clouds as under serious threat from sheep grazing. Various options were explored to exclude sheep from the Clouds and introduce a small number of cattle. These included fencing off a number of smaller areas; shepherding the sheep away from the SSSI on a daily basis; and fencing off the whole area. They opted for the latter option.

Right from the start it seemed to us that the concerns of the local residents around access and visual impact, fear of cattle getting on the road and possible water contamination carried more influence with Natural England, than our concerns about disrupting the hefted flocks located on the Clouds area and changing the sheep's

grazing patterns and types of grass available. The fence would also reduce the freedom of other livestock, in this case ponies to roam and find shelter. We asked ourselves how come the graziers weren't "residents" and why the whole issue of animal welfare seemed to get more mileage when brought up by non-farmers.

Over time our attitudes changed as we realised that, if it came to the crunch, we could be forced to adopt a Higher Level Stewardship (HLS) agreement on the whole common, with a stocking rate and other restrictions that we couldn't agree to and all without compensation!

So after much ado we agreed to a HLS scheme that included fencing off the Clouds to exclude sheep, but allow a small number of cattle and ponies to graze the SSSI. The location of the fence line was another concern for us, but we eventually went along with Natural England's proposal. In 2012 they submitted an application to the Secretary of State for permission to fence the Clouds. This application had to be withdrawn because of faulty paperwork and lack of consultation. So in 2013 a second, revised application was put in.

The local residents raised many objections to this application and were very vocal. They came up with a list of 20 points they weren't happy with. Eventually on 22nd July 2014 a "Planning Inspectorate" hearing was held to determine the fate of the application. Natural England staff represented the applicants and local residents raised objections. The graziers' representatives were listed with the objectors as we were proposing a change to the fence line, but we were also named as co-applicants. Piggy in the middle.

The Planning Inspector listened to everyone's views and gave little away. She left with not a hint of the views she held. It was three months later when the decision was published. The fence was turned down.

Good news or bad? January 2015 what happens next?

We, the graziers had already been in an UELS agreement for two years, but this was terminated when we agreed to sign up for the HLS with a new UELS carried on the back of it. With the refusal of the fencing application the HLS was lost and our new UELS was put in jeopardy. Potentially we were facing losing three years future UELS payments, plus having to pay back our first UELS/HLS monies on the new scheme. This

amounted to a five figure sum and things were looking bad. However, a solution may be able to be agreed. We are considering a proposal to fence off a smaller trial plot of the SSSI of no more than 1%. No permission is needed and the results will be monitored over a 10 year period using cattle and horses as grazing tools to assess the recovery of the vegetation. As mentioned before, this suggestion was put forward right at the start of the talks about fencing the Clouds. So after almost 5 years we have gone in a big circle to end up where we began.

What can we learn?

Natural England and Wild Boar Fell Graziers' Association could have worked closer on agreeing the fence line. However, we felt as though our views weren't adequately taken on board, resulting in our late objection and proposed variation to the fence line. Therefore, if you want a scheme that includes fencing to go ahead you need to work with the graziers and also get the local residents on board from the start.

Natural England's view of favourable condition still needs very close scrutiny and could result in the Clouds being completely different from what they have been for the last two hundred years or so. It would be desirable to have an independent body determine what good or unfavourable condition is.

The cost of the fencing off part of the SSSI is a continuing concern to the graziers and needs to be reviewed. We believe that the present ratio of "grant" towards the cost of fencing falls far short of the actual costs for the following reasons. We estimate that 20% of the total cost will have to borne by the graziers. Compound this with an extra 20% VAT which is not be recoverable as the Wild Boar Fell Commoners' Association is not VAT registered. Furthermore, this has to be cash flowed as the money will be paid out before it can be claimed back.

Changes to payment timings for Environmental Stewardship (ES) Schemes from 1 January 2015

These changes will affect both when your payments arrive, and how much you get. Be aware this will have implications for your cashflow.

From 2015 onwards all new agri-environment agreements will have a single start date of the 1st of January in every year. The payment periods for all current UELS and HLS agreements will be realigned to a January to December year, e.g. a current agreement

starting on 1 May and ending 30 April will be adjusted so that the payment period is now from January to December.

This will not affect the total amount farmers are due to receive over the lifetime of their agreements, but the timing and value of individual payments may differ from the original schedule in the agreement. This could have potential negative effects on cashflows and the farm business. It is important that farmers find out the new value of the payments so they can plan to make sure there is enough cash to meet the immediate needs of the business.

