



BLM Planning 2.0: Impacts to State and Local Government Planning

The Nevada Association of Counties

EXHIBIT K - LANDS
Document consists of 18 pages.
Entire exhibit provided.
Meeting Date: 4-15-16

Presentation Roadmap

Overview

Overarching Concerns

Specific Code Sections

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Why Is Planning 2.0 Important?

- The Bureau of Land Management (BLM) is reviewing the way it develops and updates Resource Management Plans (RMPs). It changes the BLM's Regulations, and therefore the way the BLM interacts with State, local, and tribal governments for land management planning.
- Website: <https://www.federalregister.gov/articles/2016/02/25/2016-03232/resource-management-planning>



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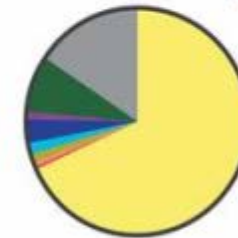
Who Should Get Involved?

- Any local government, State, or tribe with jurisdiction over land administered by the BLM.

MAPPING THE STATE'S LAND OWNERS

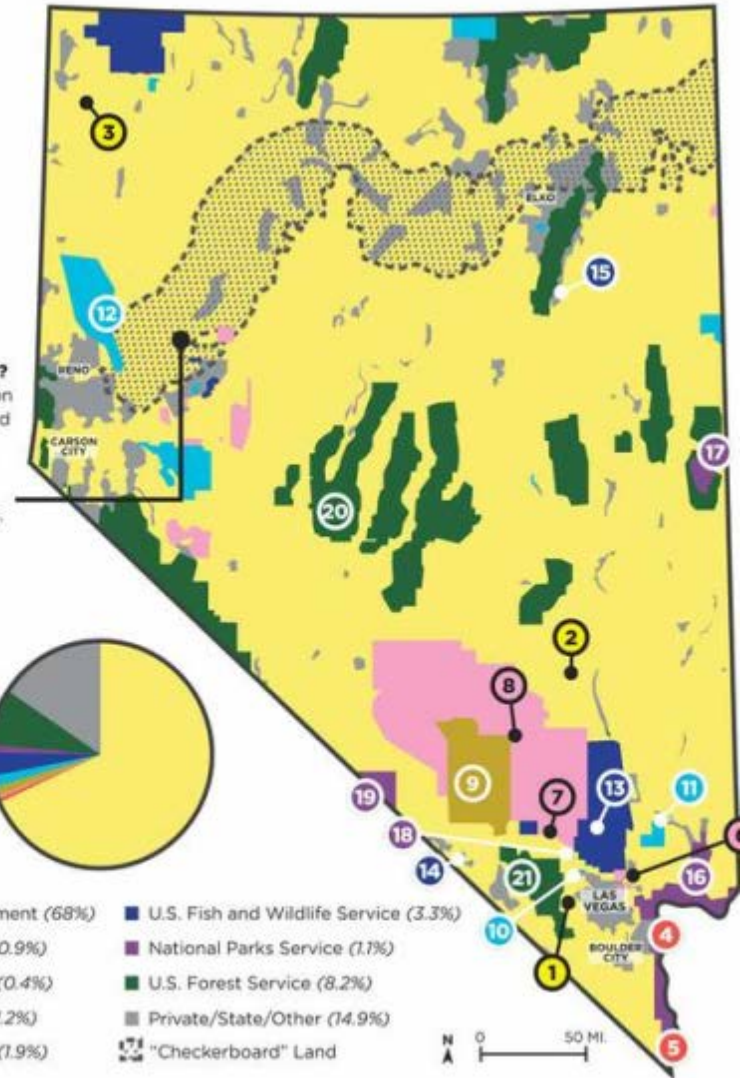
WHAT IS THE CHECKERBOARD?
A swath of land covering 4.2 million acres in the Central Pacific Railroad corridor along Interstate 80 is referred to as the "checkerboard" because it intermixes privately owned and BLM-managed parcels.

HOW MUCH OF NEVADA DOES THE FEDERAL GOVERNMENT OWN?



