LOCAL AND STATE PERSPECTIVES ON BLM’S DRAFT PLANNING 2.0 RULE

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON NATURAL RESOURCES

U.S. HOUSE OF REPRESENTATIVES

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OVERSIGHT HEARING ON LOCAL AND STATE PERSPECTIVES ON BLM'S DRAFT PLANNING 2.0 RULE

Thursday, May 12, 2016
U.S. House of Representatives
Subcommittee on Oversight and Investigations
Committee on Natural Resources
Washington, DC

The subcommittee met, pursuant to call, at 2:06 p.m., in room 1324, Longworth House Office Building, Hon. Louie Gohmert [Chairman of the Subcommittee] presiding.
Also Present: Representative Lummis.
Mr. GOHMERT. The Subcommittee on Oversight and Investigations will come to order. The subcommittee is meeting today to hear testimony on Local and State Perspectives on BLM's Draft Planning 2.0 Rule.
Under Committee Rule 4(f), any oral opening statements of the hearings are limited to the Chairman and the Ranking Minority Member. Therefore I ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted to the Subcommittee Clerk by 5 p.m. today. Hearing no objection, it is so ordered.
I ask unanimous consent that the gentlelady from Wyoming, Mrs. Lummis, be allowed to sit with the subcommittee and participate in the hearing. Hearing no objection, that is so ordered.
I also politely ask that everyone in the hearing room please silence your cell phones. This will allow for minimum distractions for both our Members and our guests to ensure that we all gain as much from this opportunity as possible. It is a little different from when I was a judge. If your cell phone went off, the bailiff took it and you had to do so much community service before you got it back. I do not have that authority at this point, but I would just ask that you turn those to vibrate at a minimum.
I now recognize myself for 5 minutes for an opening statement.

STATEMENT OF THE HON. LOUIE GOHMERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. GOHMERT. The Subcommittee on Oversight and Investigations is meeting today to hear directly from witnesses who are a part of the throngs of people most affected by the Bureau of Land Management's proposed resource management planning rule. This draft rule is part of BLM's Planning 2.0 initiative, which would completely revamp the process by which BLM prepares and amends resource management plans for hundreds of millions of acres throughout the West.
When Congress passed the Federal Land Policy Management Act, sometimes referred to as FLPMA, it made clear that BLM is required to coordinate with local governments on management plans. But BLM’s Planning 2.0 effort and this proposed rule seem not to take that responsibility seriously enough.

BLM has said that its draft Planning 2.0 rule would not really change BLM’s practice. But, if that’s the case, it is counterproductive to go to the trouble of making another regulation. Words have meaning, and we are here today to take a look at what BLM’s regulation actually does. In fact, there are several changes in the proposed rule that are worth mentioning, and I am sure our witnesses will have additional matters they would like to address.

First, instead of keeping most planning activity at the field office level, this proposed rule would transfer that authority to BLM headquarters here in Washington, DC. Doing so opens the door to political gamesmanship and to special interests in Washington, influencing decisions that affect Americans thousands of miles away.

This proposed rule also introduces a lot of uncertainty. From simply changing “shall” to “will,” to renaming cooperating agencies, to giving BLM wide discretion to unilaterally and arbitrarily designate large planning areas, BLM’s draft rule makes it much more difficult for local individuals and officials to keep up with and participate in the planning process. In some instances, BLM even explicitly shifts the burden to local and state governments.

For example, BLM would no longer have to familiarize itself with local land use plans and policies to determine whether or not there are any inconsistencies. Instead, BLM will only consider inconsistencies that states or counties raise in writing.

How can BLM say it is cooperating with state and local governments when the Agency is trying to shirk its responsibility to understand the plans and policies that local and state officials have already developed? A truly collaborative process is a two-way street, and making state and local governments entirely responsible for this part of the process is unwarranted.

BLM says Planning 2.0 is all about being more nimble and working collaboratively with local governments. Yet, BLM has refused to grant requests to extend the public comment period. That would make it appear that they wish to nimibly avoid receiving grant requests. The average request was for an extension of about 108 days, but BLM only extended the comment period for 30 days. They apparently want to nimibly avoid receiving comments. This was not the best way to kick off a rule that is supposed to make coordination better and easier.

On the other hand, the Administration is trying to churn out as many new, heavy-handed rules, regulations, and policies as possible before the President leaves office, such as changes in critical habitat designation, venting and flaring rules, restrictive resource management plans, a new take on the Migratory Bird Treaty Act, designation of new national monuments, coal lease suspensions, offshore exclusions, and conservation mitigation requirements. Planning 2.0 is just one more thing creating havoc for Americans already unfairly burdened by over-regulation.

It is worth repeating that management decisions must be made at the local level, in concert with the people whose lives are most
affected by those decisions, not by bureaucrats in Washington. That is why today we are hearing from individuals from across the West who understand the implications of Planning 2.0 and can express those concerns and critiques that BLM should heed.

I would like to thank each of the witnesses for joining us today. I know you are not here because of the pay; you are here because you care about the country. We look forward to hearing your testimony.

[The prepared statement of Mr. Gohmert follows:]

PREPARED STATEMENT OF THE HON. LOUIE GOHMERT, CHAIRMAN, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

The Subcommittee on Oversight and Investigations is meeting today to hear directly from witnesses who are a part of the throngs of people most affected by the Bureau of Land Management’s proposed resource management planning rule. This draft rule is part of BLM’s “Planning 2.0” initiative, which would completely revamp the process by which BLM prepares and amends resource management plans for hundreds of millions of acres throughout the West.

When Congress passed the Federal Land Policy and Management Act (FLPMA), it required that BLM is required to coordinate with local governments on management plans. But BLM’s Planning 2.0 effort and this proposed rule seem not to take that responsibility seriously.

BLM has said that its draft Planning 2.0 rule would not really change BLM’s “practice.” But if that’s the case, it is counterproductive to go to the trouble of making another regulation. Words have meaning, and we’re here today to take a look at what BLM’s regulation actually does.

In fact, there are several changes in the proposed rule that are worth mentioning, and I’m sure our witnesses will have additional matters they would like to address.

First, instead of keeping most planning activity at the field office level, this proposed rule would transfer that authority to BLM headquarters in Washington, DC. Doing so opens the door to political gamesmanship and to special interests in Washington influencing decisions that affect Americans thousands of miles away.

This proposed rule also introduces a lot of uncertainty. From simply changing “shall” to “will,” to renaming “cooperating agencies,” to giving BLM wide discretion to unilaterally and arbitrarily designate large planning areas, BLM’s draft rule makes it that much more difficult for locals to keep up with and participate in the planning process.

In some instances, BLM even explicitly shifts the burden to local and state governments. For example, BLM would no longer have to familiarize itself with local land use plans and policies to determine whether there are any inconsistencies. Instead, BLM will only consider inconsistencies that states or counties raise in writing.

How can BLM say it’s cooperating with state and local governments when the Agency is trying to shirk its responsibility to understand the plans and policies that locals have already developed? A truly collaborative process is a two-way street and making state and local governments entirely responsible for this part of the process is unwarranted.

BLM says that Planning 2.0 is all about being more “nimble” and working collaboratively with local governments—yet BLM has refused to grant requests to extend the public comment period. The average request was for an extension of about 108 days, but BLM only extended the comment period for 30 days. This was not the best way to kick off a rule that’s supposed to make coordination better and easier.

On the other hand, this Administration is trying to churn out as many new heavy-handed rules, regulations, and policies as possible before the President leaves office, such as changes in critical habitat designation, venting and flaring rules, restrictive resource management plans, a new take on the Migratory Bird Treaty Act, designation of new national monuments, coal lease suspensions, offshore exclusions, and conservation mitigation requirements. Planning 2.0 is just one more thing creating havoc for Americans already unfairly burdened by over-regulation.

It’s worth repeating that management decisions must be made at the local level, in concert with the people whose lives are most affected by those decisions—not by bureaucrats in Washington.
That is why today we’re hearing from individuals from across the West who understand the implications of Planning 2.0 and can express concerns and critiques that BLM should heed. I’d like to thank each of them for joining us today, and look forward to hearing their testimony.

Mr. GOHMIERT. At this time, the Chair recognizes the Ranking Minority Member for 5 minutes, Mrs. Dingell.

STATEMENT OF THE HON. DEBBIE DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mrs. DINGELL. Thank you, Mr. Chairman. We do have some of the same goals in agreement; we just might see things through different perspectives, so I want to thank you, Mr. Chairman.

Today’s hearing is about an important issue, the management of our public lands. Our public lands hold a wealth of both natural and cultural resources. They are a hub for recreational activities, from fishing and bird watching, to white water rafting and mountain biking.

They provide critical habitat for endangered species and free ecosystem services like water filtration that we rely on every day. They support local economies and entrepreneurship. It is our duty to ensure that these lands and their diverse resources are maintained for many generations to come.

The Bureau of Land Management has an especially critical role to play as the largest land holder among the Federal agencies. The Agency must have a process for managing lands and resources that is efficient, effective, and responsive to ever-changing needs.

That is where Planning 2.0 comes into the picture. Planning 2.0 is the BLM’s first major proposal for updating their resource management planning process in over 30 years; and although the new planning process is only in proposal form, it is clear that the Bureau is doing its due diligence in trying to make the process as transparent and accessible to the public as possible.

Planning 2.0 proposes to involve the public earlier and more often in the planning process. By doing so, they will be better able to manage resources in a way that honors diverse needs, prevents expensive lawsuits down the road, and increases their own efficiency.

Planning 2.0 also recognizes the importance of managing a land’s resources where they are, at that local level that you talk about, not where they think it should be. It simply does not make sense to manage resources according to political and jurisdictional boundaries. Rivers do not stop at county lines. The sage grouse does not turn around and strut the other way when it reaches the BLM field office boundary. We cannot manage resources in a way that pretends it is any different.

With changes like these, Planning 2.0 is trying to bring the Bureau’s public land and resource management into the 21st century. Unfortunately, some of my colleagues seem to have a desire to want to maintain the status quo by holding onto the outdated process that is less efficient, less evidence-based, and less open to public input. We all want that public input that you talked about. What disappoints me even more is that there may very well be ways to improve the current Planning 2.0 proposal that both
sides can agree on, but we are not going to learn it here today. Rather than seizing this opportunity to engage BLM in a productive conversation about ways to improve the planning process, we did not invite the Agency to be at the table when we should have. It is like taking your car to the shop and telling the receptionist, the other customers, and passers-by about your squeaky brakes, and then leaving without talking to the mechanic. You might feel a little better after venting, but nothing gets diagnosed or fixed.

This hearing is an even bigger missed opportunity for our witnesses who have come a long way at their own expense, and we thank you for that. I think they deserve better. I yield back the balance of my time.

[The prepared statement of Mrs. Dingell follows:]

PREPARED STATEMENT OF THE HON. DEBBIE DINGELL, RANKING MEMBER, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Thank you, Mr. Chairman.

Today’s hearing is about an important issue—the management of our public lands. Our public lands hold a wealth of both natural and cultural resources. They are a hub for recreational activities, from fishing and birdwatching to white water rafting and mountain biking. They provide critical habitat for endangered species and free ecosystem services like water filtration that we rely on every day. They support local economies and entrepreneurship. It is our duty to ensure that these lands and their diverse resources are maintained for many generations to come.

The Bureau of Land Management has an especially critical role to play as the largest land holder among the Federal agencies. The Agency must have a process for managing their lands and resources that is efficient, effective, and responsive to our ever-changing needs.

That’s where Planning 2.0 comes into the picture. Planning 2.0 is the BLM’s first major proposal for updating their resource management planning process in over 30 years. And although the new planning process is only in proposal form, it is clear that the Bureau is doing its due diligence in trying to make the process as transparent and accessible to the public as possible. Planning 2.0 proposes to involve the public earlier and more often in the planning process. By doing so, they will be better able to manage resources in a way that honors diverse needs, prevents expensive lawsuits down the road, and increases their own efficiency.

Planning 2.0 also recognizes the importance of managing a land’s resources where they are, not where we think they should be. It simply doesn’t make sense to manage resources according to political and jurisdictional boundaries. Rivers don’t stop running at county lines. The sage grouse doesn’t turn around and strut the other way when it reaches the BLM Field Office boundary. We can’t manage resources in a way that pretends any different.

With changes like these, Planning 2.0 is trying to bring the Bureau’s public land and resource management into the 21st century. Unfortunately, my colleagues on the other side of the aisle seem to have a desire to maintain the status quo by holding onto an outdated process that is less efficient, less evidence-based, and less open to public input.

But what disappoints me even more is that there may very well be ways to improve the current Planning 2.0 proposal that both sides can agree on, but we won’t learn them here today. Rather than seizing this opportunity to engage BLM in a productive conversation about ways to improve the planning process, my colleagues did not invite the Agency to be at the table. It’s like taking your car to the shop and telling the receptionist, other customers, and passers-by all about your squeaky brakes and then leaving without talking to the mechanic. You might feel a little better after venting but nothing gets diagnosed or fixed.

This hearing is an even bigger missed opportunity for our witnesses who have come from afar at their own expense. I think they deserve better.

I yield back the balance of my time.

Mr. GOHMERT. All right. I thank the gentlelady.
At this time, I will now introduce our witnesses from right to left. First, we have Mr. Jim French, County Commissioner from Humboldt County, Nevada. To his right, our left, Ms. Caren Cowan, Executive Director of the New Mexico Cattle Growers' Association in Albuquerque, New Mexico. Next, we have Mr. Corey Fisher, Senior Policy Director for the Sportsmen's Conservation Project at Trout Unlimited—I like the sound of that, Trout Unlimited—in Missoula, Montana.

Now, I would like to invite the gentlelady, the quite honorable gentlelady, from Wyoming to introduce our final witness.

Mrs. Lummis. Thank you, Mr. Chairman, and thank you for allowing me to participate in this hearing today.

It is my pleasure to introduce Mr. Pete Obermueller, who is the Executive Director of the Wyoming County Commissioners Association. Some of you, who have been around for a while, might recognize Pete as a former legislative director for my office here in Washington. We did a lot of work together on this committee, and on the Interior and Environment Appropriations Subcommittee.

Pete was juggling a lot of hats when he was here working for me. I asked him one time what experience in his life best prepared him for the many, many tasks that he was carrying in our office. He said, “That is really easy. I was the manager of a Christian rock band.” I thought about that for a while, and, you know, it made a lot of sense, because you are doing scheduling, contract management, people management, and logistics; and you start thinking about what it takes to handle people on the road working that way with their different personalities. For heaven sakes, it made perfect sense that that was his most equatable experience to serve my office so well here in Washington.

He is now serving the Wyoming County Commissioners Association very well. In fact, the Wyoming County Commissioners Association, under Pete’s capable leadership, considering that Wyoming has 17 million acres of BLM land, put out a publication of all the different Federal agencies the counties have to deal with, what their statutory duties are, and how county commissioners are expected or the law expects county commissioners to interact.

So, Pete’s experience on behalf of county commissioners in the West in public land states, as well as here in Washington where he worked on the Western Caucus issues and this committee’s issues, make him an exceptional witness today.

So welcome, Pete. And thank you, Mr. Chairman. I yield back.

Mr. Gohmert. Thank you. The witness has a lot to live up to after that introduction.

[Laughter.]

Mr. Gohmert. At this time, I need to remind the witnesses that under our Committee Rules, all oral statements must be limited to 5 minutes. Your written statements have been submitted and will be part of the record. We have all had a chance to review those, and we appreciate them. When the light comes on, it will be green for 4 minutes. When it turns yellow, you have 1 minute remaining; and when it turns red, then it is my job to help you immediately finish. So, again, understand we have your written statements.

The Chair will now recognize Mr. French for your testimony. You are recognized for 5 minutes, Mr. French.
STATEMENT OF JIM FRENCH, COMMISSIONER, HUMBOLDT COUNTY, WINNEMUCCA, NEVADA

Mr. FRENCH. Good afternoon, Chairman Gohmert, Ranking Member Dingell, and members of the subcommittee. Thank you for the opportunity to testify today to provide local and county perspective on BLM's Planning 2.0 rule.

My name is Commissioner Jim French, a member of the Humboldt County Nevada Board of Commissioners. Humboldt County has a population of 16,528 residents, and a land area of nearly 6.2 million acres. Of those acres, BLM manages over 4.3 million acres, nearly the size of the state of New Jersey. All total, the Federal Government owns nearly 90 percent of my county. As a county commissioner and a biologist with the Nevada Department of Wildlife for more than 34 years, I know firsthand how important it is for Federal land managers to work with local communities. When land management decisions are handed down from Washington, DC, they impact more than just Federal lands. They impact our counties, economics, and way of life.

