



May 16, 2016

Neil Kornze, Director
Bureau of Land Management
U.S. Department of the Interior
Attention: Regulatory Affairs 1004-AE39
1849 C Street NW, Rm. 2134LM
Washington D.C. 20240

Copied to:

Leah Baker, Acting Branch Chief Planning and NEPA
1849 C Street NW, Rm. 5644
Washington D.C. 20240

Re: *Formal Comments regarding the Bureau of Land Management's (BLM) "Proposed Rules, Resource Management Planning," 81 Federal Register 9674 (February 25, 2016) commonly known as "Planning 2.0"*

Dear Director Kornze,

Garfield County (the County) appreciates the opportunity to comment on the proposed rulemaking and for the extension of the comment period for an additional 30 days. With over 62% of our County consisting of lands owned and managed by the federal government, our County and region continue to be largely dependent on the BLM's **multiple use** and **sustained yield** provisions required under Federal Land Policy and Management Act of 1976 (FLPMA). More specifically, these public lands have sustained the livelihoods of our County and region by providing opportunities for livestock grazing, recreation, energy development and mining that are foundational cornerstones to our local, regional and state economies.

As specifically recognized in FLPMA, a special relationship is required between BLM's land management policies and the local communities it affects. The most important elements of this relationship include the ability for local governments to **coordinate** with the BLM and to ensure that BLM's land management planning and policies are **consistent** with local governments' policies, rules and regulations. The BLM's proposed rules (Planning 2.0) directly erode this relationship by limiting

local governments' ability to coordinate effectively with the BLM on locally important issues and reassigns local decision-making from Garfield County to Washington D.C. over 1,864 miles away. The BLM states these new rules are needed to ***"affirm the important role of...local governments during the planning process..."*** How does de-centralizing decision-making in Washington D.C and watering down the ability to coordinate "affirm the important role of local governments"? Ultimately, these proposed rule changes in Planning 2.0 stray far from specific direction provided to the BLM by FLMPA.

Perhaps most concerning is the fact the BLM has elected to apply a "Categorical Exclusion" (CE) to the proposed rules rather than adhering to the requirement of an in-depth environmental analysis required by the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ). Ironically, BLM's stated purpose of these proposed rule changes is to add transparency and increase government and public participation; yet, the BLM has ignored NEPA and CEQ thereby side-stepping / avoiding this analysis altogether stating these proposed rules are merely "procedural" and not substantive. While discussed in-depth later in these comments, consider the following points regarding substantive changes proposed in Planning 2.0:

- 1) The BLM's reliance on a CE is a significant departure from prior agency practice.
- 2) "Major Federal Actions" include programmatic regulations for the management of the public lands.
- 3) The proposed rules are intended to implement substantive changes in the manner the public lands are managed and used.
- 4) Extraordinary Circumstances Prevent Application of a Categorical Exclusion to Proposed Rules. Specifically:
 - A. The Proposed Rules Have Highly Controversial Effects on the Human Environment.
 - B. The Proposed Rules Involve Potentially Significant Environmental Effects and Unique and Unknown Environmental Risks.
 - C. The Proposed Rules Establish Precedent for Future Actions and Represent a Decision In Principle About Future Actions With Potentially Significant Environmental Effects.
 - D. The Proposed Rules Will Have Significant Impacts on Public Health and Safety.

Garfield County is concerned that the draft Planning 2.0 rule changes are part of the Department of Interior's (DOI) larger program to adopt and implement landscape-scale land management policies and rules to address climate change as well as other programs. As a result, we believe that a comprehensive programmatic EIS must be performed on this entire program before DOI can implement Planning 2.0 or any other landscape-scale policies or rules being prepared to incorporate the department-wide programs. In short, the sweeping new policies being proposed by DOI through its various agencies, including Planning 2.0, will harm Garfield County and its citizens.

The Board of County Commissioners of Garfield County, CO files the attached comments on the Bureau of Land Management (BLM), "Proposed Rules, Resource Management Planning," 81 *Fed. Reg.* 9674 (February 25, 2016) (Planning 2.0). The County is also part of the "2.0 Coalition," a coalition of western rural local governments, which is filing separate comments on Planning 2.0. Garfield County has been a partner with BLM in land use planning. The County values and relies on the Federal Land Policy and Management Act (FLPMA) opportunity to coordinate and work towards consistency with the planning and management of federal lands and resources in our County. Garfield County is concerned with the direction of Planning 2.0 and for that reason has joined the 2.0 Coalition and is filing its own, individual comments with BLM.

