

**Statement of**  
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**Before the**

**Subcommittee on Oversight and Investigations**  
**Committee on Natural Resources**  
**United States House of Representatives**

**Hearing on State Perspectives on BLM's Draft Planning 2.0 Rule**

**Washington, D.C.**  
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Chairman Gohmert, Ranking Member Dingell and members of the Subcommittee, thank you for the opportunity to testify today on BLM's Draft Planning 2.0 Rule.

My name is Jeff Fontaine and I have served as Executive Director of the Nevada Association of Counties (NACO) for nearly ten years. NACO represents all of Nevada's 17 counties and works on their behalf on public lands issues including land use planning.

Nevada has the highest percentage of federally managed public lands, approximately 85 percent, of any state in the Union and five of Nevada's counties contain over 90 percent public land. The majority of this public land, 47 million acres, is administered by the Bureau of Land Management (BLM). Nevada alone contains 19.32% of BLM land following only Alaska at 29.27%.

The Federal Land Policy and Management Act of 1976 (FLPMA) requires engagement specifically with local partners in three ways: coordination, consistency review, and meaningful public involvement. These responsibilities are meant solely for the BLM's partners and for good reason: Nevada's communities and economies are greatly impacted by the BLM's land use plans and management decisions and vice versa. The BLM recognizes these realities, as the Nevada BLM's 1977 vision statement says "The future of Nevada will in large part be shaped by the future of public land management." Although ecological landscapes extend beyond political boundaries, political boundaries represent the BLM's local partners and primary on-the-ground managers for each unit of land. Without local partners, the BLM cannot effectively manage any land. More so, impacts on local partners cannot be adequately considered and mitigated for if the BLM's planning regulations do not implement a process that works for both the BLM and its partners. It is for these common sense reasons that FLPMA designates counties as the BLM's planning partners.

Commissioner Jim French from Humboldt County, Nevada and a member of NACO's Board of Directors testified at your hearing on "Local and State Perspectives on BLM's Draft Planning 2.0 Rule" on May 12, 2016.

He noted three concerns with the Draft Planning 2.0 Rule, specifically that BLM:

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

We share these same concerns and today would like to expand on these issues. Only a few of our counties have the staffing and budgetary resources necessary to employ a full-time natural resources coordinator or similar position dedicated to monitoring proposals from the BLM let alone assess the impacts of sweeping federal land management actions like Planning 2.0 at the county level. That is why NACO, along with representatives of State and local governments spanning the BLM's jurisdiction requested that the BLM extend the public comment period from 60 days to 180 days. The BLM granted only a 30 day extension until May 25, 2016. This alone indicates the lack of a true partnership between local and federal land management.

Goals and actions must be viewed as a whole. While the BLM's stated goal is to "ensure participation by the public, State and local governments, Indian tribes and Federal agencies....," the commitment must be solidified within the regulatory text. While the discussions regarding Planning 2.0 continually stress the importance of local relationships, the text of the proposed rule compared to the existing regulatory language greatly diminishes in practice the inter-governmental and public roles. It is important that we work together to ensure the language achieves Planning 2.0's positive narrative.

That Nevada is shaped by the future of public land management remains true today and is why we are so concerned and interested in collaborating with the BLM on the development of their land use planning initiative. Nevada's counties perform important sovereign responsibilities. Nevada's counties, like others across the nation, provide fundamental services such as planning and zoning; infrastructure, water and wildlife protection, public health and safety and emergency response on both private and public lands within their jurisdiction. Thus, it is imperative that the BLM maintain regulatory language that supports these activities and actively acknowledge the counties important responsibilities.

Nevada's counties also have an important role in maintaining local economies. In the last twenty-five years Nevada experienced periods of unprecedented growth in which it led the nation in population expansion and then in economic distress during the "Great Recession." Nevada is again a growing state with a diversifying economy which includes renewable energy and other industries that rely on BLM administered land. We want to make sure that Nevada's counties are able to effectively participate in BLM land use planning to promote continued prosperity while protecting the public lands for future generations.

In Nevada, BLM planning is critical for all of our counties-whether our most rural or most urban. This requires a flexible process that relies on collaboration with local officials to address the unique needs of our individual counties. Where urban counties may be able to provide capacity for BLM rural counties may require additional outreach due to a lack of resources. Our two urban counties, Clark and Washoe, represent 2.5 million people, or 88 percent of our state's population. These counties have comprehensive planning staffs who engage with the BLM on land use plans. Unfortunately, the majority of the counties with the most public land are also the most rural and economically distressed communities. NACO has been making efforts to enhance communications about public lands issues and has been co-hosting quarterly public lands breakfast meetings in which State, county, U.S. Forest Service and BLM officials discuss specific public lands challenges in our state. At our most recent breakfast meetings BLM officials were interested to hear that our urban counties are experiencing challenges encouraging commercial and industrial development due to increasingly high prices driven by residential developers seeking newly disposed lands. As commercial development is one of Nevada's strategic business sectors, our presenters expressed ways the BLM might work as a partner with the counties to ensure that the use of newly disposed land is driven by the State's key economic goals. Similarly, as partners, the BLM and counties can create capacity to address non-controversial applications such as right-of-way permits which would free up the BLM's time and help increase economic certainty for new projects and provide capacity for more Local Area Working Groups performing on-the-ground sage grouse habitat restoration activities. This is not the type of information included in an "officially adopted land use plan" and likely would not be included in a BLM land use plan. It is coordination of local governments and BLM that enable the sharing of this critical information. These conversations must be on-going, and if they are not then at a minimum they must occur at the forefront of any planning stage.

