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HOW THE BUREAU OF LAND MANAGEMENT LAND USE PLANNING PROCESS UNDER THE FEDERAL LAND POLICY AND MANAGEMENT ACT AFFECTS PERMITTING FOR ENERGY, MINING, GRAZING, AND INFRASTRUCTURE PROJECTS ON PUBLIC LANDS

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED NINETEENTH CONGRESS

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WEDNESDAY, NOVEMBER 19, 2025

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m. in Room SD–366, Dirksen Senate Office Building, Hon. Mike Lee, Chairman of the Committee, presiding.

The CHAIRMAN. The Committee will come to order. Good morning and welcome to all of you.

Today, we are holding a hearing on how, exactly, the Bureau of Land Management plans land use under the Federal Land Policy and Management Act, also known as FLPMA. More specifically, we will examine FLPMA's impact on how the Bureau—the BLM—issues public land permits for energy, mining, grazing, infrastructure projects, and other uses. We will be hearing from five witnesses today to consider how BLM's permitting process has become rigid, slow, and often detached from the intent Congress expressed in passing FLPMA of multiple use and sustained yield as those concepts are articulated in FLPMA itself.

The witnesses include, first, the honorable Derek Brown, Attorney General of the State of Utah; second, Jim Kenna, retired California BLM State Director; third, Micah Christensen, who is Natural Resource Counsel for the Wyoming County Commissioners Association; fourth, Adam Cramer, CEO of the Outdoor Alliance; and finally, Greg Sheehan, former Utah BLM State Director, and current President and Chief Executive Officer of the Mule Deer Foundation.

We are going to recognize Senator Barrasso for a moment to talk about one of these witnesses with whom he is familiar.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM WYOMING

Senator BARRASSO. Well, thanks so much, Mr. Chairman. And I do appreciate what you just said—rigid, slow, and often detached. And that has certainly been the experience that we have seen in Wyoming.

And so, I am delighted that Micah Christensen is here today, and I am honored to introduce him to the Committee. He is Natural Resource Counsel for the Wyoming County Commissioners Association. He works closely with Wyoming's County Commissioners every day on federal natural resource issues. He is a seventh-generation member from Wyoming, grew up in the Bighorn Basin in Wyoming, and graduated from the University of Wyoming College of Law. Prior to joining the Wyoming County Commissioners Association, he served as Assistant Attorney General for the State of Wyoming. At that point, he represented the Wyoming Oil and Gas Conservation Commission. He now lives in Casper with his wife and his four children.

Over the past few years, he has worked to defend and represent Wyoming's interests when it comes to federal land management. He has become a pivotal voice for Wyoming, and has seen firsthand the federal overreach from the previous administration. So, I am grateful that he has come here today to be with us to discuss the Federal Land Policy and Management Act, and I am thankful for all he does on behalf of Wyoming's County Commissioners and the people of our great state.

Micah, thank you very much for joining us.

Thank you, Mr. Chairman, for allowing me this opportunity.

The CHAIRMAN. Thank you. Thank you very much.

OPENING STATEMENT OF HON. MIKE LEE, U.S. SENATOR FROM UTAH

When Congress first enacted FLPMA back in 1976, the idea was pretty straightforward. Federal agencies would manage public lands with a clear eye toward multiple use and sustained yield. States and counties would, of course, be partners in this. The planning process would be predictable and would be responsive to conditions on the ground, as expressed by those involved in the process. It's not always how the system functions today. Congress intended the resource management plan (RMP) to be flexible and that these processes would involve flexible instruments that could adapt with changing circumstances and according to local needs.

But instead, they have often become these very large and, in fact, enormous static documents that take many, many years to write and even longer to revise. By the time an RMP is finalized, local conditions have often shifted, new technology may have emerged, and project needs may have changed substantially. The rigidity that we see in this process can end up affecting everything, from energy development, to grazing renewals, to recreational access. A project can satisfy federal law and environmental requirements, but if the plan that governs the landscape is outdated, the project may be stalled anyway, in which case, applicants are left waiting for permits that should be routine. Project proponents face uncertainty. Counties are forced to operate under assumptions that no longer match reality.

The expanded use of restricted designations, like areas of critical environmental concern (ACECs) and wilderness study areas (WSAs), demonstrates how far the process has deviated. Congress intended these tools to protect specific resources. Over time, however, the BLM has applied these concepts to enormous tracts of

land, often layered with other restrictions, and these things are rarely reviewed. Even before the Biden administration's abuse of the ACEC designations, as of 2021, over 20 million acres of BLM land were designated as areas of critical environmental concern. This designation limits active management and access for uses that Congress specifically drafted FLPMA to support.

The Rock Springs RMP in Wyoming provides a pretty clear case study of this phenomenon. The Biden administration tagged more than a million acres with restricted designations, which had sweeping implications for communities that rely on public land. Wyoming counties raised concerns. The state raised concerns. The proposed plan moved forward anyway. Now, thankfully, in response to public outcry from local officials, the Trump administration reopened the plan. But that sequence of events reveals a process in which coordination with state and local governments is a courtesy, not an obligation.

FLPMA requires the Secretary to coordinate with state and local governments, yet the statute gives that requirement no legal teeth. As a result, federal planners can move forward without the most current information available. States and counties have up-to-date data on wildlife migration, water availability, infrastructure, and emergency needs. That information should strengthen federal planning. Instead, it's often incorporated late in the process or incorporated not at all. Coordination, when done correctly, results in locally supported plans that are durable, leading to more certainty for projects on federal lands.

We have an opportunity to explore ways we can improve the planning process. A functional system should allow for adaptive management. It should allow for timely adjustments and stable expectations for project sponsors. It should respect the knowledge of state and local governments that live with the practical consequences of these federal decisions. FLPMA rests on the idea that decisions made in Washington, DC, gain legitimacy only when they reflect the judgment of the people who have to live with the outcome. That assumption is as true today as it was in 1976, and it remains embedded within FLPMA today, as it was in 1976. The question before us is whether the Federal Government is meeting that obligation if what we want is a planning process worthy of the land that the process governs. Accountability cannot be merely symbolic. It must be real, it must be early, and it must include the states and local governments that know these landscapes the very best.

With that, we will turn the time over to our Ranking Member on the Committee, Senator Heinrich.

OPENING STATEMENT OF HON. MARTIN HEINRICH, U.S. SENATOR FROM NEW MEXICO

Senator HEINRICH. Thank you, Mr. Chairman, and I want to add my welcome to our witnesses here today to talk about how we decide what to do with our public lands.

Talking about resource management plans might not be everyone's idea of a great way to spend their Wednesday morning, but personally, I am very glad that this Committee is looking at this important element of public land management. The Federal Land

Policy and Management Act, or FLPMA, says something pretty simple: it says that the Bureau of Land Management should look at the lands it manages and decide how to manage those lands for multiple uses. The BLM has a complicated job—it has to figure out how to fit energy development and wilderness and grazing and wildlife habitat and mining and fishing and forestry and recreation and cultural resource preservation on the lands that it manages.

One approach could be a free-for-all—whoever puts the land to use first gets to decide what happens there going forward. Our nation did that for a long time, giving away public land via homesteading and mining claims and granting lands to railroads to facilitate western expansion. But conservationists like Teddy Roosevelt began to recognize that if we kept going down that path, we would have no public lands left, which would mean most Americans would be locked out of the nation's open spaces.

A few decades later, Congress passed FLPMA, and directed the BLM to keep public lands public and to manage public lands under the principles of multiple use and sustained yield. To do that, it requires the BLM to periodically produce land use plans to guide its management decisions. Now, recognizing that multiple use doesn't—and frankly can't—mean every use on every acre, these land use plans ensure that all uses have some of those acres. Land use planning is a robustly public process, integrating information and priorities from local residents, from businesses, from tribes and local governments, and public land users from across the nation. Finding ways to accommodate the broad range of everything from wilderness to mining is not easy, but the planning process makes sure that all uses are considered and everyone's voices are heard.

Now, unfortunately, these plans are updated far too infrequently—that is something that I think we all agree on—and are intended to be in place for about 20 years. The BLM has not been able to keep up with revisions to keep these plans aligned with today's priorities and technologies. Some plans in place now were written well before utility-scale solar was common, and few are ready to facilitate the increase in geothermal energy production that's on the horizon. Many current plans don't accommodate the explosion in outdoor recreation that our public lands now host. Recreation on public lands is now an economic powerhouse, generating $128 billion in economic activity every year and driving $6 billion in federal tax revenue. On BLM land alone, recreation supports 76,000 jobs and contributes to more than $12 billion in economic output. Those numbers are very different than they were 30 or 40 years ago, when many BLM land use plans were actually written, and in fact, we weren't even keeping track of recreation statistics when many of these plans were written.

I look forward to hearing from our witnesses about how we can make the planning process more efficient and more responsive to changes in how we use our public lands while making sure that our public lands continue to serve the public for generations to come.

Thank you, Chairman.

The CHAIRMAN. Thanks, Senator Heinrich.

We will now begin hearing from each of our witnesses, and we will start with Attorney General Brown and then move over from there. Each of you will have five minutes.

As we do so, I want to briefly introduce Attorney General Brown. Derek and I have known each other for most of our lives now, going back 30-plus years, ever since college. We have worked together on four or five separate occasions, working at the same location. He has been a member of my team in the past. We practiced at the same law firm, and he and his wife Emilie are good friends of ours.

So, I welcome our state's esteemed Attorney General, The honorable Derek Brown.

Mr. Brown, you may proceed.

STATEMENT OF HON. DEREK BROWN,
ATTORNEY GENERAL, STATE OF UTAH

Mr. BROWN. Thank you. I appreciate that.

Good morning, Mr. Chairman, Ranking Member, and members of the Committee. As the Chairman said, I am the Utah Attorney General, Derek Brown, and I appreciate the opportunity today to speak with you about an issue that is critical, not just to my home State of Utah, but to the entire American West, and that is effective public land management.

Now, in Utah, the Federal Government controls the overwhelming majority of our state, roughly 68 percent of our landmass. So, because the Federal Government controls virtually two out of every three acres in our state, it's critical for our environmental, economic, and social well-being to have a functioning system of what we often call "cooperative federalism," where we work together. And the nature is what are really the "3 C's" of public land management—coordination, cooperation, and consistency in mandating the multiple use and sustained yield that is part of FLPMA.

So, FLPMA, itself, mandates meaningful public involvement of state and local government officials in land use decisions. And so, for that reason, in 2015, our state did what I think was the first of its kind—the legislature asked all 29 counties to create a comprehensive county resource management plan, and that plan was then used to create a state resource management plan to manage our state's precious natural resources. But that plan is largely useless if the regulatory space doesn't have predictability or consistency. And so, while cooperation and collaboration are critical to the process, the language of FLPMA, as has already been mentioned, stops short of giving states any real meaningful say in the process itself. And so, often, the level of cooperation depends on the political context.

So, in my state, for instance, we have unfortunately seen federal agencies simply ignore state-specific input and state-specific science. One example of this was in 2015, when the administration at that time just ignored the state-specific information and ended up adopting sage grouse plans that were inapplicable to Utah's unique environment. Another example involves not just wildlife, but infrastructure—what we refer to as the Northern Corridor. This is a highway project in Washington County, Utah. It is designed to alleviate traffic concerns and has been planned for over a decade now, and state, county, and local stakeholders have largely been shut out of the process entirely, and state-specific science involving the Mojave Desert Tortoise was mostly ignored.

Another example is where state and county officials in Utah were largely denied any meaningful role in the development of the final RMP for the Bears Ears National Monument. So, other stakeholders, not necessarily the state and local officials, had the benefit of countless coordination meetings where they were provided meaningful opportunities to be involved in the planning process. And one of the most well-known, that you may be familiar with, is the TransWest Express transmission line. This was a renewable energy project that was a priority for multiple administrations, and it has taken over 18 years to go simply from the application to the construction phase. So, this creates a lack of predictability, which really hurts everyone.

So, I guess the question is, what can be done? I believe there are bipartisan solutions that can be had to change FLPMA. As Utah's Attorney General, one of the things I do is, I look to work with other attorneys general in other states, both red and blue states, to identify long-term solutions to critical problems. And generally, I start by finding issues on which we can agree. One of the issues where I see there is a lot of agreement in this area is the fact that there is a regulatory whiplash every time an administration changes, throwing an RMP back into question. And that not only doesn't achieve FLPMA's goal of multiple use and sustained yield, but it's bad for the land, all of the land, regardless of where it's located.

So, ultimately, as a state, we want to be a partner, and that was what was contemplated by FLPMA, and we want to create an environment where there is more collaboration, more cooperation, more consistency, and more predictability. And I believe that result will create less friction with those individuals who are closest to the land, and it will empower states to make better long-term decisions preserving the land for future generations.

Thank you, and I look forward to any questions.

[The prepared statement of Mr. Brown follows:]

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL

DEREK E. BROWN
ATTORNEY GENERAL

Mark E. Burns
Civil Deputy Attorney General

Daniel Burton
Chief Deputy Attorney General
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Douglas Crapo
Consumer Protection
Deputy Attorney General

Stanford E. Purser
Solicitor General

Stewart M. Young
Criminal Deputy Attorney General

Utah Attorney General Derek Brown written testimony for U.S. Senate Energy & Natural Resources Committee on November 19, 2025

I appreciate the opportunity to speak with you all today about an issue that is central to my work and critically important for states like Utah, where the federal government controls significant portions of land within their borders. Indeed, the federal government manages 37.4 million acres, or about 68% of Utah's landmass, with 22.8 million of those acres under BLM management. Cooperation with the federal government, especially BLM, is therefore essential for the State of Utah. However, even in states with much less federal land, a functioning system of what we often call "cooperative federalism" is vital for environmental, economic, and social success. This is particularly true in rural counties across the West, where the economy is often driven by multiple uses of public lands.

I am here today to discuss the challenges we face when cooperative federalism breaks down – that is, when the coordination, cooperation, and consistency (often called the "3Cs" of public land management) clauses contemplated by Congress in laws like the Federal Land Policy and Management Act ("FLPMA") fail to provide the authority needed for the ongoing and effective execution of the multiple use and sustained yield mandates of public land management. The importance of these mandates cannot be overstated, and it is critical for us to collaborate with the federal government to find efficiencies in their implementation. Equally important, however, is ensuring predictability and consistency in the overall management of public lands. I believe we can find bipartisan agreement on the importance of predictability, especially when it comes to permitting.

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I would like to begin by providing some brief background on the role of Utah's Public Lands Policy Coordinating Office ("PLPCO"), with which the Office of the Utah Attorney General partners, and the State in managing public land, followed by a few real-world examples of how uncertainty can impact public land management, especially concerning the development of critical infrastructure projects.

As its name suggests, PLPCO's mission is to coordinate with various agencies and counties within the state and to serve as a central, united voice on public land management issues. In this role, PLPCO's staff is deeply involved, often as the lead state agency, in land use planning issues that involve the federal government. At the beginning of each planning process, we explicitly ask the federal government to ensure consistency with local land use plans and to adopt a partnership approach to all agency actions within the state. This request aligns with the mandates of federal public land management statutes, such as FLPMA, but it also acknowledges that federal land use plans can affect issues solely within the State's jurisdiction or expertise.

Utah has taken steps to act as an equal partner in the federal land use planning process. Notably, in a pioneering effort in 2015, the Utah Legislature required all 29 counties to develop County Resource Management Plans ("CRMPs"). These plans then contributed to a comprehensive State Resource Management Plan ("SRMP"), which sets the goals, objectives, and policies for managing 28 different natural resources, fostering coordination with federal agencies, and promoting the multiple use and sustained yield of Utah's public lands. The purpose of both the CRMPs and the SRMP is to ensure that public lands are properly managed for fish, wildlife, livestock, timber, recreation, energy, minerals, water resources, and importantly, the preservation of natural, scenic, scientific, and historical values.

Conceptually, at least, statutes such as FLPMA were designed to recognize and ensure consistency with these plans. In fact, the final language in Section 202 of FLPMA states, in relevant part: "Land use plans of the Secretary . . . shall be consistent with State and local plans to the maximum extent [the agency] finds consistent with Federal law and the purposes of this Act." Additionally, BLM must "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..."

To comply with this mandate, BLM regulations give governors sixty days to perform a "consistency review" on proposed land management plans to identify inconsistencies and offer recommendations on how to fix differences to the BLM state director. The BLM director must then "accept the recommendation of the Governor(s) if he/she determines that they provide for a reasonable balance between the national interest and the State's interest." FLPMA was therefore drafted to allow the reconciliation of federal land use plans with state and local resource management plans. Additionally, although I do not have time to discuss this in more detail, there are similar provisions in the National Environmental Policy Act ("NEPA") and the National Forest Management Act ("NFMA").

However, this language stops well short of giving states and local communities control over federal agencies' actions. In reality, federal agency heads are ultimately responsible for deciding whether federal programs align with state and local priorities and to override regional priorities in the name of achieving federal objectives. The result, unfortunately, is that the extent of cooperation in practice varies depending on the political environment. Despite the language of FLPMA, for much of the past 50 years, U.S. environmental politics and policy have often been characterized by a tug-of-war between federal, state, and sometimes local authority. Indeed, it has been our experience that federal agencies frequently ignore state-specific input to achieve political gains or to accommodate special interest groups.

At a minimum, this creates uncertainty regarding whether and to what extent state and local input is considered in federal land-use planning processes. Additionally, this overlooks input from local communities, which are best equipped to manage public lands, and fails to utilize state-specific resources to drive more efficient planning processes. This is especially problematic in rural counties throughout the State, some of which have as much as 90% of land subject to federal management. Wildlife management provides a particularly salient example of this issue. Federal law is clear – the states have jurisdiction over wildlife species within their border that are not listed under the Endangered Species Act or otherwise protected under federal law. Utah is proud of its wildlife management, and it takes that responsibility very seriously, expending significant resources to ensure wildlife is always managed according to the best available science and to prevent the need for listing under the ESA. Unfortunately, federal planning processes do not always utilize these resources or incorporate state science.

The most notable example of this failure in wildlife management occurred in 2015, when the Obama administration implemented sage-grouse plans based on science that was clearly not applicable to Utah's unique environment. The State provided that science during the planning process, but it was not reflected in the BLM's final decision. This resulted in the imposition of restrictions that were not grounded in the best available science. To be clear, the sage-grouse plans currently considered by this administration have addressed these concerns. In fact, I would argue that the most recent sage-grouse planning process should be recognized as a successful effort to foster cooperation in developing federal resource management plans. That process began under the Biden administration and is set to be finalized under the current one. Furthermore, it addressed the concerns of all states within the species' range—both red and blue. However, it has taken over a decade to fix the shortcomings of the 2015 plans, mainly because the federal government failed to collaborate with the states in finalizing the plans and, in doing so, neglected to consider local and state-specific science.

This is one of many examples where the federal government failed to fully cooperate with the state, but it highlights the larger issue with the current statutory framework – the mere allowance of state-specific consideration does not ensure state involvement and arguably creates an opportunity for outright disregard of the best available science. This is sometimes evident in final decisions, like the 2015 sage grouse plans, but it is also too often evident throughout the decision-making process. This is especially problematic because, while achieving consistency with state and federal plans and policies is required by FLPMA, the main way to achieve this is through substantive coordination throughout the process. For example, in the case of the Northern Corridor, a highway project considered by Congress under the Omnibus Public Lands Management Act of 2009 ("OPLMA") and meant to reduce traffic concerns in Washington County, Utah, the Biden Administration engaged in behind-the-scenes negotiations with special interest groups to ensure that the right-of-way decision did not fully incorporate the interests of the state, county, and local stakeholders. In this case, the state again provided science and local information showing that developing the Corridor would significantly benefit conservation efforts for the Mojave Desert Tortoise. Instead of collaborating to understand the importance of that information, the Biden Administration shut the state and county out of the planning process and ultimately revoked the right-of-way based on incomplete information.

Similarly, the State was not involved in a meaningful way in developing the Final Resource Management Plan for the Bears Ears National Monument. This contrasts sharply with the level of involvement that federal agencies allowed for the Bears Ears Commission during the planning process, where the commission participated in weekly and biweekly management and planning meetings, provided input on implementing the scoping process, developed alternatives, helped prepare draft documents, reviewed materials, and accepted revisions for final versions. In fact, the agencies outright refused a request for the State to have similar involvement. As a result, the final resource management plan contains numerous inconsistencies between the State SRMP and is clearly at odds with FLPMA's mandates for multiple use and sustained yield. The State advocates for revisions to FLPMA to guarantee equal involvement of states, counties, and tribes in decision-making.

Finally, setting aside the outcomes of these decision-making processes, we must consider the value and efficiency the federal government loses by failing to engage state and local governments early and often in resource management planning. Delays in federal permitting are routinely blamed on lack of agency capacity and available resources, inconsistent application of federal procedures, and litigation delays. These bottlenecks lead to very long planning processes for critical infrastructure across the country. One example is the Transwest Express Transmission line project, which took over 18 years to go from application to construction despite several administrations emphasizing it as a priority for increasing the use of renewable energy. Some of that delay can be attributed to the project's large size and the difficulty of obtaining approvals from multiple states. However, some of the delay also results from a failure to coordinate with state and local governments in developing relevant management plans.

Using sage-grouse planning as an example again, the approval process for the Transwest Express Transmission line involved creating, finalizing, and facing legal challenges to two separate sage-grouse plans. The 2015 sage-grouse plan set the initial requirements for moving the project through sage-grouse habitat. However, this plan was challenged by multiple states because it conflicted with their specific science, as we have discussed. The second version of the sage-grouse plans, signed by the first Trump administration in 2019, was challenged by environmental groups and ultimately blocked. This back-and-forth created a lot of uncertainty in the permitting process for Transwest Express, leading to major delays. This is just one example of many resources

that require federal planning within the Transwest Express corridor. Consistency across different administrations in how the federal government partners with states in these processes can help reduce this planning instability, even if it doesn't completely solve litigation issues. At the very least, it ensures that the best available local science from states is used in every planning effort.

So, what specific actions can be taken? Many issues are involved in this discussion, including how federal land management statutes interact with NEPA. I believe there is room to revise that statute to improve efficiency and certainty, but since this hearing is not meant to address NEPA changes, we will set those issues aside for now. It seems clear that statutory frameworks like FLPMA need to be revised to ensure that state-specific expertise is given substantial deference in developing federal land use plans—regardless of which administration is in power. This is especially important in processes involving resources controlled by the states, such as wildlife, water, law enforcement, and other resources.

These changes will enhance coordination with local agencies and bring more consistency and certainty to the land use planning process. In fact, stakeholders can then be confident that State-specific input, as outlined in established state and/or county resource management plans, will guide local land management decisions. Additionally, as equal partners in the planning process, States are incentivized to bring more resources and expertise to better inform planning efforts and boost efficiency. Ultimately, we can be sure that maintaining the current approach allows federal planning processes to be influenced by political forces and only increases existing uncertainty in planning and permitting.

Management of public lands is fundamentally place-based, with jurisdictional boundaries and neighboring private, tribal, and state entities. As a result, federal agencies involve state and local governments in public land management differently than they do in pollution control. However, this involvement varies widely, ranging from being the primary partner to just a consultant, and it is often influenced by political changes. Sometimes, administrations have excluded states from the planning process entirely, prioritizing input from special interest groups and non-governmental organizations over that of state and local agencies with jurisdiction or expertise. This leads to unclear guidance on state involvement, causing delays, uncertainty, and poor resource management. Ultimately, this complicates

planning processes and hinders the ability of state and federal governments to collaborate effectively on permitting for critical infrastructure development.

The State supports this body's effort to revise federal land management laws to reduce uncertainty and promote full cooperation and coordination with state and local governments. These partnerships will enhance planning and permitting by providing clarity and predictability, while making the most of all available resources.

The CHAIRMAN. Thank you.
Mr. Kenna.

STATEMENT OF JIM KENNA, RETIRED STATE DIRECTOR, BUREAU OF LAND MANAGEMENT

Mr. KENNA. Chairman Lee, Ranking Member Heinrich, members of the Committee, I really appreciate an opportunity to talk a little bit about what I think is a very important subject. I am a retired BLM State Director with 40-plus years of public service. My background includes experience in planning and permitting, in project proposals and policy, and it crosses all of the levels of the Bureau of Land Management, from the field office to the Washington office.

Land use planning is one of the most fundamental processes to management because it really does three things that I think are really important and critical: one, it integrates land use decision-making across a broad landscape; two, it does that by including public participation; and three, it applies the best available information about the planning area itself. By congressional design, federal land use planning is a systematic, interdisciplinary approach. That means it is required to integrate all of the conservation values with all of the detailed expectations around coordination, with all of the various uses that apply in that planning area. And land management is the basis, basically, for all of BLM's work, and it affects all of the multiple uses. And I appreciate the Ranking Member's comment on that. It is just as much about oil and gas as it is about hunting and fishing. Those are inside the definition of multiple use.

If there is one thing that Congress could do to really have an impact on land use planning, it would be to pay more attention to funding and staffing for that function because that is where the on-the-ground work happens. There is no substitute for the on-the-ground work. It is the meat and potatoes of the process. And every planning area is different, with different issues, and different alternatives to be considered. A solid resource management plan incorporates and addresses those differences. It doesn't start from some sort of perceived starting point.

There is also no substitute for involving the people with the knowledge of the area. That is the local folks. And you need to get there early and often. I appreciate that there have been planning processes where things—and Chairman Lee, thank you for mentioning this—that sometimes you have a dual problem of outdated plans and then an attempt to come in and sort of fix the process late. Those don't work very well. It is really important when you initiate a process to pay close attention to not only the formal level, which is all the state and local and tribal officials, but also to all of the relevant community interests from the very beginning, so, how you launch becomes really important. The public participation that is out there right now is really very sophisticated and well-informed. They won't take anything but addressing the things that they raise forthrightly and honestly. And that is, frankly, the best approach. Public dialogue is your best anchor point for the balancing discussion that FLPMA requires. The most valuable lesson I learned in my 40 years is to invest in that on-the-ground work—

the local knowledge, the expertise in the planning team, and the participation and the interfaces.

If you look to some of the examples I cited in my written testimony—Arizona's Restoration Design Energy Project and California's Desert Renewable Energy and Conservation Plan—those are very complex settings. One of them was statewide, the other in an area with a whole slew of very complicated issues. How you launch is really important. The California planning process launched with an agreement between the Secretary and the Governor. That was the beginning, and that framed how the dialogue went back and forth. If I were to talk about a well-managed process, what I would always look for is that very characteristic. How did you launch? How did you structure all the public participation? How did you make sure that the dialogue was about the best information?

Thank you for the opportunity to give my perspective on this. I look forward to the conversation.

[The prepared statement of Mr. Kenna follows:]

Written Testimony of James Kenna, Retired State Director, Bureau of Land Management

Before the Senate Energy and Natural Resources Committee on

How the federal land use planning process under FLPMA influences permitting and project development on public lands.

November 19, 2025

Chairman Lee, Ranking Member Heinrich and Members of the Committee, thank you for the opportunity to provide testimony on the federal land use planning process under the Federal Land Policy and Management Act of 1976 (FLPMA). I consider land use planning to be one of the most fundamental processes in the management of public lands because it creates a framework that integrates action and decision making across broad landscapes using the best available information about that same landscape. Equally important, by congressional design, federal land use planning includes both "a systematic interdisciplinary approach" and is required to meet detailed expectations regarding coordination with other federal agencies, State and local governments, and "tribal land resource management programs".

The land use planning function has been applied, over and over again, for decades, across the 245 million acres of public lands the Bureau of Land Management (BLM) manages. Those local in-state processes have produced results for the American people. The BLM has sustained high levels of outputs from public lands and generated billions in federal revenue annually since 1976, with the most recent annual revenue figures show $9.6 billion from commercial uses (FY2023). Annual revenues are generated from uses on BLM lands, such as energy development, rights of way, recreation, timber and grazing. Most important, each land use plan has arrived at a locally and specifically defined balance that integrates outputs related to all the values included in the congressional definition of "multiple use" including the conservation values like recreation opportunities, watershed protection, wildlife and fish habitat, and the natural scenic, scientific, and historical values of the planning area. "What does the Resource Management Plan say?" has become the first stop when any application for land use reaches a field office and the answer to that question guides any analysis and decision making that follows.

Importantly, land use planning invites robust participation, creating a multi-year public record around all the issues and land uses in each planning area. When a final planning decision is reached, the public record for the plan underlies and supports all the final planning outcomes and decisions. That same record supports efficient decision making, since the BLM, the public, and those proposing land uses can all access that information and rely on what the plan has already covered. In my experience, it is not much of an exaggeration to suggest that land use planning for public lands is a public voice and deliberation exercise, at the local community level, about lands local citizens know well. In practice, land use planning has become better understood, access to relevant information has improved, and people engage at much higher levels than they once did. Participation has also broadened to include people and groups with different viewpoints and interests. Energy sector and outdoor recreation businesses are engaged. Ranchers, hunters, anglers, and hikers are engaged. And Tribal, local, and state officials have participated far more. I would suggest it is because they can, and because they care about public lands and how they are managed.

My career with the Bureau of Land Management lasted more than 40 years. The first land use plan I personally participated in was as a recreation planner in Price Utah under the very first format following the passage of FLPMA. As you would expect, over 40 years, I participated in countless episodes of land use planning in its many formats, as well as in permitting and project development. My experience also includes roles in the largest scale, most complex, modern resource management planning, such as efforts for the Interior Columbia Basin, the Northwest Forest Plan, Sage Grouse planning, Arizona's Restoration Design Energy Project, and California's Desert Renewable Energy and Conservation Plan.

Detailed examples provide a sample of my range of experience across different resource programs. In Price, I worked on coal leasing and tar sands development. In Lakeview Oregon, I worked on integrating wildlife and cultural objectives into allotment management plans in the Warner Wetlands. I worked on salmon habitat issues in Prineville Oregon following Senator Mark Hatfield's Salmon Summit efforts in 1990s. As a Field Manager in Palm Springs, I worked with Riverside and San Diego counties on federal planning contributions to multiple Habitat Conservation Plans (HCP) under the Endangered Species Act. As Oregon/Washington Associate State Director, I worked on integrating underlying data systems supporting analysis under the Northwest Forest Plan. And in Washington, DC, I served as Deputy Assistant Director for Resources and Planning where I had national responsibilities for planning, as well as natural and cultural resources programs. Since retirement, I have remained active on BLM issues, including those related to land use planning.

So, my background includes experience in planning, permitting, project proposals, and policy at all levels of BLM, and includes decades in BLM decision-making roles. What I think I offer the Committee is my take, based on experience, of lessons learned since the early years after FLPMA planning was established. I can also offer understanding of how BLM operates from the field office level to the Washington Office. I have worked across diverse BLM office settings, and in four different states.

