

**Testimony of
Neil Kornze
Director
Bureau of Land Management
U.S. Department of the Interior
Before the
Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining**

Regarding

The BLM's Proposed Planning Rule

June 21, 2016

Thank you for the opportunity to present the views of the Department of the Interior regarding the Bureau of Land Management's (BLM) proposed planning rule. The proposed planning rule is part of the BLM's ongoing efforts to improve the way that the BLM develops land use plans that guide the management of the public lands administered by the Bureau as authorized by the Federal Land Policy and Management Act of 1976 (FLPMA).

This proposed new rule is the culmination of over two years of outreach and discussion with state and local governments, communities, stakeholders, other governmental partners, and the public and reflects many of the lessons learned and best practices developed over the last 40 years of land use planning. This proposed rule responds to the recommendations and concerns raised by state and local governments, stakeholders, and the public to modernize and improve our land use planning process in ways that make our efforts more collaborative, transparent, and efficient.

Background

The BLM manages ten percent of the land in the United States and 30 percent of the nation's minerals. Under FLPMA, the BLM is required to develop land use plans in partnership with state, local, and tribal governments, as well as the public, to manage these diverse public land resources in accordance with the BLM's multiple-use and sustained yield mission unless otherwise provided by law. BLM land use plans establish goals and objectives to guide future land and resource management actions implemented by the BLM.

The regulations governing the BLM's land use planning process are more than 30 years old. Pressures are increasing on BLM-administered lands and land managers to better balance often competing and increasingly conflicting uses of the public lands. The BLM and its stakeholders, including state and local governments, have also experienced an increased number of practical challenges, including unexpected delays, higher expenses, and expanded legal issues in managing these lands. Resource issues such as invasive species, wildfire, energy transmission, and wildlife conservation cross traditional administrative and jurisdictional boundaries making current planning less efficient and more costly to implement.

State, local, and tribal government officials and representatives of diverse stakeholder groups have expressed concern about the current process, stating that they often feel disconnected from the BLM's land and resource management planning process. We have heard the process described as one characterized by long waiting periods punctuated by short periods in which stakeholders have to digest and respond to large volumes of information. This can be exacerbated by the need to supplement draft plans that have been in process for years when new issues are identified or additional information is required late in the planning process. Delays in BLM planning efforts increasingly consume BLM staff capacity and resources that could otherwise be spent addressing critical resource management priorities.

We understand and share many of these concerns. These factors, combined with the changing nature of the demands on public lands and the increasingly complex and conflicting issues that result, served as a catalyst for the BLM to update its land use planning process. The effort was launched in 2014.

Current Planning Process

The current land use planning process begins with a formal public scoping process to identify planning issues that should be considered in the land management plan. The BLM analyzes these and uses them to develop a range of alternative management strategies.

The range of alternatives is initially presented in a draft Resource Management Plan (RMP) and draft environmental impact statement (EIS), in which the BLM must identify a preferred alternative. The release of the draft RMP and draft EIS is followed by a 90-day public comment period. Once comments have been reviewed and evaluated, the BLM revises the draft plan, as appropriate, and then releases a proposed RMP and final EIS.

Release of the proposed RMP and final EIS initiates a 30-day protest period for any person who previously participated in the planning process and has an interest that is (or may be) adversely affected by the proposed plan. At the same time, the BLM provides the proposed plan and final EIS to the governors of those states included in the RMP for a 60-day consistency review period to identify inconsistencies with state and local plans. After inconsistencies and protests have been considered, the BLM State Director can approve the final RMP.

The Proposed Rule

The proposed planning rule includes some important updates and improvements to the current process. These changes, consistent with FLPMA, are intended to: (1) respond to specific, articulated issues with the current planning process; (2) improve opportunities for state and local governments, stakeholders, and the public to better provide input to plans from the outset; and (3) reduce time delays, costs, and, we believe, the chance of litigation.

For example, the proposed rule would add a requirement for the development of a planning assessment as a first step. This planning assessment would provide an opportunity for the BLM, state, tribal, and local governments, stakeholders, and the public to work together before any scoping or drafting takes place to better understand the existing conditions in the planning area, and to identify the types of data and information that will be necessary during the planning process. Gathering relevant data and information would be an important part of the assessment

and would improve understanding of key resource issues and conditions, and other issues in the planning area. During this phase, participants would also be able to provide early input into identifying the planning area boundary, and would help identify data to use during the planning process.

State, tribal, and local government entities would also be invited to participate as cooperating agencies at this time. The special role of state, tribal, and local government entities is fully preserved in the proposed rule, and is discussed in more detail below.

The rule would also add the opportunity for a public review of and input on preliminary alternatives before the draft RMP is written. We believe that the production of a planning assessment and additional opportunities for input into development of the plan alternatives would help to improve the effectiveness and timeliness of land use plans. We believe these measures could also reduce delay and the chances of litigation as concerns and potential conflicts between competing land and resource users and uses would surface earlier, and opportunities to address these concerns could be initiated sooner. The need for supplemental analyses and data gathering would be reduced.

These planning process improvements would provide new opportunities for public input early in the planning process. However, they would not change the special status currently afforded to state, local, and tribal governments. Opportunities for more frequent check-ins with governments and stakeholders during the development of the draft plan would also help the BLM identify errors or missing information earlier in the process.