After reviewing the proposed BLM Planning 2.0 rule, I am concerned that the BLM has not provided sufficient time for counties to fully analyze the rule. Local governments and locally generated information should play a significant role in guiding the planning process. Commonly, public lands counties lack the staffing and budgetary resources necessary to employ a full-time natural resources manager. County coordination and approval of outside contractor analysis will exceed the 90 days offered by the BLM for comment. For many more counties, the task will likely fall on county commissioners like me who will volunteer to sit down and sift through the Planning 2.0 and try to assess the impacts.

Given the significant impact of Planning 2.0, the National Association of Counties and Local Governments from across the Nation has called for additional time to analyze the regulatory changes for the proposed 2.0.

Second, I am concerned that BLM's proposed changes will reduce Federal consistency with local master plans and policies. FLPMA makes it clear that local governments are not just another member of the public. Counties must have a seat at the table and an opportunity to shape management decisions and partnership with land managers.

The proposed changes would revise consistency requirements so that the BLM would not be required to consider local implemented policies or programs or other local government actions. This change would significantly impact the ability of local government and the BLM to work together to address the evolving needs of a community and its landscapes.

Additionally, the proposed rule seeks to distinguish between plan components whose revisions require public consultation and an implementation strategy which can be revised at any time without consultation with local government or cooperating agencies. This change fails to recognize that how a plan is implemented can have as significant an impact as the components of the plan itself.

Engagement with local governments should not be discretionary. The BLM must be required to engage local governments at all stages of RMP development and implementation.
Finally, Planning 2.0 proposes a fundamental shift in the BLM’s RMP planning area. In this rule, BLM has proposed a change toward broad geographic planning boundaries, shifting the focus to a regional level which dilutes the voice of the resource management in those communities. For example, in my county, working with district managers has been successful in harmonizing local, state, and Federal plans to promote recovery in the wake of wildfire events. We have worked with our Federal partners to coordinate large fire reclamation teams, and have seen positive results in coordinating recovery plans to the existing local resource plans.

In contrast, a regional approach will encourage a disconnect by defaulting to a directive not specific to the needs of the local communities or the natural resources.

Although I understand the need for flexibility, scalability, and planning, establishing a default boundary that does not begin at the local level will only serve to reduce the local voice, lose valuable local knowledge and expertise, and drown out the voices to local stakeholders and cooperating agencies and a sea of form letters from national interest groups.

Counties like mine continue to urge the BLM to work with us to implement a Planning 2.0 rule that benefits from significant local government input, guarantees consistency with local plans, and ensures robust local cooperation at all phases of the planning process. As a partner with the Federal land managers, counties want a practical Federal policy that works at a local level.

Thank you.

[The prepared statement of Mr. French follows:]

PREPARED STATEMENT OF THE HON. JIM FRENCH, HUMBOLDT COUNTY, NEVADA, BOARD OF COMMISSIONERS

Chairman Gohmert, Ranking Member Dingell and members of the subcommittee, thank you for the opportunity to testify today to provide a local county perspective on BLM’s Draft Planning 2.0 Rule.

My name is Commissioner Jim French, member of the Humboldt County, Nevada, Board of Commissioners. I also serve as one of Nevada’s representatives on the Board of Directors of the National Association of Counties’ (NACo) Western Interstate Region. Humboldt County is located in northern Nevada, approximately 170 miles northeast of Reno. We have a population of 16,528 residents and a land area of nearly 6.2 million acres. Of those 6.2 million acres, the Bureau of Land Management (BLM) manages over 4.3 million acres. Additionally, over 660,000 acres in our county are managed by either the U.S. Forest Service (USFS) or the U.S. Fish and Wildlife Service (FWS). All totaled, the Federal Government owns nearly 90 percent of my county and the BLM alone manages an area in Humboldt County nearly the size of the state of New Jersey.

As a county commissioner in a public lands county and as the Winnemucca District biologist for the Nevada Department of Wildlife for almost 30 years, I know firsthand how important it is for Federal land managers to work with local communities. Our citizens travel on roads across Federal land to get to work every day and many families make their living working our region’s natural resources. Those that live, work and raise their families in my county know that our community is linked to the land. When land management decisions are handed down from Washington, DC, they impact more than just the Federal lands, they impact our community’s economy and way of life.

After reviewing the proposed BLM Planning 2.0 rule, I am concerned that BLM:

- Has not provided sufficient time for counties to fully digest and offer comment on the proposed rule change;
- Has proposed changes that will reduce requirements to ensure Federal consistency with local policies; and
• Seeks to implement a multi-state landscape level of analysis that could diminish the ability of BLM to meaningfully assess the local impacts of management decisions.

First, the BLM has not provided sufficient time for the counties to fully analyze and comment on the rule. The proposed rule will have a significant impact on how the BLM plans for and manages its 245 million acres of public lands and 700 million acres of subsurface minerals for years to come. Each of the 477 counties across the Nation that contain BLM lands will be impacted by the proposed Planning 2.0 rule. As co-regulators and intergovernmental partners in the land management mission, counties have a significant interest in providing the most meaningful information and analysis possible to help develop BLM regulations. Local governments and locally generated information should play a significant role in guiding the planning process.

Commonly, public lands counties like mine lack the staffing and budgetary resources necessary to employ a full-time natural resources coordinator or similar position dedicated to assessing the impacts of sweeping Federal land management actions like Planning 2.0 at the county level. For many public lands counties, obtaining the necessary expertise to fully assess Planning 2.0 and its impacts will require them to contract outside assistance to perform a comprehensive analysis of the proposed rule. Coordination, preparation and approval of outside contractor analysis will exceed the 90 days offered by the BLM for comment. For many more counties, their budgets do not allow them to obtain outside counsel to analyze Planning 2.0’s impact. In those cases, the task will likely fall to county commissioners like me who will volunteer to sift through the hundreds of pages that make up Planning 2.0 and try to assess its impact on their communities.

Given the potentially significant impact of Planning 2.0, the volume of information involved, as well as the staffing and budgetary realities facing counties like mine, NACo, along with county governments from across the Nation, called on BLM to provide additional time for local governments to analyze the implications of the substantive regulatory changes presented in Planning 2.0.

By allowing sufficient time for counties to offer input and suggest changes to the proposed regulation, local governments can help the BLM mitigate any unintended consequences or challenges posed by the proposed rule, some of which are foreseeable from a local government perspective.

Second, I am concerned the BLM has proposed changes to current planning rules that will reduce local government’s ability to ensure Federal consistency with local master plans and policies. The Federal Land Policy and Management Act (FLPMA) charges the BLM to “. . . provide for meaningful public involvement of state and local government officials, both elected and appointed, in the development of . . . land use regulations . . . .” Public lands counties provide essential law enforcement, search and rescue, public health, transportation infrastructure and many more services on Federal public lands. Rightfully so, FLPMA makes it clear that local governments are not just another member of the public. Local governments interact with our natural resources on a daily basis and hold a wealth of practical, on the ground knowledge that should be actively sought out by Federal agencies to inform Federal decisionmaking. As elected officials and intergovernmental partners with the Federal Government, counties must have a seat at the table and an opportunity to help shape management decisions in partnership with land managers.

Integrated land management efforts across levels of government are key to successful land management planning. The Planning 2.0 regulations attempt to change the way the BLM interacts with state, local and tribal governments for land management planning. For example, proposed changes would revise consistency requirements so that resource management plans (RMPs) must only be consistent with officially adopted local land use plans. BLM would not be required to consider locally implemented policies, programs or other local government actions, nor would BLM have to consider local land use plans that are in the process of being crafted or revised. This change could significantly impact the ability of local governments and BLM to work together to address the evolving needs of a community or the local landscape.

Presently, the BLM planning protocol recognizes county planning documents including additions, changes and updates. It is widely recognized that as conditions change, management direction must adjust in parallel. FLPMA requires “consistency with local master plans and policies.” However, changes offered in the proposed Planning 2.0 rule attempt to revise consistency requirements to allow BLM to recognize only plans that have been fully adopted before the planning process begins.

When the original “RMP Winnemucca district” was adopted in 1982–83 Humboldt County had approximately 20 percent fewer residences and most of our natural
resource related jobs had not yet been created. Over the course of the 30 years that the RMP was in place Humboldt County completely revised its master plan three times, created a water and natural resource plan, a regional transportation plan and implemented countless other planning efforts to meet the challenges of our changing community. As these new local plans were implemented, we were able to work with BLM to ensure consistency between local and Federal plans. Under Planning 2.0 the addition of new local plans and revisions to existing documents may not be officially recognized by the BLM.

Additionally, the proposed rule seeks to distinguish between “plan components,” which can only be changed by amending or revising an RMP, and an “implementation strategy,” which guides future actions the BLM may take on the land but can be revised at any time without triggering a requirement for consultation with local counties and cooperating agencies. This change fails to recognize that how a plan is implemented can have as significant an impact as the components of the plan itself. By failing to consult and cooperate with local governments on implementation strategies the BLM would not benefit from valuable local insights. This could result in implementation strategies with significant negative impacts on local communities. Engagement with local government should not be discretionary. The BLM must be required to engage local governments at all stages of RMP development and implementation.

Finally, Planning 2.0 proposes a fundamental shift in the BLM’s default RMP planning area. Rather than continuing the policy of utilizing local BLM Field Office boundaries as the default planning area, the BLM has instead proposed a shift toward broader geographic planning boundaries that cross regional districts and, in some cases, even state lines. Shifting the BLM’s focus to a regional “30,000 foot level,” rather than focusing on discrete local landscapes, dilutes the local voice in resource management planning, empowering regional line managers’ decisions far removed from the land.

In my county, by taking a local focus and working with local land managers we have been successful in harmonizing local, state and Federal plans to promote recovery in the wake of wildland fire. Following fire events, our response to these events has centered on locally focused planning efforts. We work with our Federal partners to coordinate large fire reclamation teams of managers, regulators, and local officials assembled to assess damage and prioritize response efforts on behalf of the citizens and the natural resources impacted by the fire. These efforts have been largely successful due to our team approach of collecting data and coordinating recovery plans to existing local resource plans, regional master plans and other regional strategic plans.

In contrast, a regional approach based at the “basin” level, formulated by disconnected line managers who have no connection to the land, resources or the communities affected by the disaster would not benefit from the kind of on the ground knowledge local governments and stakeholders have been able to provide. I’m afraid we have a “one size fits all” approach, based in regional directives will result in what is commonly referred to as “analysis paralysis” and a project disconnect. In the case of fire events in our area, when a regional approach has been applied to post-fire restoration the resulting disconnect and delays in action have resulted in a failure to claim damaged lands, large-scale infestation of noxious weeds and damage to critical infrastructure. As currently proposed, Planning 2.0 will encourage that disconnect by defaulting to a regional directive not specific to the realities and needs of the local communities or natural resources.

Land management decisions must balance many ecological, economic, historical and cultural factors. In my experience as a county commissioner and a land manager, the management decisions that strike the best balance are those made in close coordination with the local community by individuals with a deep understanding of the landscape. This understanding can only be built over time by being “on the land” and in the community. Defaulting the planning focus to a broader regional scale divorces decisionmaking from the land itself. BLM’s focus should remain at the local level and impact decisions should be made, literally, on the ground.

Although I understand the need for flexibility and scalability in planning, establishing a default boundary that does not begin at the local level will only serve to reduce the local voice, cause valuable local knowledge and experiences to be lost to an overly broad perspective, and drown out the voices of local stakeholders and cooperating agencies in a sea of form letters from national interest groups without a direct connection to the land itself.

Local county governments can be invaluable allies to Federal land managers. The necessity for local government to be close to its land and its people makes us a significant resource. Local governments can provide a real-time, on the ground perspective that can help to avoid many of the pitfalls caused by distant land management
decisions made in far-off offices. We are at the forefront of protecting both our citizens and the environment. Counties like mine continue to urge the BLM to work with us to implement a Planning 2.0 rule that benefits from significant local government input, guarantees consistency with local plans and ensures robust local cooperation at all phases of the planning process. As a partner with Federal land managers in this pursuit, counties want a practical Federal policy that works at the local level.

Mr. GOHMERT. Thank you very much, Mr. French.
At this time, Ms. Cowan, you are recognized for 5 minutes.

STATEMENT OF CAREN COWAN, EXECUTIVE DIRECTOR, NEW MEXICO CATTLE GROWERS' ASSOCIATION, ALBUQUERQUE, NEW MEXICO

Ms. COWAN. Mr. Chairman, Ranking Member Dingell, and members of the committee, thank you for the opportunity to come here today and speak to you about this issue that is so important to ranching families in New Mexico and throughout the West.

My name is Caren Cowan, and I am the Executive Director of the New Mexico Cattle Growers’ Association and the New Mexico Wool Growers’ Association. In addition, I publish a monthly magazine and a monthly newspaper that covers 40 states from Maine to Hawaii on ranching and private property issues.

The New Mexico Cattle Growers’ Association has members in all 33 of our state’s counties. The association also has members from 19 other states.

The use of Bureau of Land Management lands is critical to the ranching communities in New Mexico, as well as to NMCGA’s members in other states. Given the vast amounts of land managed by the Agency within the western states, the ability for local government to participate in Federal activities on lands that make up a large majority of counties is of critical importance. I was blessed to have known some of the men who crafted FLPMA. They were wise men, and I ask for their guidance often.

The proposed Planning 2.0 regulations certainly do not reflect the concerns that led to the creation of FLPMA, nor do they reflect the spirit or the intent of the law. One of the beauties of FLPMA is the ability to make decisions on the ground with the involved public following the multiple use mandates of the Bureau of Land Management. This proposal will destroy that ability, favoring the command and control top-down driven decisions that we find so distasteful in other Federal land management agencies.

Not only is the local government participation in the planning a huge concern, but the redefining of the term “landscape” to cover vast amounts of land without recognition of geopolitical boundaries is a not-very-well-veiled attempt at Federal control in the states.

The proposed planning rule also eliminates the requirement that the areas of critical environmental concern, ACECs, must still be managed for multiple use by eliminating a sentence in the existing ACEC definition that states, “The identification of a potential ACEC shall not of itself change or prevent change of the management of use of public lands.” By eliminating that sentence, the BLM is granting the ability to eliminate multiple use on ACECs. Although the BLM describes ACEC designation as the BLM’s
attempt to clearly communicate the BLM’s intent to prioritize those resources and their values, such prioritization will eliminate part of the use. These are but a few concerns contained within the 244-page proposal. I could go on for some time, and I did so with my written comments.

The request that we bring to you today is that the process and development of this new planning proposal be slowed down, and backed up, to include all of those who utilize BLM lands. This process should include at least one meeting in each state, and better yet, within each district. To date, to my knowledge, there has been one public meeting in 2015 in California, and another one in Colorado in 2016.

The Denver meeting was a Webinar on a weekday in the middle of the week. That certainly does not fit into the time frame that most working Americans can participate in. We have requested up to a 180-day extension on the comment period, but we were granted only a paltry 30 days. We hope that the BLM will reconsider the short extension and provide us one that is more meaningful and that allows for more participation.

A lot of my members do not even have access to a computer. All of this is on the computer, so you have left out a huge group of people.

I agree with Mrs. Dingell that there are things that probably do need to be changed; and I agree with her that we need to sit at the table and change them. We need to have time to do that.

I want to thank you for the time today. I also want to thank the New Mexico Department of Agriculture and the Cattle Growers’ attorney, Karen Budd-Falen from Wyoming, for their help in preparing these comments. Thank you for your time.

[The prepared statement of Ms. Cowan follows:]

PREPARED STATEMENT OF CAREN COWAN, ALBUQUERQUE, NEW MEXICO, ON BEHALF OF THE NEW MEXICO CATTLE GROWERS’ ASSOCIATION

Mr. Chairman, members of the committee, thank you for the opportunity to speak to you today about this most important issue. My name is Caren Cowan; I am the Executive Director of the New Mexico Cattle Growers’ Association (NMCGA) and the New Mexico Wool Growers, Inc. (NMWGI). Additionally, I published the New Mexico Stockman magazine and the Livestock Market Digest monthly newspaper. The NMCGA has members in all 33 of New Mexico’s counties as well 19 other states. The NMWGI is New Mexico’s oldest trade organization. The Stockman and Digest reach over 40 states in the Nation ranging from Maine to Hawaii.

The use of Bureau of Land Management (BLM) lands in critical to the ranching communities of New Mexico as well as to NMCGA’s members in numerous other states. Given the vast amounts of lands managed by the Agency within the western states, the ability for local governments to participate in Federal activities on lands that make up a large majority of many counties is of critical importance.