Planning in the Bureau of Land Management

The number of resource management plans (RMPs) is about 170. The Committee has posed questions that I believe almost certainly have different answers for each land use planning area and its community setting. To assess whether the current planning framework allows for efficient permitting and balanced management of federal lands, data concerning each specific planning process would be necessary. But the general condition of land use plans central to multiple use management is known. In its FY2024 budget justification, the Bureau of Land Management estimated that "approximately 134 of the BLM's existing 169 RMPs are outdated, and an additional four RMPs need to be developed for newly designated National Monuments. The BLM estimates an average cost of $3.5 million per plan to complete RMPs."

Without up-to-date land use plans, there will continue to be problems with authorizations that depend on land use plans for their foundation. Without adequate, current information about current conditions and how they relate to the local balance among multiple uses and values, each authorization process starts without adequate foundation. Throughout my career, allocating nationally available planning capacity has always been an exercise in triage. It is easy to roughly scale the issue of plan update backlogs. If an administration wanted to update all outdated plans over a four-year period, at $3.5 million per plan, they would need to invest roughly $117.25 million annually. That kind of funding for multiple use planning has not been available. In fact, an examination of appropriations versus agency

requests between FY2022 and FY2025 equates to the resources to update roughly 25 Resource Management Plans. So, planning capacity is an accumulating problem that is getting bigger every year. Beyond adding capacity and doing the work, there is no broadly applicable solution. Every planning area and planning process is different with different issues and alternatives. Well run planning processes engage early and often with the public, and apply what is learned to define clearly-described alternatives that are responsive to the identified issues the public wants to see addressed. This process, called public scoping, takes time and local planning-area leg work in order to frame, for each individual plan, what is then analyzed "us(ing) a systematic interdisciplinary approach" that "observe(s) the principles of multiple use and sustained yield." (FLPMA, Sec. 202 (c)(1) and (2)). The focus, complexity and content of the necessary interdisciplinary analysis is different in every setting and depends to some degree on the geographic scope of the plan.

The federal land use planning process under FLPMA does far more than just influence permitting and project development on public lands. It is central to public land management overall, and for some land uses an RMP decision is required as foundation. By law, RMPs determine a balance among resource values, under principles of multiple use and sustained yield, through a local participative process. Some land uses, such as development under the Mineral Leasing Act, identification of utility and transportation corridors, making lands available for sale, and the area's framework for livestock grazing, are directly dependent on land use plan outcomes. Withdrawals of lands are an exception where the land use plan cannot make final decisions, requiring a separate process with authority reserved to the secretarial level. But in general, the land use planning process determines which lands are available for various land uses and balances all uses with other competing uses and values.

By definition, the scope of planning for management of public land uses is broad, covering "a combination of balanced and diverse resource uses that takes into account the long term needs of future generations for renewable and non-renewable resources, including, but not limited to recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historical values". (FLPMA Sec. 103 (c)). Some more detailed project management can be included in RMPs. For example, the BLM typically outlines specific stipulations and conditions of approval that must be applied to mineral leasing development to protect other resource values and prevent "unnecessary or undue degradation" of public lands. An example might be a "no surface occupancy" requirement, but there are many variations on permitting stipulations.

Case Studies

Two large planning processes, both with a nexus to energy infrastructure projects, should help illustrate the BLM planning in action. When I was Arizona State Director, we worked on a statewide plan amendment called the Restoration Design Energy Project (RDEP) that sought to align generation project proposals with transmission infrastructure, while taking advantage of low ecological value disturbed sites like hardrock mine sites scheduled for reclamation. The approach was statewide but tightly focused on responding to solar and wind energy proposals and updating the affected eight Arizona BLM land use plans. The final decision adopted the "Collaborative-Based Renewable Energy Development Areas" alternative which designated 192,100 acres as available for utility-scale solar and wind energy development and added the 2560-acre Agua Caliente Solar Energy Zone (SEZ: an area streamlined for permit processing; Brenda and Gillespie SEZs were already designated). Initiated in 2010, RDEP was completed in January of 2013. To complete the land use planning project, it took state office coordination plus the work of BLM specialists in every field office across the state, doing the on-the-

ground leg work and each contributing their knowledge of, and expertise about, the field office area and community they knew well.

I would highlight one other part of the RDEP process that was essential to its success. Early notice was sent to 51 Tribal organizations and 29 other officials, like Tribal Historic Preservation Officers, to provide information and ask for input. Every response received provided valuable input. Ethnographic reports were prepared documenting tribal issues, concerns, and important sacred and traditional properties. Tribal members also participated in public meetings in 2008 and 2011. As state director, I personally met with elected tribal leaders at the Inter-Tribal Council of Arizona in Phoenix to both present information and discuss the RDEP. Again, the on-the-ground work of people in Arizona was essential to building a land use plan decision.

As California state director, I helped lead the development of the Desert Renewable Energy and Conservation Plan (DRECP). The project was initiated with a signed agreement by Governor Schwarzenegger and Secretary Salazar to develop a long-term energy infrastructure plan for the California Desert that also delivered a solid conservation design for the California Desert Conservation Area. The agreement called for a coordinated planning process covering 22 million acres of federal and non-federal lands. I represented BLM on the interagency Renewable Energy Action Team (REAT), a team of four state and federal executives, that steered the planning process. Both the Habitat Conservation Planning experiences in southern California that I mentioned above, and the immediate prior work on Arizona RDEP, served as foundation for the most complex land use planning challenge the BLM has ever tackled and completed. The seven-year effort included representation or interfaces with multiple state and federal agencies, 7 counties, 5 military bases, 3 national parks, and 40 tribes.

Early in the process (scoping), planners could rely on input from a governor-appointed 50-member group called the DRECP Stakeholder Advisory Committee. The Committee included appointed renewable energy developers, environmental conservation group representatives, local community and economic development association representatives, recreational interest representatives and public-at-large representatives. The DRECP involved all kinds of teams, committees, stakeholder forum meetings, and many reviews, as well as open on-going sharing of current data and maps, and the results were remarkable (https://drecp.databasin.org/maps/). In March 2015, with public participation, the REAT executives agreed to separate the DRECP into two phases: 1) the BLM land use plan and 2) the state and local plan updates. All the partner agencies continued to assist in completing the BLM plan on a faster timetable. That was accomplished with the Record of Decision in September 2016.

Over those seven years, literally thousands of people worked on various issues. Some teams provided technical inputs, such as Department of Defense mission compatibility reviews, Independent Science Reviews, and engineering reviews for infrastructure design delivering 20,000 megawatts of renewable energy generation and transmission. Perhaps most impressive, the clear objectives for the DRECP were sustained across multiple governors and multiple secretaries of the Interior. Now, for nearly a decade, the plan has proven to be a reliable foundation for generation and transmission projects - with a noteworthy absence of litigation. Measures developed in the DRECP continue to be adopted by others as best practices for renewable energy development.

Throughout the DRECP process, the BLM made a deliberate effort to engage with the California Desert Tribes. In a 4-year series of meetings and information exchanges, the Tribal Leadership Forum, worked through a series of concerns, proposals, maps and alternatives. As in Arizona, desert Tribes provided substantive feedback which impacted the preferred alternative decision. I personally attended each

Forum meeting to listen, and the Secretary of Interior participated in the final Tribal Leadership Forum. The results were imperfect as a representation of all 40 Tribes, but they produced substantive contributions to a better plan and marked improvements in tribal engagement and consultation.

I am sure every land use planning process, and not just federal ones, can create challenges for project sponsors. In my experience, most project sponsors would like as unconstrained a planning outcome as possible. But that is not always in the public interest. For example, during the DRECP process, there were wind development areas that industry wanted but the DOD military mission compatibility review found created serious problems. In the end, the proposed wind development areas were not included as Development Focus Areas because carrying forward a conflict of that nature was unnecessary when the plan was already making available sufficient acreage to accomplish the targeted 20,000 megawatts of generation and transmission.

I am also sure every land use planning process, and not just federal ones, creates challenges for local communities. These challenges are highly dependent on, specific to, and variable with, the setting of the plan. Despite BLM's best efforts, some communities struggle with having the resources and staff to participate, as did some of Tribes in the DRECP. Other communities have well-developed planning departments that stay very engaged. Communities also tend to have very different priorities, although the plan's impact on the local outdoor recreation setting is universal. Communities that are very centered on ranching or oil and gas services can be in proximity to communities that have embraced "farm-to-table" or outdoor recreation-based strategies. And regional differences in characteristics like solar and wind potential and oil and gas potential can conjure very different ideas of what an "energy project" is. For this reason, an effective public scoping process with robust local community participation is essential to arrive at clarity around the community interests the plan should address.

BLM generally prepares and updates RMPs on a roughly 20-year frequency. But as mentioned above, actual updates are very dependent on adequate funding, agency capacity to do the work, and the tradeoffs among pressing needs and problems. Another complicating consideration is that all plan amendments are not equal. Some are minor corrections or adjustments that are more easily completed (usually as part of a National Environmental Policy Act analysis like an Environmental Impact Statement). For example, the California Desert Plan was amended 147 times between 1980 and its consolidated re-publication in 1999. There were also several major renewable energy projects processed as plan amendments while the DRECP was being prepared. So, no plan needs to be entirely frozen in time while a new RMP is in preparation.

Going Forward

To reiterate, RMPs do shape access to, and balance among, multiple uses. In my view, state, local and project sponsor perspectives are inherently very individual to each planning effort, and not similar across all public land states. There is much to celebrate, both nationally and locally, regarding land use planning. There have been great leaps of progress since those early Management Framework Plans in the 1970s and early 80s. The quality of the public information, including maps, around issues the public has identified has risen to high levels. Public participation has grown, both in volume and in quality. One key to producing a high-quality land use plan today is to promote public and Tribal participation early, and then to maintain regular contact. Land use planning has served as a mechanism for working toward consensus on very difficult and complex public land management issues. But no one who has

participated and seen RMP preparation up close would suggest land use planning is easy for participants on any side of the issues. It wasn't congressionally designed to be easy. It was designed to:

> "(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law (the Endangered Species Act and the National Historic Preservation Act are good examples) (FLPMA Sec. 103(c)(1))
>
> (2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic and other sciences....." (FLPMA Sec. 103(c)(2))

To do that across a planning area, a good mix of local on-the-ground expertise is required. It is hard work, and it is important to get it right. It is necessary to have the staffing and funding to gather, compile and analyze information responsive to the issues identified when scoping a plan with the public. Access to the range of specialist expertise throughout the planning process is what produces a credible "systematic interdisciplinary approach" across the broad range of values included in FLPMA's Sec 103 (c) definition of multiple use. In the end, plan decisions must also meet FLPMA standards "prevent(ing) permanent impairment or unnecessary or undue degradation of public lands." The underlying quality of the information must be sufficiently current and good enough quality "so as to reflect changes in conditions and to identify new and emerging resource and other values." (FLPMA Section 201 (a))

Given the appropriations and backlog issues referenced above, planning capacity has always been a significant issue for the BLM. But capacity problems are not limited to the land use planning function. Multiple use on public lands is, by far, the lowest funded federal land management platform. Depending on the study and assumptions, the estimates of investment in public lands range between $0.28 and $7 per acre, with both parks and refuges being multiple times higher. A 2022 Conservation Economics Institute study identified a cumulative and growing deficit in BLM funding per recreation visit. So, the planning capacity problem is part of a larger set of agency capacity deficits. (see Conservation Funding Crisis, at https://www.conservationecon.org/public-lands)

There may be further opportunities to extend capacity through innovative partnerships. The DRECP is a good illustration. The technical analysis on transmission alignment in the DRECP would not have been possible without the leadership of the California Energy Commission. The Defense installation mission consistency reviews would not have been possible without the commitment and work of a Department of Defense team. Some of the improvements in the DRECP alternatives would not have happened without the assistance of the Tribal Leadership Forum. The scientists engaged in the independent Science Review Teams (https://drecp.databasin.org/search/#query=Independent%20Science%20Reviews&scope=gateway) donated their time. And multiple county planning staffs poured time into detailed DRECP reviews throughout the process. Innovation through partnerships is possible.

The use of the Congressional Review Act (CRA) to nullify resource management plans has introduced new questions surrounding the reliability of land use planning processes and authorizations based on land use plans. I believe the CRA resolutions will have profound impacts on the overall land use planning function, create substantial uncertainty and conflict around authorized land uses that rely on land use plan decisions, and create specific problems in the planning areas directly affected. While I am unsure of the extent, using a political process to vacate plans with years of local process will undermine public confidence in the planning process. And, given language in the CRA statute that requires rules to be submitted to Congress and the Comptroller General in order to take effect, it is unclear which, or

whether all, resource management plans finalized after the CRA became law could be considered invalid, because none were submitted. The range of land uses and management functions potentially affected is broad including energy development, transmission rights of way, recreation, grazing permits and leases, wildlife conservation projects, or logging. Three impacts, each with attendant management costs, are predictable:

1. Increased litigation risk for authorizations that are controversial, authorizations that now have questionable planning foundations, and authorizations that would not have been allowed under the vacated plan(s).

2. A cautious, risk-averse approach to land use authorization processes, particularly levels of necessary analysis, where the underlying land use plan is no longer reliable or is inconsistent with the factual record created for the plan that was vacated.

3. The CRA's prohibition of a rule that is "substantially the same" appears to be inconsistent with FLPMA and NEPA requirements for land use plans. It is unclear how those conflicts will be resolved.

Until adaptations addressing these impacts are designed, a cautious approach to reforms avoids further harm to the planning process and its role supporting multiple use and sustained yield.

Summary

Land management planning is the basis for all of BLM's work and it impacts all multiple uses, including energy development, grazing, hunting and fishing, outdoor recreation and more. The clearest step Congress can take to improve the federal land use planning process under FLPMA and to make permitting and project development on public lands more efficient, is to support improved capacity, both in staffing and funding. There is no substitute for doing the on-the-ground, local-community-level work. Every planning area and planning process is different with different issues and alternatives. A solid Resource Management Plan incorporates and addresses those differences.

There is also no substitute for local in-state participation, with the public, with local and state officials, and with Tribes. In both case studies above, Tribes contributed unique knowledge and ideas that affected the quality of the plan. The public has also become sophisticated and informed to a degree that they will be suspicious of any process that does not respect the issues they raise, or one that appears to circumvent the FLPMA "balancing" discussion with their local planning are information as its foundation. The best approach is, by far, to invest in participation as an integral part of the process. Basically, just do the on-the-ground interdisciplinary and participation work it takes to get up-to-date land use plans. All land uses benefit from that clarity.

Prioritizing which plans will be updated will be necessary for the foreseeable future. But the case studies above illustrate that investing in large scale planning efforts can produce significant and long-term benefits. The DRECP has guided energy infrastructure development for nearly a decade and project developments consistent with the plan have not been litigated. The RDEP project updated plans statewide and was efficiently completed because it was clearly and tightly focused. And both projects proved to be platforms for innovation.

The path forward can do much to build on the work done in the last half-century of land use planning. But there are also formidable problems I have tried to outline. I appreciate the opportunity to offer my perspectives on how the federal land use planning process under FLPMA influences permitting and project development on public lands. All the views expressed above are my own and do not necessarily reflect the views of the Bureau of Land Management, BLM retirees more broadly, or any organization I have done work for since retirement.

The CHAIRMAN. Thank you, Mr. Kenna.
Mr. Christensen.

STATEMENT OF MICAH CHRISTENSEN, NATURAL RESOURCE COUNSEL, WYOMING COUNTY COMMISSIONERS ASSOCIATION

Mr. CHRISTENSEN. Chairman Lee, Ranking Member Heinrich, thank you for holding a hearing to discuss land management planning under FLPMA and Wyoming's experience with ACECs under the Rock Springs RMP.

My name is Micah Christensen, and I serve as the Natural Resource Counsel for the Wyoming County Commissioners Association, a non-partisan, statewide association that represents all 23 counties and their 93 elected commissioners. Five counties are fortunate to call the lands of the Rock Springs Field Office home. The Rock Springs RMP generated substantial fervor, not only in Southwest Wyoming, but in many states. The record of decision (ROD) was signed on December 20th, 2024, not in Wyoming by our field office manager or state director, but by the Principal Deputy of the BLM. The ROD designated 935,000 acres of ACECs with substantial use restrictions. This represented a 226 percent increase over the previous RMP and an 85 percent increase of ACEC designations across the entire State of Wyoming.

Admittedly, this data is not the easiest to come by. As the Rock Springs "no action alternative" was over 100,000 acres off from the BLM's ACEC database it maintains online. However, calling the simple Excel sheet a database is likely inappropriate. The BLM's system for conveying to the public, local governments, and itself the "what, where, how, and why" ACECs exist is largely inadequate for the purpose. This harms its proper utilization and enables a lack of compliance with FLPMA's directive. Numerous RMPs share similar deficiencies. Designations offer minimal information on relevant and important values that ACECs are designed to protect. They often include substantially more land than values exist, and the restrictions are often general, instead of being specific to prevent irreparable harm to identified values.

For example, the South Bend River ACEC contains the historic Buckskin Crossing Cemetery. The public and the BLM may wish to establish an ACEC to protect this resource and could prescribe, for example, a "no surface occupancy" restriction for fluid mineral leasing as a reasonable buffer around the area. However, closing 439 square miles of all fluid mineral leasing is likely disproportionate, especially noting that most of Wyoming's current oil and gas development occurs on two-mile horizontal wells that are thousands of feet below the surface. Congress did not give the BLM unilateral authority to establish wilderness areas or national monuments. Instead, Congress created a specific and narrowly tailored conservation tool designed to protect important public land values within the multiple-use, sustained-yield framework in full coordination and cooperation with local governments.

The Rock Springs RMP demonstrated how vulnerable ACEC designations are to being shaped by broad political objectives such as limiting fossil fuel development rather than the carefully targeted measures FLPMA envisioned. Wyoming's Counties support ACECs to protect unique and sensitive resources, but their effectiveness

and legitimacy depend on agencies identifying values explicitly, demonstrating the necessity of special management to prevent irreparable harm, evaluating the tradeoffs, considering impacts to state and private lands, and working collaboratively with local governments, whose communities will live with the consequences. These lands are the cultural and socio-economic lifeblood of our rural communities, and our future is inextricably intertwined with their proper conservation. But, as President Theodore Roosevelt, the "father of conservation," once said, "Conservation means development as much as it means protection."

Both sides of the aisle need to understand that top-down edicts that weaken local engagement undermine the planning process goals to balance conservation across all lands. As energy security, water, catastrophic wildfire, and habitat fragmentation continue to be important conservation considerations, treating federal lands as if they exist in a vacuum is not a winning strategy. These landscapes and resources cannot be managed on four- or eight-year terms from DC. They must transcend elections by being grounded in the cooperative federalism principles that Congress envisioned and FLPMA demands.

There is a better way. We desperately need the Federal Government to empower local land managers on the ground—federal leaders who don't chafe under the cooperative ethos of NEPA, but appreciate the inherent value of partnering with state, local, and tribal governments, so that collectively we can craft RMPs that address the great moral issue of conservation for the betterment of our nation today, and future generations of Americans tomorrow. In short, we need a cultural shift in the nucleus of power from DC back to the people we have entrusted to steward these lands. When local federal leadership can embrace local governments as partners in the planning process, we can achieve mutual benefits to federal agency missions and for our communities.

Thank you.

[The prepared statement of Mr. Christensen follows:]

Written testimony of Micah A. Christensen,

Natural Resource Counsel, Wyoming County Commissioners Association.

"Examining the BLM Land Use Planning Process Under FLPMA"

Before the United States Senate Committee on Energy and Natural Resources

November 19, 2025

I. Introduction

Chairman Lee and Ranking Member Heinrich, thank you for holding a hearing to discuss the planning process under the Federal Land Policy and Management Act (FLPMA). Federal land management plans have outstretched significance to Wyoming counties, where nearly 50% of our state's surface estate and 66% of our mineral estate is managed by federal agencies.

Wyoming counties serve as local partners and co-regulators for the 18.4-million acres of Bureau of Land Management (BLM) surface lands and 42.9-million acres of federal mineral estate within their jurisdictions. As legal arms of the state, counties are entrusted with implementing statutory and regulatory objectives locally. Nearly all of Wyoming's public land counties have developed natural resource plans through the required public process, to establish local priorities for resource use, development, and protection. These plans empower counties to fully engage with federal land managers and participate meaningfully in federal decision-making processes. Under Section 202(c)(9) of FLPMA, federal land management agencies must coordinate their plans with properly adopted local plans and remain consistent to the extent practicable. 43 U.S.C. § 1712(c)(9).

Beyond establishing their own natural resource plans, Wyoming county governments are actively engaged in planning processes with the BLM under FLPMA and the United States Forest Service under the National Forest Management Act (NFMA). Under these Acts and through cooperation under the National Environmental Policy Act (NEPA), Wyoming counties help our federal partners create, revise and amend management plans that encourage productive and enjoyable harmony between man and his environment. 42 U.S.C. § 4321. Wyoming counties take their responsibilities seriously and strive to ensure their communities are economically vibrant, safe, and healthy places to live, work, and recreate. Wyo. Stat. § 18-5-208(b).

Founded in 1976, the Wyoming County Commissioners Association (WCCA) is a non-partisan, statewide organization that unites all 23 Wyoming counties and their 93 elected county commissioners. Our mission is to strengthen Wyoming's counties—and the people who lead them—through networking, education, and unified action. The WCCA serves as the collective voice of county governments on state and federal policy, with a particular focus on natural resources, public lands, and local governance. To this end, the WCCA employs two full-time natural resource professionals, a natural resource policy analyst and a natural resource attorney, that work with county commissioners before, during, and after the NEPA process.

Our goal is to assist federal management agencies by supplying local data and co-creating management alternatives that advance federal objectives and reflect the socioeconomic needs of Wyoming's people and communities. FLPMA, NFMA, and NEPA all contain various provisions and requirements that reflect the nation's commitment to cooperative federalism while also conserving the nation's natural resource values to be enjoyed by future generations.

II. "Conservation" under the Federal Land Policy and Management Act

In 1910, President Theodore Roosevelt delivered a speech titled *The New Nationalism*, in Osawatomie, Kansas. While the speech focused on nationalism, the civil war, concerns of special interests, agriculture, labor standards, and the like, it is President Roosevelt's discussion of conservation that bears repeating today. Perhaps one of the most remembered quotes given by the Father of Conservation is this: "Conservation means development as much as it does protection. I recognize the right and duty of this generation to develop and use the natural resources of our land; but I do not recognize the right to waste them, or to rob, by wasteful use, the generations that come after us." President Roosevelt goes on to say, "Conservation is a great moral issue for it involves the patriotic duty of insuring the safety and continuance of the nation. Let me add that the health and vitality of our people are at least as well worth conserving as their forests, waters, lands, and minerals, and in this great work the national government must bear a most important part."

Over fifty years after President Roosevelt's death, FLPMA was passed into law. In many ways, FLPMA embodies the federal commitment to the balanced conservation ethic that President Roosevelt envisioned—requiring federal agencies to develop plans that guide the use and enjoyment of natural resources for the benefit of both present and future generations. Conservation remains a great moral issue for our nation – often a source of public division, yet a responsibility that federal land management agencies, in partnership with tribal, state, and local governments, are nonetheless obligated to pursue.

FLPMA requires the BLM to manage public lands "on the basis of multiple use and sustained yield" and "in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, atmospheric, water resource, and archeological values." 43 U.S.C. § 1701(a)(8). This is no small task, and the Supreme Court has called "multiple use" a "deceptively simple term that describes the enormously complicated task of striking a balance among the many competing uses to which land can be put." *Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 58 (2004). Thankfully, the BLM does not have to tackle this complicated task alone. In fact, FLPMA and NEPA demand the BLM cooperate and coordinate with tribal, state, and local governments in the development of its resource management plans (RMPs).

The purpose of BLM RMPs under FLPMA is to guide the multiple-use and sustained-yield management of public lands through a science-based, interdisciplinary planning process that prioritizes protection of ecological and environmental values and is coordinated with state and local government land use plans. 43 U.S.C. § 1712(c). As during President Roosevelt's day, conservation continues to mean development, as much as it means protection. Federal agencies impute this conservation ethic into every permitted use on public lands, directing grazing lessees to make progress towards land health standards, requiring strict pollution and waste controls on

fluid mineral development, demanding the highest standards of reclamation for mining operations, and mitigating and minimizing impacts to resources in when citing renewable energy.

III. Areas of Critical Environmental Concern

The BLM employs a range of management tools to achieve multiple use and sustained yield goals across vast landscapes that sustain both local communities and the nation as a whole. A distinctive feature of FLPMA—one not granted to any other federal land management agency—is its authority to designate Areas of Critical Environmental Concern (ACECs). Section 202(c)(3) of FLPMA provides: "In the development and revision of land use plans, the Secretary shall give priority to the designation and protection of areas of critical environmental concern." 43 U.S.C. § 1712(c)(3).

The advent of ACECs reflects an explicit federal statutory mechanism to identify and protect particularly important public land values within the broader multiple use and sustained yield framework. Before FLPMA, the BLM lacked a clear legal authority to manage lands for special conservation purposes short of a formal withdrawal for national monuments or wilderness areas. With FLPMA's passage, ACECs were established to allow flexible, locally tailored protection through land use planning rather than new legislation.

Legislative history provides a view into the goals of Congress in the creation of this unique BLM land management tool. Prior to FLPMA's passage, the 1975 Senate Report No. 94-583 discussed the ACEC concept, "Unlike wilderness areas … [ACECs] are not necessarily areas in which no development can occur. Quite often, limited development, when wisely planned and properly managed, can take place in these areas without unduly risking life or safety or permanent damage to historic, cultural or scenic values or natural systems or processes."

Consequently, ACECs should not automatically restrict all land uses but instead should establish specific management prescriptions to protect the unique resource value from permanent damage while authorizing other uses. In fact, only one management prescription comes automatically with an ACEC designation: a Plan of Operations for locatable mineral exploration and development, regardless of the amount of surface disturbance. 43 CFR § 3809.11(c)(3). The lack of mandatory management prescriptions was not accidental; it ensured that any new prescriptions would be carefully considered and applied solely to explicitly protect the values thoroughly evaluated during the designation process.

The designation of ACECs is governed by 43 CFR § 1610.7-2, and requires that the three criteria of relevance, importance, and special management attention be achieved.

- **Relevance.** To be relevant, the area must contain "important historic, cultural, or scenic values; fish or wildlife resources; natural systems or processes; or natural hazards potentially impacting life and safety." 43 CFR § 1610.7-2(d)(1).
- **Importance.** To be important, the relevant values must have "special worth, consequence, meaning, distinctiveness, or cause for concern; national or more than local importance, subsistence value, or regional contribution of a resource, value, system, or process; or contributes to ecosystem resilience, landscape intactness, or habitat connectivity." 43 CFR § 1610.7-2(d)(2).

- **Special Management Attention**. To meet this criterion, the area must "require" special management attention that "would not be prescribed if the relevant and important values were not present" to "protect and prevent irreparable damage to the relevant and important values, or that protect life and safety from natural hazards." 43 CFR § 1610.7-2(d)(3).

The bar for ACEC designation is intentionally high, with the principal criterion being evidence that special management measures are needed to avert irreparable damage. ACECs are to be prioritized in the planning process but their priority does not establish them as a separate program, removing designated lands from the Congressional mandate to manage lands for multiple use and sustained yield. To the extent other uses can exist on the land without causing irreparable damage to identified relevant and important values, they should continue to be authorized. The BLM regulations also require a surgical approach when setting ACEC boundaries to encompass the relevant and important values and geographic extent of the special management attention needed to provide protection. 43 CFR § 1610.7-2(f).

Opponents and proponents of increased ACEC designations share many of the same procedural concerns, primarily, the lack of information around the BLMs actions to identify, designate, manage, and monitor ACECs. The public, tribes, state and local governments all suffer from BLM's lack of up-to-date or centralized data on ACECs, inadequate identification of resource values of ACECs in RMPs, limited identification of the special management prescriptions required to protect values, and a lack of monitoring data to allow decision makers to determine whether restrictions have achieved the protection they envisioned.

Numerous RMPs offer little, and in some instances no information, about the resources and values that warranted an ACEC designation. For example, authors of a recent Colorado Environmental Law Journal analyzed 36 RMPs and sampled 111 individual ACECs and discovered that the Salem, Oregon Field Office RMP did not identify any resources, values, or management prescriptions for the Williams Lake, Soosap Meadows, or White Rock Fen ACECS.[1] The ACECs simply exist. Numerous other plans resort to repeating the generic categories found in FLPMA to describe relevant and important values, such as scenic, historic, cultural, fish and wildlife, natural systems and processes, and geologic features. It is not uncommon for an ACEC to be designated for wildlife or plants yet fail to name the species of wildlife or plants for which protections are needed.

When the "relevant and important values" of an ACEC are poorly defined, neither governments, the public, nor BLM can discern what the designation is actually intended to protect. Without clearly identified values, management prescriptions cannot be meaningfully tied to preventing irreparable harm. Without knowing what is necessary to prevent irreparable harm, it is impossible for the BLM to have "informed decision-making on the trade-offs associated with ACEC designation" that it is required to undertake as it balances its multiple use and sustained yield mission." 43 CFR § 1610.7-2(g). Ambiguity also undermines effective

[1] Sheldon, Karin P. & Baldwin, Pamela, *Areas of Critical Environmental Concern: FLPMA's Unfulfilled Conservation Mandate*, 32 *Colo. Envtl. L. J.* (Nov. 2, 2022).

monitoring and adaptive management, making it difficult to determine whether protections are working or when adjustments are needed.

Ultimately, the acceptance and proliferation of RMPs that have inadequate evaluations of values, lack necessary prescriptions, don't describe trade-offs, and fail to monitor, make ACEC designations vulnerable to political influence rather than being grounded in the deliberate development of management prescriptions aimed at preventing irreparable harm to identified resource values. This politicalization not only harms the effectiveness of the ACECs as a management tool but imposes substantial risks to the planning process and impacts to local communities.

Although the previous administration's *Land Health and Conservation Rule* emphasized expanding public land protections through ACEC prioritization and designation, on-the-ground outcomes continue to reflect long-standing challenges in ACEC implementation. The Wyoming BLM's Rock Springs RMP marked a significant shift toward politically driven designations—welcomed by some and criticized by others—but it failed to resolve persistent weaknesses in the identification, expansion, management, and monitoring of ACECs across BLM lands, ultimately undermining the very stewardship objectives these designations are meant to advance.