New claim date

Starting from 1st January, existing UELS/ HLS agreement holders will be required to submit a claim form by 15 May each year, in order to receive their scheduled ES payments. A claim form is required because the EU rules that apply to current ES agreements have changed, as part of the new Rural Development Programme which starts this year.

The deadline for submission is the same as the Basic Payment Scheme deadline (15 May) and claims received after this will be subject to late claim penalties. The details around what information agreement holders will need to provide on the claim form are currently being established.

Natural England expect to send out claim forms and supporting information to all ES agreement holders in February/March 2015 and their Customer Services will make every effort to ensure they are all received back by the deadline. They plan to share more information on this as the detail becomes clear.

The Commons Act 2006: The wait is over – Part I now in force

Act now and check your entries and then update the registers where necessary.

Part I of the Commons Act 2006 came into force in Cumbria on 15 December 2014.

This marks the start of a four-year transitional period. During the transitional period, applications can be made to Cumbria County Council to amend out-of-date common land registers. At the end of the transitional period, commoners who have not updated the register in respect of rights may find that their rights have been extinguished.

The registration system for common land was established by the Commons Registration Act 1965. This registration system is retained under Part I of the 2006 Act, but the registers can now be amended to reflect:

- New events – for example, applications to extinguish rights of common or exchange registered land
- Anomalies and mistakes relating to existing entries – such as de-registering land incorrectly registered as common land
- Historical events – which are events that occurred between 1970 and 2014, but were not registered.

As set out in previous issues of the Federation of Cumbria Commoners' newsletters (see Spring / Summer 2012, Autumn / Winter 2012 and Winter 2013 / 2014) Part 1 does have its problems and these have not yet been resolved. Despite this, commoners in Cumbria are urged to act now, by checking their entries and then updating the registers where necessary.

Guidance and factsheets, produced by DEFRA in relation to Part I can be found at <https://www.gov.uk/common-land-management-protection-and-registering-to-use>.

The common land and town and village green registers are held at the new archive centre at Lady Gillford's House Carlisle. Copies of the registers which detail the conclusive record of registered land and rights can be obtained for a small fee or appointments can be made to view the registers free of charge .

Further information - including links to guidance, fees and application forms will be available on the Common Land section of Cumbria County Council's website from 15th December <http://www.cumbria.gov.uk>

The Federation is planning a series of roadshows later on in the year to inform you on what to do if you want to update the registers. These meetings will be practical with examples of how to complete the forms. We will advertise the dates widely, so please look out for them

UPDATE ON CAP REFORM

THE NEW COUNTRYSIDE STEWARDSHIP SCHEME: *Defra have confirmed some of the details for the new Countryside Stewardship Scheme in their latest CAP leaflet. There is still much work to be done before the scheme is ready is for applications. Below is an outline of Countryside Stewardship with particular reference to commons from David Morley, Environmental Advisor, H & H Land and Property*

Countryside Stewardship is the replacement for Environmental Stewardship. It will be launched in 2015 and is not to be confused with a previous scheme of the same name, which ran from 1991 to 2004. The new scheme will combine a range of land management options with woodland and forestry management options and will thus also replace the English Woodland Grant Scheme (EWGS). Unlike its predecessor, all Countryside Stewardship agreements will start on 1st January, so there will be only

Main Features of Countryside Stewardship for commons

All commons agreements will be "upper tier" – so there is no UELS equivalent for commons

- Payments expected to be around £43 per hectare
- Agreements will all be for 10 years with a 5-year break clause
- Negotiations on stocking rates must be concluded and an internal agreement must be in place BEFORE an application can be submitted
- Natural England will be drawing up a list of potential agreements to start on 1st Jan 2016 (the pipeline) in late Jan/early Feb 2015.....

..... so commons coming out of UELS in 2015 year need to think about this now!

one application window each year. The first agreements will start on 1st January 2016.

Structure of the Scheme

A lot of the detail of the new Scheme is still to be announced. What we do know is that, unlike Environmental Stewardship, there will be no "entry level" tier that is open to all. Instead, there will be two competitive tiers:

Upper Tier: targeted at the highest priority sites, but also including all woodland agreements. For the most part, Upper Tier will look very similar to HLS, with a comparable range of options designed to deliver significant environmental benefits. The focus will be on SSSIs and sites that can help meet the Government's Water Framework Directive obligations.