I was blessed to have known some of the men who crafted the Federal Land Policy & Management Act (FLMPA). The proposed 2.0 planning regulations certainly don’t reflect the concerns that lead to the creation of FLMPA, nor does it reflect the letter and intent of the law.

One of the beauties of FLMPA is the ability to make decisions on the ground with the involved publics following the multiple use mandates of the BLM. This proposal will destroy that ability, favoring the command and control, top driven down decisions that are so distasteful with other land management agencies.

Not only is local government participation in planning a huge concern, but redefining the term “landscape” to cover vast amounts of land without the recognition of geopolitical boundaries is a not well-veiled attempt at Federal control over counties and states.
The proposed planning rule also eliminates the requirement that Areas of Critical Environmental Concern (ACEC) must still be managed for “multiple use” by eliminating a sentence in the existing ACEC definition that states “the identification of a potential ACEC shall not, of itself, change or prevent change of the management or use of public lands.”

By eliminating that sentence, the BLM is granting to itself the ability to eliminate multiple uses from ACECs. Although the BLM describes ACEC designation as the BLM’s attempt to “clearly communicate the BLM’s intention to prioritize these resources values or uses,” such prioritization will lead to elimination of use.

These are but a few concerns within the 244 page proposal. I could go on for some time, and did in my written comments.

The request we bring you today is that the process of the development of a new planning proposal be slowed down and backed up to include all of those who utilize BLM lands. This process should include at least one meeting in each state, better yet with in district.

To date there has been one public meeting in 2015 in California and another in Colorado in 2016. The Denver meeting was a “Webinar” on a weekday in the middle of the day. That certainly does fit into a time frame that most working Americans can participate in.

We have requested up a 180-day extension on the comment period, but were granted only a paltry 30 days. We hope that the BLM will reconsider this short extension and provide one that is more meaningful.

Thank you for your time today.

SPECIFIC COMMENTS

Background

February 11, 2016, the Bureau of Land Management (“BLM”) introduced new draft planning regulations (“draft Planning 2.0”) to “enable the BLM to more readily address landscape-scale issues . . . and to respond more effectively to environmental and social change.” The statutory authority for the BLM to adopt these new planning regulations is the (“FLPMA”). FLPMA was adopted in 1976; that Act (1) changed the BLM’s mission from the disposal of public land to retention of these lands, (2) required the BLM to prepare land and resource management plans (“RMP”) which govern all activities on the BLM-managed lands, and (3) required that BLM lands be managed for “multiple use and sustained yield.”

FLPMA itself, as well as the current BLM regulations, mandate the involvement of state and local governments and Indian tribes (collectively “local governments”) in the BLM’s decisionmaking process. However, although the BLM claims that the draft Planning 2.0 regulations do not change the BLM’s “practice” in developing RMPs, some areas in the draft rules are a significant departure or the language of the agency’s previous planning rules and in some cases a significant departure for the agency’s interpretation of FLPMA. In my view, these changes are detrimental and severely limit local governments’ involvement in the BLM planning process. The BLM’s rationale for these changes makes no sense. Words mean something; thus, if there is no change “in practice” as the BLM claims, why is there a change in the language being used to support that practice?

A. General Comments:

1. The draft Planning 2.0 regulations would eliminate the mandatory notification requirements from the BLM to impacted local governments and replace them with a requirement that the BLM only notify those local governments “that have requested to be notified or that the [BLM] responsible official has reason to believe would be interested in the resource management plan or plan amendment.” In other places, the new regulation replaces the required notification requirements with the requirement for notification to only those local governments the BLM believes would be “concerned with” or “interested in” the Federal land use plan.

2. Throughout the draft Planning 2.0 regulations, the BLM proposes to replace the word “shall” and replace it with the word “will.” Although some courts have determined that the word “will” denotes a mandatory action, others have held that the word “will” must be read in context to determine its meaning. On the other hand, I found no court cases that held that the word “shall” can have any other meaning except a mandatory command. If this BLM change denotes “no change in practice,” it is hard to understand why this change is necessary.
3. FLPMA requires management of BLM lands for multiple use and sustained yield. Nowhere in FLPMA does Congress allow the management of BLM lands for “social changes.” However, according to BLM draft Planning 2.0; “Goal 1” is to “improve the BLM’s ability to respond to social and environmental change in a timely manner.”

4. It is not clear how the draft Planning 2.0 rules intersect with the requirements for environmental, economic and “custom and culture” analysis pursuant to the National Environmental Policy Act. For example, the draft Planning 2.0 rules describe BLM’s planning as a two-step process with the first step being for the BLM and public to understand the current “baseline in regards to resource, environmental, ecological, social and economic conditions in the planning area.” NEPA also requires that baseline information be gathered and additionally, that the status quo management be the “no action alternative.” I believe it is critical to ensure that the “status quo” or “no action alternative” accurately reflect the current baseline and not be some departure from analysis that accurately describes exactly the conditions as they exist.

5. The comment period for review of draft land use plans is shortened from 90 days to 60 days and the comment period for review of land use plan amendments is shortened from 90 days to 45 days.

B. Local Government Involvement in BLM Land Management Plan Decisions:

The BLM draft Planning 2.0 regulations represent a significant departure in the way that local governments can become involved in the BLM decisionmaking process. Specifically the draft regulations provide less opportunity for local governments to have meaningful and significant input in violation of FLPMA.

1. Consistency Review With Local Land Use Plans, Policies and Programs

a. The draft Planning 2.0 regulations strictly limits the types of local government plans that the BLM will consider as part of its consistency review. Existing BLM regulations state that:

The BLM is obligated to take all practical measures to resolve conflicts between Federal and local government land use plans. Additionally, the BLM must identify areas where the proposed [BLM] plan is inconsistent with local land use policies, plans or programs and provide reasons why inconsistencies exist and cannot be remedied.

§ 1601.0-4 Responsibilities.

The proposed regulations would shift responsibility for determining the deciding official and planning area from state directors to the BLM director. Westerners are concerned about this shift of responsibility farther away from the level at which plan components will be implemented. It is paramount that decisionmakers have first-hand knowledge of local resources, their uses, and benefits to communities. Additionally, designation of planning area boundaries from a national perspective to address landscape-scale priorities could lead to plan components that address national concerns while local concerns and impacts are obscured.

§ 1601.0-5 Definitions.

This section would modify, delete, and create new terms. Rather than addressing changes here, each will be addressed under their corresponding section of the proposed rule.

§ 1601.0-8 Principles. (Emphasis added)

The existing rule requires BLM to consider the impacts of RMPs on local economies and uses of adjacent or nearby non-Federal lands. The proposed rule would expand the consideration of impacts to include, “resource, environmental, ecological, social, and economic conditions at appropriate scales.” One could agree with the expanded array of impacts to consider; however, the analysis of impacts of a RMP must focus primarily on local impacts.

Local communities, economies, customs, and culture are most impacted by changes in Federal land management. While impacts at the regional or national scale are important, they must not be the focus of an impacts analysis. Westerners are opposed to the proposed language that makes the scale of analysis a subjective determination which could lead to masking of local impacts. Assessing impacts at the local level is necessary, appropriate, and should be required.
§ 1610.1-1 Guidance and general requirements. (Emphasis added)

The description of guidance in the proposed regulation is similar to existing regulation. However, existing regulations at § 1610.1(a)(3) require that state level guidance be developed, "... with necessary and appropriate governmental coordination ..." This is a significant and unjustified change from current regulation. Coordination and consistency with state, local, and tribal plans and policies are paramount to successful planning efforts and required by FLPMA. Policies, analysis requirements, planning procedures, and other instructions have a major effect on the outcome of land management planning. The existing coordination and consistency requirements for guidance should be included in the proposed regulation.

Existing § 1610.1(b) would be removed because proposed § 1601.0-4 provides the direction for determining future planning areas. As stated above, expansion of planning areas to achieve national objectives could lead to local impacts being ignored. One can understand the need to have flexibility in determining planning areas; however, matters of importance to local communities must not be disregarded.

The proposed § 1610.1-1(c) would stipulate that BLM will use high quality information to inform land management planning. The definition of high quality information at proposed § 1601.0-5 contains no direction regarding the use of up-to-date information. In situations where the best available scientific information is outdated, its use could lead to misinformed decisions.

§ 1610.1-2 Plan components. (Emphasis added)

The proposed § 1610.1-2(a) describes the required goals and objectives that would provide desired outcomes and resource conditions that all other plan components must support. Goals are described as desired outcomes that address resource, environmental, ecological, social, or economic characteristics toward which management should be directed, and objectives are desired resource conditions developed to guide progress toward goals.

All other plan components must be designed to achieve the goals and objectives. This hierarchy creates a situation where all plan components are subordinate to goals. Section 102(a)(7) of FLPMA states, "goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law." To comply with FLPMA, the proposed regulation should require that RMPs include multiple use and sustained yield goals.

The existing regulation at § 1601.0-5(n)(2) requires that RMPs include, "Allowable resource uses . . . and related levels of production or use to be maintained." This, or similar, language should be carried forward as a required goal in the proposed planning rule. FLPMA, at Section 103(l), defines the principal or major uses of Federal land. These uses should have specific requirements as plan components in the proposed rule.

§ 1610.1-3 Implementation Strategies. (Emphasis added)

The proposed rule would make inclusion of implementation strategies in a RMP discretionary. Implementation strategies are described as management measures, monitoring procedures, or other strategies that assist in implementing future actions on Federal land. Implementation strategies would not be a plan component, and thus, changes to implementation strategies would not require a plan amendment or formal public involvement and interagency coordination.

BLM’s need to be able to update implementation strategies in a timely manner as new information or techniques become available is understandable. However, this should not be done behind closed doors. Public input as well as the coordination and consistency requirements with state, local, and tribal governments should apply to development and update of implementation strategies. Local input is vital to ensuring the most suitable implementation strategies are used. State, local, and tribal governments have expertise germane to the development of implementation strategies and must be involved beyond the proposed 30 day review period prior to implementation.

FLPMA at Section 202(c)(9) requires BLM to, "... coordinate the land use inventory, planning, and management activities . . ." with state and local governments. Implementation strategies are described in the proposed regulation and the preamble as management measures, practices, and actions BLM may take to implement an RMP. The proposed regulations violate FLPMA in stating that implementation strategies are not subject to coordination and consistency requirements with state, local, and tribal governments.
§ 1610.2 Public Involvement.

The proposed rule distinguishes between opportunities for public review and formal comment. Public review, while providing a certain level of transparency, does not constitute meaningful involvement.

Existing regulations require BLM to accept formal comment for proposed planning criteria, draft RMP and environmental impact statement (EIS), and significant changes made to a proposed plan prior to approval. The proposed regulations would only provide opportunity for formal comment for the draft RMP and EIS and any significant changes made to a proposed plan prior to approval. There are many new opportunities for public review, but this places no requirement on the BLM for considering outside input.

The proposed § 1610.2-2 would reduce the minimum comment period of 90 days for RMPs and EIS level amendments to 60 and 45 days respectively. EISs are large and complex documents that must be analyzed in detail in order to provide substantive comments. By its very nature, any EIS level analysis represents a major Federal action with significant impacts. Westerners suggest that the minimum 90 day comment period for any EIS level analysis be carried forward in the proposed regulations.

§ 1610.3-1(d)(1), (2), (3) Coordination with other Federal agencies, state and local governments, and Indian tribes. (Emphasis added)

In contrast, the draft Planning 2.0 regulations would eliminate any consistency review for local land use “policies, programs and processes” and only consider inconsistencies with “an officially adopted land use plan.” This change would require a local government to have a “land use plan,” and not just a land use policy or program for consistency review. This type of language will limit many local governments’ ability to take advantage of the consistency review requirements if they do not have an “officially approved or adopted land use plan.”

Proposed §1610.3-1(a) would prescribe that coordination be accomplished, “… to the extent consistent with Federal laws and regulations applicable to public lands, and the purposes, policies and programs of such laws and regulations.” Coordination should be conducted in manner consistent with Federal law; however, coordination is not subordinate to regulations, purposes, policies, and programs of such laws. In fact, these regulations, purposes, policies, and programs should be developed in coordination with state, local, and tribal governments to meet the intent of FLPMA.

We support the expanded involvement of cooperating agencies under proposed §1610.3-1(b). Our experiences as a cooperating agency in the past have been somewhat disappointing due to the lack of meaningful involvement in the planning process. It is imperative that BLM provide cooperating agencies with ample opportunity to provide input and ensure that input is incorporated into planning efforts.

The preamble requests comment regarding engagement of eligible governmental entities during the proposed assessment step which would be prior to formalizing a cooperating agency agreement. Coordination should be a continual dialogue between BLM and engaged state, local, and tribal governments. BLM should take steps to encourage this dialogue with all governmental entities with interests germane to the development of Federal land management plans. If coordination is occurring, involvement prior to a formal cooperating agency agreement should already be taking place.

b. The draft Planning 2.0 regulations eliminates this entire section from the existing regulations:

(d) In developing guidance to Field Manager, in compliance with section 1611 of this title, the State Director shall:

(1) Ensure that it is as consistent as possible with existing officially adopted and approved resource related plans, policies or programs of other Federal agencies, state agencies, Indian tribes and local governments that may be affected, as prescribed by §1610.3-2 of this title;

(2) Identify areas where the proposed guidance is inconsistent with such policies, plans or programs and provide reasons why the inconsistencies exist and cannot be remedied; and

(3) Notify the other Federal agencies, state agencies, Indian tribes or local governments with whom consistency is not achieved and indicate any appropriate methods, procedures, actions and/or programs which the State Director believes may lead to resolution of such inconsistencies.
§ 1610.3-1(d).

In other words, local government involvement would be limited to ONLY BLM land use plans and not the guidance provided from the BLM State Director to develop such land use plans.

c. BLM is also proposing to weaken its consistency review requirements by adding that consistency with local land use plan will only be "to the maximum extent the BLM finds practical and consistent with the purposes of FLPMA and other Federal law and regulations applicable to public lands, and the purposes policies and programs of such laws and regulations."

In contrast, the existing regulations require that:

(a) Guidance and resource management plans and amendments to management framework plans shall be consistent with officially approved or adopted resource related plans, and the policies and programs contained therein, of other Federal agencies, state and local governments and Indian tribes, so long as the guidance and resource management plans are also consistent with the purposes, policies and programs of Federal laws and regulations applicable to public lands, including Federal and state pollution control laws as implemented by applicable Federal and state air, water, noise, and other pollution standards or implementation plans.

(b) In the absence of officially approved or adopted resource-related plans of other Federal agencies, state and local governments and Indian tribes, guidance and resource management plans shall, to the maximum extent practical, be consistent with officially approved and adopted resource related policies and programs of other Federal agencies, state and local governments and Indian tribes. Such consistency will be accomplished so long as the guidance and resource management plans are consistent with the policies, programs and provisions of Federal laws and regulations applicable to public lands, including, but not limited to, Federal and state pollution control laws as implemented by applicable Federal and state air, water, noise and other pollution standards or implementation plans.

§ 1610.3-2(a), (b).

In other words, under the existing regulations, so long as a local land use plan, policy or program was consistent with Federal statute, the local land use plan, policy or program would be included in the consistency review analysis by the BLM. Under draft Planning 2.0, the local land use plan is required to be (at least in the opinion of the BLM) consistent with Federal law, and "the purposes, policies and programs of such laws and regulations." Requiring that local land use plans be consistent with BLM policies and programs significantly diminishes the ability of local governments to influence these same BLM policies and programs. For example, FLPMA mandates "multiple use and sustained yield." Describing the policy for how such multiple use is to be achieved is exactly the type of information that can and should be included in a local land use plan. Under the draft Planning 2.0 regulations, however, the local government would be prohibited from including a policy to achieve multiple use in a local land use plan that is different from the BLM's policy for achieving multiple use. This draft rule significantly limits the scope of what can be included in a local land use plan.

d. There is also a shift in the burden of showing that an inconsistency exists from the BLM to the local governments. Specifically, under the draft 2.0 Planning regulations, the BLM will only consider inconsistencies with a local land use plan if the BLM is specifically notified, in writing, about a specific inconsistency.

e. The BLM is proposing to change the phrase "assist in resolving, to the extent practical and consistent with Federal law, inconsistencies between Federal and non-Federal Government plans." (Emphasis added). The original word used on this section was "practicable" rather than "practical." Although the BLM claims that the change in wording is simply for readability, these two words have different meanings. Practicable is a more narrowly defined term meaning "capable of being put into practice." In contrast, "practical," in this context, means capable of being put to use. To understand the distinction, synonyms of "practicable" are possible, doable, and feasible; a synonym of "practical" is useful or sensible. In terms of the consistency review, the BLM then would propose to
change the meaning of the requirements from, the agency must assist in resolving inconsistencies to the extent possible (practicable) to resolving inconsistencies to the extent sensible or useful (practical).