IV. Rock Springs Resource Management Plan

The Rock Springs BLM Field Office manages roughly 3.6-million acres of surface land and 3.7-million acres of mineral estate in Wyoming. Prior to signing the Record of Decision (ROD) on December 20, 2024, the Rock Springs Field Office managed 11 ACECs containing 286,470 acres.

In 2011, the Rock Springs Field Office initiated scoping, starting its 13-year plan revision journey.[2] In that time, cooperating agencies from the state and counties worked with the BLM to craft a range of alternatives which included two "bookend alternatives" that prioritized heavy resource development and resource preservation and a third that balanced management prescriptions to accomplish both goals. While the BLM worked on the bookend alternatives alone and quickly[3], it relied heavily on local cooperating agency input to develop its balanced alternative. In 2016, the BLM released a preliminary draft RMP internally and amongst cooperating agencies for review and selected the balanced management approach as its preferred alternative.

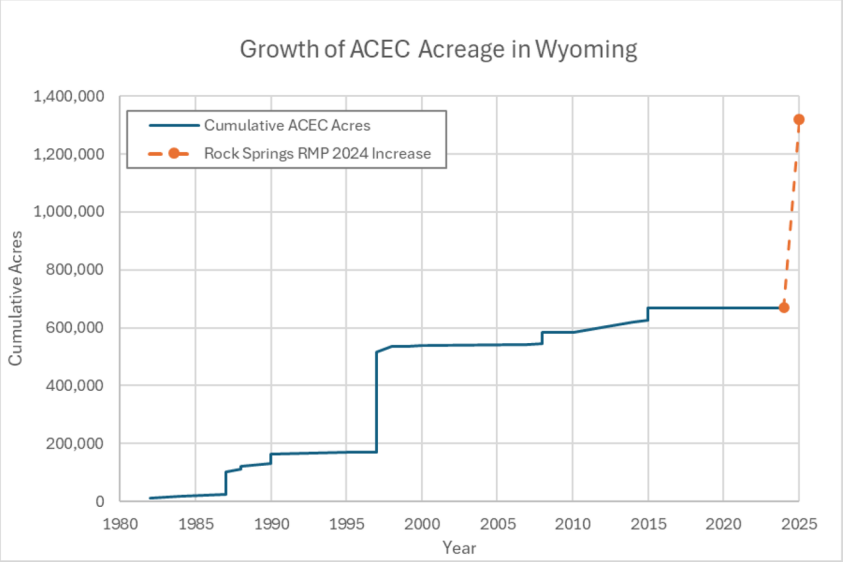
However, administration changes in 2016 and again in 2020 injected additional federal policy considerations into the planning process. In August of 2023, the BLM surprised cooperating agencies when it released its Draft Environmental Impact Statement and RMP, selecting as its preferred alternative the most restrictive management direction of those

[2] While not the primary topic of this testimony, the 13-year plan revision process is problematic. The Rock Springs RMP's reliance on outdated data and information prevented it disclosing environmental and socioeconomic effects to the public. For example, the RMP relied on a 2013 Reasonably Foreseeable Development Scenario for Oil and Gas, even though there have been significant changes in known oil and gas potential, drilling and completion technology, drilling and spacing unit design and layout, and the federal royalty rate.

[3] On October 6, 2023, a retired BLM employee from the Rock Springs Field Office testified before a Wyoming legislative committee that Alternative B (resource conservation) was developed by the agency in a week.

evaluated. The preferred alternative would designate over 1.6-million acres of ACECs covering over 44% of the BLM lands managed by the Rock Springs Field Office. Those designations would include heavy resource use restrictions, closing over 2.1-million acres to fluid mineral leasing, increasing the acres with no allowable surface occupancy for oil and gas from 4% of the field office to 22%, cutting areas open to locatable minerals and trona in half, closing 98% or 3.5-million acres to coal, and excluding 69% of the field office area from right of way permits.

On December 20, 2024, the Rock Springs RMP ROD was signed by the Principal Deputy of the BLM instead of the customary field office manager or state director as described in 43 CFR § 1601.0-4(b) and (c).[4] The ROD established 12 ACECs totaling 935,135 acres, an increase of 226% over the previous land and resource management plan. To put this acreage figure into perspective, prior to the signing of the Rock Springs ROD, Wyoming's seven BLM field offices had 49 established ACECs totaling 688,491-acres across the state. With the passage of the Rock Spring RMP, the state saw over an 85% increase in ACECs acres in Wyoming.



Although the Rock Springs RMP designated a markedly larger area as ACECs, the accompanying justifications and analysis were sparse. The RMP did not describe how a lack of specific restrictions would cause irreparable damage to specific relevant and important values. Additionally, the RMP enlarged existing ACEC boundaries without detailing that the additions were necessary to encompass relevant and important values that needed special protections.

[4] "Field Managers will prepare resource management plans, amendments, revisions and related environmental impact statements. State Directors must approve these documents."

The BLM's analysis of the No Action Alternative stated that "maintaining the designation of ten ACECs… will ensure special management attention is generated to protect and prevent irreparable damage." When comparing it to the management direction it was selecting, the BLM simply stated that the RMP "would be the same as those under the [the no action alternative], except they would occur over a larger area for ACECs and thereby offer greater protections." Offering "greater protections" does not meet the third criteria for identifying management restrictions that are required to protect and prevent irreparable harm.

Additionally, the BLM did not carefully consider the degree or intensity of management restrictions as it is instructed to do by its ACEC Manual. (BLM Manual 1613). For example, the BLM's *Summary of the Analysis Management of the Situation*, described the Steamboat Mountain ACEC as being "good" due to the Jack Morrow Hills Coordinated Activity Plan. Nevertheless, the BLM proceeded to not only increase the size of the ACEC from 47,280 acres to 439,081 acres, but also increased the restrictions, such as changing it from right-of-way avoidance to right-of-way exclusion. To the extent that existing management was producing "good" results, the BLM had no basis for increasing restrictions in the ACEC.

The BLM never described the possible trade-offs under FLPMA § 202(c) when weighing benefits of restrictions in comparison to allowing other uses. 43 CFR § 1610.7-2(j). FLPMA requires that the State Director must consider "the value of other resource users," management feasibility, and the relationships to other designations. Additionally, the BLM manual tells planners to analyze issues "to understand the trade-offs between designating ACECs and other uses" during the RMP and associated Environmental Impact Statement. (BLM Manual 1613, Section 4.5). This analysis is vital for the BLM to balance resources by understanding long and short-term benefits and consequences of ACEC designations.

Finally, there was no analysis of how ACEC restrictions would impact state and private lands adjacent to or wholly inside ACECs. Although not directly controlled by the BLM, under Section 202(c)(9) of FLPMA and then existing provisions of NEPA under 40 CFR § 1508.1(i)(3), the BLM was required to consider impacts in its cumulative effects analysis. Each of these issues were raised by Wyoming counties and the state in comments and in the Governor's consistency review. Unfortunately, the BLM did not adjust the RMP prescriptions or its analysis.

V. Consistency Review with State and Local Plans

FLPMA directs the BLM to stay apprised of local land use plans and assure that approved plans are given consideration. Most importantly, to the extent practicable, the BLM must assist in resolving inconsistencies between local and BLM land use plans and provide meaningful involvement of local governments in the development of BLM land use programs, regulations, and decisions. 43 U.S.C. § 1712(c)(9). During a governor's consistency review, "The Director shall accept the recommendations of the State Governor … if he finds they provide for a reasonable balance between the national interest and the State's interest." 43 C.F.R. § 1610.3-2(e).

The BLM's efforts during the Rock Springs RMP to achieve consistency with state and local plans were negligible at best. While alleging to have reviewed and considered the five

county plans, the BLM provided references to outdated county plans in its analysis. The RMP never identified inconsistencies, nor attempted to explain or reconcile inconsistencies raised by counties. The WCCA and five counties provided the BLM with a side-by-side comparison of county plans and its proposed management prescriptions and offered to work with the BLM through the matrix. The BLM never responded to the good faith effort. Instead, the BLM merely referred us to a list of cooperating agency meeting dates, as if hosting a meeting is all the law requires.

In response to the public uproar over the preferred direction in the preferred alternative, the BLM allowed the Governor additional time to submit comments and put together a Task Force made up of local governments, industry representatives, and conservation groups, to determine if there were prescriptions in the proposed RMP that were generally agreed upon. Unfortunately, the Task Force's charter required that consensus be unanimous, making addressing the contentious questions around ACECs impossible. A single vote could, and did, overrule the rest of the Task Force. While the Task Force was unsuccessful in providing recommendations around the BLM's expansion of ACECs, it is telling that it unanimously approved an Agreement in Principal (Number 23) that "The BLM has not meaningfully met with cooperating agencies in over two years."

Presidents Reagan and Clinton both issued a "Federalism" Executive Order (EO) that directed federal agencies to defer to states and consult and collaborate with state, local, and tribal governments. EO 13132 states, "Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government closest to the people." Section 2(i) of the EO provides that "The national government should be deferential to the States when taking action that affects the policymaking discretion of the States and should act only with the greatest caution where State or local governments have identified uncertainties regarding the constitutional or statutory authority of the national government."

The Wyoming Governor's Consistency Review for the Rock Springs RMP raised many of the issues outlined above, as well as several others, including the fact that BLM was utilizing ACECs as a de facto mineral withdrawal instead of complying with the detailed process required by FLPMA. Another major component of the Governor's Consistency Review centered on BLM imposing significant restrictions on lands within ACEC designations that contain landlocked and adjacent private and state parcels. The Governor's letter details that these restrictions, like right of way exclusions, prevent the state from generating revenue on lands that were received by Wyoming upon admission into the Union in 1890 to support public education and other services. Ultimately, the Governor's consistency review recommendations were all rejected by the BLM and no changes were made to the RMP.

VI. Other Resource Management Plans in Wyoming

The Rock Spring RMP reveals that BLM's immense authority to designate ACECs enables it to accommodate political pressures with little accountability to local, state, and congressional oversight. However, not all RMPs or ACEC designations have suffered from the same blatant disregard of FLPMA's provisions and coordination requirements. The BLM can, and has, done a significantly better job working with state and local governments in the context

of ACECs to craft management prescriptions to protect important and relevant values while still allowing for other uses that communities rely upon.

Though we are awaiting the substantive details of the ROD, the Newcastle RMP process provides a timely example of how the BLM can execute meaningful cooperating agency involvement. The Newcastle Field Office has undertaken several commendable practices in the development of its RMP, particularly in its engagement with county governments and its approach to coordination under FLPMA. The Field Office made a clear and meaningful effort to coordinate with Crook, Weston, and Niobrara counties throughout the planning process. This commitment helped establish a strong foundation for the plan and reflects the cooperative spirit envisioned under NEPA, where counties serve as key cooperating agencies bringing localized expertise and on-the-ground understanding to federal planning. The counties' active participation, facilitated by the Field Office's openness and accessibility, ensured that the perspectives of the communities most directly affected were incorporated early and constructively into the RMP's development.

The Newcastle RMP process has also demonstrated the Field Office's attention to FLPMA's consistency review requirements. With input from local conservation districts, the three participating counties developed a matrix identifying the RMPs preferred alternative's inconsistencies with their natural resource plans, which we believe the BLM is utilizing in its preparation of the ROD. The Newcastle Field Office's approach embraces FLPMA's coordination requirements by working collaboratively with counties to identify, discuss, and resolve inconsistencies so that the BLM can develop a durable, community-supported RMP that is both legally defensible and reflective of local priorities.

Further back, in 2014, the Lander Field Office signed its ROD, approving eight ACECs consisting of 243,691 acres in Wyoming. During its planning process the BLM produced a 95-page ACEC Report that evaluated, analyzed, and discussed the lands in question and the legal basis and the specific special management needs to conserve specific values.

In its report, the BLM describes the Lander Slope ACEC, as a "citizens' proposal" which recommended closing the area to livestock grazing due to overgrazing and invasive plant species concerns. The BLM articulated that grazing management issues could be addressed through adjustments to livestock grazing to enhance wildlife habitat and alleviate invasive species in the area. The BLM Report provides a general description and location of the roughly 25,000-acre ACEC, the primary values considered and a description of how the ACEC meets the relevance and importance criteria. Most importantly, the ACEC Report utilizes five pages to describe the needs for special management prescriptions of the area.

While there were inevitably detractors to the ACEC designations, there was not the same public fervor we experienced with the Rock Spring RMP. This is likely because the BLM adequately presented its identified values to the public, articulated reasonable special management actions to achieve value protection, and allowed other uses to coexist with protections. The BLM's responses to protests also showed a willingness to correct errors and achieve consistency with approved state and local plans where possible. While the BLM does not

require specific ACEC reports, the Lander Field Office displayed a good-faith effort to follow its regulations and achieve consistency while designating ACECs.

VII. Improving the Land Management Planning Process

Congress did not give the BLM unilateral authority to establish wilderness areas or national monuments. Instead, Congress created a specific and narrowly tailored conservation tool—the ACEC—designed to protect important public land values within the multiple-use and sustained-yield framework in full coordination with state and local governments. When properly implemented, ACECs enable targeted, locally responsive conservation without unnecessarily displacing other valuable land uses. When misapplied, however, ACECs can override FLPMA's balanced-management mandate and function as de facto land withdrawals without the oversight Congress intended.

The Rock Springs RMP ACEC designation process demonstrated how easily BLM can identify nominal values across large landscapes and assign sweeping restrictions on other multiple uses without explaining how existing or future uses would cause irreparable harm. The process exposed how vulnerable ACEC designations are to being shaped by broad political objectives, such as limiting fossil-fuel development, rather than by carefully targeted measures aimed at protecting truly relevant and important values on the ground.

This breakdown in process is not merely technical. Sweetwater County estimated energy tax revenue losses of over $12-million to the county and losses of $5.6-million to their school district revenue. Loss of industry opportunity chips away at the size of its workforce, which reduces the number of people eating at cafes and sending their kids to school. The effects of the Rock Springs RMP BLM plan are not just environmental or financial, the effects will be socially palpable.

With the vast scenic, cultural, historical, and ecological values that BLM lands have in Wyoming, it is not farfetched that a future administration may determine that all BLM lands in Wyoming have relevant and important values that should be protected under an ACEC designation. When ACECs can be designated without rigorous criteria or transparent justification, they become highly vulnerable to political pressure.

The ease with which expansive ACEC proposals could proliferate across BLM lands is already evident. In 2022, a group of 19 non-governmental organizations put forward a single nomination – the 48-million acre "Sagebrush Sea Reserve" – underscoring existing pressures for landscape-scale designations that Congress never intended. If "important and relevant values" can be asserted broadly and "special management" prescriptions need not be tied to preventing irreparable harm, then virtually all BLM lands could be considered candidates for ACEC designation and land use restrictions can be applied capriciously.

Changing administrative priorities moves planning decision authority out of local field offices to Washington D.C., harming our working relationships with local land managers, undermining the speed of the planning process, and jeopardizing the use and protection of the natural resources that FLPMA intends to be conserved. These landscapes and resources cannot

be managed on four- or eight-year terms but must be grounded in the coordination and cooperative federalism principles that Congress envisioned and FLPMA demands.

Both sides of the aisle need to understand that top-down edicts produce instability that undermine the necessary balance of conservation on public lands. Wyoming's counties support the appropriate use of ACECs. We believe they can be powerful tools for protecting unique and sensitive resources. But their effectiveness and legitimacy depends on agencies following the law and their own regulations: identifying values explicitly, demonstrating the necessity of special management to prevent irreparable harm, evaluating trade-offs, considering impacts to state and private lands, and working collaboratively with local governments whose communities will live with the consequences.

We desperately need federal agencies to empower local land managers on the ground, who understand the impacts of their management actions, that prioritize relationships with local governments, and work under the requirements set by Congress in FLPMA and NEPA, so that we can cooperatively craft RMPs that can carefully address the moral issue of conservation to the betterment of ourselves and future generations of Americans.

Thank you again for the opportunity to testify, I look forward to answering questions.

The CHAIRMAN. Thank you.
Mr. Cramer.

STATEMENT OF ADAM CRAMER,
CHIEF EXECUTIVE OFFICER, OUTDOOR ALLIANCE

Mr. CRAMER. Good morning. Thank you, Chairman Lee, Ranking Member Heinrich, and Committee members for the opportunity to speak with you all here today.

My name is Adam Cramer, and I am the CEO at Outdoor Alliance. Outdoor Alliance is a national coalition that unites the voices of the human-powered outdoor recreation community to conserve public lands and waters and ensure sustainable management and recreation access for current and future generations. We represent paddlers, climbers, mountain bikers, backcountry skiers, surfers, and anyone who likes to get outside and enjoy our country's public lands and waters. Our nine member organizations include the Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, the Mountaineers, the American Alpine Club, Colorado Mountain Club, and Surfrider Foundation. Outdoor recreation is, these days, the most common way Americans come to know their public lands and waters and cultivate a stewardship ethic. It's also a "principal or major" use under FLPMA.

So, the Bureau of Land Management is responsible for the care of some of our country's most spectacular outdoor recreation experiences, like mountain biking on Gooseberry Mesa outside of Hurricane, Utah, paddling at New Mexico's Upper Taos Box, or climbing at Red Rock Canyon outside of Las Vegas. And these things are really just a drop in the bucket. The 245 million acres of public land under BLM's management contain more than 10,000 miles of mountain bike trails, about 2,500 miles of whitewater paddling, and over 20,000 climbing routes and bouldering problems. Cumulatively, these resources are the literal infrastructure of the outdoor recreation economy, which, as you all know, supports nearly $1.2 trillion in gross economic output, about five million American jobs, and about 2.3 percent of our country's GDP, according to the Bureau of Economic Analysis. And outdoor recreation helps support vibrant, diversified local economies, particularly in public lands communities, and it helps attract workers and businesses across a range of industries because of the quality of life benefits it brings to local communities.

Now, outdoor recreation may be, these days, the most economically significant and socially relevant use of our country's public lands, but it's not the only use. The BLM has a complicated job to implement its multiple-use, sustained-yield mandate. It is a complex and consequential balancing act, and planning is how BLM takes a ton of information from the public to help strike a balance to create the "harmonious and coordinated management" that FLPMA describes. Now, successful and durable planning requires community engagement, especially at the local level, with critical input from local communities, their elected officials, as well as consultation with tribal governments. The BLM also needs reliable and current information. And to that end, I commend Congress, and this Committee in particular, for the bipartisan work that led

to the unanimous passage of the EXPLORE Act last year, which directs the BLM and other land management agencies to inventory for recreation resources and values to support better agency decision-making.

Now, planning is essential for protecting and enhancing public land and outdoor recreation opportunities. Plans lay out what lands are open or closed for energy, mining, grazing, and recreation; conditions and stipulations for development activities; special designations; and of course, lands that are eligible for disposal. Now, plans that are outdated and vague are recipes for conflict, and planning is a huge and important investment in the success of the permitted projects that ultimately need to tier off of these plans. Clear plans, with public support that comes from a sound and participatory process, give communities and stakeholders the certainty that they need to make investments in recreation infrastructure, in businesses, as well as other public land uses. Importantly, and maybe most importantly, planning is part of the democratic management of our public lands, and part of what makes public lands truly public. Sound planning is responsive to local and national interests. It may not fully satisfy everyone, but at its best, it reduces conflict and leads to compromise where stakeholders feel heard and their communities' needs are meaningfully reflected in the final plan.

In closing, I want to be clear that the outdoor recreation community strongly supports BLM's Public Lands Rule, which helps to develop better information on landscape health to support sound, sustainable management decisions. Thank you for the opportunity to be here. I am truly grateful, and I look forward to all of your questions and conversations.

[The prepared statement of Mr. Cramer follows:]

OUTDOOR ALLIANCE

Testimony of:
Adam Cramer
Chief Executive Officer
Outdoor Alliance

November 19, 2025

Sen. Mike Lee
Chair, Senate Energy and Natural Resources Committee
363 Russell Senate Office Building
Washington, DC 20510

Sen. Martin Heinrich
Ranking Member, Senate Energy and Natural Resource Committee
709 Hart Senate Office Building
Washington, DC 20510

Re: Full Committee Hearing to Examine the Land Use Planning Process Under FLPMA

Dear Chairman Lee, Ranking Member Heinrich, and Committee members:

Thank you for the opportunity to share the outdoor recreation community's perspective on the importance of planning for supporting sound recreation outcomes on public lands and waters managed by the Bureau of Land Management.

My name is Adam Cramer, and I'm the Chief Executive Officer of Outdoor Alliance.

Outdoor Alliance is a coalition of nine member-based organizations representing the human powered outdoor recreation community. The coalition includes Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, The Mountaineers, the American Alpine Club, Colorado Mountain Club, and Surfrider Foundation and represents the interests of the millions of Americans who climb, paddle, mountain bike, backcountry ski and snowshoe, and enjoy coastal recreation on our nation's public lands, waters, and snowscapes.

OUTDOOR ALLIANCE

Outdoor recreation is the most common way that Americans come to know their public lands and waters and cultivate a conservation and stewardship ethic, and the Bureau of Land Management is responsible for the care of some of our country's most spectacular outdoor recreation experiences. Places like:

- Mountain biking trails outside Moab, Utah;
- Whitewater on New Mexico's Upper Taos Box;
- Idaho's Jarbridge and Bruneau Rivers;
- Climbing in Red Rocks, just outside Las Vegas, Nevada;
- Bouldering at the Volcanic Tablelands near Bishop, California;
- Copper City Mountain Bike Trails near Three Forks, Montana; and
- Paddling on Oregon's Owyhee and Rogue Rivers.

The 245 million acres of public land under BLM's management contain more than 23,125 climbing routes and bouldering problems; 25,287 miles of trail (with 10,422 miles accessible for mountain biking); and 2,379 miles of whitewater paddling, according to Outdoor Alliance's GIS database. Of these resources, approximately 63 percent of the climbing, 70 percent of the trail miles, 75 percent of the mountain biking, and 47 percent of the whitewater paddling miles are managed outside of the National Conservation Lands system, making sound multiple-use management of particular importance.

Cumulatively, these resources are the literal infrastructure of the outdoor recreation economy, which supports nearly $1.2 trillion in gross economic output, 5 million American jobs, and 2.3 percent of our country's GDP according to the Bureau of Economic Analysis. Outdoor recreation helps support vibrant, diversified local economies, particularly in public lands communities, and it helps attract workers and businesses across a range of industries because of the quality-of-life benefits it brings to local communities.

Planning for Multiple-Use

While outdoor recreation may be the most economically and socially important use of our country's public lands, it is not the only use, and BLM has a complicated job to implement its multiple-use, sustained-yield mandate. Alongside outdoor recreation, FLPMA names livestock grazing, fish and wildlife, mining, rights-of-way,

and timber production as "principal or major" uses of public lands.[1] FLPMA's definition of multiple-use reads in part, "a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations," and, "harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment."[2]

This is a complicated balancing act, and planning is how BLM takes information from the public to help weigh sometimes-competing interests and create the "harmonious and coordinated management" that FLPMA describes. Sound planning requires community engagement and public input, and planners need the time and resources to meaningfully engage the public. They also need sound information, and to that end, I commend Congress—and this committee in particular—for the bipartisan work that led to the unanimous passage of the EXPLORE Act last year, which directs BLM and other land management agencies to inventory for recreational resources and values to support better agency decision-making.[3]

The outdoor recreation community also strongly supports BLM's Public Lands Rule,[4] which helps to develop better information on landscape health to support sound and sustainable management decisions.

Planning is essential for protecting and enhancing public land outdoor recreation opportunities. Plans lay out:

- What lands are opened or closed for energy, mining, grazing, and recreation;
- Conditions and stipulations for development activities; and
- Special designations, like ACECs, Special Recreation Management Areas, recreation route systems and focus areas, rights-of-way, and energy zones.

Plans that are outdated or vague are recipes for conflict, and planning is a huge and important investment in the success of the permitted projects that will ultimately need to tier to these plans. Clear plans—with the public support that comes from a sound and participatory process—give communities and stakeholders the certainty

[1] 43 U.S.C. § 1702(l).
[2] 43 U.S.C. § 1702(c).
[3] *See* 16 U.S.C. § 8412.
[4] Conservation and Landscape Health, 89 Fed. Reg. 40,308 (May 9, 2024) (43 C.F.R. §§ 1600, 6100).

they need to make investments: in recreation infrastructure and businesses, as well as in other public lands uses.

When RMPs identify areas off-limits for development—migration corridors, high-value recreation hubs, cultural landscapes—developers are steered away before investing in un-permittable projects. When RMPs establish right-of-way corridors and renewable energy zones, projects face fewer protests and shorter NEPA reviews. Clear plan objectives let BLM craft defensible permit conditions and reduce litigation risk. The cheapest, fastest place to fix conflicts is in resource management plans.

Importantly, planning is part of the democratic management of our public lands and a part of what makes public lands truly public. Sound planning efforts are responsive to local interests, as well as national interests. They rarely leave all stakeholders entirely satisfied, but at their best, sound plans help eliminate unnecessary conflict and produce a compromise around unavoidable conflict where all interests feel that they have been heard and that the final plan to some degree reflects their needs and interests.

Oil & Gas

Up-to-date and sound resource management plans are made even more important by recent changes to the oil gas leasing process enacted through the "One Big Beautiful Bill Act."[5]

Since 2018, Outdoor Alliance has worked to monitor new oil and gas lease sales in six western states (Colorado, Montana, Nevada, New Mexico, Utah, and Wyoming), screening our recreation database (rock climbing sites; mountain biking, hiking, and skiing trails; and whitewater paddling runs) against new oil and gas lease parcels to identify potential recreation conflicts and important places that might be at risk. Over the life of the program, we have flagged more than 100 parcels and more than 160,000 acres of public land made available for oil and gas leasing and containing recreational resources.

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[5] *See* 30 U.S.C. § 226.

Prior to the enactment of the Big Beautiful Bill, BLM had authority and direction to generally defer nominated leases that contained recreation conflicts. Additionally, BLM had discretion to adjust lease stipulations (e.g., no surface occupancy) to help protect recreation resources and recreation experiences. The Big Beautiful Bill mandates, however, that BLM make available to leasing any parcel in an area identified as open under an RMP and bars BLM from adjusting leasing stipulations contained in the RMP.

This makes planning more important than ever. It is critically important that BLM have up-to-date RMPs that accurately take into account the recreation and conservation values of public lands. Without up-to-date and sound RMPs, BLM will inevitably produce conflicts by leasing public lands with important recreation values. These conflicts will also take a toll on local communities that are investing in recreation infrastructure and the recreation economy.

As an example of what these conflicts can look like, in early 2020 BLM proposed to lease parcels that overlapped with Moab's world-renowned Slickrock mountain biking and OHV area. Following overwhelming outcry from the outdoor recreation community and the Governor of Utah, these parcels were deferred. These outcomes may no longer be possible based on the changes passed through the Big Beautiful Bill without sound RMPs that place areas with these sorts of conflicts off limits to development.

Land Disposal

Part of the resource management planning process directed by FLPMA is the identification of lands appropriate for disposal. While the outdoor recreation community is vehemently opposed to the large-scale transfer or sale of public lands, we are open to the limited transfer of public lands identified through planning and sound public process and done in accordance with existing authorities like the Federal Land Transaction Facilitation Act. It is essential, however, that any transfers be screened for recreation and conservation conflicts, and this requires up-to-date plans that account for contemporary public land uses and values.

Outdoor Alliance maintains a geospatial data layer that represents the "footprint" of outdoor recreation on public lands. The layer comprises climbing sites, trails, and

whitewater paddling sections, buffered by ¼ mile to account for the impact of the immediate environment on the recreation experience. An analysis of the overlap between the recreation footprint and lands identified for disposal through the RMP process indicates that an overlap between recreation opportunities and disposal lands is more than four times as likely on RMPs older than 15 years.[6] Timely information that accounts for changing use patterns over time is essential for sound decision-making on the potential small-scale transfer of public lands.

Congressional Review Act

Finally, recent efforts to use the Congressional Review Act to rescind resource management plans are uniquely harmful. These efforts wipe away years of stakeholder engagement in plan development, making communities less likely to participate and provide the information these plans truly depend on. Worse, because the CRA bars "substantially similar" efforts in the future, it will make sound future management decisions for these landscapes overwhelmingly more difficult.

* * *

Currently, approximately 134 of BLM's 169 Resource Management Plans are out of date.[7] Congress currently funds BLM Resource Management Planning at just under $70 million per year through the appropriations process—significantly less than needed to address this substantial backlog of outdated plans, which BLM estimates cost around $3.5 million per plan to update.[8] Successfully managing our public lands— to speed permitting efforts, and also to protect and improve recreation opportunities—requires up-to-date and modern management plans. Moving forward, I would ask the Committee to support BLM in investing in the future of resource management planning to make these efforts participatory and successful.

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[6] Our analysis finds an overlap of 68,673 acres of the recreation footprint within 4,190,465 acres identified for disposal in RMPs more than 15 years old (1.64%), and an overlap of 32,651 acres of the recreation footprint within 8,336,023 acres of land identified for disposal through RMPs completed in the last 15 years (.39%).

[7] United States Department of the Interior, *Budget Justifications and Performance Information Fiscal Year 2025: Bureau of Land Management*, V-135 (Mar. 2024), https://www.doi.gov/sites/default/files/documents/2024-03/fy2025-508-blm-greenbook.pdf

[8] *Id.*

OUTDOOR ALLIANCE

Best regards

Adam Cramer
Chief Executive Officer
Outdoor Alliance

cc: Louis Geltman, VP for Policy & Government Relations, Outdoor Alliance
Heather Thorne, Executive Director, Access Fund
Beth Spilman, Executive Director, American Canoe Association
Clinton Begley, Executive Director, American Whitewater
Kent McNeill, CEO, International Mountain Bicycling Association
David Page, Executive Director, Winter Wildlands Alliance
Tom Vogl, Chief Executive Officer, The Mountaineers
Ben Gabriel, Executive Director, American Alpine Club
Madeline Bachner Lane, Chief Executive Officer, Colorado Mountain Club
Chad Nelsen, Chief Executive Officer, Surfrider Foundation

The CHAIRMAN. Thank you, Mr. Cramer.
Mr. Sheehan.

STATEMENT OF GREG SHEEHAN,
PRESIDENT AND CEO, MULE DEER FOUNDATION

Mr. SHEEHAN. Chairman Lee, Ranking Member Heinrich, and members of the Committee, thank you for the opportunity to testify today. My name is Greg Sheehan. I serve as the President and CEO of the Mule Deer Foundation, a national organization whose mission is to ensure the conservation of mule deer, black-tailed deer, and their habitats. Further, our interests include sportsman access in order to ethically hunt these iconic species. Each year, we engage with more than 420,000 hunters, members, volunteers, and supporters. We speak for the millions of sportsmen and women who depend on healthy public lands, intact migration routes, and wild places.