FLPMA directs that public lands be managed based on "multiple-use" and "sustained-yield" principles through a land use planning process coordinated with other Federal, State and local planning efforts. As a general comment, the proposed rules will significantly alter the manner in which the public lands are used and managed. As a result, changes suggested in Planning 2.0 place a greater emphasis on conservation over and above the utilization of natural resources.

From a socio-economic perspective, BLM admits that it is "proposing a significant regulatory action" but has failed to provide the required "quantitative assessment of anticipated costs and benefits" and has not conducted an environmental assessment ("EA") to disclose whether the environmental impacts from this regulatory action are "significant." Garfield County is home to the extremely productive Piceance Basin which is estimated to contain between 200 - 300 trillion cubic feet of proven natural gas reserves. Garfield County is also located in the Green River formation estimated to contain 1 - 1.5 trillion barrels of oil which is up to three times the proven reserves of Saudi Arabia. A large portion of these natural resources are located on BLM land in Garfield County. Not only are these resources a considerable economic driver for the local, state and national economies but they also provide a critical tax base for the County, our cities and special districts that provide essential services to our citizens. Multiple use and sustained yield principles in FLPMA make these resources available to support these economies and are severely at risk with the proposed rules as written.

In revising the existing rule, BLM, rather than emphasizing the unique obligations the Bureau has to state, local and tribal governments has diminished those provisions and, instead, argues that new public involvement opportunities will improve the planning process. That may be true for the "public," but it fails to comply with FLPMA's specific requirements for States, local and tribal governments. 43 U.S.C. § 1712(c)(9). We emphasize these key concerns:

- Diminishment of the role of local governments in federal land use planning by diluting the FLPMA requirements for "coordination" and "consistency" with local governments;
- Changing the direction in FLPMA to consider *local* impacts in favor of "landscape," national and international concerns;
- Changing the emphasis in the rules on "multiple use and sustained yield," "principal and major uses" and impacts to "local economies" to ecosystem services, conservation and economies "at scale";
- Negatively impacting BLM's already reduced capacity to do work on the ground;
- Increasing the potential for litigation over plan objectives;

- Inviting bias in data quality in the planning assessment and monitoring phases of planning; and
- Failing to conduct an adequate economic analysis and Environmental Assessment to disclose the significant impacts of these proposed changes on public land states and local governments.

There is no doubt that federal land use planning is a difficult task. We believe that FLPMA's direction to coordinate with state and local governments makes sense from a practical and not just a legal point of view. This rulemaking should be the opportunity to strengthen the relationship between BLM and local governments in land use planning and to learn from 10 years of implementation of BLM's "cooperating agency" rule to provide clear direction about the essential role of local governments in the planning process. Public land counties depend on multiple use management of federal lands for their social and economic quality of life. Garfield County is troubled that the proposed rule appears to weaken rather than strengthen the role of local governments in public land use planning.

We trust that BLM, in conformity with FLPMA, will carefully consider our comments and substantially revise the rule after the Bureau has more thoroughly complied with the National Environmental Policy Act and congressional direction to assess and disclose the economic impacts of federal rules. Please refer to the attached comments for a more in-depth set of substantive comments regarding these proposed rules.

Very truly yours,



John Martin, Chairman
Board of County Commissioners

Attachments

*Comments from Rebecca Watson, Welborn Sullivan Meck & Tooley, P.C.
Comments from Coalition 2.0 and Norman D. James, Fennemore Craig, P.C.*

Cc:

*Kevin Batchelder, Garfield County manager
Fred Jarman, Deputy County Manager
Tari Williams, Garfield County Attorney
The Honorable Cory Gardner
The Honorable Michael Bennett
The Honorable Scott Tipton
Colorado Governor John Hickenlooper
John Swartout, Senior Policy Advisor to Governor Hickenlooper
The Honorable Bob Rankin*