2. Local Governments as Cooperating Agencies
   a. Although the BLM claims it is only trying to be consistent with existing practices and current BLM terminology, the BLM is eliminating the term “cooperating agency” as used in NEPA and replacing it with the term “eligible governmental entity” as described in the Department of the Interior regulations at 43 C.F.R. § 46.225(a). According to the BLM regulations, an “eligible governmental entity” can be considered as a “cooperating agency.” Although it appears that the definition of an “eligible governmental entity” is similar to a “cooperating agency,” I think this change in language is going to cause great confusion and may certainly exclude some local government participation if the local government does not understand that an “eligible governmental entity” is the same as the more familiar “cooperating agency.”
   b. Of greater concern is the BLM’s addition of the term “as feasible and appropriate” given the eligible governmental entities’ “scope of their expertise.” Although BLM states that it intends no change from current practice or policy, this language could certainly be used by the BLM to strictly define a local government’s special expertise or to determine that local government participation is not “feasible or appropriate” if adopted by the draft Planning 2.0 regulations.
   c. Additionally, the BLM authorized officer would no longer be required to notify the BLM State Director if a request for “cooperating agency” is denied. Under the existing regulations, if a BLM authorized officer denies a request for cooperating agency, he shall notify the State Director who shall conduct an independent review to determine if the denial was appropriate. That State Director’s review would be eliminated under the draft planning 2.0 regulations.

3. Coordination
   FLPMA requires that the BLM “coordinate” its plans and programs with those of state and local governments, although the statute is silent on how such “coordination” is to occur. Under any definition however, “coordination” implies some measure of input and trying to work together. In contrast, under the draft Planning 2.0 regulations, “coordination” would only include the BLM providing to local governments “the opportunity for review, advice and suggestions on issues and topics which may affect or influence other agency or governmental programs.” Additionally, while currently “coordination” is to occur “consistent with Federal laws,” the draft Planning 2.0 regulations would also add that “Coordination” would occur consistent with “the purposes, policies and programs of use [Federal] laws and regulations.” The policies under the Federal statutes can change with the President, Secretary of the Interior and BLM Director in control at the time. That may limit the ability of local governments to coordinate in some circumstances.

4. Governor’s Consistency Review
   The new draft Planning 2.0 rules place more work on the Governor during the “Governor’s Consistency Review.”
   a. The Governor is required to identify inconsistencies between state and local government plans to bring to the attention of the Director of the BLM. The BLM will only consider “identified” inconsistencies between state and local plans and the proposed resource management plan if such inconsistencies are noted by the Governor.
   b. BLM will only accept the Governor’s recommendation if the BLM Director determines that the Governor’s recommendations “provide for a reasonable balance between the national interest and the state’s interest.”
   Proposed § 1610.4(a)(2) requires the responsible official to identify relevant national, regional, or local policies, guidance, strategies, or plans to inform the assessment. It is paramount that the deciding official coordinate with state, local, and tribal governments when making the relevance determination for their plans, policies, and programs. BLM is required by FLPMA to keep apprised of and seek consistency with state, local, and tribal plans. Westerners suggest that language from existing § 1610.4(d), “Specific requirements and constraints to achieve consistency with policies, plans, and programs . . .” of state, local, and tribal governments, be incorporated as a requirement for the assessment. Identification of potential issues
at the earliest possible stage of planning should make RMP development more efficient.

Proposed § 1610.4(c)(5) list 10 separate types of areas of importance to be include in the assessment. Why are these 10 types of resources singled out from the inventory of all public lands and their resource and other values required by Section 201 of FLPMA? Under what authority does BLM place a greater degree of importance on the listed resources over other resources on Federal land?

This effectively creates new types of administrative special designations. The only administrative special designation authorized by FLPMA is an area of critical environmental concern (ACEC). ACECs must meet relevance and importance criteria in addition to requiring special management attention. The existing and proposed regulations include identification of potential ACECs. Are these areas of importance going to be subject to the requirements for ACEC designation? If not, where does BLM get the authority to create these new special designations?

Proposed § 1610.4(c)(5) requires the assessment to consider, “The various goods and services, including ecological services, that people obtain from the planning area . . .” Why are ecological services singled out from the suite of goods and services that people obtain from Federal lands? Section 103(l) of FLPMA states, “The term “principal or major uses” includes and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.” Through FLPMA, it is clear that Congress intended that BLM planning place priority on the principle or major use. The proposed regulations should specifically require that sustained levels of the principal or major uses be addressed in the assessment and throughout the planning process.

The assessment report provides the foundation from which a RMP is developed. Proposed § 1610.4(d) provides that the planning assessment report will be made available for public review. We request that BLM include a formal comment period with the release of the planning assessment report.

§ 1610.5 Preparation of a resource management plan.

Proposed § 1610.5-1(a) requires the preparation of a preliminary statement of purpose and need for the RMP. The preamble states that this statement informs the development of all subsequent steps in the preparation of a RMP. Given that this statement of purpose and need provides the foundation for development of a RMP, why is it only available for public review and not formal comment? This central part of the planning process must be subject to formal public comment as well as coordination and consistency requirements with state, local, and tribal governments.

Proposed § 1610.5-2 describes how preliminary alternatives and the preliminary rationale for alternatives would be developed and made available for public review. This part includes that BLM may change the preliminary alternatives or rationale based on public suggestions or other information received. If BLM anticipates receiving unsolicited information that merits change to the alternatives, would it not be prudent to have a formal comment period for preliminary alternatives?

The basis for analysis of alternatives is described at proposed § 1610.5-3. The estimated effects of alternatives provide justification for alternative selection, a record of decision, and RMP implementation. Procedures, assumptions, and indicators used to analyze alternatives must be valid, and formal involvement, beyond public review, is essential at this important step.

The preamble for proposed § 1610.5-4 requests comment regarding whether BLM should have the option to select one, multiple, or no preferred alternatives in draft RMPs. Implementation of a RMP or amendment can take many years due to a variety of factors including litigation. Consistent access to resources on BLM lands is foundational to many economies. A single preferred alternative provides some measure of what to expect for businesses that rely on access to BLM lands for their operations. We request that BLM continue to select a preferred alternative for RMPs and amendments and provide a robust explanation of the reasoning behind selection of the alternative.

Proposed § 1610.5-5 provides for preparation of the proposed RMP, final EIS, and implementation strategies. For reasons stated above, we are opposed to implementation strategies being developed without formal public input and the coordination and consistency requirements with plans, policies, and programs of state, local, and tribal governments.

§ 1610.6 Resource management plan approval, implementation and modification.

Proposed § 1610.6-2(a) describes who may protest a RMP and what issues may be protested. Existing regulations at § 1610.5-2(a) provide that issues submitted for the
record during the planning process may be protested. The proposed §1610.6-2(a)
limits protests to issues submitted for the record during preparation of the RMP or
plan amendment. As stated in proposed §1610.4, the BLM must complete a plan-
ning assessment before initiating the preparation of a RMP. Thus, issues associated
with the assessment report are not subject to protest. As stated above, the assess-
ment report is a foundational document for a RMP and should be open to official
comment and protest.

Proposed §1610.6-2(a)(3) describes the content requirements for a protest. Protests
would have to include a concise statement of why a plan component is in-
consistent with Federal laws or regulations applicable to Federal lands, or the pur-
poses, policies, and programs of such laws and regulations along with how the issue
was raised during preparation of the RMP. Existing regulations at §1610.6-
2(a)(2)(v) allow for a protest to be based on, “A concise statement explaining why the
. . . decision is believed to be wrong.” The proposed regulation may result in dis-
missal of valid protests.

A significant amount of discretion is afforded to the responsible official in devel-
oping a RMP or amendment. This discretion applies to high quality information, as-
sumptions, methodologies, interpretations, and procedures used in the analysis to
justify decisions. A valid disagreement regarding any of these discretionary planning
tools may not directly conflict with Federal law but should be considered a valid pro-
test. The proposed regulations should be revised to ensure that protests of this
nature are not dismissed.

Existing regulations for monitoring and evaluation of RMPs at §1610.4-9 include
the requirement for BLM to determine, “. . . whether there has been significant
change in the related plans of other Federal agencies, state or local governments, or
Indian tribes . . .” to warrant amendment or revision of a plan. This is an impor-
tant part of BLM’s responsibility to keep apprised of state, local, and tribal land use
plans as mandated by Section 202(c)(9) of FLPMA. The proposed §1610.6-4 should
include this important component of monitoring and evaluation.

§ 1610.8-2 Designation of areas of critical environmental concern.

ACEC designation is an important part of BLM planning. The special manage-
ment attention required by designated ACECs can have a significant impact on
resource use and management. Under existing and proposed regulations, both the
relevance and importance criteria must be met in order for an ACEC to be des-
ignated. These criteria are entirely subjective. Existing §1610.7-2 includes, “. . . re-
quires qualities of more than local significance . . .” with the importance criteria.
Proposed §1610.8-2 would remove this requirement. While this is also a subjective
term, it does construe that some level of importance beyond the local level is needed
to designate an ACEC. The preamble states this is vague and unnecessary, and
many examples exist where local significance has been determined to meet the im-
portance criteria. These ACECs did not meet the current regulatory requirements
of an ACEC and should not have been designated.

Existing regulations recognize the importance of resource use limitations or spe-
cial management attention that is required for ACECs. This is the reason for the
required Federal Register notice specifically identifying proposed ACECs along with
their use restrictions and the 60-day formal comment period. NMDA requests that
his formal notice and comment period be retained in the proposed regulations.

In summary, these draft Planning 2.0 regulations detrimentally deprive local
governments of the ability to influence BLM land use plans. By placing such signifi-
cant constraints on local governments, the entire premise behind the “government-
to-government” interaction is weakened.

Mr. Gohmert. Thank you very much, Ms. Cowan.

At this time, the Chair will recognize Mr. Fisher for 5 minutes. You may proceed.

STATEMENT OF COREY FISHER, SENIOR POLICY DIRECTOR,
SPORTSMEN’S CONSERVATION PROJECT, TROUT
UNLIMITED, MISSOULA, MONTANA

Mr. Fisher. Mr. Chairman, members of the subcommittee, thank
you for the opportunity to testify on the proposed rule for the
Bureau of Land Management’s Planning 2.0 initiative.
My name is Corey Fisher, and I am the Senior Policy Director for Trout Unlimited’s Sportsmen’s Conservation Project. Trout Unlimited is a national nonprofit organization with a mission to conserve, protect, and restore America’s cold water fisheries and their watersheds. I am here to share the perspective of an important public land user group—that is hunters and anglers.

I live in western Montana with ready access to lands managed by the Forest Service and the Bureau of Land Management. These are the places that I hunt and fish. It is from these lands that I feed my family with deer and elk that I hunt. And I am not alone. According to the U.S. Fish and Wildlife Service, one out of every three hunters in America hunts on public lands. In Montana, the number is 80 percent. Public lands are central to America’s hunting and fishing heritage. For that to continue, our lands, and the fish and wildlife habitat they support, need to be well managed, and that starts with sound management plans.

Through my work with Trout Unlimited, I have been involved in public land planning efforts throughout the West; and I have found that a plan is only as good as the process used to develop it. In my experience, a sound process includes four components: early-and-often stakeholder involvement, collaboration, a transparent process, and responsiveness to issues on the ground.

At times, BLM planning efforts have resulted in disenfranchised stakeholders due to a lack of meaningful involvement. Resource management plans need to be a partnership, and a partnership means more than a handful of cursory comment periods. Changes proposed by Planning 2.0 will provide a continuum of engagement that I believe will result in more durable plans that meet the needs of fish and wildlife managers, sportsmen, local government, and stakeholders. A lot of people like to talk about collaboration, but for Trout Unlimited, this is not a buzz word. Our organization is built on partnerships, and we take collaboration seriously. We know that when people sit down and find shared values, solutions are not far behind. That does not mean that collaboration is easy; it is not, but the kind of early-and-often involvement envisioned by Planning 2.0 will help foster collaboration and implement solutions built from the ground up.

Transparency needs to be at the center of any effective planning process. Without transparency, there is no trust; and without trust, there is no collaboration. The proposed rule improves transparency in several ways, such as making preliminary alternatives available to the public and providing the rationale for these alternatives. Resource management planning needs to be more than a perfunctory exercise. It needs to craft real solutions to address challenges on the ground. The proposed assessment phase will engage stakeholders to help identify these issues from the very beginning of the planning process.

Additionally, Planning 2.0 recognizes that land management issues do not follow administrative boundaries. Now, that does not mean that planning should encompass vast landscapes without cause; but if a big game migration corridor or a Blue Ribbon trout steam happens to extend across field office boundaries or state office boundaries, this is an on-the-ground issue that needs to be addressed holistically and with consistency.
Local government stakeholders have raised concerns with certain aspects of the proposed rule, and these concerns need to be meaningfully addressed. I believe that the proposed rule is a good start. Planning 2.0 will improve transparency, provide a continuum of public involvement, engage citizens early and often, better address on-the-ground issues, and make for a more nimble agency that is responsive to change.

Our hunting and fishing traditions face many challenges; but one of them should not be a cumbersome, outdated, and ineffective planning process for America's public lands. We can do better, and I believe that Planning 2.0 will provide a path forward.

Thank you for the opportunity to testify. I will be happy to answer any questions.

[The prepared statement of Mr. Fisher follows:]

PREPARED STATEMENT OF COREY FISHER, SENIOR POLICY DIRECTOR, TROUT UNLIMITED'S SPORTSMEN'S CONSERVATION PROJECT

Thank you for the opportunity to testify on this important issue before the House Natural Resources Committee's Subcommittee on Oversight and Investigations.

My name is Corey Fisher and I am the Senior Policy Director for Trout Unlimited, a national non-profit conservation organization with more than 150,000 members organized into about 400 chapters from Maine to Alaska. Our mission is to conserve, protect and restore North America's coldwater fisheries and their watersheds. Trout Unlimited chapters invest thousands of volunteer hours on their local streams and rivers to restore habitat for trout and salmon fisheries, and they invest considerable time in conducting youth conservation and fly fishing camps, veterans service programs, community events and taking kids fishing.

Trout Unlimited's conservation work on public lands focuses on engaging with local, state and Federal partners to find solutions that balance multiple interests and uses. This work is multi-faceted, but whether promoting responsible energy development, engaging in travel management planning, cleaning up pollution from abandoned mines, or restoring trout streams, all of this work begins with sound resource management planning.

My work with Trout Unlimited is to ensure that public land management in the West is guided by policies that conserve fish and wildlife habitat. This work is more than a vocation for me—America's public lands are part of who I am. Dinner for my family usually features meat from deer and elk that were hunted on public lands. When I go hunting and fishing, more often than not, public lands are the places I go. Vacations don't include resorts and spas, they feature backpacking and river trips in the backcountry. I am fortunate to live in the midst of both Forest Service and Bureau of Land Management (BLM) lands, and I cannot imagine life without well-managed public lands and the outdoor traditions that they sustain.

The BLM manages about 247 million acres of America's public land, much of it offering excellent hunting, fishing and recreational access. For many sportsmen in the West, when they talk about hunting and fishing, they are talking about BLM managed public lands. Some of my best memories in the outdoors have occurred on BLM lands, including canoeing and fishing the Missouri River Breaks, my first antelope hunt in Montana's Centennial Valley, and elk hunting in a couple of spots that will remain nameless.

So it is both a professional and a personal interest through which I approach resource management planning and the BLM's Planning 2.0 initiative.

RESOURCE MANAGEMENT PLANNING CHALLENGES

Throughout the past decade I have been engaged with numerous land use planning efforts in Montana, Utah, Wyoming, New Mexico and Colorado. While each of these planning processes and locations have had their own unique aspects, they all featured one commonality: the need for early, frequent and meaningful public engagement. Unfortunately, that hasn't always happened.

All too often, it seemed that the BLM would announce that they were going to develop a new resource management plan and take public scoping comments. Then they would disappear, often for years, only to release a draft plan that may or may not have dealt with the issues initially raised by the public. Following another public comment period, the Agency would disappear again, and after another wait
measured in years, a final plan would eventually be released, which may or may not have reflected the public comment received at the draft stage. Then an aggrieved group would sue the Agency, further bogging down the process.

While this illustration may be a bit oversimplified, it is not far from the reality of how the BLM has typically developed resource management plans in past years. In addition to being an inefficient and ineffective process, it has led to disenfranchised public land stakeholders who at times view the BLM as an unresponsive, closed-off agency. This is a problem that the BLM’s Planning 2.0 initiative strives to fix.