My testimony also reflects a lifetime in state, federal, and non-profit conservation service. I spent 25 years with the Utah Department of Natural Resources, including five as the Director of the Utah Division of Wildlife Resources. I later served as Acting Director of the U.S. Fish and Wildlife Service, and then as the Utah State Director for the Bureau of Land Management under both the Trump and Biden administrations, overseeing 22.8 million acres of federal land. That experience, from energy and mineral development, to wildlife, recreation, fires and fuels, grazing, and national monuments, gave me a practical understanding of how planning decisions shaped day-to-day management, and how essential strong partnerships with states, tribes, local governments, industry, permittees, and non-profit partners really are.

The Federal Land Policy and Management Act provides the framework for this stewardship. FLPMA's multiple-use and sustained-yield principles recognize that conservation, recreation, grazing, energy, mining, habitat, public access, and the preservation of wild and undeveloped landscapes are all legitimate uses of the land. As President Theodore Roosevelt said, "Conservation means development as much as it does protection." To be clear, multiple use does not mean every use everywhere, but it does require a planning system capable of balancing these needs while keeping landscapes healthy for future generations.

Today, however, many of BLM's resource management plans, some written in the 1980s on typewriters, no longer reflect modern wildlife science, migration data, wildfire conditions, recreation growth, energy and mineral needs, or other current demands on the land. Updating these plans is essential for both conservation and responsible use, but revising an RMP today takes two to three years—sometimes even up to ten—and costs $2 to $6 million. BLM has stated that 134 of its 169 plans are outdated. Because funding does not meet all the planning needs, only the most prioritized plans are updated, while many landscapes continue to be managed under frameworks that no longer match on-the-ground realities. Part of that challenge is that FLPMA provides very limited direction on how BLM is actually supposed to develop plans that meet the expectations of Congress and the public.

Let me give you an example. When I was kid, we liked to play Monopoly. We didn't have phones to play on back then. Imagine if the instructions simply said "buy property, build houses and hotels, make more money than the other players, and if those instructions are not sufficient, then make up your own rules." You can imagine that result. Players invent their own rules and every game ends in an argument. FLPMA can feel a little like that. It's 71 pages long, yet only about two pages of Section 202 explain how to do land use planning for 245 million acres of public land. When the statute provides such little direction, the BLM has to fill in the gaps with regulations and policy, and states, tribes, counties, industry, conservation groups, and all the public end up unhappy with some part of the outcome. If Congress has clear expectations, updating those few planning pages would be very helpful, especially for the BLM.

Another factor is the cumulative use of administrative designations. BLM has more than two dozen planning and management tools, from wilderness study areas and ACECs, to lands with wilderness characteristics and visual resource management classes. Each can serve a purpose, but when layered together, or left in place indefinitely, they can limit flexibility to manage habitat, address wildfire risk, support communities, and maintain access. At the same time, society increasingly depends on BLM lands for energy production, critical minerals, transmission lines, recreation, and solitude. Planning has to be thoughtful enough to allow for those needs while still protecting wildlife habitat and migration routes. I also want to share that my experience, working side-by-side with BLM staff, is that they are dedicated, hardworking, and committed to fulfilling all elements of FLPMA and other governing acts.

Finally, I want to emphasize that land stewardship matters deeply to America's hunters and anglers. Protecting wild places, migration corridors, watersheds, and healthy habitat is fundamental to our mission at the Mule Deer Foundation. A planning system that is timely, collaborative, science-based, and flexible will better support wildlife, rural communities, and the other diverse uses Congress intended under FLPMA. Thank you for this opportunity to testify, and I would be pleased to answer any questions from the Committee.

[The prepared statement of Mr. Sheehan follows:]

Written Testimony from:
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November 17, 2025

Chairman Lee, Ranking Member Heinrich, and members of the Committee—thank you for the opportunity to testify today.

My name is Greg Sheehan, and I serve as the President and CEO of the Mule Deer Foundation, a national conservation organization whose mission is to ensure the conservation of mule deer, black-tailed deer, and their habitats. Further, our interests include sportsman access in order to ethically hunt these iconic species. Each year we engage with more than 420,000 hunters, members, volunteers, and supporters. We speak for the millions of sportsmen and women who depend on healthy public lands, intact migration routes, and wild places. I too am a passionate hunter and angler.

My testimony also reflects a lifetime in state, federal, and nonprofit conservation service. I served 25 years with the Utah Department of Natural Resources, including five as Director of the Utah Division of Wildlife Resources; later as Acting Director of the U.S. Fish and Wildlife Service; and subsequently as Utah State Director for the Bureau of Land Management, serving under both the Trump and Biden administrations while overseeing 22.8 million acres of federal land. During my time at BLM, I oversaw a broad portfolio of on-the-ground programs including oil and gas, mining, national monuments, recreation and conservation areas, wild horses and burros, fire and fuels, travel management, and grazing among others. That work provided me with a practical understanding of how planning decisions shape day-to-day management and how critical it is to work effectively with state, local, and Tribal governments, permittees, industry, and nonprofit partners.

The Federal Land Policy and Management Act (FLPMA) provides the framework for this stewardship. FLPMA's multiple-use and sustained-yield principles recognize that conservation, recreation, grazing, energy, mining, habitat, public access, and the preservation of wild and undeveloped landscapes are all legitimate uses of the land. As President Theodore Roosevelt said, "conservation means development as much as it does protection." To be clear, multiple use does not mean every use, everywhere, but it does require a planning system capable of balancing these needs while keeping landscapes healthy for future generations.

Today, however, many of BLM's Resource Management Plans or RMP's—some written in the early 1980s on typewriters—no longer reflect modern wildlife science, migration data, wildfire conditions, recreation growth, energy and mineral needs, or other current demands on the land. Updating these plans is essential for both conservation and responsible use, but revising an RMP today takes two to three years—sometimes even up to ten-- and costs $2–6

million. BLM has stated that 134 of its 169 plans are outdated. Because funding doesn't meet all the planning needs, only the most prioritized plans are updated, while many landscapes continue to be managed under frameworks that no longer match on-the-ground realities.

Another factor is the cumulative use of administrative designations. The BLM now has more than 26 planning and management tools—including Wilderness Study Areas, Areas of Critical Environmental Concern, Lands with Wilderness Characteristics, Wild and Scenic Rivers, Research Natural Areas, Visual Resource Management Classes, mineral withdrawals, and travel management planning. Each tool can serve an important purpose, yet when layered together or left in place indefinitely, they can limit the flexibility needed to manage habitat, address wildfire risk, sustain local communities, and maintain access. At the same time, society increasingly depends on BLM lands for solitude, energy production, mining of rare earth and other critical minerals, transmission lines, and other public access. Thoughtful planning is essential to ensure these projects can proceed responsibly while also protecting wildlife habitats, migration routes, and the wildland values that matter to millions of hunters, anglers, and recreationists.

Travel management planning illustrates this balance. Well-designed route networks help protect habitat and reduce unnecessary wildlife disturbance. But outdated or overly restrictive route systems can also limit access needed for water developments, habitat treatments, migration-corridor projects, or energy and transmission infrastructure.

FLPMA's requirement in Section 202(c) to coordinate with state and local governments and with Tribes is an important tool for improving planning outcomes, although the statute is vague about what meaningful coordination should look like. Strengthening early and consistent engagement would help ensure plans better reflect wildlife science, habitat needs, water availability, infrastructure realities, and Tribal indigenous knowledge, resulting in more practical and durable decisions.

Finally, I want to emphasize that land stewardship matters deeply to America's hunters and anglers. Protecting wild places, migration corridors, watersheds, and healthy habitat is fundamental to our mission at the Mule Deer Foundation. A planning system that is timely, collaborative, science-based, and flexible will better support wildlife, rural communities, and the other diverse uses Congress intended under FLPMA.

Thank you for the opportunity to testify. I would be pleased to answer any questions from the Committee.

The CHAIRMAN. Thanks so much, Mr. Sheehan.

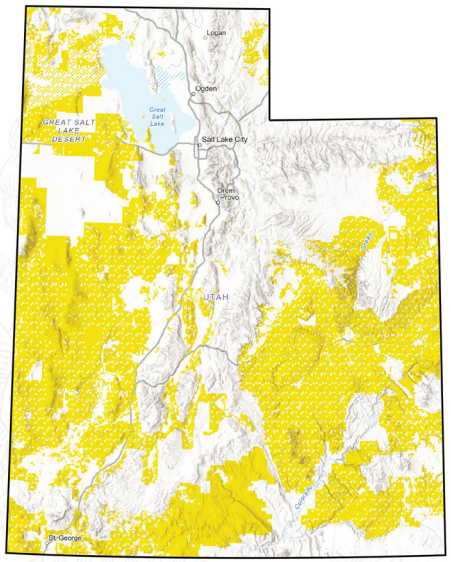
We will now begin our five-minute rounds of questions. I will go first, followed by Ranking Member Heinrich. We will then alternate between Republicans and Democrats, each with five-minute rounds in order of seniority, subject to the early-bird rule.

Attorney General Brown, I would like to start with you. I have a chart here that shows two maps of BLM-managed land within Utah.

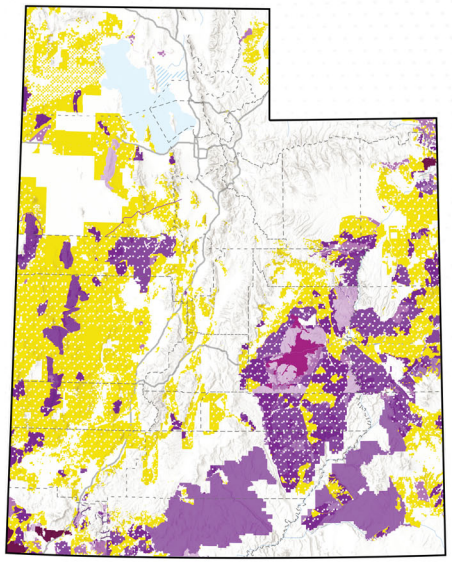
[The chart referred to follows:]

Restrictive Land Designations

- BLM Without Special Designations
- National Monuments
- Areas of Critical Environmental Concern
- Designated Wilderness
- San Rafael Swell Recreation Area
- Natural (Primitive) Areas
- Lands with Wilderness Characteristics
- National Conservation Areas
- Special Recreation Management Areas
- Wild and Scenic Rivers



Bureau of Land Management (BLM)
Federal Land Policy & Management Act (FLPMA, 1976)



Current BLM Managed Lands
with Restrictive Designations

The CHAIRMAN. The map on the left shows all the BLM land in Utah that was open for multiple use in 1976 upon the enactment of FLPMA. And then the map on the right shows those same lands today, now plastered with a lot of restrictive designations pursuant to FLPMA. Now, comparing these two maps, what does the increase in restrictive designations over the last 49 years since FLPMA's enactment—what does that mean for the rural economies in the State of Utah, especially those that depend on access to these lands, and how does it affect the ability to permit projects like transmission lines, wildfire mitigation, grazing, basic rights-of-way, and so forth?

Mr. BROWN. Thank you, Mr. Chairman.

I think, first of all, if you look at that map, the purple also represents what are effectively single uses. And the reality is, under FLPMA, the dual mandate, obviously, is multiple use and sustained yield. You mentioned these rural communities. One of them—I spend a lot of time in Garfield County, for instance. I have a father-in-law that lives there. We love it. I love the mountain biking there. It is roughly 93 percent owned and controlled by the Federal Government. So, you literally can't take any action without implicating the Federal Government. And by the way, you mentioned the economic impact. Imagine trying to run and fund a county on what is effectively three to four percent of the land being able to tax. And so, things like hospitals or schools, I mean, so when I talk to commissioners, for instance, in Garfield County, they are very passionate about this issue.

And so, I think ultimately one of the things that we need to do is have what is mentioned, I think, by every testimony here today, which is meaningful involvement of the people who are local and who are most directly affected by these designations. And I think that will make a huge impact on how it is that we address these issues.

The CHAIRMAN. Right. That makes things very difficult. You mentioned the 93 percent ownership—the fact that that's all owned by the Federal Government makes a lot of things more difficult, including building up their own tax base.

Now, can we talk for a moment about the TransWest Express transmission line? You spoke about that and the fact that it took more than 18 years to move from application to construction of the project. That's a long time. It took that long in large part because the project had to navigate multiple outdated or ever-shifting federal planning documents. And it spanned the creation and revision of two separate sage grouse plans, each with different requirements. So the ground was shifting throughout the duration of that because of these multiple governing documents.

What does that experience tell us about how rigid and sometimes outdated RMPs affect transmission permitting, and what would need to change in the planning process in order to ensure that projects like that aren't stuck perpetually in limbo?

Mr. BROWN. Well, FLPMA was passed over 50 years ago, and I think those who voted for it at the time wouldn't recognize what it looks like at this point in time. And I think one of the things we need to do is rethink the rigidity of the process, because it's not good for anyone and it's not good for permitting projects. I mean,

you mentioned this TransWest Express, I mean, this transmission line was a renewable project that was a priority for multiple administrations. So everyone wanted it to happen. And so, you can imagine, if you have a project that everyone wants to happen and it still takes 18 years, I mean, clearly, the process itself is broken.

Now, admittedly, this was a very complicated project, spanning multiple states, starting in Wyoming, delivering power to California, but that being said, we have got to be able to rethink the process if it takes that long.

The CHAIRMAN. Indeed. And that's for, as you say, a relatively non-controversial project.

Mr. Sheehan, you noted that BLM now uses more than 26 different administrative designations that can be layered, often one on top of the other, compounding the complexity of it. What happens on the ground when these designations are layered over the exact same landscape, and how does that affect BLM's ability to carry out habitat work, fuels treatments, or even maintain existing infrastructure on those lands?

Mr. SHEEHAN. Thank you, Chairman Lee.

Certainly, when we have this multitude of layers—some of those were identified on that map you showed a moment ago—it can restrict even our ability to help, in many cases, wildlife and those needs. Wildlife do need our help. We have changing and evolving landscapes. We have fire regimes. We have drought situations that occur. And it's really important that we can get in for the benefit of wildlife and do water structures and developments and projects, do habitat restoration to help reduce the impact of non-native invasive plants that come into our landscapes. We do need to get into these areas to address fire rehabilitation after they occur. And you know, at times, some of these designations will preclude us from being able to get in and adequately help wildlife and their needs.

The CHAIRMAN. Thank you.

My time is expired. We will turn to Senator Heinrich now.

Senator HEINRICH. Actually, Chairman, I know both of my down-the-dais members have a meeting to get to, so I am going to defer to them.

The CHAIRMAN. Great. Who has the more pressing——

Senator KING. She was here before.

The CHAIRMAN. Roger that. We will go to Senator Cortez Masto. Thank you.

Senator CORTEZ MASTO. Thank you.

Senator KING. Early-bird rule.

The CHAIRMAN. Early-bird rule, thank you, Senator King.

Senator CORTEZ MASTO. Thank you, Mr. Chairman, and to the Ranking Member, and thank you to the panelists for being here. This is a great conversation.

I am from Nevada, and similar to Utah, most of our land is owned by the Federal Government—over 84 percent. Just about 63 percent is managed by the BLM. So, I appreciate all of the conversation about how we have to find that balance and manage this public land for use, not only those individuals who live in the state, but those who want to come and engage in tourism and transportation and then be stewards of federal land as well.

Let me ask you this, and let me start with Mr. Kenna. I appreciated your comment about Congress needing to pay more attention to funding and staffing at the BLM level, because I couldn't agree more. What we have right now, I am very concerned that the current administration is taking actions that will only exacerbate the BLM's backlog in resource planning. We have identified today that 134 out of the 164 RMPs are outdated. And if we don't have the staff and we don't have the resources to even look at how we need to update, I am very concerned.

Can you talk a little bit about the importance of the staffing levels and what role they play? And let me just touch on this—every single one of us has worked with our local BLMs. We know who they are. They are in our states. They live there. They have worked with the local jurisdictions. They understand better than anybody in Washington. And I will call out folks in Washington under both administrations that are playing politics. And we need people driven from the ground up—I could not agree more, General Brown—that are focused on how we manage the land to the benefit of the people that live there and recreate there. But I am concerned about the staffing levels under this administration. How much more is that going to set us back in trying to address the issues we are talking about today?

Mr. KENNA. Let me start by sort of taking the perspective of a field manager—so, the manager of an office at the ground level. And one of the things that it calls for in a plan or in a project is, you've got to have access to an interdisciplinary staff. You need to have a wildlife biologist. You need to have an archeologist. You need to have those specialists that have expertise that are unique. And that's a lot of the processes that are underneath that, like the SHPO process—State Historic Preservation process. They help manage that. They help bird-dog all of the details of what goes on.

So I share your concern as I see that some of these field offices are losing key bits of expertise. We have had times in my career at the BLM when, for example, there was a shortage of wildlife biologists. If you have to do Section 7 consultations under the Endangered Species Act, you've got to have one. So, if you don't have one in the office, you've got to find one. It's not really a discretionary thing. You've got to have that expertise.

So, I think if I were to try to put a fine point on it, imagine that happening in every single field office. As you lose people, and if you have a vacancy in a key position, what are you left to do? You are out there trying to cast around with your neighbor offices to see if you can find the right expertise in order to assemble what needs to be done.

Senator CORTEZ MASTO. Yes.

Mr. KENNA. So, I think that's essentially the crux of it, you've got to have that interdisciplinary mix in there, or some very specific pieces of expertise that are essential.

Senator CORTEZ MASTO. Yes, I appreciate that.

My time is running out, but let me touch on one other thing. Early this year, Congress took the unprecedented step in using the Congressional Review Act to reverse three separate resource management plans that were approved under the previous administration. That's the first time. And there is an argument—a legal argu-

ment to be made whether they are actually rulemaking or not. But the question I have is, I am concerned, if a land use plan is now considered to be a regulation that Congress can overturn, how does this bode for other existing or future land use plans? I mean, again, isn't this—the concern we are all talking about is top-down, right? Driven from Washington dictating what happens, and we are still doing it. How is that going to impact any resource planning that you plan in the future, and then all of a sudden, Congress can come along and use the CRA to overturn it? Wouldn't that frustrate the process moving forward?

I am going to just open that up to anyone.

Mr. KENNA. Senator, I don't see how it can't help but undermine it. I think it's going to create a mess.

Senator CORTEZ MASTO. Yes, I appreciate it. Thank you. I know my time is up.

The CHAIRMAN. Thank you, Senator Cortez Masto.

Senator Barrasso would otherwise be next. He has graciously deferred to Senator King, who has a time commitment elsewhere.

Senator King, go ahead.

Senator KING. Thank you very much.

One specific question, Attorney General Brown—timing. Are there any limits on this process? Are there any time limits? Is that something we should be discussing here? Because you talk about the 18-year transmission line. That's unacceptable, particularly in this day and age. Should we be talking about perhaps putting limits on times and steps so that there is a foreseeable end to the process?

Mr. BROWN. I think that's definitely something that we ought to look at. When you look at FLPMA Section 202, as was already mentioned, when it comes to things like land swaps, it is very prescriptive, but Section 202 is not. And there is not a whole lot of language and yet, it is a very impactful section of code. And so, those kinds of limits might make sense. I think it also might make sense to figure out how it is we can get meaningful involvement, as has already been said, with those on the ground. And maybe that's the answer to—if there is currently a lack of staffing, maybe we can look at those folks with the local interest.

Senator KING. Well, work tends to expand to fill the time available, and if the time available is unlimited, it is going to be a long process. So, I hope you would provide some suggestions to the Committee on where we might be able to look for some time limitations that would improve this—the uncertainty surrounding the process.

Mr. Sheehan, you used an important term, and I think this is sort of an undercurrent of this hearing—"regulatory whiplash." And part of the problem is that the Congress is not being very specific about what it wants. And therefore, it leaves tremendous discretion to whatever administration it is, and you go from one to the other and the whole world turns upside down. Is one way that we can address this by being more specific in terms of FLPMA and what the criteria are so Congress isn't basically abdicating its entire responsibility in this area to the executive?

Mr. SHEEHAN. Thank you, Senator King.

Certainly, it's worth considering. I think that's why Chairman Lee asked for this hearing today—do we need to do more? Attorney

General Brown mentioned a moment ago, but when we look at Section 202, I mentioned in my remarks that it's only about two pages of guidance for 245 million acres of land. There is a little bit more in there. It talks about a congressional process and how they could look at amending these actions, but essentially 202 says three things: it says coordinate with state, local, and tribal governments; try to use their planning efforts where you can; and prioritize areas of critical environmental concern. That's the guidance from Congress in a nutshell in Section 202 of a 71-page law. And everything beyond that has been crafted through rules, everything's been crafted through internal guidance policy handbooks by the BLM, and we get where we get.

Senator KING. And that leads to the problem of executive overreach because there are no boundaries. So, again, I would ask all of you for some homework to suggest to us how Section 202 could be amended to narrow what the criteria are and what the specifics are so that we could get policy on a more timely basis that is more predictable and more resilient. I think one of the problems you have all identified is uncertainty. And it takes so long and you don't know what the result is going to be. So I would ask you to provide us with some suggestion as to—that is the business we are in here is lawmaking—as to how this law could be more definitive in order to provide better guidance to the process, which will hopefully produce a better and more resilient result so that we don't have what you characterized, I think quite accurately, as regulatory whiplash.

My final comment, Mr. Sheehan, is, I was concerned that our white-tailed deer don't seem to be among your constituents—of the deer species that you mentioned, and I——

Mr. SHEEHAN. Everyone in the East can have the white-tail, we will take our mule deer in the West.

Senator KING. All right, that's fine.

[Laughter.]

Mr. SHEEHAN. See how it all works out? But thank you for that comment.

Senator KING. And I come at this as someone who has no BLM land in their state. And so, I am looking at it just from the point of view of good policy going forward, and I hope that you can help us with that. Thank you all for your testimony.

Thank you, Senator Barrasso.

The CHAIRMAN. Senator Barrasso.

Senator BARRASSO. Thanks, Mr. Chairman.

Mr. Christensen, I want to just talk about what we have seen under the Federal Land Policy and Management Act, because there are many tools there that are designed to uphold multiple use, the mandate that we have. But one tool is a special land use designation known as areas of environmental concern—ACECs. Those designations have been used in the federal land management process since this law passed 50 years ago. The original intent was to provide flexibility and locally led protections, but what we have seen in Wyoming in the last decade has been a substantial use increase in these designations that seemed to me to limit use, to use these in ways to make non-use a use. And I am just wondering if you could explain the increase in what we have seen in Wyoming in the

last few years of this designation being used in a way that we never anticipated it being used.

Mr. CHRISTENSEN. Chairman Lee, Senator Barrasso, we have seen a substantial increase in ACEC acreage since our most recent planning efforts, and that is the Rock Springs RMP. It's good to note that RMP took place after the BLM's Conservation and Landscape Health Rule. And so, we certainly didn't see that rule fix our problem, which is that the BLM is utilizing the ACEC as a tool for large swaths of land, not identifying unique resources for protection, but hundreds of thousands of acres, often, and really combining them with all sorts of things that we care about, like wildlife habitat and historic places, but doing so in a way that's really hard to untangle and understand what we are actually trying to protect. It's unclear because we have numerous uses.

So, we have seen a huge increase of ACECs in Wyoming. I think in my testimony I said an 85 percent increase in a single RMP, and that RMP is only one of seven field offices that we have—so, a large increase.

Senator BARRASSO. So, are these designations really being driven by local folks, or does it seem like it's more the Federal Government getting involved?

Mr. CHRISTENSEN. Senator Barrasso, interesting question. It's hard to tell. Again, back to BLM's ability to track, we don't actually know often in our resource management plans who is nominating these parcels. There are two ways—the public can nominate, and also the BLM can internally nominate. But, for example, on the Rock Springs RMP, I don't believe, you know, anywhere is it stated. So we have seen certain nominations like the Sagebrush Sea nomination, with 19 NGOs supporting that—48 million acres. We at least know the NGOs that supported it, but for the Rock Springs RMP, it's really hard to tell where those nominations came from.

Senator BARRASSO. So the Biden administration's BLM finalized the Rock Springs Resource Management Plan in December 2024 as that administration was on the way out the door. And I have worked closely with the county commissioners to ensure that Wyoming stakeholders are included. I am grateful to President Trump and Secretary Burgum for announcing an amendment process for the Rock Springs RMP. Can you talk a little bit about the socioeconomic impacts that communities in the West are seeing, especially Wyoming, or how they are impacted by some of these federal land management programs?

Mr. CHRISTENSEN. Yes, I think it's easy to think of public lands as sort of being isolated out in the middle of nowhere. However, as you know, Senator Barrasso, our lands are often intertwined and intermixed, so we have different surface ownership maybe than mineral ownership. We also have inholdings inside of some of these areas. So, anytime that the Federal Government, through an RMP or another rule, restricts some sort of use on federal land, there is often a restriction that also occurs on state and private land as well, further limiting our ability to develop resources, to access certain lands, and so, there is a big impact.

The Rock Springs RMP estimated, you know, based on their preferred alternative, was roughly, you know, $14 million a year in losses to county government, county services, including the school

districts. So we're not talking about inconsequential numbers—a fairly significant impact.

Senator BARRASSO. So, in terms of the land management and what I see as federal overreach, particularly in land management across Wyoming, it seems ultimately so many of the final decisions aren't made locally, but they are made in Washington, DC. How can we improve upon the land management process?

Mr. CHRISTENSEN. That's a great question, and I think one of the first things I would start with is that we have this idea of consistency, coordination, and cooperation, but we do things sort of out of order. So, the BLM could propose a land management plan with multiple alternatives, but maybe one or even none of those alternatives are consistent with state and local plans. How can we—you know, we could really prioritize plans to have consistency done up front, allow for that building, so that you're not doing the check-the-box at the very end.

Senator BARRASSO. Thank you. Mr. Chairman. Thanks for coming back to testify, appreciate it.

The CHAIRMAN. Senator Heinrich.

Senator HEINRICH. Mr. Kenna, how critical is it for the public to guide the direction of the land use plan for that plan to be effective and successful?

Mr. KENNA. I think it's very important, and I would highlight the fact that planning processes, particularly if they are of any size or duration, create a record, and it's a public record, and that public record underpins all of the decision-making that happens in the plan. So it essentially is the balancing dialogue around the FLPMA questions. And so, you can't sidestep that, and you need to make sure that the local knowledge is integrated, and not just the social preferences. Those are very important, but also, where is the mule deer winter range? Where are the cultural resources and cultural properties? Where are the things that we care about? Where are the trails that get a lot of recreation? All of those things are very local.

Senator HEINRICH. Right.

Mr. KENNA. And they are very specific.

Senator HEINRICH. And how does the Congressional Review Act incorporate the public input and the creation of that record?

Mr. KENNA. Well, my concern is that it is the exact opposite. If you think about the perspective of the person who participated in a plan, they have just invested years to get to that kind of endpoint where everybody kind of got together, and whatever the deal was, the deal was the deal.

Senator HEINRICH. Yes.

Mr. KENNA. And now, the Congressional Review Act is sort of taking a political process and putting it over the top of that and vacated that.

Senator HEINRICH. And with no public—there is no mechanism for public input in the Congressional Review Act. And I want to get at some of the unintended consequences that might create.

Mr. Sheehan, you know, with Congress recently overturning a number of RMPs through the Congressional Review Act, one of the limitations under the CRA is that it means that the BLM, under

the statute, can never issue a "substantially similar" plan for those areas. Is that correct?

Mr. SHEEHAN. Yes, I believe that's accurate, Senator.

Senator HEINRICH. So, I am wondering if a plan, if an RMP plan allowed for development of oil and gas, development of mining and grazing, hunting in the planning area, and the plan is overturned by the CRA, could BLM ever issue a new plan that allowed those same uses in the same areas?

Mr. SHEEHAN. Senator Heinrich, I believe that—and I am not a lawyer here, and there are lots of lawyers in the room. There is one right to your left.

Senator HEINRICH. I am not either, but let's take the verbiage at its——

Mr. SHEEHAN. If we work under that premise that a CRA pulls this plan back and then a new plan could not be substantially similar, then it would certainly lean into a set of facts around you can't go back and do the same thing again until Congress says you can do it again. But what it does do, as you pull it back, is it reverts back to——

Senator HEINRICH. The previous plan.

Mr. SHEEHAN [continuing]. The prior plan that's sitting there. And if that allowed for some of those uses, of course, those——

Senator HEINRICH. It could be 40 years old and that plan may not actually address the uses that are most pressing today, correct?

Mr. SHEEHAN. Yes, absolutely. When we talk about planning, and I wrote down a comment that Chairman Lee mentioned in his opening comments, which is, adapt to changing circumstances. And I thought for a moment, what happens over these 40 years, 45 years in some of these plans that have sat there, and, you know, with the new technologies that have come about, I look at what do we know different about wildlife management and movements and how we can restore habitats. We have got wild horses and burros, and in some of these areas that we have plans for, we don't necessarily want to manage for wild horses and burros in those areas anymore.

Senator HEINRICH. We also know where corridors are that, in 1986——

Mr. SHEEHAN. Exactly, we have that technology, absolutely. It has taught us that. Renewable energy.

Senator HEINRICH [continuing]. Nobody knew where the Mule deer corridors were, where the Pronghorn corridors were, and so, that doesn't get managed for, if we are dealing with a 40-year-old plan.

Mr. SHEEHAN. Exactly. So, I guess my hope is, as a former land manager, if the CRAs are going to be a thing that gets used, let us try to avoid that to any extent possible.

Senator HEINRICH. Why not just redo the plan?

Mr. SHEEHAN. A plan can be——

Senator HEINRICH. And avoid all those unintended consequences?

Mr. SHEEHAN. Yes, absolutely. And I think if the plans can be done initially and make sure we do that coordination and cooperation, do all of the efforts we need to so that we get a better, higher level of buy-in, and I would hope Congress does not need to step in on these because, to your earlier point, I don't know what kind

of certainty there is for future planning in these areas, and I hope that that's not compounded.

Senator HEINRICH. I think one of the things that I am concerned about is the opening for litigation, because the statute is so vague about what a substantially similar plan would look like, is that you could literally see every permit—whether that permit is for outdoor recreation, like Mr. Cramer represents, whether that permit is for oil and gas, whether that permit is for grazing—called into question because of some of these CRA activities. And I think that's something that everybody ought to be considering before using such a blunt tool.

Thank you, Mr. Chair.