Like HLS, Upper Tier agreements will be "advisor led" by Natural England. Applications will effectively be "by invitation only" and the advisor will already have a clear idea of what they want the agreement to deliver before an invitation is issued. Natural England will operate a "pipeline" of applications they would like to see made in the next window. They will be pulling together the pipeline for 1st January 2016 agreements from late January 2015. Commoners Associations in UELS agreements ending in 2015 or early 2016 should now be thinking about whether they want to be considered for an Upper Tier Countryside Stewardship agreement.

Mid Tier: these agreements will concentrate on delivering environmental gains at a landscape scale. Natural England will provide direction on what the priorities are in each locality and will score applications on how well they meet those priorities. Other than this, there will be no input from local advisors; professional advice will be key to making a successful application. Only those applications with the highest scores will be offered an agreement, but it will be impossible to know where the bar will be set at the time of application.

Through the Mid Tier, Natural England are seeking to encourage collaboration between farmers to deliver landscape scale environmental improvement. While applications will still need to be made individually, neighbouring farms that apply at the same time and all include the same high priority options for that area will score higher than standalone applications.

Natural England have made it clear that all agreements on common land will be Upper Tier. Mid Tier will not be available on commons or, indeed, for any applications involving moorland.

Scheme Options & Payments

Countryside Stewardship will feature a simpler range of options than Environmental Stewardship, perhaps around 150, compared with over 400 in the current Scheme.

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Disappointingly, those options available for upland farms and common land have been significantly reduced. There is no "basic" moorland management option (EL6 in UELS), no cattle grazing option specific to the uplands (UL18) and no low fertiliser management options (EL2). There is also nothing for maintaining dry stone walls. There are no details yet on prescriptions for those options that have made it into the new Scheme.

Payment rates for options have recently been published; moorland management payments will be £43 per hectare. This sounds like an increase over the current rate of £40 per hectare, but bear in mind that there will be no UELS payments of £23 per hectare. Therefore, there is an actual reduction of £20 per hectare. However, the increase in moorland rate under the Basic Payment Scheme will offset this. Off-wintering payments are being increased from £10 per ha to £16 per ha, but complete off-wintering will be required to qualify. There will be no "sliding scale" off-wintering payments, as there have been under HLS.

The Application Process

The application process will be quite different for Countryside Stewardship, with the application itself coming much nearer the end. For Commons, this is significant, as it means that all stocking calendars will need to be negotiated prior to application and internal agreements will also need to be finalised and signed by all participants up front.

Therefore, although the application window may not open until July each year, work will probably need to begin on initial negotiations several months before this – a good 10 months before the agreement is actually due to start.

All applications will have to be made online using the new Rural Payments IT System. This platform is being used for all CAP-related payments and is first being rolled out for the new Basic Payment Scheme (BPS). It is anticipated that Rural Payments will be ready for Countryside Stewardship applications around July 2015.

Length of Agreements

Most Countryside Stewardship agreements will be 5 years (including Upper Tier) but commons agreements will generally be 10 years. This reflects the greater cost of making an application and that commoners cannot be expected to make changes to

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their flock sizes, which could be difficult to reverse, for an agreement that would only last 5 years.

Universal Capital Grants

The final point of interest is that, in addition to land management agreements, Natural England are planning to offer one-year standalone “universal capital grants”, principally for walling and hedging. Unfortunately, payments for wall restoration have been reduced from £30 to £25 per metre, well below what many contractors are now charging. Farmers can potentially make as many applications as they like but, as with all aspects of Countryside Stewardship, capital grant funding will be competitive, so payments are not guaranteed.

The universal capital grants will not be available to either Environmental Stewardship agreement holders or those with a full Countryside Stewardship agreement; both Upper Tier and Mid Tier agreements will come with their own capital works programme.

Basic Payment Scheme (BPS) on common land

The detail is still to be worked out

We know that common land will be eligible for the BPS. Defra tells us that, similar to the previous SPS, commoners are likely to activate their entitlements against a ‘notional area’ of a common based on the number of rights they hold to graze animals on the common. But Defra are still working on the detailed rules and, to date, we don’t know exactly how it is going to work in practice.