**PLANNING 2.0 SEEKS TO IMPROVE THE RESOURCE MANAGEMENT PLANNING PROCESS**

Two years ago, the BLM announced that it was launching Planning 2.0, with a stated objective to improve “our land use planning process so that we can more effectively plan across landscapes at multiple scales and be more responsive to environmental and social change.”

From the beginning of Planning 2.0, Trout Unlimited and other sportsmen groups participated in the BLM’s process, including providing the Agency with public comments and participating in public listening sessions. Trout Unlimited’s experience with resource management planning over the past decade has provided us with a perspective that we think will help result in a better end product for Planning 2.0, including what we hope will be a more transparent, inclusive process that provides meaningful collaboration among public land stakeholders.

Now that a proposed rule has been released for public review and comment, I believe that Planning 2.0 is on the right track.

As stated in the proposed rule, Planning 2.0 has three primary goals:

1. Improve the BLM’s ability to respond to social and environmental change in a timely manner.
2. Provide meaningful opportunities for other Federal agencies, state and local governments, Indian tribes, and the public to be involved in the development of BLM resource management plans.
3. Improve the BLM’s ability to address landscape-scale resource issues and to apply landscape-scale management approaches.

I will address each of these goals.

**Being more responsive to social and environmental change is critical to ensure healthy populations of fish and wildlife.**

Sound land management must adapt to the most current science and trends in fish and wildlife populations; a static resource management plan will quickly become obsolete. Current procedures for amending and updating resource management plans are time consuming and burdensome for both the agency and the public. Because of the difficulty of revising resource management plans, the documents often do not reflect changing conditions on the ground and fail to incorporate better data and science as they become available.

For instance, throughout the West, the BLM is party to conservation agreements and MOUs with state agencies to recover sensitive native trout species, many of which have been reduced to a fraction of their historical range. While recent resource management plans have relied on the best available science to ensure that future opportunities to restore populations of native trout are not hindered by land use activities, older resource management plans either ignore the issue altogether, or allow development without necessary precautions to protect water quality in streams that are suitable for restoring trout populations.

An example of responding to changing realities for fish and wildlife management comes from the BLM’s recently approved Tres Rios Resource Management Plan, in which the agency recognized the need to conserve not only streams currently occupied by Colorado River cutthroat trout, but also streams that have been identified as reintroduction sites for these sensitive native fish. The Tres Rios is one of only a handful of resource management plans to include this kind of foresight. Not only will this help the BLM fulfill commitments in the conservation agreement for Colorado River cutthroat trout, it will help to ensure a bright future for these trout and the anglers who like to fish for them.

A more responsive and efficient resource management planning process will allow the BLM to ensure that its planning documents remain current and reflect the present-day science of fish and wildlife management. By integrating monitoring strategies as a plan component, a feedback loop will inform the BLM and the public when relevant changes in circumstances necessitate a shift in management direction.
Meaningful public involvement will increase transparency and help to put the public back in public land management.

The proposed rule will add two additional opportunities for public involvement. First, a planning assessment phase would include an opportunity for the public (along with local, state and Federal agencies) to suggest issues and opportunities that a resource management plan revision should address and to help establish a current baseline of conditions on the ground.

Second, the proposed rule would create the opportunity for the public to review and comment on preliminary management plan alternatives, allowing stakeholders to raise issues before the BLM begins developing the impact analysis, a critical juncture in the planning process.

Taken together, these two new public involvement steps will ensure that the BLM starts resource management plans off on the right foot, and is still on the right track at the halfway point. This kind of early-and-often collaboration with the public will help to make for a more responsive, transparent agency.

Instead of only two isolated comment periods, the proposed rule would create a continuum of collaboration with public land stakeholders that builds trust, fosters communication, increases efficiency and creates management plans that are responsive to on the ground issues that are important to public land users.

Landscape-scale planning will improve the management of fish and wildlife habitat and create certainty across administrative boundaries.

Habitat requirements for fish and wildlife don’t change due to arbitrary lines on maps. However, all too often land uses and fish and wildlife habitat are managed inconsistently across administrative boundaries. For instance, when Montana BLM’s Butte Field Office adopted its resource management plan in 2009, resource professionals determined that a one-half mile development buffer was necessary to balance energy development with the conservation of native trout populations and rivers that have been awarded Blue Ribbon status, including the Yellowstone River. Yet, as the Yellowstone River flowed east into the Billings Field Office, no such stipulation was present, only a general restriction prohibiting development within riparian areas and the 100 year flood plain. Indeed, it was not until September of last year that the Billings Field Office completed its revised resource management plan and put in place a development buffer of one-half mile for the Yellowstone River. In other words, for 6 years a trout could literally swim between two field offices in which the measures in place for its protection varied greatly.

This kind of inconsistent management isn’t only bad for trout; it is bad for anyone who values predictability for how our public lands will be managed. Those who make their living through resource extraction need certainty for how their activities will be managed, and sportsmen and women need certainty that America’s public lands will remain a great place to hunt and fish. Development and conservation need not be mutually exclusive and landscape-scale planning will help to strike that balance, even if those landscapes happen to cross field office or state office boundaries.

Solutions require collaboration and communication

While Planning 2.0 policies are not yet finalized, the BLM has been working with local stakeholders and county officials to apply some of the principles of Planning 2.0 in places like Park County, Colorado.

Park County is home to South Park, which includes the headwaters of the South Platte River, one of just a handful of gold medal trout streams and a world-renown angling destination. In addition, the South Platte River is particularly important as the water supply for the majority of Coloradans, and the area supports robust herds of big game that provide some of the best hunting in the West.

Given these attributes and an increased interest in oil and gas leasing, stakeholders proposed the area for a Master Leasing Plan as part of the upcoming resource management plan revision for the Royal Gorge Field Office. However, in 2012 the BLM denied the application, citing that although there was interest in leasing, because there were no producing oil and gas wells in the area, there was no reason to develop a Master Leasing Plan.

Then something changed; the BLM listened. As the agency prepared to initiate a resource management plan revision, they heard from conservationists, sportsmen and the Park County Board of County Commissioners, all of whom advocated a forward-thinking plan for future energy development that would ensure impacts would be comprehensively addressed and mitigated. Today, the BLM has committed to developing a Master Leasing Plan for South Park and proposals submitted by the
public and Board of County Commissioners are under consideration as the BLM develops draft alternatives for the revised resource management plan.

Instead of plowing ahead and developing a plan that didn’t meet the needs of local communities and public land users, the BLM heard from these stakeholders and changed course. It is this kind of collaboration and responsiveness that Planning 2.0 is all about—stakeholders working together to create a shared vision for managing our public lands.

I know that there are concerns from some local and state stakeholders that their roles will be diminished by aspects of the Planning 2.0 proposal. TU always advocates for meaningful local and state stakeholder input opportunities into Federal land management decisions of all types. Our partnerships with the city of Durango in Colorado to pass the Hermosa Creek Watershed Protection Act, with the Sweetwater Board of County Commissioners to craft a responsible energy development plan for Little Mountain in southwest Wyoming, and with the state of Montana to restore trout populations on public lands, show that we care deeply about effective local and state involvement. We urge those with concerns to work with BLM throughout the comment period to ensure that their concerns are meaningfully addressed.

CONCLUSION

In closing, the status quo for how the BLM develops resource management plans is not acceptable. Resource management plans are not the BLM’s plan, they are the public’s plan for the management of our American lands, and the public needs to be engaged earlier and more frequently throughout the planning process.

Planning 2.0 will improve transparency, provide a continuum of involvement throughout the planning process, engage citizens more meaningfully, and make for a more nimble agency that is responsive to change. These are outcomes that should be appreciated and supported by everyone who values meaningful public engagement in land use planning.

Planning is the foundation of public land management and healthy populations of fish and wildlife on public land start with sound resource management plans. Our hunting and fishing traditions face many challenges, but one of them should not be a cumbersome, outdated and ineffective process for developing plans that will manage fish and wildlife habitat.

The proposed rule is a good start, but it is just a start and it is important for the BLM to see this effort through and implement changes that work for local communities, America’s public land users, and the agency itself.

Thank you for the opportunity to testify.

Mr. GOHMERT. Thank you very much.

At this point, Mr. Obermueller, you are recognized for 5 minutes. You may proceed.

STATEMENT OF PETE OBERMUELLER, EXECUTIVE DIRECTOR, WYOMING COUNTY COMMISSIONERS ASSOCIATION, CHEYENNE, WYOMING

Mr. OBERMUELLER. Thank you, Mr. Chairman, Ranking Member Dingell, Representative Lummis, and members of the subcommittee.

Let me just start out by acknowledging the fact that this is a very boring policy topic. Mention agency planning, and eyes glaze over all across America. That is simply a fact. It does not have the buzz, like fracking, endangered species conservation, or any of that. But make no mistake, that no matter what you or your constituency values with respect to Federal lands management, it is in these planning processes where those topics are first filtered. That is why they are so important. That is why they should not be overlooked, and why I thank you for taking the time to spend on this particular topic.
We, in Wyoming, have spent a great deal of time in the counties building and maintaining a strong working relationship with the BLM at every level. That is why we take them at their word that their goal in Planning 2.0 is to provide a more nimble, responsive planning process that has meaningful local government involvement. We think there are steps that need to happen in order to actually realize that goal.

Let me start by what the BLM gets right. The BLM starts out listing the five policy objectives for coordination with local government. I will summarize them: that the Agency will be mindful of local land use plans, will try to be consistent with those when they can, and will provide for meaningful public involvement and local government participation. We strongly support these, but recognize that these are the minimum requirements already required of the Agency under FLPMA.

Congress got it right in FLPMA when it established local governments as the conduit for messaging what local communities need and desire in the public lands that they live near. Congress knew, and we strongly believe, that coordination with local governments is the single most important effort Federal agencies can undertake to build local buy-in, to diffuse tensions in the West, and to realize success on management objectives. Getting it right at this level means we will get it right at the project level.

We fear that, as currently written, the rule takes steps away from FLPMA's coordination requirements, diminishes the role of cooperating agencies, and combines a move to centralize decision-making with the diffusion of local interests. In our official comments we will explain this in greater detail, but for now, let me focus on coordination and cooperating agencies.

The BLM's current regulations allow the Agency to analyze local government policies and programs in the absence of an official land use plan. That is right. FLPMA is explicit in giving that authority. But the proposed rule indicates that they will only accept official land use plans. Other data generated by local governments will be accessible in the newly developed plan assessment phase, where all data will be given equal weight and attention. Apart from the departure from the plain language of FLPMA, there are two additional problems with that.

Number one, putting local data on par with single-issue special interest groups diminishes the clear added authoritative weight that Congress gave local governments in FLPMA.

And, number two, accepting only officially adopted land use plans is culturally insensitive to counties in the West that often do not have official land use plans, and likely never will have them absent significant electoral upheaval.

Now, shift with me for a second to cooperating agencies. Think about cooperating agencies as the mechanics of how coordination works. When it is working, counties that are actively involved as a cooperating agency enjoy an added level of responsiveness from the agencies that is not available to the general public, as has been pointed out. But this is as it should be, because county commissioners are often the only people in the room on the day-to-day planning process who have both a broad policy perspective and are directly accountable to the public.
We appreciate that the BLM actually mirrors a significant amount of CEQ’s cooperating agency guidelines in this rule, but they have some caveats that cause concern. One is that they indicate that counties will participate in this process, “as feasible and appropriate, given the scope of their expertise and the constraints of their resources.” We appreciate their recognition of limited local government resources; but quite frankly, the counties in Wyoming have been proactive and intentional about making sure we are invited to the table, about developing MOUs with the BLM, and going above and beyond to work with the BLM in order to realize the success of these plans. We believe that the scope of county participation can be developed jointly in that MOU rather than dictated by the BLM as this language seems to imply.

Mr. Chairman, there is a lot to talk about on this issue. Let me just end by saying that counties in Wyoming are committed to being engaged with the BLM in a meaningful way; and we would urge the BLM to show an equal level of commitment to being engaged with us.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Obermueller follows:]

PREPARED STATEMENT OF PETE OBERMUeller, EXECUTIVE DIRECTOR, WYOMING COUNTY COMMISSIONERS ASSOCIATION

Chairman Gohmert, Ranking Member Dingell, and members of the Subcommittee on Oversight and Investigations, thank you for the opportunity to testify today on the Bureau of Land Management’s (BLM) Planning 2.0 proposed rule.

My name is Pete Obermueller. As the Executive Director of the Wyoming County Commissioners Association, I represent the Boards of County Commissioners in all 23 of Wyoming’s counties.

In Wyoming, the BLM manages approximately 18 million surface acres, and over 40 million subsurface acres in 22 of the state’s 23 counties. By necessity, elected County Commissioners all across the state are actively engaged in Federal resource management plan revisions or amendments in various stages, NEPA analyses, Resource Advisory Committees, informal working groups, regional and national task forces on Federal land issues, as well as their own locally derived land use plans and management programs.

In each of Wyoming’s counties and within our Association, we pride ourselves on our constructive efforts to engage with Federal partners in meaningful ways that helps produce defensible results. The rights granted to counties under the Federal Land Policy and Management Act (FLPMA) is the statutory avenue for local involvement in Federal land use planning. Wyoming’s counties take that duty very seriously, and thank this committee for its oversight on this rule proposal.

The BLM’s stated purpose of Planning 2.0 is to “promote the principles of multiple use and sustained yield on public lands . . . [and] ensure participation by the public, state and local governments, Indian tribes and Federal agencies . . .” Further, the agency proposes five objectives of coordination. They are:

1. Keep apprised of non-BLM plans;
2. Assure that the BLM considers those plans that are germane in the development of resource management plans for public lands;
3. Assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans;
4. Provide for meaningful public involvement of other Federal agencies, state and local government officials, both elected and appointed, and Indian tribes, in the development of resource management plans, including early notice of final decisions that may have a significant impact on non-Federal lands; and
5. Where possible and appropriate, develop resource management plans collaboratively with cooperating agencies.

We support these objectives, caveated though they are, as they closely mirror the BLM’s obligations under FLPMA. We applaud the BLM for bringing them to the forefront in this proposed rule as we have long held that coordination with local gov-
ernments and local land use plans is the single most important effort the Federal Government can pursue to ensure local buy-in, diffuse tensions in the West, and realize ultimate success of land use plans or project specific environmental analyses. Wyoming’s Commissioners have greatly appreciated the input we have been afforded by the BLM on the development of this rule over the past 2 years. We have worked hard to develop a good working relationship with the BLM at all levels, and value our partnership with our Federal partners. That is why we were hopeful that the BLM would use this opportunity to enhance the local government role and identify new opportunities for intergovernmental cooperation. Unfortunately that is not the outcome of this proposed rule, at least not yet.

Because of our fruitful engagement with the BLM, we take them at their word regarding their intentions to more closely coordinate with local governments under Planning 2.0. However, we remain concerned that the proposed rule as currently written takes steps away from the requirements placed upon the BLM for coordination in FLPMA, diminishes the role of cooperating agencies, and combines a move to centralize decisionmaking with a diffusion of local interests in ways that could lead to further marginalization of local governments and the communities they represent.

COORDINATION AND THE ROLE OF COOPERATING AGENCIES

It is important to recognize that while FLPMA provides the agency some implementation latitude, the initial obligation of coordination with counties is not discretionary. Section 202 of FLPMA requires the Secretary to, at a bare minimum, attempt consistency with local land use plans and provide for meaningful involvement of local officials. Section 202(c)(9) of FLPMA reads, in part:

“To the extent consistent with the laws governing the administration of the public lands, [the BLM shall] 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, including, among other things, considering the policies of approved State and tribal land resource management programs.

In implementing this directive, the Secretary shall, to the extent 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.”

(43 U.S.C. 1712(c)(9))

Any evaluation of the BLM’s existing or proposed planning rules must begin with its adherence to the directives of its organic act. Here, Congress rightly identified local government as the appropriate conduit for the needs and desires of the public near Federal lands in the planning process. Counties fulfill that obligation in many ways, but not in identical ways. In Wyoming we continually stress the importance of being prepared to offer empirical data to back policy suggestions, but that effort can take many forms.

Unfortunately the proposed rule goes beyond what is allowed under FLPMA by removing the current language that resource management plans be consistent with local “policies and programs.” The proposed rule limits the input of counties during the official planning process to only so-called “official land use plans.” Other data, no matter the quality or manner in which it was collected, will only be accepted in the newly conceived “planning assessment” phase. This is in direct contradiction to the plain language of FLPMA that requires an attempt at consistency with local “management programs.”