The CHAIRMAN. Thank you.

Senator Daines.

Senator DAINES. Mr. Chairman, Ranking Member Heinrich, thank you.

Last month, Congress acted to right a wrong and repeal the violation of the multiple use and public engagement principles enshrined in FLPMA. The Biden BLM land use planning process was weaponized to push radical anti-energy policies in states like Montana, like Wyoming, like North Dakota and Alaska, despite significant opposition from the states. Thankfully, Congress acted and they passed my bill to repeal the anti-coal Miles City Resource Management Plan Amendment, and I look forward to President Trump signing it into law very soon.

I want to focus my question on a specific violation of FLPMA in Montana that was prevalent under Biden, and that's the disregard of the views and the input of the local counties, elected officials, and specifically, the governor of the state. The Miles City RMPA was strongly opposed by those living, working, and representing the lands affected, and despite this opposition, Biden's BLM ignored local feedback and they pushed forward with this harmful effort. It is so frustrating to see the disconnect between federal bureaucrats here in Washington, who had a very strong agenda, and local elected officials on the ground in Montana. And during the official governor's consistency review, after multiple official protests, and an appeal from Governor Gianforte, the BLM decided to, "reject the Governor's recommendations." This is shameful and we need to ensure the voice of those closest to the land are not ignored or just rejected.

My question for Attorney General Brown and Mr. Christensen: what actions should Congress take to ensure that local, state, and local statewide elected officials and those most affected by BLM's actions do not have their voices literally shut out of the planning process?

Mr. BROWN. Thank you, Senator Daines, I appreciate that. And we have seen that as well in our state where you get to the place where you have the governor's consistency review and then it is effectively overruled. So, I think one of the things that I think this body could do is look at meaningful changes to FLPMA such that there is meaningful involvement that is more than just sort of a pat on the head to the states because, as we mentioned, we need consistency, coordination, and collaboration. But we also need the states to have some sort of meaningful input so that they can effec-

tively be co-sovereigns over these lands where they have jurisdiction. And I think the consistency review is one specific example where, I think, if there were maybe a little more teeth to that, where they could be meaningful partners rather than just pro forma partners, that would solve, I think, a lot of the issues we have in the local areas in Utah and in places like Montana.

Senator DAINES. Thank you.

Mr. Christensen.

Mr. CHRISTENSEN. Senator Daines, it's a great question. I agree with the idea of increasing the teeth, if you will, of consistency review, but really, I speak more of a cultural shift. I mean, we heard earlier about the impact of having not enough planning employees at the BLM. This is a real concern. But one way to fix that lack of employment at the BLM for planning is to utilize state and county resources, so, utilize state wildlife agencies to help you with developing your sage grouse plan instead of working against those plans. So incorporating state and local knowledge meaningfully in the planning process by authorizing those individuals who sit on ID teams, on planning teams, and really utilize the science and data that they provide.

And as far as the rejection letter, I think our governor got a few of the same letters, so we've got some government efficiency there. But it is a problem. It is a problem that after the entire process, a 13-year planning process, the Rock Springs RMP ends with a whimper. Your recommendations are rejected. And it certainly isn't the way that you would like to see a planning process be working to unite forces, states, local governments, and the federal agencies to really manage these lands for all of America. Thanks.

Senator DAINES. Thank you.

I want to shift gears to forestry and transmission. In order for electric utilities and our rural co-ops in Montana to be able to provide energy in an efficient way, we've got to get the transmission lines in place crossing a patchwork of private, state, and federal lands. To protect these power lines and communities from devastating wildfires, electric utilities develop and retain authorized vegetation management plans to cut and remove dangerous trees on public lands. However, they cannot protect and power communities if land management agencies are not responsive or cooperative when utilities are managing the rights-of-way. Recently, the Vigilante Electric Cooperative from Dillon, Montana, was slapped with a $5 million fine from the Forest Service because a tree outside of their right-of-way caught on fire. Any attempt from Vigilante to remove the tree would have been illegal, yet they were held liable for the fire.

In 2018, FLPMA was amended to include a strict liability cap of $500,000 for electric utilities, which expires in 2028. The $5 million dollar Vigilante fire was far beyond the $500,000 limit, and one that's nearly impossible for a small, rural electric co-op to pay. It literally can put them out of business. It is common sense that no entity should be fined without proven negligence or non-compliance, and the status quo is not providing enough certainty on it.

Last, quick question, Mr. Brown. The Utah and Montana state legislatures have both recently passed legislation to address these liability problems and the unique burden placed on electricity pro-

viders. What still needs to be changed at the federal level to replicate the success we are seeing in our states?

Mr. BROWN. Well, and I think this is something this body should look at in terms of caps and liabilities and frankly, I think a lot of what you are talking about in terms of, you mentioned sort of the catch-22—they really need to do something, but they are disempowered from doing it in the first place. And I think having more meaningful involvement with the folks on the ground who recognize the problems involved with the rights-of-way is something that should be addressed. And I think changing, as Mr. Christensen said, that cultural shift as well, I think, could be helpful, but I think this body ought to look at things such as those caps and then how that can be addressed.

Senator DAINES. Thank you.

The CHAIRMAN. Senator Padilla.

Senator PADILLA. Thank you, Mr. Chairman. Good morning to all of you.

I want to begin by noting Mr. Kenna's long and distinguished career in public service, which includes more than 40 years in his role as BLM Director for the State of California. So, I want to thank you for your service, for your dedication to protecting our cherished public lands, not just in California, but especially in California. There are a number of great examples from your time there of successful resource management plan development. We successfully brought thousands of stakeholders together to establish the Desert Renewable Energy Conservation Plan. I know you are more than intimately familiar with this, the DRECP, which focuses on 10.8 million acres of public lands across seven counties in California. The DRECP is a landscape-level plan that streamlines renewable energy development while conserving unique and valuable desert ecosystems. The DRECP is a success story on incorporating robust public and tribal participation into land use planning, and it's a great example of working collaboratively to ensure that all stakeholders benefit from BLM's multiple-use mandate.

So, I share all that not just to thank you, and to point out a success story, but to ask you, Mr. Kenna, can you discuss how the energy permitting landscape looked in the California desert before successful implementation of the DRECP and how the plan actually helped provide the certainty, the transparency, and the efficiency for the energy industry after it was adopted?

Mr. KENNA. Thank you, Senator, for your comments.

I think this is a really important thing, to be clear. One of the characterizations we have heard so far is that land use planning is sort of a combative or adversarial relationship between the state and the Federal Government. That was certainly not my experience in California. It started with a Republican Governor and a Secretary of Interior and a Democratic administration setting up an agreement that was the umbrella to the entire process. In terms of what things were like when we started, nobody really anticipated the flood of applications that happened with renewable energy. We had 15 to 20 coming in the door at a time. There were 6 to 10 that were active. And they were all in different stages and frankly, with very different applicants. We had everything from Florida Power and Light, a very sophisticated operator that oper-

ates globally, to startups that had ideas about where they wanted to put a wind farm. So, that is a variable that is really important and has a lot of impact and control on the timeline—is the applicant itself.

But there are also the things we have talked about before, like capacity to do the work. And then, you have to go to the issues and let that steer the process because the content of what's going on. In the case of the DRECP that you mentioned, you are in a national conservation area that was congressionally designated in 1976. So, as a starting point, you've got to have a robust, reliable, conservation design. And the governor and the secretary agreed on that. But then you also have a very complex system that you are overlaying and working with. You have interstate transmission of power, how California fits to the grid, how things move across, and then how that all fits together with transmission and generation.

So, it's a complex process and there are a lot of people who have unique information that you need to get from Point A to Point B at the end of the process. So, hopefully that's responsive to your question, Senator.

Senator PADILLA. Yes, I appreciate how you began your response by saying this process isn't meant to be a barrier, an obstacle, necessarily. To the contrary, I mean, I have used in this Committee and in other hearings the concerns of the carpenter's rule, right—measure twice, you cut once. If you do the appropriate engagement—including by the way, I want to put an emphasis on tribal consultation, genuine tribal consultation, not just box-checking—you get the information you need to be thoughtful on the front end, whether you are in the development of a plan or in the context of, you know, national monuments, for example, just the designation of the exact perimeters, you can better protect ecosystems that are worth protecting and establishing clear energy development opportunities, renewable or otherwise, because you are informed on the front end. And I think it does save you time on the back end, whether it's through litigation, whether it's revisiting plans or boundaries, et cetera, but it takes the thoughtfulness, open-mindedness, and due diligence on the front end. That's the point that we are trying to make.

So thank you for your response. Thank you all for your testimony.

Mr. KENNA. Absolutely, Senator.

The CHAIRMAN. Senator Gallego.

Senator GALLEGO. Mr. Kenna, welcome back, and thank you, Chairman Lee and Ranking Member Heinrich. I am glad to see that we have representation from Mr. Kenna, who used to be the Arizona State Director for BLM also. So, you have a very long and rich career. I am glad you started at the rookie State of California and then graduated to Arizona. So, your insight will be very key as we talk about something that is at heart about—which is public land use and planning.

Arizona has 12.1 million acres of BLM land and over 17 million subsurface acres. These lands are home to some of Arizona's most important resources, including sacred tribal sites, 45 miles of the Arizona Scenic Trail, and over 55,000 mining claims. And we will get to some of the questions about Arizona specifically, but first I

want to point out an underlying challenge that impacts every potential use of public lands, which is staffing. We talked about that earlier. Regardless of what you would like to see on lands, to do or use, we need BLM staff to get it approved, and 15 to 20 percent of BLM staff have been fired or forced to retire since the beginning of this year, not including layoff plans that are currently on hold. That just doesn't make sense, and I just urge the administration to reverse course.

Turning to Mr. Kenna, in your testimony you mentioned that when you were Arizona State Director, you worked on a plan called the Restoration Design Energy Project. That plan provided opportunities for renewable energy development while taking advantage of hardrock mine reclamation sites. Can you talk about how you approached development of the plan, and how did you balance the multiple-use requirement, including clean energy deployment?

Mr. KENNA. Yes, as I mentioned earlier, none of the states or the land use plans that were in place at the time were prepared for renewable energy when it hit. And so, there was a lot of figuring it out on the fly that had to happen. That was also true in Arizona. And one of the goals is to get to something that is practical, and transmission aligned for the, basically, public interest reasons so that it makes sense with the grid. So, there are some technical issues that sort of overlay everything that you have to do, but doing a statewide plan requires sort of a unique mindset. And one is that you have to be willing to go where the people are and figure out what the issues are.

So, the point I would emphasize, again, is one I made earlier, that there is no substitute for the on-the-ground knowledge and the on-the-ground information when you are doing land use planning. And each plan in each area is going to be different and unique. And that was true in the Restoration Design Energy Project. The reason I mentioned the mining situation is there is a fair amount of hardrock mining in Arizona, as you know, and when a mine is decommissioned, mines generally are big consumers of power. And so, the decommissioning, historically, had been, you know, reclaim the site and take out the power line. Well, if you have an already disturbed site that has been flattened and has power access into the grid, why not take advantage of that? So that was the concept behind it.

Senator GALLEGO. And you kind of talked about this, which is also very important for Arizona because we have 22 federally recognized tribes, that there is no substitute for engaging with tribes and public and local leaders. Can you elaborate on your experience with tribal consultation and why a transparent local engagement process is important and how it improves project stability?

Mr. KENNA. Yes, it's easy to talk about it in an oversimplified way, but the way I sometimes think about it is sort of as a nested process. There is a lot that has to happen in a very personal way and on a face-to-face kind of relationship, and so, getting with tribal councils and tribal preservation officers and that really individual conversation. And then there is a second sort of tier that has to happen. As you know, you would not expect the perspectives to be exactly the same for the Tohono O'odham as they are with the Hopi or the Navajo or someone up to the North. So, you have to

have some way to assemble those points of view, and in Arizona, the magic of that was the Inter Tribal Council.

Senator GALLEGO. Thank you. I yield back.

The CHAIRMAN. Senator Hoeven.

Senator HOEVEN. Thank you, Mr. Chairman, although I should defer to my colleague, Senator Hickenlooper, because I was supposed to link up with him last night on some work, so I am going to offer him the chance to go first, as a—all right, thanks Governor, appreciate you.

Thanks, Mr. Chair.

Mr. Christensen, in North Dakota and Wyoming, we both have split estates where you have got federal, state, and privately owned minerals that are co-located. And in some instances, the federal minerals have no surface acreage. So, I have legislation in that I call the BLM Mineral Spacing Act, where the Federal Government has—BLM has no federal acreage so you avoid duplicate permitting when you are trying to drill for oil and gas. Does that make some sense to you, and protect private property rights while helping our country develop more energy?

Mr. CHRISTENSEN. Yeah, that's certainly a great idea. I think the split estate——

Senator HOEVEN. Would you encourage the Chair and the Ranking Member of this Committee, strongly, to advance that legislation so that we can pass it on the floor?

Mr. CHRISTENSEN. If Senator Barrasso is for it, I think we are for it too.

Senator HOEVEN. Okay. He is for it.

Mr. CHRISTENSEN. Great.

Senator HOEVEN. He is probably on it. Thanks.

Did you want to add anything?

Mr. CHRISTENSEN. Well, just on the split estate issue. It is unique that you have federal regulations that can control surface use, pipelines, rights-of-way, roads, when you are dealing with something that is owned underneath the ground. And so, there is sort of a complicated maze here. And again, I said it earlier—our states don't just have giant blocks of BLM land. We have checkerboarded. We have state lands all in between. And so, it's not a one size fits all. There are a lot of places that could see development that simply can't because federal lands might restrict right-of-way access. And so, they have no takeaway—things like that. So, it is a complex issue that should be looked into.

Senator HOEVEN. Yeah, thank you.

And then, for Mr. Brown, Mr. Christensen, and Mr. Sheehan—the BLM resource management plan put forward by the Biden administration for our state would have closed off 45 percent of our oil and gas to development and 99 percent of the federal coal acreage. I'm not sure why they left one percent available. I'm not sure what the point of that was, but they closed off 99 percent. Do each of you agree that an expanded federal regulatory approach like that is absolutely a problem if we are going to follow the law, which is multiple use on federal lands, meaning producing energy, you know, farming and ranching, tourism, and something that Senator Heinrich and I enjoy very much, which is hunting? So, fire away guys, starting with Mr. Brown.

Mr. BROWN. I would agree, and I think if you look at the map that Chairman Lee put up, it shows the transition from multiple-use lands to single-designation lands in my state, which are millions and millions of acres since FLPMA was passed. And so, I think it's all the more important that there's some sort of collaboration between the Federal Government and the state so you don't see those kinds of overreaches.

Senator HOEVEN. Yeah, it's hardly multiple use when you close off—I guess the one-percent was to maintain though.

Mr. BROWN. There is the multiple use, right?

Senator HOEVEN. Right, I mean, come on.

Okay, who's next? Mr. Christensen.

Mr. CHRISTENSEN. Senator Hoeven——

Senator HOEVEN. And by the way, don't take any more of our football coaches, all right?

Mr. CHRISTENSEN. We miss him already.

Senator HOEVEN. I know, he's a good one.

Mr. CHRISTENSEN. So, I think one thing that is interesting, when we talk about areas being closed, or just because an area is open for coal leasing does not necessarily mean it's going to be leased. It does not mean that we are going to have big mines there. It means that we have the opportunity to look into it or to invest in that if we need it. So reopening lands does not inherently change the landscape. There is still a permitting process. There is still infrastructure that needs to be built. So, closing lands seems so simple and so easy. Opening them should be the same way, but there is really a lot more to it than just opening and closing. There is an industry component.

Senator HOEVEN. Right on.

Mr. Sheehan.

Mr. SHEEHAN. Yeah, certainly I think what Mr. Christensen said is accurate. Having lands open for any of these extractive uses still requires mining plans, still requires reclamation planning, still requires evaluation of multiple resource uses, as well as Endangered Species Act, as well as National Historical Preservation Act, all that. So, I think when you have these open, there is still a lot of work ahead, but I don't know the exact, specific details in the North Dakota plan, but certainly, I am a proponent of multiple-use, sustained-yield. That's the tenet of——

Senator HOEVEN. Well, I have got to get one hunting question in.

Mr. SHEEHAN. Okay, get that in, yes.

Senator HOEVEN. I am sure the Ranking Member has worked you over on the hunting issues, but you know, any thoughts you have on what Congress can do to streamline the BLM planning and process and improve coordination within the state and the Federal Government as far as hunting issues? Any big recommendations?

Mr. SHEEHAN. Well, you know, we obviously recognize that the states have that authority of wildlife management, but it's very important to a lot of these species. Senator Heinrich mentioned, you know, migratory corridors and things. We have learned a lot, even in the last ten years, about wildlife, and wildlife are struggling. Mule deer populations are down roughly 60 percent since the 1960s, and they continue to decline across the West. So, we care about that. And I think, you know, as we undergo planning or we

work together with states and listen and coordinate with state fish and game agencies and do our planning work, that we take those factors into consideration and try to keep those species around——

Senator HOEVEN. Yeah, it's actually the hunters that do a lot for livestock.

Mr. SHEEHAN. Absolutely. Hunters help——

Senator HOEVEN. And try to protect against disease and all those kinds of things.

Mr. SHEEHAN. Yes, there are lots of challenges out there, but I appreciate your support and all of the hunters here on the Committee and in the room who support mule deer.

Senator HOEVEN. And yours. Thank you.

Thank you, Mr. Chairman.

Senator HEINRICH. Senator Hoeven, Senator King took issue with Mr. Sheehan because he doesn't represent white-tails, but as you know, the best states have both white-tails and mule deer, and the best state has white-tails, mule deer, and Coues deer, which is a very special white-tail.

Mr. SHEEHAN. You might be the only state. I would have to look——

Senator HOEVEN. Yeah, I was going to say.

The CHAIRMAN. Which state could that be?

[Laughter.]

Senator HOEVEN. Yeah, can't guess which state, but right on.

Senator HICKENLOOPER. I think there might be two states with all three.

Mr. SHEEHAN. Maybe Texas and maybe Arizona, probably Texas.

The CHAIRMAN. Senator Hickenlooper.

Senator HICKENLOOPER. Thank you, Mr. Chair, and thanks to all of you for your work.

Obviously, Coloradans cherish their public lands. When there were threats to sell public lands, there was an outrage, a giant pushback on that. And we have seen a lot of energy around how do we increase protections for public land, as well as seeking opportunities to enhance conservation through things like the Public Lands Rule, which we are still working on.

Mr. Cramer, I will start with you. How does the health of our public lands, how does that really impact recreation?

Mr. CRAMER. Thanks for the question, Senator Hickenlooper. They are connected. I mean, you can't really have outdoor recreation without a setting. It does not mean anything. I mean, you need a place to paddle or to ride your bike or to go ski, so the setting—the place—is foundational for these pursuits to take place. And then, for the—these places are meaningful to individuals, to how they contribute to local economies, and the broader outdoor recreation industry. Place is essential.

Senator HICKENLOOPER. Yeah, well, and we have seen that, you know, the value of outdoor recreation across the West is crazy. I mean, it's $17 billion just in Colorado and across the West. Just on BLM lands, we see somewhere like $6 to $7 billion. These are enormous sums. These are annualized numbers.

Mr. Sheehan, I wanted to ask you also, just your take on FLPMA and how it helps provide a framework for conservation on our pub-

lic lands. Are there some common-sense ways we can make that better?

Mr. SHEEHAN. Yes, I think, you know, as we look at all the values—thank you, Senator Hickenlooper, for that question—you know, wildlife don't have much of a voice for themselves, so we have to look out for them, but I think what is critical is that—let's identify the areas that are most important and make sure we protect those, but let's, you know, we may not need to protect at a high level every inch of publicly managed land to help protect the wildlife that rely on those landscapes. So, I think through any of these planning processes or any of the work that happens within the planning processes, once they are implemented, we need to use the best current knowledge, best information, and make sure that we give this wildlife an opportunity to persist in the efforts that we undertake.

Senator HICKENLOOPER. Yes.

Mr. SHEEHAN. Thank you.

Senator HICKENLOOPER. Give them at least a fair shot. I spent a—I guess I did seven hunts when I was Governor, up in Lander, Wyoming, for the one-shot antelope hunt, which is always—for those of us who aren't terribly good shots, was always a struggle because you only get one shot, but we did, my last year, Governor Matt Mead was sadly disappointed when our team won the whole shebang.

Let me go back, Mr. Kenna, Congress amended FLPMA in 2018 to require BLM to issue regulations for transmission rights-of-way. The final rule directs BLM to enhance the reliability of the grid and reduce the threat of wildfire damage to transmission lines, which, all across the West, has become a huge issue. The cost of insurance right now, the rising cost of utilities having to rebuild that infrastructure after these fires is enormous, as wildfire risk is such a major priority, and we have a bill, the Fix Our Forests Act, which I think will help reduce fire risk in transmission corridors and in high-risk areas more broadly.

How could we use the planning process to not just prevent the wildfires, but also enhance grid reliability?

Mr. KENNA. Interesting question, Senator, thank you for that. One of the things that I have found in my career with planning is that there are two things to sort of pay attention to in any given planning area. And what you have when you talk about the grid in the West is a whole bunch of regional issues that are overlaid. It's different in the Bonneville Power region, for example, than it is in California, than it is in Arizona and so forth. So, the complexity is very, very real.

But the things that I concentrate on are, what do you need to do in terms of the speed of trust? If you set the process up front, you have got to make sure that you don't try to go so fast that you don't keep everybody with you. And in each of those different regions, I think, what I—and this is probably not good wording—but what I have traditionally called the "honesty habit." Some different areas have different capacity to tackle things like the wildlife trends that we heard discussed earlier where you see wildlife is declining. So, what is our issue here—or the fire with transmission issue, same thing. You have to be able to directly address the issue

forthrightly and honestly with a whole range of constituencies. And when you are talking about a west-wide grid, that's a very complex undertaking.

Senator HICKENLOOPER. Right, I appreciate that.

Thank you all. I yield back to the Chair.

The CHAIRMAN. Thank you very much, Senator Hickenlooper.

All right, before we adjourn, I think Senator Henrich and I have just a couple of follow-up questions.

Mr. Sheehan, let's go back to you for a moment.

A lot of the BLM plans that are still in effect in Utah today were written in the early 1980s. So, we are talking, you know, 40 to 45 years ago. How realistic is it for BLM to manage fire, habitat, recreation, and energy projects and so forth under plans that were written before modern data, modern modeling techniques, or current demands even existed? And also, can you help us understand why it is that some of these plans, 40 to 45 years old, haven't been updated in that time period?

Mr. SHEEHAN. Sure, thank you, Chairman Lee.

First of all, it is vital, right? Changing circumstances—your words, right? What do we know differently than we knew in 1983? A lot of the people in this room weren't born in 1983. And I was, unfortunately, or maybe fortunately, but you know, we have got to look at how has the world changed? What do we know now? What do we know about rare earth minerals that we didn't know then and maybe where they are? What do we know about some of these habitats that are shared by wildlife and wild horses and livestock communities? Do we need to revisit that? What do we know that's different now about uses that, you know, many have interest in putting renewable energy on public lands, you know, how has recreation changed? You look at the vehicle, in 1983 you didn't have side-by-sides and maybe not even Harley four-wheelers, right? And now they are quite prevalent.

So, if we can't address the, you know, updating these plans on some regular basis, it's going to be very, very difficult to move forward. And it just makes sense, I think we all try to, you know, reevaluate our lives from time to time and you know, what has happened different than what we knew, as far as, you know, what's it going to take to get us there? You know, some of these plans I look at—Cedar City, Utah, you know, the southern Utah plan, you know, that started a dozen years ago. And it really still hasn't gone anywhere. When we initially—you know, an early part of planning is scoping. We go out and say, what are the situations out here? What do we need to know? And we do an analysis of management situations and we say, how has the world changed? And maybe we just need to make sure that we continue to evaluate those top priorities.

When I served in BLM, we had lists, and I am sure they would be happy to give you that. What are the top priority plans? Cedar City is one of the top on the list that, you know, as administrations change, priorities change, some of these plans continue, you know, to be redone, and it leaves a lot of these things on the sidelines. But if we are going to manage public lands, I think it's vital, as you point out, that we have to get this planning work done or we're not in a good place.

The CHAIRMAN. It's a good point. As someone mentioned earlier today, typewriters were still in wide use. Some of these probably——

Mr. SHEEHAN. We have one. I have one.

The CHAIRMAN. In many cases, the Commodore 64 was still an emerging technology. Great computer though, and some good gaming opportunities when I was in grade school.

[Laughter.]

The CHAIRMAN. All right, shifting gears for a moment. Under Section 603(c) of FLPMA, the Secretary of the Interior, for BLM, was given the task of designating wilderness study areas, and under Section 603(c), once the wilderness study area has been designated, only Congress can release the WSA, and the WSA, unless or until such time as Congress releases it, has to manage it as if were wilderness, designated as such by Congress. History has shown that these releases rarely occur, and so, this allows many millions of acres to be managed as de facto wilderness without ever specifically having been designated as such by Congress.

So, how workable a system is that where one agency can unilaterally designate a WSA, and it can't be unlocked except by an act of Congress? I have been wracking my brain over the last couple of days trying to find any parallel to this. The U.S. code is replete with instances in which we delegated significant authority to an executive branch agency, but I am not aware of any other circumstance like this one where the authorization for an agency to exercise administrative authority becomes a complete one-way ratchet. It takes on some of the trappings of a statute and can't be revisited later in light of a subsequent finding that either the original decision was wrong or it has become outdated or otherwise.

So, just tell us about how workable that sort of thing is, and how that may make things difficult for land managers.

Mr. SHEEHAN. Yes, certainly, in these planning processes, as you point out, the BLM has authority to designate a wilderness study area. They can take an area of land and say, you know, in their opinion, in that planning opinion, that should be a wilderness study area. And further to your point, you acknowledge that only Congress can undo that. A future executive administration cannot undo what is done in that plan. And so, I can't say there are no other instances in Federal Government that allow, sort of, an agency or bureau to create an action that really elevates itself instantly to a congressional action that can't be undone, even in the future by the executive side.

So, I, you know, whether it's a major problem or not, I am not certain how many of those WSAs are being designated now, but it's certainly curious that, you know, we have an ability to—in this case, the Bureau of Land Management—designate something. That has sort of a de facto effect of permanency behind it.

The CHAIRMAN. Thank you.

Senator Heinrich.

Senator HEINRICH. Mr. Cramer, there was recently a new report that came out that looked at outdoor recreation on public lands, and the scale of the economic impact of that was estimated at over $350 million per day. That's at a scale bigger than logging and mining taken together, and certainly has had a huge impact in my

state on a lot of gateway communities to these public lands. But many of the plans that are on the books right now were written at a time when that scale was much smaller, and when it was sometimes not even considered. Do you think, in your experience, do land managers actually know all of the places and mechanisms that people use to recreate on the public lands that they manage, and for your typical BLM District Manager, do they know all the places that people hike, and climb, and hunt, or bike, or do they need a public process to understand where those things occur, and where conflicts might occur?

Mr. CRAMER. Great question, Senator Heinrich. I think they know a lot because they are there, and in some cases they might know almost all of them, but why not check? Why not double check? I mean, as you point out, there is so much desire to be outside, and the economic activity that tiers off of that desire is substantial. And if we don't inventory where these places are, where they could be, we are just leaving a ton on the table in terms of economic activity. In some cases, it's not—you might want to develop recreation infrastructure where there isn't recreation infrastructure to make sure there is equitable access for more people and it's closer to places where people live.

So, data about this stuff is very liberating and it's available and accessible, you know, through my organization, Outdoor Alliance, and through a lot of companies that have a tremendous amount of data, and they are very generous about it. So, we get to a better place with this information, for sure.

Senator HEINRICH. As most folks in this room are aware, New Mexico produces a lot of oil and gas, but we have a lot of public lands. We value those public lands and we also rely on outdoor recreation, hunting and fishing, and other things to generate economic activity in our state. And so, the balance of those things is really important to us. You know, the budget bill this summer elevated oil and gas leasing above other uses on public lands by literally requiring the BLM to offer any parcel for leasing if it's open for oil and gas development in an RMP—a resource management plan. Now, before that change, the BLM would first look and consider oil and gas development and whether it was the best use for a parcel before offering the lease. And now, oil and gas gets preferential treatment over those other uses.

So, Mr. Cramer, for people who like to recreate on public lands, what are the consequences of saying things are multiple use but then elevating certain uses above others?

Mr. CRAMER. Just setting things up for more conflict and slowing things down. You know, it's really, as a lot of the witnesses have shared, it's a composition of all these elements, and you need to allow that composition to be composed in a way that's in everybody's best interest.

Senator HEINRICH. Yes.

Mr. Chairman, I think I am done.

The CHAIRMAN. Thank you so much.

Well, I want to thank each of you for being here today. You have all brought unique expertise to the table, and we have learned a lot from this. And so, this will conclude today's hearing. I want to

thank my colleagues for participating, and especially our witnesses for being here.

Any member of the Committee who wishes to submit questions for the record, any additional questions that haven't been asked today, may do so. The deadline for submitting those will be 6:00 p.m. tomorrow, Thursday, November 20th.

Senators also have until 6:00 p.m. this coming Wednesday, November 26th, to add statements for the record of today's hearing.

We received one of those from Senator Risch already today. He had to run to a Foreign Relations hearing that he was chairing, but that will be added without objection.

So, thanks again for being here, for your testimony, and for answering our questions.

The Committee stands adjourned. Thanks.

[Whereupon, at 11:25 a.m., the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

U.S. Senate Committee on Energy and Natural Resources
November 19, 2025 Hearing: ***BLM land use planning process under the FLPMA affects permitting for energy, mining, grazing, and infrastructure projects on public lands***
Questions Submitted to Mr. ***Jim Kenna***

Response to Questions for the Record from Ranking Member Heinrich

Question 1: If an activity or use is not authorized in a land use plan, is there a process to allow for future changes or adjustments? How long does an amendment typically take?

Response: Yes, changes and adjustments are allowed and expected, in part because plans are expected to last decades, but particularly when the underlying plan is out-of-date. If an activity or use is not authorized under an existing land use plan, a plan amendment can address the deficiency at the time the action is proposed. The necessary analysis, and the time required to complete the required analysis would be highly variable, depending primarily on: 1) level of information available in the project application, the existing plan, and Field Office records, 2) impacts and controversy surrounding the proposed action, 3) capacity of the applicant to support the application and a plan amendment process, and 4) BLM capacity and skill in managing application and plan amendment processes. Of these factors, the degree of complexity and controversy associated with the proposed action and Field Office knowledge/capacity are dominant factors affecting time requirements, although the other two factors (responsiveness and support by the applicant and the quality of readily available information) are always present to some degree. Adding time at the beginning of an amendment process for careful public scoping with local people who know the area and the issues can help ensure a "no surprises" process. Then the public, local governments, and Tribes are well informed of what is at stake from the outset and can provide meaningful input. In my experience, time spent at the beginning tends to both reduce delays later on and reduce conflict at the end of the process.