Under the proposed rule, after an RMP has been adopted and is being implemented, the BLM would publish a summary report on the effectiveness of the plan. This summary report would enable state, tribal, and local governments and the public to track implementation progress. It would also enable the BLM to determine whether implementation strategies need to be adjusted, or if the RMP needs to be amended or revised to more effectively achieve management goals.

The BLM believes that these changes will contribute to a more efficient and cost-effective planning process that should reduce the amount of time and resources the BLM would have to spend to develop and maintain land and resource management plans. The BLM would be able to react more quickly to address local needs, and amend land use plans in ways that may be critical to enabling local economies to adapt to changing circumstances.

Affirming the Unique Role of State, Local, and Tribal Governments in the Planning Process

FLPMA, the National Environmental Policy Act, and the proposed rule provide state, tribal, and local governments a special role in the BLM's land use planning process. This role is important to the BLM in ensuring the best quality plans are prepared.

First, FLPMA directs the BLM to coordinate with state, local, and tribal governments to assist in resolving inconsistencies between BLM's land use plans and local land use plans, to the maximum extent consistent with Federal law and the purposes of FLPMA. Specifically, Section

202(c)(9) provides, in part, that, in the development and revision of land use plans, the BLM shall:

to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located... In implementing this directive, the Secretary shall, to the extent the he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands.

Cooperating agencies work closely with the BLM at every stage of the planning process to identify issues that should be addressed, collect or analyze data, develop or evaluate alternatives and, of course, review preliminary documents. This unique partnership is provided only to governmental entities and helps the BLM develop a land use plan that is responsive to the needs and concerns of local communities.

For example, after the public scoping period, the BLM would collaborate with cooperating agencies to develop a preliminary range of alternatives and rationales, and to identify the preliminary procedures, assumptions, and indicators to be used in the analysis. The BLM would make preliminary versions of these key planning documents available to state, tribal, and local governments and interested stakeholders for review. The BLM would use feedback gained from this opportunity to develop alternatives in the draft land use plan that more fully address local needs and the concerns and information shared by various stakeholders during the early stages of the planning process.

There are no changes to the status or role of cooperating agencies being considered as part of this draft rule. The BLM is committed to continuing its collaborative relationship with state, tribal, and local governments, as it has, consistent with FLPMA.

Public Participation in Development of the Proposed Planning Rule & After Publication of the Proposed Rule

In 2014, the BLM launched a campaign to garner feedback on the initial ideas for updating its land use planning rules. The capstone of that campaign was a series of public listening sessions in Colorado and California in the fall of 2014. Through that listening process, stakeholders submitted more than 6,000 written comments; those comments provided invaluable feedback and formed the backbone for the development of the proposed rule. The BLM also presented information on its efforts to improve the planning process and the proposed rule at multiple stakeholder events, including: the 2014 and 2015 North American Wildlife and Natural

Resources Conference, webinars hosted by the National Association of Counties, and Western Governors Association meetings.

Since the release of the proposed rule on February 11, 2016, the BLM extended the comment period by 30 days in response to requests from the public; hosted a public meeting in Colorado in March 2016; and conducted multiple webinar outreach sessions in March and April 2016. Recordings of all of these events are available for viewing on the BLM's website.

In addition to outreach to the general public, the BLM has had several conversations with National Association of Counties (NACo) members and hosted a question and answer session with county and state governments. The BLM hosted a question and answer session for county representatives at the NACo Western Interstate Region conference on May 27. Finally, the BLM conducted government-to-government consultation with Federally-recognized tribes and hosted an informational webinar specifically for tribal representatives in May 2016. Recently, BLM leadership briefed staff of the Western Governors' Association this past weekend on the proposed planning rule and answered questions that they posed.

Conclusion

In recent years, the BLM has received valuable feedback from state, local, and tribal governments, other stakeholders, and the public that its existing planning process takes too long, is too costly, and is difficult to follow. We take this feedback seriously, and recognize the need for improvements in our current planning process. The Planning 2.0 Initiative was developed to assess the strengths and weaknesses of the current planning process; identify state, local, and other stakeholder and public concerns, and to develop "fixes" for the issues identified in order to make the BLM planning process more efficient, cost-effective, and relevant to the issues affecting public land management today – nearly 30 years since the current planning rules were formulated. The proposed BLM planning rule incorporates lessons learned from the development of hundreds of land use plans and feedback received through numerous public meetings, webinars, briefings, and conversations over the past two years.

Fostering close working relationships with local communities and increasing transparency and opportunities for state and local officials, stakeholders, and the public to participate in the planning process earlier and more often would allow the BLM to develop and maintain meaningful and effective land use plans. This updated approach to planning would also allow the BLM to react more quickly to amend land use plans to better address local needs and changing land and resource conditions, to enhance local communities' ability to adapt to changing circumstances, and ensure that the BLM can meet its legal mandate to manage the public lands for multiple-use and sustained yield for generations to come.

Thank you for the opportunity to appear before you today to present the views of the Department of the Interior regarding the Bureau of Land Management's (BLM) proposed planning rule. I am happy to answer any questions that you may have.