To be clear, we do not oppose the concept of the planning assessment. Early engagement with stakeholders is important. Rather, by placing data generated by local governments on par with other data submitted by single-focus special interest groups is a diminishment of the added authoritative weight Congress clearly intended local governments to possess. Additionally, it demonstrates a lack of sensitivity to the cultural norms of counties that for various reasons do not have official land use plans, and would be unable to produce one without significant electoral upheaval.
As FLPMA provides the statutory requirement of coordination, it is Council on Environmental Quality (CEQ) regulations promulgated under the National Environmental Policy Act (NEPA) that provides for the specific mechanism for county involvement as a so-called “Cooperating Agency.” When it is working correctly, counties that participate in planning as a cooperating agency enjoy a level of engagement from the lead Federal agency not afforded to the general public. This is as it should be because often Commissioners are the only people involved in the day-to-day planning process with both a broad view of the benefits and impacts of management decisions, and who are directly accountable to the public. At a minimum, any planning rule advanced by the BLM should not substitute narrow special interests for broad policy views.

To that end, we appreciate the proposed rule’s attempt to mirror much of the CEQ Cooperating Agency process used in NEPA analyses. The proposed rule maintains the requirement of Federal agencies to invite cooperators to the table and solidifies the points at which cooperators will be consulted. The proposed rule adds an additional level of coordination with cooperating agencies at the “planning assessment” level. All of these are positive steps, but there are a few troubling limitations on cooperating agencies that must be addressed.

First, in defining a cooperating agency, the proposed rule inserts this new caveat:

“Cooperating agencies will participate in the various steps of the BLM’s planning process as feasible and appropriate, given the scope of their expertise and constraints of their resources.” (Proposed Rule at 9725)

Recognition of the limited resources of local governments is appreciated. However, we do not believe it wise for the BLM to appoint itself as the arbiter of what is “feasible and appropriate” for cooperating agency participation. In many instances Wyoming’s counties have gone well beyond expectations to provide not only meaningful comments, but additional resources to ensure that planning is as successful for their communities as possible. Because agencies only sometimes follow the requirement to coordinate, counties in Wyoming are proactive in seeking agency invitations and developing MOU’s with our Federal partners. The scope of county participation can and should be determined in the MOU process and jointly agreed upon, not dictated by the BLM.

Second, the proposed rule establishes a new, two-part process for resource management planning that includes “plan components,” or the high level strategic planning of a certain plan area; and “implementation strategies,” or the actual boots-on-the-ground efforts to implement the plan components. Cooperating agencies are included during the preparation of both, but excluded if the BLM desires to revise the implementation strategies. This exclusion during potential revisions jeopardizes successful implementation. Time and again we have found in Wyoming that the most successful plans and strategies are ones that have the support of local government. Without it the agency stands alone.

LOCAL DECISIONS VS. CENTRALIZED AUTHORITY

The BLM’s proposed rule goes to great length to describe the importance of shifting away from political boundaries and toward landscape-scale decisionmaking. It is certainly the case that some resource management plans encompass landscapes and wildlife habitat that cross county and state lines. Attempting to plan at a larger, regional level is not in itself a bad thing. In fact, doing so could help to rationalize some planning efforts that are difficult to solve in separate, smaller areas.

However, in an effort to facilitate regional planning the BLM proposes to remove Field Managers and State Directors as the official with direct responsibility for drafting and approving resource management plans when those plans cross political boundaries. By substituting “responsible” and “deciding officials” appointed by BLM that may or may not be the regional manager or State Director, the agency runs the risk of setting itself up for failure by imposing a decisionmaker on a community with which he has no established relationship and no working knowledge of the custom and culture of the areas he now oversees.

It might be tempting to view this concern as seeing boogey-men where none exist. Indeed we are more concerned with how the BLM plans to engage with local governments than who is specifically placed in charge. However, we simply cannot ignore this risk of separation from local officials when it is combined with proposals in the rule to significantly broaden the scope of the BLM’s analysis beyond “local economies” toward enormous and nebulous analysis on “environmental, ecological, and social conditions,” and “regional, national, and international” dependence upon BLM resources. The BLM has a difficult enough time completing local analysis in
a timely fashion without introducing topics that are likely well beyond their expertise and resource availability.

We urge the agency to maintain its efforts to keep land use planning as local as possible, in terms of the people who write and approve the plans, the issues and areas for analysis, and in the process for developing and implementing them. Establishing a successful and defensible planning process is not an exciting policy topic. It does not carry Hollywood buzz like fracking, or command attention like endangered species. But make no mistake, every single agency action—whether issue-based like fracking or single species conservation, or place-based like Areas of Critical Environmental Concern—is first viewed through this over-arching planning lens. It is here, in the governing planning document where the filters are set for information gathering, where the scales can be tipped toward one interest group or another, and where the BLM establishes for itself guidelines that can either promote sound decisionmaking or incentivize protests and litigation.

We appreciate that this committee has taken the time to explore this issue that is so fundamental to local participation in land use planning.

Mr. GOHMERT. I thank the gentleman.
At this time, we will proceed with Members' 5 minutes of questioning. I will recognize myself for 5 minutes.

Mr. Obermueller, you were saying that this may not be the most fun topic to be taking up, but I was surprised. We have had substantially more response from people around the country on this issue of this specific rule change than most any of the more glamorous issues we have taken up. People are very upset and very concerned, as they have a right to be.

Mr. French, you had mentioned that 90 percent of your county is owned by the Federal Government. Is that correct?

Mr. FRENCH. Yes, Mr. Chairman.

Mr. GOHMERT. And I know in Oregon, where there have been so many problems, we have seen—when you look at the map with the overlays of all the different Federal land that is owned or managed by the Federal Government, you end up seeing layer after layer added, where somebody starts out with a big ranch or a big piece of land, then one government entity gets land near them, and then before long they are surrounded. They start having problems with being denied access to their land and it creates hard feelings. I am curious. Do you know approximately when—I mean, was this 90 percent acquired by the Federal Government all at once, or was this over a period of time?

Mr. FRENCH. This has been at one time. Ultimately, the Federal lands ownership in Nevada occurred right after the Civil War, when Nevada became a state. There were some state select lands that were offered to the state that are in private ownership now. Then, of course, the corridor for the Union Pacific Railroad has alternate sections that are privately held 20 miles either side of that corridor.

Most of Humboldt County is administered under Bureau of Land Management, but we also have, as you pointed out, Mr. Chairman, other Federal agencies. We have national conservation areas, wilderness areas, a national forest, and a Federal refuge. So, add it all together, and we are at about 90 percent—88.8 percent, I believe.

Mr. GOHMERT. The proposed rule says “cooperating agencies will participate in the various steps of the BLM’s planning process as
feasible and appropriate given the scope of their expertise and constraints of their resources."

I would like to ask each of you, what do you think that is going to mean to your county, your area, your association, if that change becomes effective?

Mr. French, I will start with you.

Mr. FRENCH. I believe that, unfortunately, most of the folks—this is a complex enough issue that most of the folks don't know what questions to ask. In many cases in Nevada, in many of the counties, 2.0 really passed over the top of their head. They did not realize what the implications of this could be to their counties. Many of the counties have to hire additional consulting staff in order to review this material; and then, the 90 days that the BLM gave them will pass before they have a chance to actually approve it.

So, we have an issue relative to involvement. And, the county commissioners themselves mostly are not full-time commissioners. Most of them are lay people who do not have the background to actually have meaningful input to something as wide scope as a 2.0 policy change.

Mr. GOHMERT. Let me hear from Ms. Cowan. What do you think that change would mean?

Ms. COWAN. I think it will shut down county participation, because the counties in New Mexico are lay people who make very little being county commissioners. They are responsible for managing entire counties. Often when these rulemakings come up and we contact these folks to see if they even had notice, a secretary will say, "You know, I did see something like that, but it wasn't important, and I threw it away." So, I think it will just cut out county participation largely.

Mr. GOHMERT. Mr. Fisher?

Mr. FISHER. Mr. Chairman, speaking from the perspective of hunters and anglers, I think that one of the roles of organizations, like Trout Unlimited, is to help decipher some of that information.

Mr. GOHMERT. Well, you will need to be doing a lot more.

Mr. Obermueller.

Mr. OBERMUELLER. Thank you, Mr. Chairman. I think that the BLM was trying to give some deference to counties about our limited constraints. I think that the words on the paper did not quite capture what they were after. To Mrs. Dingell's point, I think that there is room here for the BLM to acknowledge our limitations and yet work with us to determine what our scope is jointly.

Mr. GOHMERT. Thank you. It definitely gives them more authority to cut you out.

My time has expired. I recognize the Ranking Member for 5 minutes, Mrs. Dingell.

Mrs. DINGELL. Thank you, Mr. Chairman. I would like to agree with the Chairman that I think there may be more interest in this subject than you realize. I am probably the only Member on either side that gets grilled on this subject by her spouse on a regular basis.

But, Mr. Fisher, I would like to ask you some questions, because I want to pursue this public involvement issue. I am trying to understand the assertion that more opportunities for public input are not necessary simply because elected officials are at the table. I
agree that elected officials have a duty to be a voice for the public, but aren’t there times when it is important for the public to be able to speak in their own voice as well?

Mr. Fisher. Representative Dingell, I would agree with that. I think that the counties do have a very important role to play. I think the hunters and anglers are, oftentimes, the folks that are out in the field. We know these lands better than a lot of folks and a lot of public land users, so I think that our voice is very important and needs to be meaningfully heard at the table.

Mrs. Dingell. I think it is true that elected officials have unique knowledge about the local community. It is critical to include them in the resource planning, and I really respect their role; but I suspect that it is also true of their constituents. Do you and other hunters, anglers, and sportsmen, bring a unique perspective to the process? And what would be the disadvantage of not including the perspective of groups like this in your process?

Mr. Fisher. I think that we absolutely do bring a unique perspective. Again, throughout the year out there, we see the conditions on the ground. I think that one of the disadvantages to not having that meaningful engagement is by not having that buy-in from all stakeholders in these plans. I think that it is very important for these plans to work to be a partnership, and that includes everybody.

Mrs. Dingell. By the way, I am married to someone who really thinks that, as you could probably guess. You all don’t know him, some of them here do. He is more conservative on some of these issues than anybody at this dais.

Some local and state officials seem concerned that adding opportunities for public involvement in the resource planning process makes their involvement less important. What are your thoughts on this? Will local and state officials still have a substantial say in the resource planning process?

Mr. Fisher. Representative Dingell, I believe so. In my review of the proposed rule, there remains to be that cooperating agency status. I kind of look at it as a three-legged stool. You have the local governments, the public land stakeholders, and the agency. If one of those important stakeholder groups really is not at the table, the whole thing falls apart; so I think it really takes all three groups to make this thing work.

Mrs. Dingell. Everybody is important to the process, and not trying to exclude local, which I agree.

I have just received a letter from the Park County Board of Commissioners expressing support for proposed improvements to public participation. You mentioned Park County in your testimony, Mr. Fisher. Can you explain what is happening there as it pertains to planning?

Mr. Fisher. Yes, Representative Dingell. Currently, in Park County, the Eastern Colorado Resource Management Plan is taking a look at—it is called a master leasing plan which is going to determine where and how oil and gas leasing and then future development will occur. That process has been one of these really stakeholder collaboratives between hunters and anglers, communities, Denver Water, and the county commission, as you mentioned.
I think that it really incorporates a lot of the kind of core values that BLM is trying to do with Planning 2.0, which is to bring people together early in the process, develop collaborative solutions, and then implement them through their resource management plan revision. So, I am very pleased to hear that Park County has taken that position.

Mrs. DINGELL. I am going to try to get one more in fast on landscape-scale planning.

We know that resources like wildlife, rivers, and people do not politely coincide with state and field office boundaries, but they migrate and move across boundaries. It seems as though managing resources according to these boundaries creates unnecessary fragmentation and inefficiencies in the planning process.

In your testimony, you gave the example of the Yellowstone River, which had different protections depending on the county you were standing in. Are there other disadvantages to managing resources at the field office level or other examples you can share in 2 seconds.

Mr. FISHER. Two seconds. Yes, it comes down to consistency, and that is not just for fish and wildlife management, but I think it is important for all uses—oil and gas development, timber. Everybody needs to know consistently across field office boundaries what constraints they will be operating under.

Mrs. DINGELL. Thank you, Mr. Fisher.

Mr. GOHMERT. Thank you. At this time, the Chair will recognize the gentleman from Idaho, Mr. Labrador, for 5 minutes.

Mr. LABRADOR. Thank you, Mr. Chairman. The fact sheet for this proposed rule lists economic change alongside social and environmental as key items requiring an improved response from BLM. But in the actual rule, economic is completely eliminated, leaving only social and environmental change. Considering the reduced opportunity for substantive state and local government involvement in this proposed process, I am concerned about BLM’s ability to monitor and respond to adverse impacts to rural economies resulting from these decisions.

Commissioner French, your county is heavily dependent on economic activities on public lands. Does this proposed rule give adequate consideration for the economic impacts on counties?

Mr. FRENCH. After reviewing 2.0, I believe that the consideration for economics and the impacts to county governments have not been adequately weighed in the sense that the planning that occurs, including master plans and such, are dynamic. They are a moving target.

If we are subjected to cooperative agency status on one occasion and are allowed to input into an RMP revision down the road as transportation plans, development plans, water management plans, and various plans evolve in our counties, the BLM is not involved at that stage. I believe under 2.0 that needs to be something that is modified and shored up at this point.

Mr. LABRADOR. OK. Thank you. Mr. Obermueller, same question. Do county commissioners in Wyoming believe that this rule gives adequate consideration to the economic impacts on counties?

Mr. OBERMUELLER. Thank you, Representative Labrador, and it is a very important question that I am going to answer in a second,
but I also wanted to clarify for Representative Dingell that as it relates to county commissioners in Wyoming and the state and local officials that I deal with, we are not seeking an exclusion of any group.

In fact, the BLM Planning 2.0 rule provides a new system, a plan assessment phase, where groups like Trout Unlimited, Stock Growers, and others can be involved. We support that. It says so in our written testimony, that we want that involvement. Early-and-often stakeholder involvement is exactly right, as Mr. Fisher pointed out. The issue is, the law provides local governments with an added authoritative weight, and that is what we see diminished.

So, Representative Labrador, to your point, this is what I alluded to about a diffusion of local interests in a sense that the rule changes wording and language away from local economies and local dependence on Federal lands for the very survival of the county toward broader, nebulous goals that we are concerned that BLM does not have the expertise or the ability to even assess. We have worked very hard with the BLM at improving their analysis of socio-economic data in the counties precisely for that reason, and moving away from that troubles us.

Mr. Labrador. Commissioner French, I have been contacted by several stakeholders in Idaho who have raised concerns about the process that the BLM has used on this proposed rule. Specifically, they are concerned about the lack of public outreach, the very limited number of public meetings that have been held, and the timing of the meetings that have been held. For example, the hearings have been held on Wednesday afternoons when most individuals are at work. How would you describe BLM's outreach efforts in Nevada?

Mr. French. Very similar to what has been experienced in Idaho. We have had a revolving door in the Winnemucca District, in Humboldt County, of personnel, and there really has not been a very consistent voice in terms of being able to discuss even from a county perspective. But from a public comment period perspective, there was one opportunity that I am aware of that occurred on a Thursday afternoon, and it was at a telecommunications type meeting.

Mr. Labrador. OK. Mr. Fisher, real quick, the BLM is seeking to accept citizen science—that is what they are calling it—in planning without identifying how that relates to the best available science.

In the Denver public meeting, BLM's representatives repeatedly stated that expanded incorporation of citizen science in planning would be a benefit of the new planning process. Do you know what citizen science is? And if you do, who gets to decide whose citizen science is going to be accepted?

Mr. Fisher. Representative Labrador, I am familiar with citizen science. Trout Unlimited, as a resource organization, tries to incorporate and facilitate some citizen science through our membership. There have to be quality control measures in place, a quality assurance plan; and I think that, ultimately, it does come down to the resource professionals with the BLM to determine if citizen science is science that is the best available and whether it should be interpreted.
Mr. LABRADOR. So, resource professionals are going to determine what science is accepted, instead of being objective, so I am very concerned about that.

Thank you. I yield back.

Mr. GOHMERT. I thank the gentleman. By the way, the Ranking Member commented about her husband. I am not surprised at all by the gentlelady’s comments. I have great admiration and respect for your husband. He is a man of honor and integrity, and represented himself and his constituents well.

At this time, the gentleman from Colorado, Mr. Polis, is recognized for 5 minutes.