In plan amendment processes, there are basic required components that affect the timeline. Major plan amendments require: a 90-day comment period for the draft plan amendment and its associated environmental impact statement (EIS), a 30-day public protest period, and a 60-day Governor's Consistency Review. So, approximately six months of process time are dedicated to meeting minimum public participation and coordination purposes. It is always risky to cut short time invested in public participation. For example, public scoping sets the stage for all that follows, by providing clarity on issues to be analyzed and alternatives to be addressed. Taking the time at the beginning of an amendment process for careful public scoping can help ensure a "no surprises" process.

Throughout the process, project proponents/applicants impact the time required.
For example, applicants take varying amounts of time to assemble a complete application, with the necessary specific information to support EIS analysis. Working closely with applicants on mitigation measures can expedite the analysis process by building expected mitigation requirements into the application where possible. In areas with cultural sensitivity or listed species under the Endangered Species Act (ESA), site-specific field surveys are usually needed and are an obligation of the applicant. Common project-specific information gathering efforts include: 1) surveys to support NEPA analysis of a known issue 2) surveys to support "No historic properties affected" and "No adverse effect" determinations from the State Historic Preservation Office (SHPO) or 3) to support complete the biological opinion process under Section 7 or Section 10 of the ESA. It is always helpful if the underlying Resource Management

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Plan (RMP), Habitat Conservation Plan, and statewide Programmatic Agreement (SHPO) are current and have good foundation for response to known issues. On major projects that cross jurisdictions (e.g. energy infrastructure), it is also helpful to have good alignment with state, local and tribal governments.

In the national mix, a relatively small number of planning area settings for proposed projects allow for minor (and quicker) plan amendments. If the underlying BLM land use plan is reasonably up to date and the project is not controversial, a minor amendment can be completed with an Environmental Assessment (EA) or an adjustment to plan implementation coupled with a shorter public comment period (generally 30 days). In these instances, the EA analysis must determine that there are "no significant environmental impacts," a determination generally signed by a Field Office Manager and reliant on sufficient mitigation measures already included in the project application. These sorts of minor updates and actions that conform to an existing plan can be made at any time, with or without a formal plan amendment. For example, if a plan had a general decision to "seek opportunities to clear obstacles for anadromous fish," a quick amendment or shift in RMP implementation measures could cover removal of remnants of an old bridge or dam structure, or a road culvert replacement project for a watershed.

Preparation of a Draft EIS begins in earnest once BLM has a complete application with the necessary detail and has completed issue identification with both the public and an interdisciplinary team. The process steps in a plan amendment respond directly to Federal Land Policy and Management Act (FLPMA) requirements to take "a systematic interdisciplinary approach" and to plan "with public involvement". In my experience, the BLM's state and local offices have embraced both requirements over the decades since FLPMA passed, and have a good understanding of how to do the work.

Around the time of land use planning regulation revisions completed in 2005, additional Washington Office planning process steps were added. The form of increasing headquarters involvement has centered on required briefings and surnames before the required public Federal Register (FR) notices can be published. Headquarters "gatekeeper" steps have created delays in local in-state planning processes, some that have lasted weeks. For example, as many as 12 BLM headquarters and Department people have been required to surname a proposed FR notice before it can be published. Renewing delegations to State Directors for routine process steps such as approving public notices for planning process steps could both reinforce the local/in-state nature of land use planning and cut weeks of process time, with little consequence to plan content or quality.

Although it is unclear whether there is a "typical" land use plan, it is possible to set a floor when estimating the fastest possible plan amendment for a complex or controversial action, at least in an area with a solid underlying plan. Projects that require either the very minor adjustments described above or do not require a plan amendment can move the fastest to decision. Projects that will cause significant surface disturbance and require a land use plan amendment generally take about 2 to 3 years. During preparation of the Desert Renewable Energy and Conservation Plan (DRECP) in California, the fastest project approval for a renewable energy project requiring

a plan amendment took about 18 months from the date of a completed application. There may be states with less complex planning areas, and less controversial project proposals, but just meeting the minimum public participation accounts for about six months of process time.

Question 2: For one of our BLM districts in New Mexico, a new RMP was finalized in December. That revision updates a plan from 1986. The process for revising it began in 2009. That means that almost a third of the life of that 1986 RMP came after the BLM determined that it needed to be replaced. What is needed to speed up revisions so we can have more up-to-date plans in place?

Response: The most obvious explanation for the long timeline is a combination of capacity limitations at the field level and competing planning and project workloads within the state and at the Field Office. Time and expertise demand on Field Office managers and employees for planning, project, compliance activities, and resource monitoring often exceed capacity and therefore require day-to-day choices. A steady flow of over-the-counter work competes with longer term needs like planning and maintaining basic data sets for the Field Office. For years, funding has not been available to add capacity (usually temporary employees or contracts) and aggravating factors, like short term data needs/reviews to respond to project proposals divert capacity from completing a quality plan. The national result, over time, has been a spiraling backlog of out-of-date land use plans in a condition that minor amendments or tightly focused revisions have become less practical.

The most important attributes of land use planning are the FLPMA standards to plan with "a systematic interdisciplinary approach" and "with public involvement". The Rio Puerco planning effort appears to be an effort to take a big bite out of the New Mexico planning backlog, covering about 9.5 million acres across six counties. The plan covers all the Rio Puerco Field Office, an office with a complex land pattern that includes approximately 731,600 acres of public surface lands and 3.6 million acres of Federal subsurface minerals. BLM New Mexico's rationale for needing a full plan revision is persuasive: "needed to provide updated management decisions for a variety of uses and resources (because the) existing (1986/1992) RMP decisions (were) less effective in allocating use (and it) has become more and more difficult to find public land parcels with non-conflicting uses…Changes in population, types of uses, technologies, user interests, and public understanding of resource availability, capabilities, and constraints…"

Also worth noting is the scope and complexity of public involvement in a planning area with both demand for access to federal minerals and numerous different surface landowners. There likely were points in this planning area where "speed of trust" constraints with surface landowners slowed progress. It is hard to second-guess whether this plan would have been successfully completed with less patience and investment in public participation. The good news is that the plan now provides a solid up-to-date foundation for allocating use.

The New Mexico approach to cleaning up their planning backlog appears to be creating combined plans that cover larger areas. Another plan revision addressing an out-of-date 1986

plan, the White Sands RMP (Las Cruces District), is now also nearing completion. At some point in that planning process, the Mimbres RMP (also out-of-date), was blended into the White Sands planning effort to produce the combined Tri County Draft RMP of 2024. While the intent to take a bigger bite out of New Mexico's RMP backlog is commendable, enlarging the planning area likely did affect the timeline. New Mexico BLM was also working on the Organ Mountain Desert Peaks RMP at the same time (496,330 acres; Record of Decision in January 2025). Basically, looking across New Mexico planning, it appears the BLM is completing multiple needed plan updates, while maintaining commitment to FLPMA planning standards, within the capacity limitations of BLM planning and program budgets. New Mexico BLM's approach appears to be a slow, but effective, strategy that spreads limited capacity across the in-state backlog in BLM land use planning. The most potent national measure for improving planning timelines and increasing the number of up-to-date plans is to increase capacity to do the work.

Traditionally, the BLM has managed the planning backlog by adjusting the order that planning areas get funding for updates and revisions, making choices balanced against available appropriations. There is some whiplash in locally available funding as views on the most important plans to update change with administrations. Administration driven priority changes combine with inadequate appropriations to destabilize the ability to methodically work through the BLM planning backlog. New Mexico's plan revision strategy has led to important plan revisions across large areas. But there are potential steps to improve planning timelines:

1. Create a publicly available, detailed listing of the RMPs in place, their ages, and the issues that drive the need for plan revisions. People could then see how their local planning area fits into the national picture and the BLM would have a clear record of where each plan is in the process of being updated.
2. Where practical, tightly focus RMP revisions on a smaller number of resource issues and changing conditions most in need of attention. Basically, don't re-review the whole RMP, only the aspects that have pressing needs for revision.
3. Provide an explicit opportunity (probably during public scoping) for local, state and tribal governments to engage early in any planning by providing their views in writing on issues and alternatives. While not a streamlining measure, reinforcing community-driven planning and participation early always pays dividends in the larger process.
4. Promote in-state innovations like combining planning areas to bring more acreage up-to-date faster. This also has the benefits of maintaining plan consistency with on-the-ground conditions over a larger area, and improving predictability in allocating land uses.
5. Promote in-state efforts to blend tightly focused amendments (instead of full revisions; see #2 above) with minor amendments that can be expedited through NEPA. For example, a county might want to cease or amend off-highway vehicle use in an area that was not addressed in the previous RMP. Such minor amendments or changes in plan implementation do not need to wait for larger plan revisions.
6. Bolster agency planning and permitting tools and capacity, including at field offices, ensuring ready access to interdisciplinary expertise, and to necessary tools like current, integrated data sets, GIS mapping, and analysis platforms to assist in more quickly developing and analyzing RMP alternatives. In California's DRECP, these resources

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were also made publicly available during the planning process (https://drecp.databasin.org/), a practice which made public input more substantive and easier for the BLM to evaluate and incorporate.

7. A good practice, already applied in some BLM states, is use of interagency agreements and participating agency agreements with States, local governments, and/or Tribes. This can shorten timeframes, or at least avoid significant delays, by providing an established protocol for raising concerns and addressing questions.

The measures above are primarily internal steps the BLM could take that do not require legislation. The most impactful action Congress could take is to restore and improve agency capacity through sufficient appropriations needed to do the work, along with direction to complete and update plans.

Question 3: We've seen unprecedented attacks on our federal workforce. In your opinion, as former BLM state director, does the agency have enough staff right now to write or update land use plans and issue permits for projects under them?

In your time as a BLM State Director was there ever a time that less staff or less funding would have made the BLM more productive, more responsive, or more efficient? In your experience, what would make the plan revision process go faster without sacrificing quality?

Response: Of all federal land management approaches authorized under law, "multiple use and sustained yield" is both the most complex and the most poorly funded. The agency has never had adequate funding and staffing to implement FLPMA in its full breadth and scope. Constantly stretching budgets, the BLM at the ground level has always been a very scrappy "can do" group of people who figure out creative ways to get work done. However, cuts over the last year to funding and personnel have made the agency capacity problem far worse, and it appears the conservation and community support provisions of the law like ensuring recreation opportunities, fish and wildlife habitat, cultural resource protection, and watershed protection are being most impacted. Processes used over the last year to make the budget and personnel cuts (e.g. "fork in the road" and treatment of probationary employees) have further aggravated capacity problems by creating randomly distributed shortfalls in expertise.

The agency does not have enough staff right now. In addition, some Field and State Office locations now lack the necessary mix of expertise. While land use planning is not the sole demand on now reduced numbers of Field Office employees, trying to complete planning without an adequate interdisciplinary team will not meet the minimum requirements in FLPMA or provide sufficient analysis to support efficient permitting. Staffing shortfalls also directly affect the ability to complete interdisciplinary reviews required for issuing authorizations, and reduce capacity to perform basic functions like providing visitor services and maintaining data sets for their areas of responsibility. The inevitable result is longer timelines for completing all aspects of land management work. Even standardized processes like lease sales or mining plan approvals will struggle to meet minimum legal requirements given the depleted leadership and staffing.

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Meaningful progress is unlikely on 134 out-of-date RMPs, a group of RMPs that now includes the planning areas with recently completed RMPs that were vacated by Congressional Review Act (CRA) resolutions. More than 100 land use plans, and the authorizations since under them, are now vulnerable to legal challenge because they were never submitted to Congress as a "rulemaking." We now also have parts of the country where the old plan that is now in place is inconsistent with public record created by the more recent planning process for a plan that was vacated. Those old plans will now also need to be replaced before they can be reliably used as foundation for authorizations. Public confidence in the decision making in a FLPMA planning process has now been undermined by CRA resolutions, and this is likely to feed both litigation and a more cautious approach to land use authorizations.

In my tenure, the strongest, most effective RMPs were largely or entirely prepared by local interdisciplinary teams of BLM employees, using their own familiarity with on-the-ground issues, local public interests, local government agencies, and local tribes. Yet over the last 25 years, to stretch capacity or compensate for holes in Field Office expertise, many more planning efforts became heavily dependent on contracts. This shift has coincided with substantial increases in the average cost to complete a land use plan. With today's workload on BLM staffs and the loss of experience in managing land use planning, in-house preparation is rarely a viable option. If budgets and staff levels continue to decrease, I worry that new land use plans will become more standardized and generic, losing value as local "interdisciplinary" and "public participation" lose their potency. This subtle shift makes land use planning more susceptible to political manipulation and less effective in assuring multiple use and sustained yield continues.

Congress clearly wants more efficiency and less time for the planning process. In both the RDEP and DRECP planning processes covered in my written testimony, we steadfastly retained networks of local interdisciplinary teams, using contracts more selectively, and leaning heavily on local knowledge, expertise and participation. BLM also had lots of help from the States of California and Arizona who were partners in setting up participation forums, analysis platforms, and staff analysis. It takes time to do the planning job correctly because, to be successful, the BLM must engage a wide range of stakeholders early and throughout the process. Open and transparent partnerships are clearly one of the most effective ways to both stretch capacity and produce high quality plans. In turn, thoughtful, well-documented land use plans then make permitting and project approvals easier and faster.

I have offered ideas for streamlining above, but the amount of time required will always depend on the planning area, the complexity of the issues involved, and the capacity of the BLM to conduct and manage planning processes. The only step certain to broadly improve land use planning timelines is to improve the agency capacity to do the work. Land use planning has to become an accountable priority with sustained commensurate appropriations, adequate staffing in BLM, and reportable progress.

It would also be helpful to ensure the focus on planning does not get derailed by state-specific concerns, like acreage in wilderness study areas or Areas of Critical Environmental Concern.

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The status of wilderness study areas varies greatly across states, largely dependent on whether the state's delegation has advanced wilderness legislation. And the legislative history for ACECs is focused largely on the nature and location of the "critical environmental concern" and the management attention required, not on their size and shape. Framing a planning dialogue around opposition to conservation elements in FLPMA will not address the land use planning backlog or increase the reliability of plan-dependent authorizations.

Members of Congress have long played a role in land use planning. It is routine for Congressional staffers to be participants in the public processes associated with land use planning. And it is common for the members themselves to be personally briefed on planning processes in their state. If Congress wants to assist in restoring public confidence in land use decision making, it could clarify that inventory and land use planning are local site-specific processes fully governed by Sections 201 and 202 of FLPMA, and not "rulemakings" subject to the provisions of the Congressional Review Act. Taking that step would restore credibility that land use decisions are influenced by the best available information, interdisciplinary analysis, and public input, not a political process in Washington DC. Such a measure would deliver a clear message that public participation is not a waste of time, and final planning decisions are not being heavily influenced by lobbying groups and campaign donations.

Having less staff or less funding does not make the BLM more productive, more responsive, or more efficient. Over decades, where efficiencies were possible, the BLM has found and adopted them in efforts to protect the agency's capacity to deliver its mission. In an agency already stripped down to minimums, cutting staffing and funding directly translates into reductions in capacity to get work done.

I thank the Committee for the opportunity to respond to these questions.

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Questions for the Record Submitted to Mr. Adam Cramer

Question for the Record from Senator Padilla

Question 1: The Conservation and Landscape Health Rule, known as the Public Lands Rule, reaffirms BLM's mandate to support the principles of multiple-use and sustained yield. This rule places on equal footing all the uses under BLM's authority and helps the agency restore degraded landscapes, conserve intact habitats, plan for responsible development, and protect cultural and natural resources. I am extremely disappointed that the Trump Administration has announced its plans to rescind this rule, and so are my constituents. Roughly 98% of public comments opposed rescinding the Public Lands Rule. Can you highlight what the Public Lands Rule means to the outdoor recreation community and how its rescission would impact them?

Answer:

Recreation depends on healthy, intact landscapes, and the BLM Public Lands Rule is important because it makes sure that the BLM can protect the landscapes important for outdoor experiences and balance those protections with other uses of public lands.

The outdoor recreation community pushed BLM to make changes to better incorporate recreation into the draft rule, and we strongly support the outcome, which makes supporting sustainable outdoor recreation outcomes an explicit objective and affirms the compatibility of recreation with all of the contemplated forms of conservation management.

It is important to underscore the connection between conservation and recreation, and conservation is definitively a use contemplated by FLPMA. The human-powered outdoor recreation experience is defined by the opportunity to interact with healthy, aesthetically compelling landscapes. Declines in ecosystem function, loss of wildlife, and poorly managed development harm outdoor recreation and the outdoor recreation economy, and the affirmation of conservation as a use is an important safeguard for the viability of our community's pursuits.

The Public Lands Rule aims to support ecosystem health and resilience by protecting intact landscapes, supporting the restoration of degraded habitat, and supporting informed management decisions. The rule applies land-health standards to all BLM lands and uses, codifies conservation tools, underscores and adjusts the process for the designation of Areas of Critical Environmental Concern (ACECs), and provides an overarching framework for ecosystem resilience.

In codifying the agency's responsibilities around mitigation for development impacts—and also providing a smoother pathway for mitigation to occur, through restoration and mitigation leasing—the rule also helps to make sure that developers mitigate for direct impacts to recreation resources and experiences. This process is invaluable, in particular, for helping communities diversify their local economies. For example, when energy development impacts recreation resources, a trail system could be developed through required mitigation. This process helps communities realize their own visions for economic development and enhanced quality of life.

RESPONSES TO QUESTIONS FOR THE RECORD

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Submitted to the
Committee on Energy and Natural Resources
United States Senate

Hearing on:
BLM's Land Use Planning Process Under FLPMA
November 19, 2025

Questions from Ranking Member Martin Heinrich

Question 1

How do we create durability in land use planning? For energy developers, they need certainty to secure capital and plan a project. And for conservation, how do we secure land use protections in a way that lasts?

Response:

Durability in land use planning is essential for both conservation outcomes and for companies that must commit significant capital to operate on public lands. Whether the goal is habitat protection or responsible energy development, the planning system must provide confidence that decisions made through an EA or EIS will remain stable long enough for investments and restoration efforts to succeed.

Below are several ways to achieve that durability.

1. Clearer statutory expectations in FLPMA

As I noted in my written and oral comments in the hearing, Section 202 of FLPMA provides less than three pages of direction for how BLM should develop land use plans across 245 million acres of public land. Because the statute is broad, much of the planning process is shaped by regulations and policy manuals that can be revised with each administration. This creates vulnerability: planning outcomes may change not because the landscape changed, but because guidance changed.

Providing more explicit direction in statute—particularly around plan content, the role of science, timelines, and designations like ACECs—would increase durability and reduce swings from one administration to another.

2. Durability within agency actions is essential for project certainty

For companies that need to raise capital, secure financing, and plan multi-year timelines, durability in BLM decisions is critical. When a project undergoes a full EA or EIS process—often involving years of surveys, mitigation planning, and millions of dollars in environmental review—the resulting decision must be reliable.

Developers need confidence that once BLM issues a FONSI, ROD, or permit, that decision will not be revisited solely because of a change in political leadership or shifting agency priorities rather than new science or genuinely changed conditions.

Durability for project developers means that NEPA decisions remain valid long enough for capital deployment, agency priorities do not swing so dramatically that previously approved projects become stalled or reevaluated, and evaluation standards remain predictable.

When agency decisions fluctuate with political cycles, investors cannot accurately assess risk, financing becomes more difficult, and project timelines become uncertain. Durable decisions give companies the confidence to deploy capital responsibly.

Durability also benefits conservation. Habitat protections, migration corridor management, and watershed restoration require multi-year commitments and can be undermined if direction shifts abruptly.

3. Durable planning depends on consistent use of science

When land-use plans rely on standardized, peer-reviewed science including migration data, watershed conditions, fire risk, and species distribution, they become more defensible and less susceptible to political change.

Plans built around science tend to withstand litigation and remain durable across administrations.

4. Early and meaningful coordination creates buy-in

Durability increases when state agencies, Tribes, local governments, industry, and conservation groups help shape plans early. When stakeholders see their priorities reflected, they are more likely to support the plan long term and less likely to litigate.

5. Regular but predictable plan updates

Updating RMPs every few decades creates instability, yet constantly rewriting them also undermines durability. Predictable update cycles allow stakeholders to know when a plan will be revisited, how much of it may change, and which components are intended to be long-term.

Question 2

As a former BLM State Director, does the agency have enough staff right now to write or update land-use plans and issue permits for projects under them? Was there ever a time that less staff or less funding would have made the BLM more productive or efficient? What would make the plan revision process go faster without sacrificing quality?

Response:

In my experience, BLM does not currently have sufficient staff capacity to meet the nation's planning and permitting needs at the pace required. Planning is interdisciplinary—wildlife biology, cultural resources, NEPA, hydrology, GIS, engineering, and realty—and vacancies in any one of these areas slow everything down.

Many planning teams operate with significantly fewer specialists than were available 10 to 15 years ago. Shortages are particularly acute in wildlife biology, NEPA and planning specialists, cultural resources, realty, and fire and fuels.

There are always areas in BLM and the federal government that could achieve greater efficiencies and thereby reduce staff. However, if there is a goal to achieve an increase in Resource Management Plans (RMP's) then reducing staffing cannot get that work accomplished. It is common to have much of the work in the RMP process contracted out to vendors. There is however, still the need to have BLM staff provide the interdisciplinary work involved to ensure that the plans adequately address the many requirements of FLPMA, ESA, NHPA, and many other laws that govern actions on federal lands.

The planning process could be accelerated with additional program funding provided by congress. As I mentioned in my opening comments, RMP revisions take several years to complete and usually cost $2-6 million. Several changes could accelerate planning without sacrificing quality:

1. Stable, predictable planning funds
   Planning efforts frequently lose staff when funds are shifted to redo recently completed plans. Dedicated planning funds, protected from political winds, would increase both speed and consistency.
2. Earlier and more structured external coordination
   Plans move faster when states, Tribes, local governments, industry, and conservation partners understand goals, data, and alternatives early. This reduces revisions, objections, and litigation.
3. Updated guidance and templates
   Some BLM planning guidance dates back decades. Modernized templates and decision frameworks would streamline efforts and reduce inconsistencies among field offices.
4. More clarity in FLPMA Section 202
   When statutory guidance is vague, BLM must develop its own methods through policy and manuals. Clearer statutory expectations would accelerate planning and reduce the need for extensive reinvention.

5. Improved technology and data systems
   Shared data platforms, artificial intelligence, improved GIS tools, and cloud-based NEPA drafting tools would reduce duplication and enhance efficiency.

BLM's workforce is dedicated but stretched thin. With consistent staffing, modernized guidance, clearer statutory expectations, and early collaboration, plans could move faster while maintaining scientific and legal rigor.

Chairman Lee Statement for the Record

Hearing of November 19, 2025

The Senate Committee on Energy and Natural Resources held a hearing on November 19, 2025, on improving the Federal Land Policy and Management Act (FLPMA). During that hearing, Senators mentioned recent congressional actions eliminating Resource Management Plans (RMPs) by passing a resolution of disapproval as provided for in the Congressional Review Act (CRA), 5 U.S.C. § 801 *et seq.*

The CRA plays a vital role in constitutional government in the modern era. There has been an exponential expansion in the size and scope of the Executive Branch of the Federal Government over the past century, including the New Deal in the 1930s, the development of the modern national security apparatus in the 1940s and 1950s, the Great Society in the 1960s, and the framework of environmental and land-use laws in the 1970s. Alongside that, the nondelegation doctrine—which stands for the commonsense separation-of-powers principle that Congress cannot delegate its lawmaking power to the Executive—has fallen into desuetude since 1935, which was the last time the Supreme Court invalidated an Act of Congress under that doctrine.

Agencies have no inherent authority; only whatever powers Congress vests in them as they carry out the agenda of the President of the United States. So whenever an agency acts, it purportedly is acting within the bounds of what Congress has empowered it to do. Many of those actions are regulations—or other final agency actions that policymakers and courts regard as within the ambit of the broad legal definition of a "rule"—that define the rights of, or impose obligations on, private persons and organizations. They are a form of positive law that sometimes have the practical effect of a federal statute. Since agencies cannot make law, these rules are legitimate only insofar as they are effectuating an Act of Congress.

The CRA provides a fast-track mechanism to help ensure that when Congress concludes that an agency's rule does not faithfully reflect the laws passed by the House and Senate, Congress can by a simple legislative action supersede that agency overreach. Under the CRA, the House and Senate pass a resolution that is then signed by the President. It effectively removes an application of the underlying authorizing statute that Congress decides is not a result that the legislature wants.

And the CRA's definition of "rule" is capacious. Of course, it extends to legislative rules (also called substantive rules). But the Government Accountability Office (GAO) has ruled since 2013 that agency guidance documents can be rules for

CRA purposes. Earlier this year, the Senate determined that waivers under the Clean Air Act issued by the Environmental Protection Agency (EPA) that permitted California to regulate fuel emissions are subject to the CRA. And in recent weeks, the Senate has disapproved RMPs under the CRA, concluding that when the Department of the Interior (DOI) issues an RMP, Congress may discard that RMP if part of it is improvident.

This CRA process furthers constitutional government, in at least two respects.

First, this restores much of the corrective effect of a legislative veto, but does so in a manner allowed by the Constitution. For many years, hundreds of statutes permitted Congress to reverse specific actions by a particular agency, either by action from a single chamber or both chambers. The Supreme Court in *INS v. Chadha*, 462 U.S. 919 (1983), rightly held that these so-called "legislative vetoes" are unconstitutional because they violate the requirements of bicameralism and presentment of Article I, Section 7, Clause 2 of the Constitution. This congressional check on the Executive Branch may have been beneficial, but the Constitution is the Supreme Law of the Land, so even desirable outcomes are impermissible if they obtain from illegal means. In contrast to the regime of legislative vetoes, the CRA fully comports with the Constitution: It requires both the House and Senate to pass a measure in identical form, and then for the President to sign it—precisely what Article I's Presentment Clause commands for a statute.

And second, the CRA encourages Congress to do its job of making policy. Too often in recent decades Congress has palmed off its responsibilities to the Executive Branch, essentially saying, "Here is a broad and generalized overall goal. Now go forth to do good things to achieve it." The CRA presents lawmakers with a specific public policy, to either accept or reject. It puts elected lawmakers in a position to override the bureaucracy when appropriate.

But one provision in this statute requires a careful look to ensure it does not impede good policy when it comes to stewarding America's natural resources. The CRA provides in part that an agency rule that is disapproved by a CRA resolution "may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued." 5 U.S.C. § 801(b)(2).

The question here is what is meant by the phrase "substantially the same" as it applies to an RMP. The definitions section of the CRA, 5 U.S.C. § 804, does not define this term. An RMP includes many specifications about the natural resources

in a defined geographic area, and is often a long and complex document covering all manner of resources.

When Congress disapproves an RMP, it has done so because of one or a few specific aspects of the RMP. For example, the Miles City Field Office RMP "prohibited coal leasing on an additional 1.2 million acres and curtailed multiple use by creating an additional 22,000 acres of special recreation management areas. It is these policies that Congress disapproves of through the Congressional Review Act." 171 Cong. Rec. S7114 (daily ed. Oct. 14, 2025) (statement of Sen. Mike Lee). And for the North Dakota RMP, it "prohibited coal leasing on 4 million acres within the planning area and restricted energy production by restricting an additional 213,000 acres from future mineral development. Congress disapproves of these policies through the Congressional Review Act." *Id.* Similarly, the 2024 Central Yukon RMP "significantly restricted future energy and mineral development in northern Alaska by designating approximately 3.6 million acres as Areas of Critical Environmental Concern, ACECs, and by withdrawing large tracts of land adjacent to the Trans-Alaska Pipeline System, TAPS, corridor and Dalton Highway from new mineral entry and leasing. These withdrawals and designations directly contradict congressional intent under the Alaska National Interest Lands Conservation Act, ANILCA, which recognized the need to maintain access for transportation and resource development in this region. Congress disapproves of these policies through the Congressional Review Act." *Id.*

Senator Dan Sullivan entered into the Congressional Record a statement disapproving of policies in the 2022 National Petroleum Reserve in Alaska (NPRA) Integrated Activity Plan (IAP) Record of Decision under his CRA resolution, stating that the 2022 plan "cut open-for-leasing acreage from 18.6 to 11.8 million acres and imposed new constraints on development." 171 Cong. Rec. S7800 (daily ed. Oct. 29, 2025) (statement of Sen. Dan Sullivan). Senator Cyntha Lummis also singled out the policies in the Buffalo Resource Management Plan Amendment (RMPA) that Congress was disapproving of, noting that "Biden's Bureau of Land Management zeroed out almost 500,000 acres of coal in Wyoming, shutting down the possibility of any future coal leasing." 171 Cong. Rec. S8216 (daily ed. Nov. 19, 2025) (statement of Sen. Cynthia Lummis). Senator Lummis added that by using the CRA to overturn this RMP, Congress "will reopen 481,000 acres for coal leasing in the Powder River Basin, protect over 4,000 Wyoming jobs, safeguard more than $1.9 billion in labor output, preserve the revenue that keeps Wyoming schools strong, and ensure that coal remains available to power America's future." *Id.*

Most of the contents of any given RMP are completely unobjectionable and would be similar—if not outright identical—regardless of the party in power or the policy agenda of any given President or Secretary of the Interior. Accordingly, an RMP need only change the objectionable part or parts of an RMP to conform to the CRA's requirement that a new rule cannot be "substantially the same" as the old rule.

At least two principles of legal interpretation compel this conclusion. They are the doctrine of absurdity and the principle of interpreting terms in the context of the overall statutory scheme.

The doctrine of absurdity directs that "substantially the same" be construed as only requiring the offending portion of the RMP to be changed, because otherwise it would lead to absurd results. The plain meaning of enacted text is normally paramount in statutory interpretation. Nonetheless, as the Supreme Court has held, the supremacy-of-text canon prevails "where the disposition required by the text is not absurd." *Lamie v. U.S. Trustee*, 540 U.S. 526, 534 (2004). The Third Circuit elaborates on that rule by explaining that it is a "basic tenet of statutory construction ... that courts should interpret a law to avoid absurd or bizarre results." *In re Kaiser Aluminum Corp.*, 456 F.3d 328, 338 (3d Cir. 2006). The Sixth Circuit adds that under this doctrine, when such a "common-sense explanation exists" a court will decline to find that a statute's "plain language leads to results that were clearly unintended by Congress." *Turfah v. USCIS*, 845 F.3d 668, 675 (6th Cir. 2017) (internal quotation marks omitted).