Common land Mapping – Putting commons on the RLR

RPA will be using new maps of common land, so the notional area of the common may be different from 2014. However, the production of these maps has been beset with technical problems causing delays. RPA say they are now ready to undertake a consultation on these maps. We were told that they were proposing to give commoners just 14 days to check whether the maps for their commons were accurate and to send back any comments within this time period.

We (and others) have protested. This is a totally unrealistic timescale and the result will be a recipe for chaos. We think that four weeks should be the minimum time period for consultation as it takes time for commoners’ associations to organise meetings and discuss and agree the overall accuracy of the maps. We believe that

RPA have got the message. But please be aware that these maps will arrive soon and you will only have a limited period of time to check and agree them.

What is Defra’s approach to distribution of entitlements on common land under BPS?

Like mapping, designing the detailed rules for how BPS paymentst will be made has been subject to delays. Minchinhampton Commoners in Gloucestershire have challenged Defra about the way they distributed entitlements on their common under SPS (during the previous round of CAP). They only got paid for 4% of the area of their common as many rights holders did not claim entitlements, but the commoners receiving SPS monies were expected to meet the SPS rules for the whole common. They say this is disproportionate. Their challenge is taking much longer to reach a conclusion than anticipated. In the meanwhile, Defra have been given legal advice not to publish recommendations on how to claim basic payment scheme until this is resolved. At the moment Defra is not able to engage in any discussions on how notional area will be divided between the claimants.

Other issues that still need resolving include: how will BPS inspections on commons be carried out? What evidence will commoners have to produce to demonstrate their right to claim BPS on commons? What about prescriptive and tenanted rights?

All the while clock ticks on. Will commoners know how many entitlements they have at their disposal at 15th May each year, so they can make their BPS claims without fear of loss of entitlements etc.? As soon as we get more information we will put it on the website.

Ministry of Defence’s (MOD) propose to de-register common land at Warcop, Hilton and Murton commons

In late 2012, we objected, along with others, to MOD’s proposal to de-register the land at Hilton, Murton and Warcop as common land. These objections have been disregarded but the fight goes on.

The MOD owns the army training base at Warcop near Appleby, Cumbria. They undertake live-fire training and the surrounding danger area where ricochets can fall is common land. In 2001, the MOD applied to extinguish the rights, but not de-register the land as common land. This was agreed after a public enquiry.

Then in 2012, the MOD decided they wanted to de-register the land as common land arguing that the 2006 Commons Act (passed after the 2001 public enquiry) does not safeguard their ability to train. They now propose to de-register the land and in return if the army training base becomes surplus to their needs they will, immediately prior to its disposal, create 6 commons rights to farmers who were commoners prior to the extinguishment, for each farmer to graze 1 sheep on Christmas day every year. Plus one right to a national amenity society (to be attached to a piece of land). This proposal went out to consultation and the MOD received a number of responses (including our objection). But the Minister of Defence, Anna Soubry, agreed with the MOD's proposal. So they are now applying to Cumbria County Council to de-register the land. We don't agree and will be objecting.

Why are we making a fuss?

These commons covers approximately 9,715 hectares of land and make up 1.4% of England's common land —this is not insignificant. Common land is an important national resource and the stock of common land should not be reduced. We believe that the risks the MOD refer to are grossly overstated. Also there is no guarantee that the MOD would reinstate the land as common land if it became surplus to their requirements. They have already changed their mind once, who says they won't again? So the best way to secure the future of this common land is not to deregister it.

New Farmer Network project

Look out for this new Farmer Network project that will be starting soon.

The project aims to improve the sustainability of hill farming communities in Cumbria and the Yorkshire Dales by encouraging farmers groups to share information and monitor their ideas. The unique element of the project is to run farm trials identifying farming systems that can reduce or improve the efficiency of inputs, be more resilient to climate change and sustainable. The Farmer Network will link the activities of different groups, monitor the results and spread the key messages to all members and the wider farming community, through local meetings, websites, social media and video. There will be specialist input at events and individual farmers will be supported to implement appropriate advice on a trials basis. Examples might be finishing systems for hill breed lambs, monitoring the need for wormers or fluke treatments, the encouragement of natural legumes in meadows. This is a chance for farmers to try out ideas and closely monitor what they are doing to help them to adapt and survive in the changing physical and economic climate. For more information contact the Farmer Network office 01768 868615

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