Mr. POLIS. Thank you. I come from a western state that has a wide variety of public lands; and after speaking with constituents across my district, revision of this plan is long overdue. There are few plans, or rules, that can stay relevant for four decades, two generations of my constituents; and BLM’s planning truly is outdated.

Local control and constituent input are really my top priorities in the inherent values of those of us who live in and around our public lands. It makes sense that many counties in Colorado worked with local BLM offices on this type of plan, and that was even before the BLM completed this rule. As part of revising the Eastern Colorado Resource Management Plan, the Royal Gorge Field Office in Colorado has already embraced and implemented some of the ideas from Planning 2.0, including recent envisioning sessions that involve a wide range of stakeholders. In addition, responding to a proposal from Park County, the BLM has agreed to evaluate a master leasing plan. I have a letter from the Park County Board of Commissioners that I would like to submit for the record.

Mr. GOHMERT. Without objection, so ordered.

[The information follows:]

PARK COUNTY—BOARD OF COUNTY COMMISSIONERS,
FAIRPLAY, COLORADO
May 12, 2016

Neil Kornze, Director,
Bureau of Land Management,
1849 C Street N.W.,
Washington, DC 20240.


Dear Director Kornze:

The undersigned representatives of local government are writing to share their support for provisions of the Bureau of Land Management’s (BLM’s) Proposed Resource Management Planning Rules, 81 Fed. Reg. 8674 (Feb. 25, 2016) (the Proposed Rules). In particular, we support the provisions of the Proposed Rules that provide additional opportunities for public involvement earlier in the planning process, including the chance to review preliminary resource management alternatives and preliminary rationales for those alternatives.

Each of undersigned representatives come from local jurisdictions whose land bases include substantial amounts of public lands managed by BLM. The management of these public lands is vitally important to the citizens we represent. Our citizens and local economies depend on these lands for sustainable multiple uses, from outdoor recreation to livestock grazing to mineral exploration and development.

The current BLM planning methodology lacks adequate opportunities for public involvement, particularly early in the process. It also lacks transparency. It often
results in a range of alternatives that fails to address the concerns of all stakeholders. The proposed changes would provide the public with an opportunity to raise concerns and review potential management alternatives before these alternatives become solidified in a draft Resource Management Plan (RMP). This early public involvement will hopefully help resolve conflicts and produce RMPs that better reflect the needs of our citizens as well as others who use the public lands and have a stake in their future.

In addition, we note that the Proposed Rules also expand opportunities for states and local governments to have meaningful involvement in the development of BLM’s land use decisions. The Proposed Rules continue to provide for coordination with state and local representatives in order to ensure, to the extent available under federal law, that RMPs are consistent with state and local land use plans, as provided in the Federal Land Policy and Management Act of 1976.

Sincerely,

Mike Brazell,
Chairman.

Mr. Polis. The letter says, in part, that they share their support for provisions of the Bureau of Land Management’s proposed resource management planning rules in large part because of the people that live in and around the public lands, and that management of these public lands is vitally important to the citizens we represent from Park County, Colorado.

Mr. Fisher, planning for public lands can be complex and involve lengthy documents that are sometimes difficult to understand. The BLM is now proposing a more collaborative, transparent, multi-stakeholder process to help navigate planning. How, in your experience, will more up-front engagement with communities improve the planning process?

Mr. Fisher. Representative Polis, I think that that early-and-often engagement that we have talked about with those local communities is going to create, like I mentioned, more durable plans. People are going to have buy-in; they are going to have ownership over those plans. I think through the assessment phase that Mr. Obermueller mentioned, it is going to help identify those local issues. My hope is that that will form the foundation of how these plans are developed and what issues are meaningfully addressed.

Mr. Polis. In your testimony, you referenced the evaluation of a master leasing plan. How does that relate to the Planning 2.0 rule process, and how can we have local government representatives and residents engaged in that process?

Mr. Fisher. Representative Polis, the master leasing plans are not explicitly mentioned in the proposed planning rule. But I believe that that master leasing plan process really emphasizes building solutions from the ground up, taking a look at a landscape, and deciding collaboratively what makes sense for management of this landscape. That is really at the core of master leasing plans, and I think that you see that also in this proposed rule.

Mr. Polis. Can you speak to not only the importance of stakeholder involvement, which you alluded to in getting buy-in to the plan, but how important is what my constituents and residents of nearby communities think in determining and providing input into actual plans of usage, and how will Rule 2.0 enhance the way that our local input counts in these decisions?
Mr. FISHER. Representative Polis, you know that early assessment phase is one. The other opportunity is through a new public comment engagement period between the initial scoping and before the draft alternatives are put out for review. There will be an intermediary step with preliminary alternatives that will allow the public to consider what the BLM is thinking, to look at the rationale for that, and to provide input to make sure that they are on the right track.

Mr. POLIS. Finally, we know that wildlife, rivers, and people do not stop at arbitrary state boundaries or field office boundaries. Wildlife migrates and rivers move across political boundaries; so I applaud the BLM on thinking about common-sense ways to plan for use and conservation on our public lands rather than rely on political boundaries. How will these kinds of changes affect wildlife and the sportsman community around breaking down political boundaries?

Mr. FISHER. Representative Polis, I believe that that kind of big picture thinking will create better habitat; and better habitat is better for wildlife, and healthier, more robust fish and wildlife populations mean better hunting and fishing.

Mr. POLIS. Thank you. I yield back.

Mr. GOHMERT. The gentleman yields back. At this time, the Chair recognizes the gentleman from Arkansas, Mr. Westerman, for 5 minutes.

Mr. WESTERMAN. Thank you, Mr. Chairman. Mr. Obermueller, the BLM’s proposed planning rule is lifted almost entirely from the Forest Service’s planning rules adopted in 2012. It is almost uncanny how similar they are. Whole concepts and ideas are taken straight from it, including this new planning assessment phase at the very beginning where the Agency asks all stakeholders for information and ideas on the scope of the management plan.

My district contains well over 2 million acres of National Forest Service land, but no BLM land; so I want to know, how has the Forest Service implemented the 2012 planning rule, and do you believe it should serve as a model for the BLM or the Department of the Interior as a whole?

Mr. OBERMUELLER. Congressman Westerman, thank you for that question. It is very insightful about the Forest Service planning rule that has been in effect since 2012, and you are exactly right. The BLM, in many ways, did not reinvent the wheel. They looked to the Forest Service planning rule in a lot of ways, including the planning assessment which you have heard a lot about.

I want to make clear that we support the planning assessment phase, and we support any of the groups being able to provide data during that time. Our issue is that when local governments, by their own action, create data via impact memos—in one case in Campbell County, Wyoming, they convened a scientific symposium on raptors after the process had already begun. Under the proposed rule, the local government data generated at that point would not necessarily be admissible anymore, into the planning process.

The Forest Service has its planning assessment phase as well. They have used it, we have supported it, and we appreciate the way the Forest Service has tried to engage local governments and be nimble. Here is the challenge—and I would be interested to hear
how your constituents feel about it in your forests—the challenge is the Forest Service under their Act, NFMA, does not have the same statutory requirements that the BLM does. The BLM, under FLPMA, has the statutory requirement of coordination with local governments. The Forest Service does it out of the goodness of their hearts.

The trouble with the Forest Service in that case is that they do not have the anchor of Federal law from Congress to come back to about the direction they are supposed to take, so sometimes they flounder about how to engage any stakeholder, including local government.

So, while we appreciate the Forest Service’s nimbleness, we keep coming back to what is directed to the BLM under FLPMA.

Mr. WESTERMAN. Thank you for that. Mr. Fisher, you talked in the first part of your testimony about being an outdoorsman, hunting and fishing. It sounds very similar to where I grew up and what I still try to do. My son and I actually caught some fish Saturday and cooked them up for supper, and there is nothing better than fresh fish for dinner. It is making me ready to get back to Arkansas.

I am not sure of all of your background, but I know you work for Trout Unlimited, so you are very concerned about the protection of streams and water quality.

Can you describe what happens to a stream if you were to clearcut right down to the stream edge, remove the shade, and create soil erosion that would go into the stream? What does that do to trout fisheries?

Mr. FISHER. Representative Westerman, increased water temperature and turbidity make it more difficult for trout, for instance, to have successful spawning. At the end of the day, the fishing gets worse.

Mr. WESTERMAN. So, that is something we definitely do not want to see—the water warm up, more soil going into the stream and damaging the fishery. That also does not do good for the water. If we look at forestry management, what natural occurrence does a clearcut simulate? It is a forest fire, a stand replacement forest fire; so if you get one of these huge forest fires that burn right down to the stream edge, it is essentially like you went in and clearcut it. Now you have exposed the water to higher temperatures. You have not only soil runoff but ash runoff into the stream, which is not good at all for the fishery.

One thing I am concerned about in the rule—and I think it is a good thing—it says ensure that the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resources, and archeological values, and it goes on and on. I am almost out of time, but it just says to recognize the need for domestic sources of minerals, food, timber, and fiber from the public lands.

So, if we are only recognizing the need, and we are not actively managing the forest, I am worried we are going to destroy some of these other things that we say we are there to ensure. And if I wasn’t out of time, I would go on, Mr. Chair.
Mr. Gohmert. Thank you. I thank the gentleman. At this time, the Chair recognizes Mrs. Radewagen for 5 minutes.

Mrs. Radewagen. Thank you, Mr. Chairman. Mr. French, you are a former land manager and now a county commissioner, so you have been on both sides of coordination and of the Federal Land Policy and Management Act. Based on your impressions, does the proposed Planning 2.0 rule, as it is currently presented, serve to strengthen the hand of local governments or of the Federal agencies; and if so, how?

Mr. French. In my view, Congresswoman, I believe that the plan, as it is proposed at this time, will weaken the ability of the counties to not only weigh in relative to the development of RMPs; but as the circumstances change within the landscape of the resources in this county, the ability to pivot and actually change management based on real life conditions on the ground will be limited.

I believe it also is going to limit our ability as county commissioners to weigh in with our constituents in the form of public hearings as this moves forward, because it limits our ability to be involved at the ground level, especially with regard to changes that will occur within the context of the plan.

Mrs. Radewagen. How could Planning 2.0 be improved to better allow for greater local involvement in BLM planning?

Mr. French. Thank you for that question. One of the major things that came to my mind, as I went through this plan the first time, is that if it isn’t broke, don’t fix it.

I agree with some of the comments that have been made here today that the plan that has been recognized under FLPMA for years could use some updating with regard to the public’s involvement. But that should not be at the expense of the stakeholder relationships with the public land managers, because those stakeholders, including the state and local governments, are the subject matter experts and the people that are on the ground on a day-to-day basis who will be able to recognize and make meaningful suggestions and contributions to plans being developed, as well as plans being modified in the future.

Mrs. Radewagen. Mr. Obermueller, what can BLM do to improve this rule from your perspective?

Mr. Obermueller. Thank you for the question. I probably can’t answer that in 2 minutes. Our official comments will be rather lengthy, but I think there are a couple of things. Maybe most importantly, the Agency could clarify their intentions with regard to the opportunities and ability for local governments to be involved as cooperating agencies moving forward.

The cooperating agency process that I alluded to in my testimony under CEQ regs is not perfect, but it is the process that we have; and in Wyoming, county commissioners in Wyoming, across the state, are actively involved in that process. It is not easy. It is a tough slog to wade through all of these rules and be involved in that way, and it is difficult to convince elected officials, as Commissioner French pointed out, who are often part-time and do not have staff or resources, to stay engaged if they do not see a result at the end, or do not feel that the agency is giving them the
time and attention they deserve, rather than simply checking the box. Clarifying our role as a cooperating agency would be primary.

Mrs. RADEWAGEN. Anything you would like to add, Ms. Cowan?

Ms. COWAN. I think that it is interesting that we are talking about a planning rule that needs to include the public in the planning, but the planning rule did not include the public in the planning.

So, stepping back and taking a look at this and working with the interested people, we have identified several areas of common ground here this afternoon. But this just seems to be a heavy-handed attempt to take local control, which is working very well in New Mexico at this point in time, and bring it to Washington, DC. And, when you take something that far away from the impacts, we have never had a good outcome.

Mrs. RADEWAGEN. Thank you, Mr. Chairman. I yield back.

Mr. GOHMIERT. The gentlelady yields back. At this time, the Chair yields to Mr. Clay for 5 minutes.

Mr. CLAY. Thank you, Mr. Chair. Let me start with Mr. Fisher. Do you think the landscape-scale approach will improve management of public lands overall?

Mr. FISHER. Representative Clay, I do believe that it will. I would like to address that landscape-scale planning a little bit. I think that what the BLM is really trying to get at, at least I hope so, for hunters and anglers, it is more of a scalable, so we are not just necessarily going and planning for a large landscape, but we are taking a look at conditions of the ground and planning for the issues that need to be addressed; and that could scale up, or it could scale down. But I think that having that flexibility will help with the management of our public lands.

Mr. CLAY. The other witnesses have expressed concern that the landscape approach encourages a one-size-fits-all approach to resource planning by moving planning to the regional level. It seems as though planning at the landscape level would make the plans more tailored to the unique needs of the individual landscape. What are your thoughts about that?

Mr. FISHER. I think that how that planning area is defined really needs to be informed with that assessment at that assessment phase; and that when it does, whether it is a regional plan or if it is scaled down to a smaller plan, that it is really going to help address the issues on the ground and find ways to do so from the ground up through collaborative processes.

Mr. CLAY. Does landscape planning make plans more generic or more tailored to the resource needs?

Mr. FISHER. Representative Clay, I think when done well, they would be more tailored to the resource needs and the needs of America’s public land users.

Mr. CLAY. All right. As I understand it, one problem with the current planning process is that alternatives are evaluated without public input. So, when the public is finally involved, which may be months or years down the road, someone can sue because, for example, the selection of the alternatives was not complete. What is the effect on lawsuits that this rule is likely to have?

Mr. FISHER. Representative Clay, I believe that that early-and-often collaboration, which will help achieve buy-in and create own-
ership from the public over these plans, would result in a reduction in litigation. I think when people view these plans as their own, they are less likely to litigate them.

Mr. CLAY. That sounds like something my friends here would be in favor of, less litigation by trial attorneys. I am sure the Chairman would pretty much agree with that. Isn’t that right, Mr. Chair?

Mr. GOHMERT. In the appropriate circumstances.

Mr. CLAY. In the appropriate circumstances. Let me yield back the balance of my time. Thank you for your response.

Mr. GOHMERT. Thank you, Mr. Clay. At this time, the Chair recognizes Mr. Hice for 5 minutes.

Mr. HICE. Thank you, Mr. Chairman. Mr. Obermueller, let me begin with you. Under the current regulations, if you asked to be a cooperating agency and the authorized officer denies the request, does it go automatically to the State Director for review at that point?

Mr. OBERMUELLER. Representative, actually I am not quite sure of the mechanics at that point. They do have the authority, with respect to the cooperating agency regulations, of who to accept or not.

In Wyoming, we are proactive in making sure that not only do we point out that they are instantly required to coordinate, but we work hard at making them want us to be involved; so we have not had a denial like that to work on.

Mr. HICE. How does the new proposed rule work?

Mr. OBERMUELLER. With respect to cooperating agencies, Representative?

Mr. HICE. Right.

Mr. OBERMUELLER. As I mentioned in my testimony, it actually closely mirrors the CEQ guidelines. Technically, under the CEQ guidelines, the agency is supposed to reach out to local governments and invite them to the table. We have learned the hard way, in Wyoming and in the counties across the West, that we cannot rely on the agency to follow that, to actually do the invitation. So, we invite ourselves, quite frankly; and we are proactive about that.

Mr. HICE. All right. From this perspective, if for some reason you are denied, BLM says you are not allowed to participate. Is there any way to have that decision reviewed?

Mr. OBERMUELLER. Representative, not that I am aware of.

Mr. HICE. So, that is the final say? If they say you are not allowed to participate, that is the end of discussion?

Mr. OBERMUELLER. I believe that is correct, Representative.

Mr. HICE. Mr. French, would you like to tap in on that?

Mr. FRENCH. Under current FLPMA law, if you are denied cooperating agency status, you can appeal that to the State Director’s office. Under 2.0, it is not clear if it would stop——

Mr. HICE. Is that a change that you think serves counties well?

Mr. FRENCH. To be able to appeal that to the State Director?

Mr. HICE. You said they are not able to under the new rule. Is that good for counties or bad?

Mr. FRENCH. Not at all.

Mr. HICE. Right. Why not? Expound on that.
Mr. French. I believe that, especially, if the decision to not admit an entity under cooperating agency status is made by a regulatory authority that might be in Washington, DC, or in a regional office at best, they may not understand the full dynamics of why that group, including a county, would want to be involved in that; and the county or a group that has petitioned for that should have the opportunity to make that case in front of a state director.