Here too, it would be absurd for DOI to overhaul all the parts of an RMP that stakeholders regard as sound and prudent just because Congress opposes an improvident portion. Congress intended for the CRA to broaden Congress's role in policymaking, not constrict it.

That leads to the second principle: Reissuing an RMP with its unobjectionable features left intact is permitted by the canon of interpreting statutory terms in the context of the statutory scheme. As the Supreme Court has explained, in many instances the "meaning—or ambiguity—of certain words or phrases may only become evident when placed in context," *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 132 (2000), and thus interpreted "with a view to their place in the overall statutory scheme," *id.* at 133. That is because a court's duty is "to construe statutes, not isolated provisions." *Graham County Soil and Water Conservation Dist. v. United States ex rel. Wilson*, 559 U.S. 280, 290 (2010) (internal quotation marks omitted).

Interpreting "substantially the same" in this manner effectuates Congress's design for the CRA as a whole statute. Congress passed this law to maximize congressional supervision of administrative actions, not to create Hobson's choices of retaining suboptimal administrative policies versus throwing the baby out with the bathwater of permanently jettisoning good policies along with bad policies. Holding that a new RMP is not "substantially the same" as a disapproved RMP when the new plan changes only the undesirable features thereby optimizes Congress's utility under the CRA. It increases Congress's effective oversight of the Executive and Congress's opportunity to make national policy through legislative action in a democratically accountable manner consistent with the Constitution's Presentment Clause.

For all these reasons, when Congress disapproves an RMP pursuant to the CRA, the CRA then permits DOI to issue a new RMP that substantially modifies only the part or parts that motivated the joint resolution of disapproval while retaining the remainder.

Senate Energy and Natural Resources Committee
November 19, 2025
Statement of Senator Risch

Thank you to the Chairman and the Ranking Member for holding this hearing today on a topic very important to those of us from western states.

As settlers arrived in the West, Congress scrambled to keep up, writing specific laws and agreements for each plot of land which was claimed. This led to a patchwork of complicated land management laws with antiquated disposal methods, and confusion and frustration as any type of project was attempted on public lands. In Idaho, where over 2/3 of our acreage is federal public land, this was a major problem.

In 1976, Congress streamlined the process with FLPMA, which supersedes all other previous land management laws on BLM land. Every land exchange since 1976—except those explicitly prescribed by Congress—has been legally carried out solely under authority granted in FLPMA.

However, this authority is now under attack. A district judge in Idaho decided against a land exchange in my state because it failed to satisfy public land law that predated FLPMA. This ruling threatens to preclude the Secretary from exercising clear authority and could cause a reversion to an ad-hoc, patchwork statutory system- the very chaos which FLPMA was designed to remedy.

It is essential that we uphold FLPMA as the law of the land.

DIGITAL POWER NETWORK

November 18, 2025

To: Chairman Lee (R-UT), Ranking Member Heinrich (D-NM), and Members of the Energy & Natural Resources Committee
Re: Full Committee Hearing to Examine the BLM Land Use Planning Process under FLPMA

Dear Chairman Lee, Ranking Member Heinrich, and Members of the Committee,

Thank you for the opportunity to submit this statement for the record on behalf of the Digital Power Network (DPN) – the nation's largest coalition of Bitcoin miners and digital infrastructure providers, representing over 85% of U.S. public Bitcoin mining hashrate. We commend the Committee for its focus on improving federal land-use and permitting policies under the Bureau of Land Management's (BLM) administration of the Federal Land Policy and Management Act of 1976 (FLPMA).

BLM plays a central role in enabling the deployment of energy infrastructure on federal lands. The enactment of the FLPMA marked a critical step toward responsible, modern stewardship by establishing BLM's "multiple-use and sustained yield mandate," requiring the agency to balance conservation with the productive use of federal lands[1]. As the U.S. economy evolves, land management policy must adapt to new opportunities for extracting value from federal resources– including those created by today's rapidly expanding digital infrastructure economy.

Unfortunately, outdated policies have resulted in inefficiencies in current permitting processes leading to excessive litigation, redundant environmental reviews, and significant project delays. In keeping with President Trump's directive to "unleash America's affordable and reliable energy" (Executive Order 14154[2]), BLM must modernize its regulatory framework to incorporate digital infrastructure operations, such as Bitcoin mining and artificial intelligence (AI) computing, while continuing to fulfill its statutory and stewardship obligations.

These modernization efforts are necessary as digital infrastructure is now foundational to the nation's economic competitiveness and technological leadership. Without updated

[1] https://www.blm.gov/sites/default/files/AboutUs_LawsandRegs_FLPMA.pdf
[2] https://www.texaslawblog.law/2025/02/unleashing-american-energy-executive-order-summary/#:~:text=The%20Order%20states%20that%20it,4%5D%C2%A0to%20promote%20consumer

policy, data centers risk moving offshore, undermining U.S. strategic capabilities and handing power to our foreign adversaries.

Beyond national security, Bitcoin mining and AI computing secure domestic growth through bolstering the nation's current infrastructure. Data centers are not merely energy consumers – they are energy investors. Their significant and growing load drives utility investment, grid expansion, and innovation while supporting local economic development. These facilities routinely pay large interconnection costs, sign long-term commitments that provide stable revenue for grid operators, and often procure renewable energy through PPAs that fund new generation projects.

Importantly, Bitcoin mining facilities offer unique grid benefits through their ability to rapidly curtail load. A 2025 Duke Nicholas Institute study *Rethinking Load Growth* found that modest annual curtailment rates (1%) could enable an additional 126 GW of load to be integrated into the grid while upgrades are pending. A recent Goldman Sachs report similarly highlighted how flexible digital infrastructure can curtail non-critical operations to stabilize the grid. As many facilities integrate both AI and Bitcoin operations, these dual-use data centers are emerging as highly flexible assets that strengthen reliability and stabilize the grid. The Cambridge Centre for Alternative Finance found that in 2023, Bitcoin miners curtailed nearly 888 GWh of load through demand response programs.[3]

Digital infrastructure can also absorb excess generation during low-demand periods, reducing stranded costs, supporting rural utilities, and enabling microgrid development. As demand rises and transmission buildout lags, siting and permitting have become bottlenecks. Federal agencies, including the Department of Energy (DOE), are beginning to explore siting data centers on federal lands, but faster, clearer permitting frameworks are urgently needed. BLM can support these efforts by utilizing its existing resources and easing the siting process for data centers on federal lands, which in turn strengthens resource adequacy and grid reliability.

To reduce permitting barriers and support sustainable digital infrastructure growth, BLM should:

1. Explicitly list data centers as "authorized purposes."
2. Update the definition and interpretation of "beneficial use."
3. Promote brownfield redevelopment and streamline rights-of-way (ROW) permitting.
4. Expedite permitting and ROW approvals for brownfield projects.
5. Establish liability safe harbors for developers reusing brownfields.
6. Inventory and proactively market BLM-controlled brownfields.

[3] https://www.jbs.cam.ac.uk/wp-content/uploads/2025/04/2025-04-cambridge-digital-mining-industry-report.pdf

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7. Leverage Bitcoin mining to reduce methane waste.

Recommendation 1: Explicitly list data centers as "authorized purposes."

Under Sec. 501 [43 U.S.C. 1761], the FLPMA explicitly lists operations such as pipelines, transmission lines, energy generation projects, and communication infrastructure as authorized uses. Amendments to the FLPMA of 1976 should explicitly include data centers– AI computing and cryptocurrency mining facilities– as authorized purposes for rights-of-way (ROW) permits.[4]

Explicitly expanding ROW authorizations to data centers aligns with existing practices and creates a clearer pathway to approval for digital infrastructure.[5] These approaches support broader efforts to "expedite and simplify the permitting process" for critical energy infrastructure and recognize that affiliated infrastructure (like flexible demand sources) as a natural extension of generation projects in achieving a resilient grid.[6]

Under current practice, DOI designates energy corridors (e.g. under Section 368 of the Energy Policy Act), often within ROW, primarily for linear infrastructure like pipelines and transmission lines. However, co-locating modular data centers within these corridors would involve minimal additional disturbance and could enhance corridor utility by balancing nearby generation. Treating such facilities as covered under pre-existing corridor authorization—rather than as new land uses—would reduce the needed permitting and would maximize land-use. Because these units are typically sited adjacent to power generation or substations, on already-disturbed lands, their incremental environmental impact is low.

Recommendation 2: Update the interpretation of "beneficial use."

The current DOI regulatory framework imposes unnecessary burdens on digital infrastructure developers – particularly Bitcoin miners and other flexible load operators – due to an overly rigid interpretation of what constitutes a "beneficial use" of federal lands. Under Sec. 501 [43 U.S.C. 1761], FLPMA allows unlisted land uses within rights-of-way if the Secretary of the Interior deems the use "in the public interest." However, this injects significant political uncertainty into long-term investment decisions and increases risk for an essential industry.

[4] https://www.blm.gov/sites/default/files/AboutUs_LawsandRegs_FLPMA.pdf
[5] https://www.congress.gov/crs-product/R48130
[6] https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/

Notably, DOI's Office of the Solicitor and BLM have previously taken the position that "cryptomining is not a beneficial use under the terms of Federal oil and gas leases[7]". This stance (articulated in a 2022–2023 internal advisory) reflects a limited view of energy innovation and fails to acknowledge the economic, grid reliability, and environmental benefits that co-located digital infrastructure can provide. Bitcoin mining data centers, when co-developed with energy projects, utilize otherwise stranded or wasted energy, provide highly flexible demand response, and generate local economic value – all of which further BLM's mission of responsible resource development. Excluding such uses as "beneficial" is increasingly inconsistent with modern energy policy and the Administration's directives to remove self-imposed regulatory barrier[8].

Recommendation 3: Promote brownfield redevelopment and streamline (ROW) permitting.

Across the United States, there are an estimated 450,000+ "brownfield" sites – previously developed industrial or commercial properties often plagued by contamination or abandonment[9]. Many of these sites lie within BLM's purview or in the communities BLM serves. Brownfields represent both a challenge and an opportunity: if left idle, they pose environmental hazards and blight to surrounding communities, but if cleaned up and redeveloped, they can host new industries and eliminate risks. The Trump Administration's energy strategy emphasizes utilizing our Nation's resources fully – which includes land resources. Redeveloping brownfields for energy and digital infrastructure projects aligns perfectly with the goal of maximizing benefits from existing assets while minimizing new disturbance to greenfield land.

Current regulatory processes do not sufficiently encourage the reuse of brownfields for energy infrastructure. In fact, developers often avoid brownfields due to liability concerns and convoluted approval processes. While the EPA's Brownfields Revitalization Act (2002) provided some liability relief to "innocent" purchasers, in practice companies still fear potential Superfund (CERCLA) liability or other legal complications when touching contaminated sites[10]. Moreover, permitting a project on a brownfield can paradoxically require as many reviews as a pristine site – despite the brownfield already being degraded. The result is that many brownfields remain neglected "hot potatoes" that neither the private sector nor government has fully leveraged, even as nearby communities suffer hazards (e.g. leaching toxins, collapse risks) and as greenfields elsewhere are sacrificed for new facilities.

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[7] https://www.doioig.gov/sites/default/files/2021-migration/MANAGEMENT%20ADVISORY%20-%20RECOMMENDATION%20FOR%20THE%20DEPARTMENT%27S%20COORDINATION%20CONCERNING%20CRYPTOMINING%20ACTIVITIES%20IMPACTING%20FEDERAL%20AND%20TRIBAL%20RESOURCES%20%2822-0897%29.pdf

[8] https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/

[9] https://19january2017snapshot.epa.gov/brownfields/brownfield-overview-and-definition#:~:text=It%20is%20estimated%20that%20there,properties%20increases%20local%20tax

[10] https://vtechworks.lib.vt.edu/bitstreams/1704f42b-6481-405d-a301-531ba5d9bcea/download#:~:text=CERCLA%20also%20lacks%20an%20element,Due%20to

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Recommendation 4: Expedite permitting and ROW approvals for brownfield sites.

BLM should establish a policy that previously developed or disturbed sites (brownfields) will receive expedited consideration for energy infrastructure and digital infrastructure projects. Concretely, this could entail:

- **Automatic or Accelerated ROW Authorizations:** If a proposed project's footprint is entirely within a documented brownfield or previously industrial site, BLM should aim to grant any necessary ROW or land-use authorization in an expedited timeframe. For example, setting a target of 60 days for initial field assessment and 6 months for final decision on ROW for brownfield projects – faster than typical timelines. Many brownfields already have existing infrastructure (roads, foundations, grid connections) that can be repurposed, which should simplify agency review of access and impact. BLM could also issue categorical exclusions (CE) or general permits for certain low-impact uses on brownfields (like laying fiber optic cable or setting modular data containers on a concrete pad).
- **NEPA Streamlining via Categorical Exclusion:** BLM should expand its NEPA categorical exclusions (CEs) to cover redevelopment of previously disturbed sites for qualifying projects. The Council on Environmental Quality (CEQ) has noted that actions in areas that have already been significantly impacted are prime candidates for categorical exclusions[11]. If a proposed energy project is sited on a brownfield and does not worsen existing contamination, BLM should consider it for a "brownfield redevelopment" CE, especially if state or EPA cleanup plans are in place. This avoids redundant environmental assessment when the environmental condition is already known (often documented by EPA or state agencies).
- **Priority Designation and Dedicated Liaisons:** BLM could create a Brownfield Infrastructure Initiative in which it maintains a list of BLM-administered or affiliated brownfield sites suitable for energy or digital projects. Once a developer expresses interest in such a site, BLM assigns a dedicated permitting liaison to shepherd the project. The liaison's mandate would be to help navigate federal-state overlap (since brownfields often involve EPA, state environmental agencies, and possibly local land use authorities). By actively managing these cases, BLM can cut through interagency red tape. Additionally, projects on BLM-identified brownfields could be given priority in FAST-41 or other streamlining programs.

Recommendation 5: Provide liability safe harbors for clean energy developers on brownfields.

[11] https://ceq.doe.gov/nepa-practice/categorical-exclusions.html

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One of the biggest impediments to reusing contaminated land is fear of liability for pre-existing pollution. BLM should collaborate with EPA and the Department of Justice to extend strong liability assurances to energy project developers who agree to revitalize brownfields. For instance, BLM could support mechanisms like Prospective Purchaser Agreements or comfort letters that clarify the new developer will not be held responsible for prior contamination, as long as they don't exacerbate it. Congress already empowered EPA with certain liability exemptions for "bona fide prospective purchasers" in the 2002 law[12] – BLM can amplify that by publicly committing that it will not pursue lessees or permittees for pre-existing conditions if they follow best practices.

In cases of BLM-owned land, BLM can contractually indemnify developers for certain cleanup costs (effectively using its authority to settle claims). While BLM must be prudent with taxpayer funds, it can balance this by requiring reasonable steps from developers (e.g. implementing an approved remediation plan as part of their project). The key is to remove the lingering uncertainty that if a company builds a solar farm on an old mine site, they won't suddenly get sued for all historical mine pollution. Removing this uncertainty makes investment in these sites far more attractive and reduces the need to issue new permits to develop untouched areas.

Recommendation 6: Inventory and proactively market BLM-controlled brownfields.

BLM should conduct a comprehensive inventory of brownfield and previously disturbed sites under its management or in trust for tribes that could host energy infrastructure. This includes abandoned mine lands (AMLs), former industrial facilities, decommissioned military or other BLM sites, etc. Once identified, BLM can assess reuse viability (e.g. proximity to transmission, size, contamination level) and then actively promote these sites for development. For example, BLM could issue calls for proposals or hold "Use Roundtables" with industry to showcase these opportunities. Prioritizing these sites serves multiple goals: it channels development to areas with lower ecological value and likely less community opposition, and it helps address environmental degradation on those lands.

Imagine turning a defunct strip mine or a decommissioned military installation into a new solar-plus-bitcoin mining campus– the site gets cleaned up, the local community gains jobs and tax base, no pristine habitat is lost, and the grid gets more capacity. Such win-win scenarios are achievable if BLM makes it a policy focus. BLM can also work with the Department of Energy's Office of Clean Energy Demonstrations (OCED) which has interest in

[12] https://www.localhousingsolutions.org/housing-policy-library/brownfields/#:~:text=Exemptions%20to%20CERCLA%20liability%20can,Revitalization%20Act%20amended%20CERLA

projects that repurpose fossil industry sites for clean energy (the Energy Communities initiatives under the IRA).

Emphasizing brownfield redevelopment will deliver:

- **Reduced Greenfield Impacts**: Every megawatt of energy capacity sited on a brownfield is a megawatt not sited on untouched land or critical habitat. This directly supports conservation by steering development to low-conflict areas. It also preempts the kind of legal challenges based on environmental preservation that often delay greenfield projects, thereby accelerating permitting. Even environmental advocacy groups are likely to favor projects on brownfields over those in sensitive areas, which could lead to smoother reviews and fewer lawsuits.
- **Community Revitalization and Justice**: Many brownfields are located in or near overburdened communities (often low-income or minority communities) that have suffered the health and economic consequences of past industrial pollution. Revitalizing these sites with new infrastructure addresses environmental justice concerns by mitigating lingering hazards and bringing investment to distressed areas. It can also reduce opposition from communities that might fight a new project on pristine land but will welcome cleanup of a blighted site. The legal "risk mitigation" of clear liability protections will be crucial in unlocking private capital for these areas[13]. In short, this strategy turns eyesores into assets.
- **Faster Approvals via Familiarity**: Brownfield sites often have extensive environmental documentation already (site assessments, remediation plans, etc.). Agencies can leverage this existing info rather than starting from scratch. For instance, if a NEPA review is needed, the baseline conditions are well-characterized – which can speed up the analysis considerably. In some cases, state agencies have pre-vetted certain sites for renewable energy use (e.g. EPA's RE-Powering America's Land Initiative lists contaminated lands suitable for renewables). BLM can piggyback on these efforts, leading to "shovel-ready" sites with minimal delay.

Recommendation 7: Leverage bitcoin mining to reduce methane waste.

Under the FLPMA, the BLM is responsible for managing emissions and preventing any unnecessary degradation. One major source of environmental pollution is natural gas flaring. Natural gas is a byproduct of oil drilling and often lacks an easily permitted and financially viable pathway to disposal. Often, the oil producer is left to either flare the gas, which is

[13] https://www.localhousingsolutions.org/housing-policy-library/brownfields/#:~:text=Exemptions%20to%20CERCLA%20liability%20can,Revitalization%20Act%20amended%20CERLA

harmful to the environment and heavily regulated, or they must build a pipeline to the oil field, which requires further permitting and leads to significant delays.

BLM's updated Methane and Waste Prevention Rule (finalized March 2024) requires operators to implement best practices to avoid routine flaring and venting[14]. Thus, to adhere to its commitment of responsible stewardship and curb natural gas waste on federal lands, BLM should formally incorporate digital flare mitigation projects as a compliance option, which reduces emissions by 99%[15]. BLM should incentivize and fast-track approvals for such co-development. This could include issuing guidance that using otherwise wasted gas to power flexible computing facilities will be considered an approved waste-reduction technology under BLM regulations. It could also mean partnering lessees with third-party tech firms (through facilitated agreements) to deploy mobile generator-mining rigs at remote well pads.

We urge Congress and BLM to adjust any regulatory impediments to quickly deploying these solutions and to actively promote Bitcoin mining as a tool in its methane waste reduction toolkit.

Conclusion
Adopting the above reforms would yield numerous benefits aligned with BLM's mission under the FLPMA:

- **Enhanced Energy Deployment**: Recognizing flexible data centers as legitimate land uses will expedite co-location. This avoids duplicative environmental and ROW reviews when, for example, a battery storage facility or modular mining data center is added to an existing solar farm or oil production site. Streamlined approvals mean energy infrastructure can come online faster and with lower cost. By providing an economic "bridge" during multi-year interconnection delays, Bitcoin miners and AI data centers can help renewable projects remain financially viable, preventing cancellations and speeding the growth of clean generation[16].
- **Economic Growth and Innovation**: Greater regulatory clarity and support for digital infrastructure will reduce investor risk and attract capital to U.S. energy and technology projects. The United States is already home to a thriving Bitcoin mining and AI computing industry that generates over $4.1 billion in GDP annually[17]. BLM's leadership in embracing this industry can cement U.S. leadership in both energy and blockchain technology. Rural regions, in particular, would see job creation, grid

[14] https://www.blm.gov/about/laws-and-regulations/2024-waste-prevention-rule
[15] https://www.mara.com/posts/bitcoin-mining-the-environment-the-positive-externalities
[16] https://cebuyers.org/wp-content/uploads/2025/09/CEBA-Report-Corporate-Demand-Drives-Clean-Energy.pdf
[17] https://www.mara.com/posts/the-economic-impact-of-bitcoin-mining-jobs-investment-energy-stability#:~:text=,gross%20product

DIGITAL POWER NETWORK

investment, and revenue from projects that might otherwise be discouraged or sent overseas by rigid regulations.

- **Environmental and Grid Resilience**: The recommendations leverage private sector innovation to advance environmental goals. Using Bitcoin miners to monetize flared gas will cut methane emissions (a potent greenhouse gas) and unlock value from otherwise wasted energy[18]. Encouraging flexible loads on the grid improves overall efficiency – data centers act as "valley fillers" that raise off-peak demand without raising peak demand[19], which smooths utilization of generation assets. During grid stress, their quick shut-off capability is essentially a virtual power plant, freeing capacity for vital services[20]. All of this contributes to a more resilient energy system that can better accommodate high levels of renewable energy and extreme weather events[21].

These reforms will help BLM eliminate unnecessary procedural barriers, focus on true environmental priorities, and deploy private-sector innovation to meet national needs. They will accelerate permitting timelines, reduce costs for government and industry, and improve environmental and community outcomes. This is a rare opportunity where reducing bureaucracy directly enhances environmental protection, job creation, and infrastructure deployment.

The Digital Power Network appreciates the Senate Energy and Natural Resources Committee's commitment to regulatory reform and the opportunity to contribute in shaping more efficient use of federal lands. We stand ready to assist Congress and BLM in implementing these recommendations. By working together with stakeholders, BLM can transform from a source of "red tape" into a model of efficient, innovative governance – one that truly balances development with stewardship in the national interest. These changes will help secure America's energy future and technological leadership while upholding the intent of the FLPMA. Thank you for considering our input.

Sincerely,
The Digital Power Network

[18] https://compassmining.io/education/bitcoin-mining-flared-stranded-natural-gas
[19] https://k33.com/research/archive/articles/bitcoin-mining-improves-the-economics-of-renewable-energy#:~:text=match%20at%20L304%20six%20di`erent A%20higher%20baseload
[20] https://www.tpr.org/technology-entrepreneurship/2023-09-06/texas-paid-a-bitcoin-miner-more-than-30-million-to-power-down-during-heat-wave#:~:text=,that%20consumers%20did%20not%20experience
[21] https://www.coindesk.com/opinion/2024/06/13/bitcoin-mining-stabilizes-power-grids-strained-by-ai-data-centers#:~:text=By%20increasing%20their%20activity%20during,to%20disruptions%20such%20as%20blackouts

WRITTEN TESTIMONY OF CHRISTINA HAYES

EXECUTIVE DIRECTOR, GRID ACTION

US SENATE

ENERGY AND NATURAL RESOURCES COMMITTEE

Hearing: "Bureau of Land Management Land Use Planning Process Under the Federal Land Policy and Management Act"

NOVEMBER 19. 2025

Dear Chairman Lee and Ranking Member Heinrich:

Thank you for the opportunity to submit our written testimony on the Bureau of Land Management's Land Use Planning Process Under the Federal Land Policy and Management Act (FLPMA) as the Senate Energy and Natural Resources Committee considers federal permitting reform legislation in the 119th Congress. Grid Action is a coalition of diverse stakeholders committed to building a modern, reliable, and cost-effective electric transmission system to achieve greater energy security and affordability in the United States. Our members include investor-owned utilities, merchant transmission developers, energy generators, corporate customers, equipment manufacturers, labor advocates and non-governmental organizations from across the political spectrum. Collectively, we represent an industry working towards modernizing the U.S. electric grid that could unlock up to $7.8 trillion in investment, create more than 6 million new jobs[1], save residential consumers up to $14.4 billion per year, and deliver between $3.80 and $4.70 in benefits for every $1 invested in transmission.[2]

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[1] Clack, Christopher T.M., et al. *Consumer, Employment, and Environmental Benefits of Electricity Transmission Expansion in the Eastern U.S.* Americans for a Clean Energy Grid, October 2020.
[2] Zimmerman, Zach., et al. *Large-Scale Transmission Deployment Saves Customers Money*. Grid Strategies prepared for Americans for a Clean Energy Grid, June 2025.

The Need for More Transmission

Since skyrocketing electricity demand is the challenge, focus naturally turns to increasing electricity supply. And there's no question about it: We will need more generation, about 166 gigawatts (GW) – roughly the equivalent of 166 large power plants – over the next five years, or six times more than projected just three years ago.[3]

The secret is that every kind of generation has location constraints that require transmission. Delivering all that new power to customers through a modern transmission grid is the key to energy abundance and affordability.

In addition to interconnecting new generation and bolstering grid reliability, transmission can save Americans money on their energy costs. With well-planned transmission investments, customers can see immediate benefits, including tangible electricity cost savings up to $14.4 billion per year for residential customers across the U.S. That's almost $5 in benefits for every $1 invested in transmission.[4] The cost-saving feature of new transmission becomes readily apparent during extreme weather events, where 1 GW of transmission expansion could have saved customers across 12 separate regions a staggering $466 million over just five days during Winter Storm Elliott.[5]

Despite the bipartisan consensus that transmission is part of our nation's critical energy infrastructure, capable of reducing Americans' electricity bills, and indispensable for meeting soaring electricity demand, construction of new high-capacity transmission has slowed significantly. In 2024, just 888 miles of high-voltage transmission lines were completed. By comparison, nearly 4,000 miles were built in 2013 alone. This shortfall puts critical sectors like semiconductor manufacturing, artificial intelligence, and advanced manufacturing at risk at an important time for the future of the U.S. economy.[6]

The Federal Policy and Land Management Act (FLPMA)

The Bureau of Land Management's ("BLM") use of Notices to Proceed ("NTPs") has become a significant source of avoidable delay for critical infrastructure on public lands. The Federal Land Policy and Management Act ("FLPMA") authorizes BLM to issue right-of-

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[3] Wilson, John D., et al. *Power Demand Forecasts Revised Up for Third Year Running, Led By Data Centers*. Grid Strategies, November 2025.
[4] Zimmerman, Zach., et al. *Large-Scale Transmission Deployment Saves Customers Money*. Grid Strategies prepared for Americans for a Clean Energy Grid, June 2025.
[5] Goggins, Michael., et al. *The Value of Transmission During Winter Storm Elliott*, Grid Strategies prepared for ACORE, February 2023.
[6] Shreve, Nathan., et al. *Fewer New Miles*, Grid Strategies prepared for Americans for a Clean Energy Grid, July 2025

way ("ROW") grants with appropriate "terms and conditions."[7] In implementing that authority, BLM issued a regulation addressing NTPs at 43 C.F.R. § 2807.10. Notably, FLPMA itself neither mandates the use of NTPs nor prescribes any particular NTP process. In fact, NTPs are never expressly mentioned in FLPMA.

How NTPs Are Delaying Projects

For linear infrastructure projects, such as electric transmission, NTPs often function as the final approval before ground-disturbing work may begin. Typically, once BLM issues a ROW grant – often in a Record of Decision – the ROW holder may proceed in accordance with the grant's terms and conditions. However, if that ROW grant includes an NTP stipulation, the project generally must receive all required written NTPs before beginning ground-disturbing work. BLM typically includes an NTP stipulation in a ROW grant when a required condition remains outstanding at the time the grant is issued (e.g., approval of management plans, fulfillment of mitigation commitments, and compliance with other applicable laws and regulations). In practice, these NTP conditions can be extensive and introduce substantial and unnecessary delay after the ROW has already been granted. As detailed in the attached submission to the Department of the Interior, several transmission projects have been directly and adversely affected by the burdensome and protracted application of NTPs.

Targeted Reforms to Restore NTPs to Their Proper Role

To ensure that NTPs serve their proper limited role, rather than as post-hoc permitting hurdles, BLM should adopt the following reforms:

1. Establish a firm 90-day deadline for issuing the NTP following the ROW grant, unless additional requirements of federal law must first be satisfied or the applicant affirmatively requests additional time.
2. Structure all NTP terms, conditions, and stipulations so they are reasonably capable of completion within 90 days of NTP issuance, except where federal law requires additional time.
3. Limit NTP terms and conditions to those minimally necessary to ensure BLM fulfills its statutory land-management duties under FLPMA and other federal laws.
4. Ensure that documentation submitted in support of NTP issuance is deemed approved if BLM either (a) does not issue the NTP within the applicable deadline, or

[7] 43 U.S.C. §§ 1761, 1765.

(b) does not request specific additional information within 15 days of receiving the documentation.

With these modifications, NTPs would operate as limited terms and conditions allowable under FLPMA.

Pathways to Implement NTP Solutions

These improvements can be achieved through multiple mechanisms. First, as described in the attached letter that Grid Action submitted to the Department of the Interior on June 20, 2025, BLM can amend its NTP regulation at 43 C.F.R. § 2807.10 to adopt clear timelines, streamline conditions, and cabin NTPs to facilitate critically needed transmission development. Second, BLM can revise and implement agency policy to require these limitations immediately while a rulemaking proceeds. Third, Congress can direct these reforms by amending FLPMA Section 504(e), 43 U.S.C. § 1764(e), to require BLM to confine NTP terms and conditions to those necessary to meet statutory obligations.

Broader Benefits

Reasonable limits on NTP timelines and conditions will accelerate not only urgently needed transmission development, but also other energy infrastructure – including pipelines – that are currently impeded by protracted and unnecessary NTP processes on public lands.

Please contact me (christina.hayes@gridaction.org) or James Ritchotte (james.ritchotte@gridaction.org) if you have any questions or would like to discuss this and other transmission related issues in more detail. Thank you again for the opportunity to submit written testimony. Grid Action appreciates your leadership on federal permitting reform and welcomes the opportunity to work with the Committee and the Trump Administration on the full range of our nation's transmission and energy infrastructure priorities.