In rural counties such as Esmeralda where over 95 percent of their land is managed by the BLM, in order to develop economic development strategies that will sustain and revitalize their local economy, a rural community needs a sense of the existing structure and overall trends within the local economy. Thus, the economic impacts of public lands management can drastically change that structure and these trends for their main economic sectors, including livestock grazing, timber, minerals, tourism, agriculture, and water development.

Again, FLPMA provides three key roles for local government partners during the planning process: coordination, consistency review, and meaningful public involvement. These statutory mandates are not currently reflected within the planning regulations and in many cases were *actively deleted* from the existing regulations. It is not enough that the BLM says it will follow the law at what it believes will be "appropriate times," and it is not enough that the BLM provide internal guidance.

## **"Coordination"**

Under the Federal Land Policy and Management Act (FLPMA), the BLM must "coordinate the land use inventory, planning, and management activities ... with State and local governments," as well as, "provide for meaningful public involvement of State and local government officials." These requirements apply to all steps of resource management planning, including the planning rules. The planning rule has not yet been finalized so there is still time for changes and for the BLM to work with their state and local government partners to address their concerns.

## **"Consistency Review"**

NACO is also concerned the BLM has proposed changes to current planning rules that will reduce local government's ability to ensure federal consistency with local master plans and policies. As elected officials and intergovernmental partners with the federal government, counties must have a seat at the table and an opportunity to help shape management decisions in partnership with land managers. We read FLPMA to say that consistency review must occur at four different stages of the planning process; it first mentions appraisal, then consideration, an attempt to resolve and finally consistency with State and local plans.

Yet the proposed regulations say the BLM will determine whether the county provided "officially approved and adopted land use plans" or raised "specific inconsistencies" with those plans. Otherwise, the BLM will not review those plans. Nowhere in FLPMA does the language say "officially approved," "adopted," and it does not limit consistency review to "land use plans." The language is intentionally all-inclusive. These provisions are not in alignment with the BLM's goals to improve relationships and speed up the process. The BLM will now add a step to determine whether the counties sovereign responsibilities are in fact worth reviewing where FLPMA already says that they are.

Another consequence of limiting consistency review to "officially approved and adopted land use plans" is State and local governments will need to revisit every resource-related plan and program to find a way to call it a "land use plan." This is very difficult to accomplish and stretches their limited resources.

## **"Meaningful Public Involvement"- Applies to rulemaking process**

*Meaningful* public involvement of local government has not occurred in this rulemaking process and is not a term included within Planning 2.0. FLPMA uses the term "general public" separate from "State and local governments" and also imposes a different standard on the BLM for addressing each, respectively. Meaningful Public Involvement is a collaborative affair that requires more than public notice and comment. Meaningful Public Involvement must be incorporated into the planning regulations. The engagement for Planning 2.0 has been exactly the same for local governments as for the general public, even for provision changes that greatly impact State and local government planning. We believe that had BLM done more outreach in counties that contain large amounts of public lands and engaged associations like ours they would have been able to develop a more workable proposal and address any unintended consequences or challenges posed by the proposed rule.

## **"Landscape Scale"**

**Finally**, Planning 2.0 proposes to implement a multistate landscape level of analysis that could diminish the ability of BLM to meaningfully assess the local impacts of management decisions.

Local BLM Officials should drive the planning process, especially at a landscape scale. Where planners (deciding officials and responsible officials) are elevated to positions outside of the planning area, landscape-level planning undermines the purpose of FLPMA (and NEPA).

Landscape-scale economic impact analyses are likely to dwarf local economic costs, which will greatly reduce the overall "cost" in the cost-benefit analysis even where the cost to a local economy might never be recovered. This will create bias and unjustly eliminate BLM's need to address and resolve the possible economic destruction of one or several local governments and programs as a result of their decision making.

Another unintended consequence is a reduced emphasis on local BLM relationships. A landscape-scale approach that does not involve local officials means that State and local governments will need to spend more time and taxpayer dollars building relationships at higher levels and the local relationships that have been built over years of close collaboration will be de-emphasized.

The Nevada Association of Counties submitted to the BLM on May 25, 2016 official comments as well as "Annotated Comments and Revisions." The "Annotated Comments and Revisions" were carefully drafted with a coalition of local and State governments who are partners with the BLM in the planning process. Together, we have identified needs and developed language that we believe addresses significant local government concerns within the Planning 2.0 rule and helps achieve BLM's stated goals. Other commenters that submitted the "Annotated Comments and Revisions" to the BLM include:

- State of Nevada Governor's Office
- Nevada State Land Use Planning Advisory Council
- Clark County, Nevada, City of Las Vegas, City of Henderson Joint letter
- Churchill County, Nevada
- Eureka County, Nevada
- Esmeralda County, Nevada
- Storey County, Nevada
- Wells Nevada Rural Electric Company
- Nye County, Nevada
- Mineral County, Nevada
- National Association of Counties
- Utah Association of Counties
- Idaho Association of Counties
- Rural County Representatives of California
- New Mexico Association of Counties

- Wyoming County Commissioners Association
- Governor of Wyoming
- Foundation for Integrated Preservation
- McKenzie County, North Dakota

NACO understands that relationships are keys to any planning process. Regulations require training and consistent application and where relationships are good they should be afforded the flexibility to accomplish mutual goals. We are fortunate to have in Nevada a State BLM Director and team with whom we coordinate and collaborate regularly. However, we cannot always count on having BLM managers and staff that understand our state and are as willing to have an on-going dialogue with our counties. This is why it is extremely important that the BLM take the time to get the proposed regulations right.

Our desire is to work with the BLM to make this a rule that strengthens the partnership between the BLM and local and state governments, preserves the elevated role expressly granted to State and local governments through Coordination, Consistency Review, and Meaningful Public Involvement in the planning process and ensures the role of the public through the public involvement requirement.