Mr. Hice. OK. So, should there be some sort of back drop, do you think, to at least provide good reason for excluding counties if they have been denied the right to participate?

Mr. French. I am not sure I understand what the rationale could be for that. We talked a few moments ago about limiting litigation. I think the probability for increasing litigation is probably a very real problem under 2.0, if the appeals process is short-circuited. From a transparency standpoint, the more you can have your stakeholders make their case publicly for their involvement in a process, the better.

Mr. Hice. OK. Ms. Cowan, you look like you are wanting to pipe in?

Ms. Cowan. Yes, if I could weigh in on that a little bit. One of the things that is most startling as you go through 2.0, is that throughout the document, they removed the word “shall” in their regulations and replaced it with “will.” When you talk about words mattering as legislators, the difference between “shall” and “will” are vastly different; and that is a huge concern.

Mr. Hice. Explain what that means practically for local governments?

Ms. Cowan. To me, it means that BLM can do whatever they want. They will do something, but they are not held to that standard in any way. If they decide to change something, “shall” does not hold their feet to the fire.

Mr. Hice. OK. So they can do what they want. Would you consider this an over-reach?

Ms. Cowan. Absolutely. Without a doubt. We talked about litigation, and we talked some about the landscape. I guess it would be my contention that landscape planning is going on already, because we have organizations like Mr. Obermueller’s where county commissions get together. They work on these things together; and things do not just stop at one county line and move on to the next. In this over-reach, you are taking local government out. So, the economics of what happens in each county becomes a factor that is not considered. There are some things that may need to be changed in this, but there are a lot of things that work; and we need to work through and save those things.

Mr. Hice. Thank you. I yield back, Mr. Chairman.

Mr. Gohmert. Thank you. At this time, the Chair recognizes the gentlelady from Wyoming, Mrs. Lummis, for 5 minutes.

Mrs. Lummis. Thank you, Mr. Chairman. To follow on the last line of questioning about centralization of decisionmaking—Mr. Obermueller, if field managers and state directors are removed from the rule as the specific go-to people with direct responsibility for drafting and approving resource management plans, who then becomes responsible?
Mr. Obermuller. Thank you, Representative Lummis. This is a very good question. The proposed rule, in an effort to do these landscape-scale analyses, which I will get to in a moment, does remove the State Director and the field manager as the officials specifically designated to draft or approve these plans, replacing it with a deciding official, an approving official, or something like that.

The county commissioners in Wyoming do not want to necessarily be focused on who is doing this. We are much more interested in how. But this is a troubling trend in the sense that Mr. Fisher mentioned—if it is done right, then landscape planning will work. We are concerned it cannot be done right, if in a particular area, a person is air dropped in who does not have a cultural affinity, or a recognition or rapport, with the local stakeholders on the ground in any given county.

So, I am not troubled by the notion of landscape-scale planning. You know this well, Representative Lummis, that in Wyoming we already do that. We plan large scale for sage grouse, for wildlife migration, for energy development; we plan large scale all the time. But, I am very troubled by this notion of diminishing the role of counties, that somehow county boundaries do not matter or somehow hinder landscape-scale planning. What are county commissioners for if not to represent the people in the county, every one of them, single issue interest or not?

Mrs. Lummis. Are there examples of where Federal agencies have minimized the role of local governments already?

Mr. Obermuller. Yes, there certainly are. I hate to focus on the negative, but one of the things that particularly troubles county commissioners, elected officials, is some Federal agency’s tendency to want to go out and do what they call “situational assessments” or “stakeholder analysis” and that sort of thing.

Again, it is the people of the county who elected the commissioners. If you want to do a situational assessment, ask the elected county officials, and you will get a situational assessment that is a broad view. They are accountable to the public. If the public thinks they are not giving the right assessment, they will be gone, and a new group will be back.

Those are some examples, and that is why we are concerned in the Planning 2.0 rule, particularly with respect to when and how county-generated data can be inserted into the planning process, that that will marginalize local governments.

Mrs. Lummis. I have been a little concerned about how multiple use is being interpreted. It seems like it has been morphing over the years to prioritize certain multiple uses and deprioritize others. What steps could Congress take when we are looking at FLPMA and the Wilderness Act, to ensure that multiple use is adhered to on Federal lands? And I would like to ask that question of each of our panelists, so please be as brief as you can with a broad question. Could we start with Mr. Obermueller?

Mr. Obermuller. Yes. Thanks for that question. It is a very big question, and I think that I appreciated watching the testimony on the local Act introduced, or discussion draft, about ways to try to improve local coordination.
One of the things that concerns us is that we have to be very careful with that, about making sure that the agencies are encouraged and incentivized to work with local governments as opposed to giving them just a checklist that, as soon as they check it, they are out the door.

It would take a long time to get into the specifics of how to make that work; but, again, it goes back to their responsibility and our responsibility to not only know that you need to follow the law, but you have to be willing to do the work to be engaged in a meaningful way.

Mrs. LUMMIS. Mr. Fisher, multiple use. How can we protect true multiple use?

Mr. FISHER. Representative Lummis, that is a wonderful question. I think that Congress could really help to ensure that early-and-often public engagement, through collaborative processes to find that balance between resource development and conservation, and to make sure that all stakeholders' interests are represented. Then, when those collaborative processes result in a solution, to help implement that if a legislative mechanism is necessary.

Mrs. LUMMIS. My time is expired, Mr. Chairman. Could you indulge the other two witnesses the opportunity to answer that question?

Mr. HICE [presiding]. Yes.

Mrs. LUMMIS. Thank you so much. Ms. Cowan, same question. How can we ensure true multiple use?

Ms. COWAN. Mr. Chairman and Representative Lummis, I think that Mr. French and I were perhaps raised in different generations than the gentleman to my right. I was raised with the idea that you had to be held accountable, and I don't often find that Congress is holding the agencies accountable to sticking to their missions.

When you look at the resources, the financial and manpower resources, that went into this document, where did Congress authorize this kind of a process that sucks public participation and government participation out? So, if there are ways that Congress can hold agencies more accountable, via their budgets or other ways, you have to do your job first and then you look beyond at what you have the time and resources to do.

Mrs. LUMMIS. Mr. French, same question.

Mr. FRENCH. I will try to be brief, but I am going to date myself. I was an active wildlife biologist when FLPMA was actually adopted, and I recall the working relationships the state wildlife agency had prior. I worked with it for 34 years after, and I can tell you that that was one of the things that Congress had in mind when FLPMA was passed—we called it the sweet spot, that area that was not overly regulatory and did not provide for overutilization of public resources.

But to answer your question, the interpretations of the law need to be tightened up. The devil is in the details, in terms of how one line manager interprets FLPMA and his involvement in creating a range of alternatives that involve an accurate depiction of what is needed for public land management in a particular location, because it is different in every location.
So, I would say if we could tighten up the rule and tighten up the language which would make it consistent from one district to another, that would go a long way.

Mrs. LUMMIS. I thank the witnesses, and I thank the Chairman also for your indulgence. I yield back.

Mr. HICE. You are very welcome. I would like to thank each of the witnesses for your testimony and each of the Members for the questions today.

I would also like to ask unanimous consent to enter into the record two letters regarding the Planning 2.0 rule. The first consists of comments from the American Motorcyclists Association, and the second a letter to BLM from the Utah Public Lands Coordination Office. Hearing no objections, so ordered.

[The information follows:]

AMERICAN MOTORCYCLIST ASSOCIATION,
WASHINGTON, DC

May 11, 2016

Hon. LOUIE GOMHERT, Chairman,
Hon. DEBBIE DINGELL, Ranking Member,
House Subcommittee on Oversight and Investigations,
Longworth House Office Building,
Washington, DC 20515.

Dear Chairman Gohmert and Ranking Member Dingell:

The American Motorcyclist Association applauds the Subcommittee on Oversight and Investigations for holding the hearing titled, “Local and State Perspectives on BLM’s Draft Planning 2.0 Rule.” The usurpation of local, state, stakeholders and Congress that underlies the U.S. Bureau of Land Management’s proposed planning rule is very troubling to us.

Founded in 1924, the AMA is the premier advocate of the motorcycling community. We represent the interests of millions of on- and off-highway motorcyclists in the United States. Our mission is to promote the motorcycle lifestyle and protect the future of motorcycling.

The AMA recognizes the benefit of periodic reviews to ensure processes are relevant to current conditions and appreciate the opportunities—to date—that were provided for public input.

However, we are concerned that the landscape-level focus of the Planning 2.0 proposal minimizes input from local and state governments, public officials, and private citizens; fails to address economic impacts and administrative costs of the proposed changes; and results in comprehensive changes which can be easily reversed under new secretarial leadership.

Inconveniently scheduled public input opportunities, despite assurances of increased public involvement, have been insufficient and speak directly to the AMA’s long term concerns about the proposed planning approach. The processes that spawned the Rapid Ecological Assessment and Landscape Conservation Cooperatives that are central to the proposed foundation of landscape planning provide a troubling example. The proposal’s assurances of greater input from other federal agencies does not address that concern.

Without any mention of the economic impacts of the proposed changes on affected communities and other stakeholders, the AMA is justifiably concerned that no consideration was given to the topic. Similarly, direct costs of the proposed changes were left unaddressed and should be a primary topic in this era of constrained budgets.

Finally, the significance of the proposed changes being based on a Presidential Directive and four Secretarial Orders—all of which circumvent the U.S. Congress, states and a wide range of national, regional and local stakeholders—cannot be overstated. It is ironic that President Obama’s 2009 Open Government Directive is cited as the basis for the proposed rules that minimize public involvement. Further, Secretarial orders 3289 on climate change, 3285 on renewable energy, 3330 on mitigation policies and 3336 on rangeland fire protection were created and used to justify the proposed rule, apparently without any public input.

This process appears to be similar to the way the failed Washington, D.C.-led effort of the Wilds Lands (Sec. Order No. 3310) designation would essentially allow
officials in the BLM to manage public land as if it had received a “Wilderness” land-use designation from Congress, but without requiring congressional approval or local and state input.

In conclusion, while the AMA recognizes the need for periodic review of planning processes and acknowledges the limited opportunities that were provided for public input to date, we nevertheless believe the current process—which is based on presidential and secretarial proclamations and designed to favor input from other federal agencies over local and state stakeholders—has created an inherently flawed planning proposal.

Again, thank you for holding this important hearing and supporting outdoor recreation and motorcyclists. The AMA looks forward to working with you on all motorcycle-related issues before Congress.

Sincerely,

WAYNE ALLARD,
Vice President, Government Relations.

OFFICE OF THE GOVERNOR,
PUBLIC LANDS POLICY COORDINATION OFFICE,
SALT LAKE CITY, UTAH

May 10, 2016

Neil Kornze, Director,
Bureau of Land Management,
1849 C Street N.W.,
Washington, DC 20240.


Dear Mr. Kornze:

The Bureau of Land Management’s (BLM) recently proposed planning rule, often referred to as “BLM Planning 2.0,” adds a new step to resource management planning called the “planning assessment” that would purportedly “include new opportunities for public involvement.” The State of Utah finds that the proposed planning assessment process fails to “provide for meaningful public involvement of State and local government officials” as required by the Federal Land Policy and Management Act (FLPMA). The State requests that the BLM amend the Proposed Rule to require BLM officials to formally coordinate the planning assessment with State and local governments, in accordance with FLPMA.

Under FLPMA, the BLM must “coordinate the land use inventory, planning, and management activities . . . with State and local governments” as well as “provide for meaningful public involvement of State and local government officials.” These requirements apply to all steps of resource management planning, including the proposed planning assessment. As currently written, the Proposed Rule would place non-governmental organizations and the general public at the same level as State and local governments in the planning assessment process, violating FLPMA. If the BLM adds planning assessment to its planning process, it must specifically and formally coordinate each planning assessment with State and local governments. That coordination must be distinct from any public outreach in order for the State and local governments’ involvement to be “meaningful” under FLPMA.

Democratically elected government officials represent the majority view of their constituents. The views of State and local government elected officials should receive particular consideration in the planning assessment process. Under FLPMA, the BLM may not formally coordinate with non-governmental organizations since such groups are not elected bodies and do not represent the views of the majority. The public is empowered to influence resource management planning through their elected officials, and to vote out of office those government officials who fail to represent public views during coordination with the BLM. Thus, coordination must in-

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4 id.
6 43 U.S.C. 1712(c)(9).
clude private meetings between the BLM and State and local governments where officials from both sides can openly share expertise, assess the resource, environmental, ecological, social, and economic conditions of the relevant planning area, and formulate the objectives of the planning assessment. Such meetings should include a discussion of State and local land management plans and explore how the relevant BLM plan can complement the objectives of State and local management plans.

The planning assessment process should facilitate efficient resource management planning without circumventing the role of State and local governments in coordination. The State proposes the following amendments to Section 1610.4 of the Proposed Rule (suggested additions in italics, suggested deletions in underlines).

§ 1610.4 Planning assessment.
Before initiating the preparation of a resource management plan the BLM will, consistent with the nature, scope, scale, and timing of the planning effort, complete a planning assessment.

(a) Information gathering. The responsible official will:

(1) Arrange for relevant resource, environmental, ecological, social, economic, and institutional data and information to be gathered, or assembled if already available, including the identification of potential ACECs (see §1610.8-2). Inventory data and information will be gathered in a manner that incorporates data from State and local governments, aids the planning process, and avoids unnecessary data-gathering;

(2) Identify relevant national, regional, State, or local policies, guidance, strategies or plans for consideration in the planning assessment. These may include, but are not limited to, executive or Secretarial orders, Departmental or BLM policy, Director or deciding official guidance, mitigation strategies, interagency initiatives, and State, or multi-state, and local resource plans and policies;

(3) Provide opportunities for other Federal agencies, State and local governments, Indian tribes, and the public to provide existing data and information or suggest other policies, guidance, strategies, or plans described under paragraph (a)(2) of this section, for the BLM’s consideration in the planning assessment; and

(4) Identify State and local plans with which BLM plans must be consistent to the maximum extent consistent with FLPMA and Federal law, in accordance with 43 U.S.C. 1712(c)(9);

(5) Coordinate with State and local governments and Indian tribes to formulate BLM planning and management objectives in the planning area, in accordance with 43 U.S.C. 1712(c)(9); and

(4) Identify relevant public views concerning resource, environmental, ecological, social, or economic conditions of the planning area.

The above amendments would fulfill the BLM’s statutory mandate to “coordinate land use inventory, planning, and management activities . . . with State and local governments” and to “provide for meaningful public involvement of State and local government officials.” It would assure that State and local governments, as elected representatives of the public, have a specific, formal role in the planning assessment process. The proposed amendments would also fulfill FLPMA’s requirement that “Land use plans of the [BLM] under this section shall be consistent with State and local plans to the maximum extent [the BLM] finds consistent with Federal law and the purposes of [FLPMA].”

The State’s proposed language would still allow the BLM to identify public views, consistent with FLPMA’s requirements to develop, maintain, and revise land use plans “with public involvement” and to “give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands.”

The BLM can greatly improve the Proposed Rule through regular consultation with State and local governments. This letter constitutes an attempt by the State
to consult with the BLM, not as an opposing party but as a partner with the BLM seeking the best management of public lands. Greater consultation and coordination with State and local government is needed across all BLM planning, and adoption of the changes recommended in this letter would be a critical first step toward better coordination. The State strongly requests that the BLM amend the Proposed Rule according to this letter and looks forward to the response. Please feel free to contact Utah’s Public Lands Policy Coordinating Office with any questions.

Sincerely,

KATHLEEN CLARKE,
Director.

Mr. HICE. The members of the committee may have some additional questions for the witnesses, and we will ask you to respond to those in writing. Under Committee Rule 4(h), the hearing record will be held open for 10 business days for these responses.

If there is no further business, without objection, the committee stands adjourned.

[Whereupon, at 3:30 p.m., the subcommittee was adjourned.]

[List of Documents Submitted for the Record Retained in the Committee’s Official Files]


— Letter with Comments from the County of Otero, New Mexico, addressed to BLM Director Neil Kornze, Acting Asst. Director of Resource Planning, Mike Tupper, and Director (630) in regards to BLM’s proposed Planning 2.0.

— Letter with Comments from the Wildlife and Hunting Heritage Conservation Council addressed to DOI Secretary Sally Jewell in regards to BLM’s proposed Planning 2.0.


— Submitted Statement of Joel Webster, Director of Western Public Lands at the Theodore Roosevelt Conservation Partnership to the Subcommittee in regards to the hearing (May 2016).