June 20, 2025

U.S. Department of the Interior
Office of the Solicitor
1849 C Street NW
Washington, DC 20240
Interior.RegulatoryInfo@doi.gov

Response to DOI Request for Information Docket No. DOI-2025-0005
Re: Reasonable Limits on Bureau of Land Management Notices to Proceed

Grid Action appreciates this opportunity to provide input on the U.S. Department of the Interior ("DOI") Request for Information ("RFI") in Docket No. DOI-2025-0005. Grid Action is a not-for-profit public interest advocacy organization that brings together a diverse coalition of stakeholders focused on the need to expand, integrate, and modernize the high-voltage grid in the United States.[1] Grid Action is submitting this RFI response in support of DOI's efforts to identify regulations that can be modified or repealed "to ensure that DOI administrative actions . . . advance American energy independence." Specifically, Grid Action submits this response to urge DOI to reform how Bureau of Land Management ("BLM") uses Notices to Proceed ("NTP") in granting rights-of-way ("ROW"). To address the project delays caused by NTPs, Grid Action recommends that DOI do the following:

- Require that an NTP be issued *no longer than 90 days* after BLM grants a ROW unless otherwise required by Federal law or requested by the applicant;
- Ensure that any NTP terms, conditions, and stipulations are readily capable of completion within *90 days* following NTP issuance unless otherwise required by Federal law;
- Restrict NTP terms, conditions, and stipulations to the minimum required by law; and
- Deem approved any documentation submitted in furtherance of an NTP if BLM

[1] Grid Action is supported by a diverse coalition of stakeholders focused on the need to expand, integrate, and modernize the high-capacity grid in the United States. Grid Action includes multi-state utilities and merchant transmission owners that develop, own, and operate; transmission trade groups that include transmission owners and transmission equipment manufacturers among their members; renewable energy trade groups and advocates; environmental advocacy organizations; buyers and consumers of energy; and energy policy experts. Grid Action seeks to educate the public, opinion leaders, and public officials about the needs and potential of the transmission grid. These comments do not necessarily reflect the views of individual members.

either fails to issue the NTP or fails to request additional information within 15 days of receiving the documentation.

Ideally, DOI would clarify these requirements in BLM's Federal Land Policy Management Act ROW regulations in 43 C.F.R. Part 2800. However, DOI could also immediately implement these recommendations without a regulatory change. In addition to these specific recommendations, Grid Action urges DOI, as it reviews other comments and information submitted in response to this RFI, to consider how implementation of any recommendations could impact critically needed linear infrastructure development, like transmission lines, which are necessary for American energy independence.

I. Background

To achieve greater security, reliability, affordability, and sustainability of electric power service and to facilitate the Administration's goal of unleashing American energy, we must expand the U.S. electric transmission grid.[2] Despite the critical need for new transmission, construction of new electric transmission lines has slowed to a trickle over the last decade, from an average of 1,700 miles of new high-voltage transmission miles installed per year in the first half of the 2010s to just 55 new miles in 2023.[3]

One reason for the lack of large-scale transmission expansion is that transmission projects take too long to permit. Generally, a transmission project undergoes years of studies and community engagement before even beginning the permitting process. Once the permitting process is underway, it can take years to complete, especially for large-scale transmission, where federal, state, and local permits are often required for a single transmission project. Further frustrating electric transmission development, litigation can cause additional expenses and delays.

Among the permitting challenges is the manner in which BLM uses NTPs—the very last step in the permitting process for many transmission projects. Once BLM issues a ROW grant for the use of BLM-managed land, the ROW grant holder can proceed with using the ROW subject to the ROW terms and conditions ***unless*** the ROW grant has an NTP stipulation. BLM uses NTPs when there is a requirement that has yet to be met prior to BLM issuing the ROW (e.g., approval of management plans, fulfillment of mitigation commitments, and compliance with other applicable laws and regulations). Generally, ROWs for electric transmission development contain

[2] *See* Executive Order 14154 "Unleashing American Energy" (Jan. 20, 2025); Executive Order 14156 "Declaring a National Energy Emergency" (Jan. 20, 2025) (explicitly including "the transmission of electricity" and noting that "insufficient energy production, transportation, refining, and generation . . . constitutes an unusual and extraordinary threat to our Nation's economy, national security, and foreign policy"); DOE Secretarial Order (Feb. 5, 2025), https://www.energy.gov/articles/secretary-wright-acts-unleash-golden-era-american-energy-dominance (declaring that DOE "will identify and exercise all lawful authorities to strengthen the nation's grid, including the backbone of the grid, our transmission system").

[3] Nathan Shreve, Zachary Zimmerman, & Rob Gramlich, Grid Strategies LLC, *Fewer New Miles: The U.S. Transmission Grid in the 2020s*, at 4 (July 2024), https://cleanenergygrid.org/wp-content/uploads/2024/07/GS_ACEG-Fewer-New-Miles-Report-July-2024.pdf.

an NTP stipulation. In those cases, the ROW holder cannot begin specified activities in the ROW (generally begin construction or surface-disturbing activities) until BLM issues a written NTP authorization.

II. Projects Harmed by BLM's Use of NTPs

In recent years, there are several examples of electric transmission projects being directly harmed by the unduly burdensome application of NTPs by BLM. The below examples are intended to be illustrative, and not an exhaustive list, of projects and ways in which BLM's use of NTPs can delay projects.

Boardman to Hemingway ("B2H")

B2H is a long-distance transmission project in the West that has been in the works for *19 years*. BLM issued the Record of Decision ("ROD") granting the project a ROW to cross BLM lands in November 2017. The ROD did not authorize construction until the applicant received a final NTP from BLM, including compliance with the National Historic Preservation Act ("NHPA") Programmatic Agreement.[4] In 2024, the project was prepared to break ground when BLM decided to audit the extensive and comprehensive cultural work on the project. BLM decided to do so based on issues discovered on an unrelated solar project in Washington State. After a nine-month delay related to the audit, B2H received an NTP from BLM. The NTP contained preconditions related to approval of NHPA Section 106 documents originally submitted as far back as 2021. Since the conclusion of the audit, Idaho Power has been resubmitting and requesting the approval of these documents. In order to meet the 2027 in-service date necessary to ensure Idaho Power and PacifiCorp can meet load requirements, B2H must break ground in June 2025.

SunZia

SunZia is a transmission project that would extend approximately 500 miles between central New Mexico and central Arizona. SunZia applied for a ROW for crossing BLM lands in 2008, *17 years ago*. BLM issued the ROD granting SunZia a ROW in January 2015. The ROD included a condition that construction on the project could not begin until the project received an NTP from BLM. Further, the ROD provided that the ROW grant was subject to the terms, conditions, and stipulations in the ROD (including those set forth in the NHPA Programmatic Agreement). In 2023, eight years after issuing the ROD for the project ROW, BLM issued limited NTPs authorizing project construction, including through the San Pedro Valley. In January 2024, tribes and environmental advocacy groups ("Plaintiffs") filed a complaint alleging BLM violated

[4] B2H, ROD, Appendix 2, at B-2 (Nov. 2017), https://eplanning.blm.gov/public_projects/nepa/68150/125239/152686/ROD_Appendix_B_Mitigation_Monitoring_Requirements.pdf.

the NHPA by issuing the limited NTPs before completing NHPA obligations. The district court granted BLM's motions to dismiss the case. Plaintiffs appealed, and the U.S. Court of Appeals for the Ninth Circuit remanded to the district court, holding there was a plausible claim that BLM violated the NHPA Programmatic Agreement.[5] This late-stage litigation around the NHPA and limited NTPs will further delay a project needed to deliver power that is critical to meeting growing demand in the West and maintaining grid reliability.

Energy Gateway South

Energy Gateway South is a transmission project that would extend between south central Wyoming, across northwest Colorado, to a planned substation in Utah. The project applied for and received a ROW for crossing BLM lands in a 2016 ROD. *Six years* later, BLM issued an NTP for the developer to begin only *non-surface disturbing, pre-construction* work in the ROW.[6] The NTP noted that several segments of the transmission line were excluded from the NTP. BLM has not yet issued NTP authorization needed to complete all segments of the line. Energy Gateway South is needed to meet load growth and provide increased reliability in the West.

III. Recommended Reforms to BLM Use of NTPs

BLM's use of NTP's has led to unnecessary delays for critically needed transmission projects. This harm is furthered by litigation, such as the legal battles faced by SunZia, where NTPs trigger additional opportunities for legal challenges.

Of note, the B2H and SunZia NTP issues are tied to NHPA Programmatic Agreement compliance and implementation. As project developers voluntarily negotiate and enter into Programmatic Agreements, this response letter does not provide specific recommendations for NHPA-related changes. However, Grid Action cautions that without reform to BLM's use of NTPs (including NHPA-related NTPs), project developers may be hesitant to utilize Programmatic Agreements and may elect instead to follow the standard NHPA process.

NTPs should be the final procedural step in the BLM ROW process. If implemented, the following recommendations would realign the use of NTPs with their intended, limited purpose. Subsection E, below, provides recommended regulatory language to accomplish this goal. However, BLM can, and Grid Action contends that BLM should immediately institute these recommendations even without a regulatory change.

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[5] *Tohono O'odham Nation v. U.S. Dep't of Interior*, No. 24-3659 (9th Cir. May 27, 2025).

[6] BLM, Energy Gateway South Transmission Line NTP (May 25, 2022), https://eplanning.blm.gov/public_projects/53044/200078762/20061076/250067258/Notice%20to%20Proceed%20-%20Gateway%20South.pdf.

A. 90-Day Deadline for NTP Issuance

BLM should institute a 90-day deadline for issuing the NTP after issuing the ROW unless otherwise required by Federal law or requested by the applicant. Specifically, BLM should always issue any required NTPs within 90 days of issuing the ROD granting the ROW unless otherwise required by Federal law or requested by the applicant. This is consistent with the One Federal Decision provisions codified in the 2021 Infrastructure Investment and Jobs Act requiring that "all authorization decisions necessary for the construction of a major project shall be completed by not later than 90 days after the date of the issuance of a record of decision for the major project" with some exceptions, such as when otherwise required by Federal law or when requested by the project sponsor.[7] Implementing this timeline will minimize unnecessary delays at the last stage of project permitting.

B. NTP Conditions Readily Capable of Completion within 90 days

BLM has authority to include certain terms, conditions, and stipulations in NTPs. To effectively accelerate project development, any terms, conditions, and stipulations in NTPs should be readily capable of completion within 90 days of BLM's issuance of the NTP. BLM should explain how any NTP term, condition, or stipulation is readily capable of completion within this 90-day timeline.

Other requirements associated with project construction may include mitigation and monitoring that extend beyond this 90-day period. For example, an Endangered Species Act Incidental Take Statement may include conditions for re-initiation of consultation. Additionally, NHPA compliance may include ongoing monitoring of historic properties and cultural resources. Consistent with applicable law, BLM should limit these separate long-term conditions to only those that are legally required.

C. NTP Terms Must be Limited to the Minimum Required by Law

Vague, open-ended, and overly onerous terms, conditions, and stipulations should not be included in BLM's NTPs. Where such provisions are included, the NTP can act as a final "gotcha" in a multi-year permitting process, increasing the cost of transmission development and, in turn, the cost to consumers that urgently need the power to be delivered via the line. NTP terms, conditions, and stipulations should be reasonable and limited to the minimum required by law to ensure BLM fulfills its statutory land-management duties under the Federal Lands Management Act and consistent with other applicable Federal laws.

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[7] Pub. L. 117-58 § 11301(a) (2021). Note, similar language was included in President Trump's One Federal Decision Executive Order 13807 (2017), later rescinded during the Biden Administration.

D. Information Deemed Sufficient if No BLM Response Within 15 Days

If after an applicant submits documentation in furtherance of an NTP BLM either does not issue the NTP or does not request additional information, then the documentation shall be deemed sufficient and the NTP deemed issued. This will minimize unnecessary processing delays and facilitate construction of critical projects.

E. Proposed Regulatory Amendment

To accomplish the recommendations above, Grid Action recommends that BLM amend its existing regulation in 43 C.F.R. § 2807.10 with the below language.[8] Underlining indicates proposed new language.

1) When you can start depends on the terms of your grant. You can start activities when you receive the grant you and BLM signed, unless the grant includes a requirement for BLM to provide a written Notice to Proceed. If your grant contains a Notice to Proceed requirement, you may not initiate construction, operation, maintenance, or termination until BLM issues you a Notice to Proceed.
2) BLM shall issue any needed Notice to Proceed within ninety (90) days of granting the right-of-way unless a longer timeframe is required by Federal law or requested by the applicant.
3) BLM shall limit any terms, conditions, or stipulations contained in the Notice to Proceed to those that are minimally necessary to ensure compliance with applicable Federal laws. Such terms, conditions, or stipulations shall be capable of implementation within ninety (90) calendar days from the date of Notice to Proceed issuance, except where a longer timeframe is specifically required by Federal law. The Notice to Proceed shall include a written justification demonstrating that the prescribed terms, conditions, and stipulations are reasonable and achievable within the specified ninety (90) day implementation period or why a longer timeframe is required by law.
4) If within fifteen (15) days of receiving documentation to support issuance of a Notice to Proceed, BLM either does not request additional required information or issue the Notice to Proceed, the documentation shall be deemed sufficient and the Notice to Proceed shall be deemed issued.

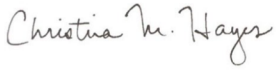
IV. Conclusion

Grid Action strongly supports DOI's efforts to eliminate unduly burdensome regulations and streamline permitting processes that delay critical infrastructure development. Electric

[8] If BLM or other DOI bureaus identify other NTP-related regulations or policies, BLM/DOI should align those regulations or policies with the recommendations outlined in this letter.

transmission infrastructure is fundamental to achieving America's energy independence. NTPs must serve as the final procedural milestone—not an additional barrier—in BLM's ROW approval process. We look forward to continuing to collaborate with DOI to further our shared goal of constructing critical infrastructure.

Thank you,



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WESTERN GOVERNORS' ASSOCIATION

SPENCER COX
GOVERNOR OF UTAH
CHAIR

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GOVERNOR OF HAWAI'I
VICE CHAIR

JACK WALDORF
EXECUTIVE DIRECTOR

November 18, 2025

The Honorable Mike Lee
Chairman
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Building
Washington, DC 20510

The Honorable Martin Heinrich
Ranking Member
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Lee and Ranking Member Heinrich:

In advance of the Committee's November 19, 2025, hearing to Examine the BLM Land Use Planning Process Under FLPMA, attached please find Western Governors' Association (WGA) Policy Resolution 2024-01, Strengthening the State-Federal Relationship.

The resolution articulates Western Governors' bipartisan vision for a more effective and functional relationship between states and federal offices. States are co-sovereigns with the federal government and federal agencies must engage in consultation with states on a government-to-government basis. As described in the resolution, "a good faith partnership between states and the federal government will result in more efficient, economic, effective, and durable policy, benefiting the Governors' and the federal government's shared constituents and resulting in a nation that is stronger, more resilient, and more united."

Section 202(c)(9) of the Federal Land Policy and Management Act of 1976 (FLPMA, Pub. L. 94-579) recognizes states' unique legal status and the importance of federal-state engagement by requiring that the Secretary of the Interior (Secretary), in developing and revising land use plans, coordinate with the states within which such lands are located. It further requires that the Secretary is to be kept apprised of state land use plans and assure that consideration shall be given to such plans in the development of public land use plans, and that any inconsistencies between federal and state land use plans be resolved, including via public input.

As the Committee considers how the Bureau of Land Management land use planning process under FLPMA affects permitting for energy, mining, grazing, and infrastructure projects on public lands, I urge the Committee to consider the important role state-federal collaboration has in federal land use and permitting processes and to maintain and expand opportunities for states and localities to have a substantive role in federal land use decision-making processes.

I request that you include this document in the permanent record of the hearing, as it articulates Western Governors' collective and bipartisan policy on this issue.

Thank you for your consideration of this request. Please contact me if you have any questions or require further information.

Sincerely,

Jack Waldorf
Executive Director

Attachment

Policy Resolution 2024-01

Strengthening the State-Federal Relationship

A. BACKGROUND

1. Western Governors are proud of their unique role in governing and serving the citizens of this great nation. As the chief elected officials of sovereign states, they bear enormous responsibility and have tremendous opportunity. Moreover, the faithful discharge of their obligations is central to the success of the Great American Experiment.

2. It was the states that confederated to form a more perfect union by creating a national government with specific responsibilities for common interests. In this union, the states retained their sovereignty and much of their authority.[1]

3. Under the American version of federalism, the powers of the federal government are narrow, enumerated and defined. The powers of the states, on the other hand, are vast and indefinite and encompass all powers of governance not specifically bestowed to the federal government by the U.S. Constitution. This principle is memorialized in the Tenth Amendment, which states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

4. This reservation of power to the states respects the differences between regions and peoples, recognizes a right to self-determination at a local level, and provides for flexible, tailored solutions to policy challenges. It also requires the federal government to engage with states – our nation's dynamic laboratories of democracy – on a government-to-government basis befitting their co-sovereign status.

5. In addition to states' reserved sovereign authorities, Congress has recognized state authority in federal statute by: (1) directing the federal government to defer to state authority, including such authority over land and water use, education, domestic relations, criminal law, property law, local government, taxation, and fish and wildlife; and (2) delegating federal authority to states, including the regulation of water quality, air quality, and solid and hazardous waste.

6. Executive Order 13132, Federalism, reinforces these constitutional, statutory, and judicial principles and directs federal agencies to have an accountable process to ensure meaningful and timely input from state officials in developing policies with federalism implications.

7. The relationship between state and federal authority is complex and multi-dimensional. There are various contexts in which these authorities manifest and intersect:

[1] The U.S. Supreme Court has confirmed that, "[d]ual sovereignty is a defining feature of our Nation's constitutional blueprint" and "States entered the Union with their sovereignty intact." *See, e.g., Sossamon v. Texas*, 563 U.S. 277, 283 (2011).

a) **State Primacy** – All powers not specifically delegated to the federal government in the Constitution. In the absence of Constitutional delegation of authority to the federal government, state authority should be presumed sovereign. *Examples: groundwater, wildlife management (outside of the Endangered Species Act), natural resources management, electric transmission siting.*

b) **Shared State-Federal Authority** – Fact patterns in which federal authority and state primacy intersect. *Examples: wild horses and burros on federal lands, interstate water compacts.*

c) **Federal Authority Delegated to States** – Federal authority that Congress has delegated to states by statute. Many such statutes require federal agencies to set federal standards (and ensure those standards are met) but authorize states to implement those standards. *Examples: water and air quality, solid and hazardous waste.*

d) **Federal Statutory or Other Obligations to States** – Where the federal government has a statutory, historical, or moral obligation to states. *Examples: Payments in Lieu of Taxes; Secure Rural Schools Act; shared mineral royalties; agreements to clean up radioactive waste that was generated by federal nuclear weapons production.*

e) **Exclusive Federal Authority** – Powers enumerated in the Constitution as exclusive powers of the federal government. In areas of exclusive federal authority, state law can be preempted if Congress clearly and unambiguously articulates an intent to occupy a given field or to the extent it conflicts with state law. *Examples: national defense, production of money.*

8. In contravention of the Founders' design, the balance of power has shifted toward the federal government and away from the states. Increasingly prescriptive regulations tie the hands of states and local governments, dampen innovation, and impair on-the-ground problem-solving. Failures of the federal government to consult with states reflect insufficient appreciation for local knowledge, preferences, and competencies. In many cases, these federal actions encroach on state legal prerogatives, neglect state expertise, and/or infringe on state authority.

9. The federal government often requires states to execute policy initiatives without providing the funding necessary for their implementation. State governments cannot function as full partners if the federal government requires them to devote their limited resources to compliance with unfunded federal mandates.

10. State authority and autonomy is also eroded when prescribed federal policies become effectively mandatory through the contingency of federal funding streams that states depend on to deliver critical services.

11. Too often, federal agencies: solicit input from states after a decision is already made or a public process is started; ask states to provide feedback on a proposed action without providing details or documents regarding what the agency is proposing; or do not respond to state input or incorporate feedback from states into their decisions. This does not afford states with the respect and communication required by law, and states currently have no

recourse for an agency's failure to consult except for litigation on the merits of a federal decision.

12. Congress and Executive Order 13132 currently require federal agencies to document the effects of their actions on states in certain circumstances. In practice, federal agencies rarely prepare these prescribed federalism assessments or statements. Even when federal agencies prepare such documents, they are not ordinarily informed by input from affected states. In addition, these documentation requirements only apply at the end of the rulemaking process and cannot substitute for early and meaningful consultation with states.

13. Federal agencies have suggested to states that there are legal or other barriers to state consultation, such as: federal agency policies restricting *ex parte* communications; concerns about the applicability of Federal Advisory Committee Act (FACA) procedures to meetings between state and federal officials; and issues with sharing information that would otherwise be exempt from disclosure under the Freedom of Information Act (FOIA).

14. Federal agencies do not adequately incorporate state data and expertise into their decisions. This can result in duplication, inefficiency, and federal decisions that do not reflect on-the-ground conditions. Consideration and incorporation of state, tribal, and local data and analysis will result in federal actions that are better-informed, more effectively coordinated among all levels of government, and tailored to the communities they affect.

15. Many of these issues stem from a profound misunderstanding throughout the federal government regarding the role and legal status of states. Over the past several years, Western Governors have worked to improve the federal government's understanding of state sovereignty, authority, and state-federal consultation; meaningful structural change, however, has yet to occur.

B. GOVERNORS' POLICY STATEMENT

1. A good faith partnership between states and the federal government will result in more efficient, economic, effective, and durable policy, benefiting the Governors' and the federal government's shared constituents and resulting in a nation that is stronger, more resilient, and more united.

2. Improving state-federal communication and coordination is a goal that transcends party lines, and it is among the Governors' highest priorities. The Governors urge Congress and the Executive Branch to make fundamental changes to realign and improve the state-federal paradigm.

State Sovereignty and Authority

3. States are co-sovereigns with the federal government pursuant to the Tenth Amendment of the U.S. Constitution and other federal law. Congress and federal agencies must recognize state sovereignty and must not conflate states with other entities or units of government. States should not be treated as stakeholders or members of the public.

4. State authority is presumed sovereign in the absence of Constitutional delegation of authority to the federal government.

a) Federal legislative and regulatory actions should be limited to issues of national significance or scope, pursuant to federal constitutional authority. Preemption of state laws should be limited to instances of necessity.

b) Where Congress preempts state law (acting pursuant to federal constitutional authority), federal law should accommodate state laws, regulations, and policies before its enactment and permit states that have developed alternate standards to continue to enforce and adhere to them.

c) Federal agencies should construe federal law to preempt state law only when a statute contains an express preemption provision or there is some other compelling evidence that Congress intended to preempt state law.

5. Congress and federal agencies should respect the authority of states to determine the allocation of state administrative and financial responsibilities in accordance with state constitutions and statutes. It should further:

a) Ensure that federal government monitoring is outcome-oriented;

b) Minimize federal reporting requirements; and

c) Refrain from dictating state or local government organization.

6. When a state is meeting the requirements of a delegated program, the role of a federal agency should be limited to the provision of funding, technical assistance and research support. States should have the maximum discretion to develop implementation and enforcement approaches within their jurisdiction without federal intervention. Federal agencies should recognize and credit states' proactive actions.

7. Congress and federal agencies should avoid imposing unfunded federal mandates on states. In addition:

a) Federal assistance funds, including funds that will be passed through to local governments, should flow through states according to state laws and procedures;

b) States should have the flexibility to transfer a limited amount of funds from one grant program to another and to coordinate the administration of related grants;

c) Federal funds should provide maximum state flexibility without specific set-asides; and

d) Governors should have the authority to require coordination among state executive branch agencies, or between levels or units of government, as a condition of the allocation or pass-through of funds.

8. Congress and the Executive Branch should create or re-establish entities to discuss and act on federalism issues, in consultation with states. These entities should have the ability and resources to make recommendations to improve the state-federal relationship and include states in their membership or actively involve states in their discussions.

State-Federal Consultation

9. Federal agencies must engage in consultation with states on a government-to-government basis in accordance with states' legal status. Congress should clarify and promote the need for state-federal consultation.

10. Improving state-federal consultation will result in more effective, efficient, and long-lasting federal policy for the following reasons:

    a) Governors have specialized knowledge of their states' environments, resources, laws, cultures, and economies that is essential to informed federal decision making;

    b) Federal agencies can reduce duplication through the use and incorporation of state expertise, data, and documentation;

    c) Authentic communication and information exchange will help federal agencies determine whether an issue is best addressed at the federal level; and

    d) Through meaningful dialogues with affected states, federal agencies can also avoid unintended consequences and address or resolve state concerns.

11. Each Executive department and agency should have a clear and accountable process to provide each state – through its Governor or their designees – with early, meaningful, substantive, and ongoing consultation in the development of federal policies that affect states. The extent of the consultation process should be determined by engaging with affected states. At a minimum, this process must involve:

    a) Conducting consultation through federal representatives who can speak or act on behalf of an agency;

    b) Inviting states to provide input outside of a public process and before proposals are finalized;

    c) Enabling states to engage with federal agencies on an ongoing basis to seek refinements to proposed federal actions prior to finalization;

    d) Providing robust information and documents (including non-final, non-public, draft, and supporting documents) about potential federal actions, including proposed rules, to Governors or their designees;

    e) Addressing or resolving, where possible, state issues, concerns, or other input unless precluded by law;

    f) Documenting how state concerns were resolved or why they were unable to be resolved in final decisions; and

    g) Making reasonable efforts to achieve consistency and avoid conflicts between federal and state objectives, plans, policies, and programs.

12. Governors affirm their reciprocal role in advancing a clear, predictable, timely, and accountable consultation process. Governors or their designees must continue to provide clear expectations for the appropriate scope and scale of consultation and must work with federal agencies to make consultation processes as efficient as practicable. As chief executives, Governors must also ensure the views of the state are clearly and consistently conveyed throughout the consultation process by prioritizing significant issues and resolving competing viewpoints across state government.

13. In many cases, federal agencies are required – whether by statute, executive order, regulation, policy, or other mandate – to consult, cooperate, and coordinate with states before taking action. However, due to states' unique legal status, the need for federal-state engagement is not limited to express directives and should extend to any federal actions that may have direct effects on states, on the relationship between the federal government and states, or on the distribution of power or responsibilities among the various levels of government. Federal agencies should consult with states regarding what types of agency actions typically affect states and the extent of consultation required for these types of actions.

    a) These actions include the implementation of federal statutes and the development, prioritization, and implementation of agency policies, rules, programs, reviews (e.g., Governor's Consistency Reviews), plans (e.g., resource management plans), budget proposals and processes, strategic planning efforts (e.g., reorganization), and federal litigation or adjudication that affects states.

    b) When a federal agency proposes to enter into any agreement or settlement that affects states, the agency should provide all affected Governors or their designees with notice of the proposal and consult with, and seek the concurrence of, Governors or their designees who respond to the notice.

14. Congress and the Executive Branch should require federal agencies to promulgate regulations in consultation with Governors, setting forth their procedures to ensure meaningful, substantive consultation with states on federal actions that affect states. This direction should also clarify that, for rulemakings affecting states:

    a) An agency's satisfaction of rulemaking requirements under the Administrative Procedure Act (including the solicitation of public comments) does not satisfy an agency's obligation to consult with states; and

    b) Consultation should occur before publication of a notice of proposed rulemaking or before an advanced notice of proposed rulemaking is submitted to the Office of Management and Budget (OMB).

15. Congress and the Executive Branch should consider the following additional accountability measures:

    a) Requiring the designation of a federalism official with the responsibility for implementing state-federal consultation and publish this official's name, title, and contact information on the agency's website;

b) Requiring OMB to regularly submit a report to Congress and Governors on state-federal consultation and implementation of agency consultation rules;

c) Requiring federal agencies to provide a summary of their efforts to consult with states, including a discussion of state input and how that input was considered or addressed, in any proposed and final rules;

d) Creating a process where Governors can notify OMB of an agency's failure to consult or comply with their consultation procedures; and

e) Providing an opportunity for Governors or their designees to seek judicial review of an agency's failure to consult.

16. Congress and the Executive Branch could make federalism reviews more effective by:

a) Working with Governors to develop specific criteria and consultation processes for initiating and performing these reviews.

b) Providing Governors with an opportunity to comment on federalism assessments before any covered federal action is submitted to OMB for approval.

17. Congress and federal agencies should take the following actions to clarify that *ex parte* policies, FACA, and FOIA are not barriers to consultation:

a) Federal agencies should (and Congress should require them to) clearly identify and provide rationale for any perceived barriers to consultation;

b) Federal agencies should clarify that consultation with state officials does not qualify as *ex parte* communications and that *ex parte* communications are not prohibited at any point during an informal rulemaking process;

c) Congress should clarify that meetings held exclusively between federal personnel and state elected officials or their designees acting in their official capacities or in areas of shared responsibilities or administration (and not for the purpose of obtaining collective advice) do not qualify as requiring compliance with FACA procedures; and

d) Congress should clarify that FOIA's exemptions apply to federal records shared or exchanged with states (as if those records were shared, exchanged, or created solely within the federal government) and create a statutory exemption to FOIA disclosure for state records in instances where publication of state records provided to federal agencies would violate existing state law.

State Data and Expertise

18. Federal agencies should utilize state data, expertise, and science in the development of federal actions that affect states.

19. Congress and the Executive Branch should, subject to existing state requirements for data protection and transparency, require agencies to incorporate state and local data and expertise into their decisions. This data should include scientific, technical, economic, social, and other information on the issue the agency is trying to address.

20. States merit greater representation on all relevant committees and panels advising federal agencies on scientific, technological, social, and economic issues that inform federal regulatory processes.

Local Agency Decision-Making Authority

21. Regional, state, and local federal agency offices, and their staff, serve as experts in the specific geographic areas in which they serve. These offices are also usually more attuned to the needs of their state partners. However, these offices are not typically entrusted to make strategic decisions on federal policies and programs affecting their areas and impacting the constituents being served. The knowledge of these local federal agency offices should be utilized to ensure federal policies are carried out in a manner that truly benefits the surrounding communities. Western Governors encourage local federal agency offices to continue developing relationships with their state counterparts in order to further promote and improve state-federal coordination. Furthermore, federal agencies should engage in enhanced cooperation with their local agency offices and empower such offices with decision-making authority to ensure federal programs can be deployed in a manner that reflects the nuanced needs of the surrounding communities.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.

2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

This resolution will expire in December 2026. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult westgov.org/resolutions for the most current copy of a resolution and a list of all current WGA policy resolutions.