KEY

Bureau of Land Management (68%)	U.S. Fish and Wildlife Service (3.3%)
Bureau of Reclamation (0.9%)	National Parks Service (1.7%)
Department of Defense (0.4%)	U.S. Forest Service (8.2%)
Department of Energy (1.2%)	Private/State/Other (14.9%)
Bureau of Indian Affairs (1.9%)	"Checkerboard" Land



By Conor Shine (contact)



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When Is The Comment Period?

- Planning 2.0 was published **Friday February 26, 2016** in the Federal Register at **81 F.R. 9674**. Interested parties have until **May 24th** to submit public comments.
- The prior date was April 25th. Several associations, states, and counties submitted comment period extension requests.



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Six Main Issues

1. Landscape-level planning rather than local project-level planning.
2. Re-defining (watering down) what FLPMA requires for consistency review.
 1. E.g. limiting what qualifies as “officially approved and adopted land use plans.”
 2. E.g. shifting the burden to local and State government to raise “specific inconsistencies.”
3. The definition of “public involvement” focuses on the input of individuals and special interest groups rather than on the input of State and local government and their planning efforts.
4. The State Director will no longer be the default planning official.
5. The Protest process and what constitutes a “valid protest issue.”
6. National Environmental Policy Act (NEPA) v. Federal Land Management Act (FLPMA)



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What Are the Most Important Sections for State and Local Government?

- §1601.0-2 Objective and changes in priority (81 F.R. 9683)
- §1601.0-5 Definitions. (81 F.R. 9685)
 - Consistent (eliminating), Cooperating agency (adopting NEPA Regs), Deciding Official (not State Director), Officially approved and adopted land use plans (limiting)
- § 1601.0-8. Principles (81 F.R. 9688)
 - Will not consider impacts to local economies and the local uses on the land
- § 1610.3 Coordination (81 F.R. 9701)
 - § 1610.3-1 Eliminates section (d) addressing inconsistencies
 - § 1610.3-2 BLM plans not required to be consistent with State and local programs/policies
- §1610.4 Planning Assessment (81 F.R. 9705)
 - Consistency review doesn't take place until the development of Alternatives
- § 1610.5-2 Protest Procedures (81 F.R. 9714)
 - Adds requirements that will make it harder for the public to protest



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1601.0-5 Definitions: Consistent

~~“Consistent means that the BLM plans will adhere to the terms, conditions, and decisions of officially approved and adopted resource related plans, or in their absence, with policies and programs, subject to the qualifications in § 1615.2 of this part.”~~

BLM Explanation:

- This definition is unnecessary as this is commonly used terminology. 81 F.R. 9685



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1601.0-5 Definitions: Officially approved and adopted land use plans

(j) *Officially approved and adopted ~~resource-related plans~~ **land use plans*** means plans, ~~policies, programs and processes~~ prepared ...

BLM Explanation:

- There would be no regulatory requirements for consistency with the “policies, programs, and processes” of other Federal agencies, State and local governments, and Indian tribes.
- This proposed change is consistent with section 202(c)(9) of FLPMA. 81 F.R. 9686.

...IS THIS CHANGE TRULY CONSISTENT WITH FLPMA 202(c)(9)?



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What Does FLPMA § 202(c)(9) Require?

- land use inventory, planning, and management activities
- land use planning and management programs
- including, but not limited to, the statewide outdoor recreation plans
- considering the policies of approved State and tribal land resource management programs.
- plans that are germane in the development of land use plans for public lands;
- assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans,
- RMPs will be consistent with State and local plans to the maximum extent the Secretary finds consistent with Federal law and the purposes of this Act.

(See handout for exact language (**43 USCS § 1712(c)(9)**))



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1601.0-5 Definitions: Deciding Official

(d) Deciding Official. This proposed new definition refers to the BLM official who is delegated the authority to approve a resource management plan or plan amendment. 81 FR 9686

- Replaces the term “State Director”
- There is no requirement that the Deciding Official have jurisdiction over any of the planning area.
- The BLM Director chooses the Deciding Official for the planning area.
- This potentially reduces the BLM’s internal local input.



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§ 1601.0-8. Principles.

- The BLM no longer needs to analyze, ~~“the impact on local economies and uses of adjacent or nearby non-Federal lands and on non-public land surface over federally-owned mineral interests will be considered.”~~
- The BLM will consider the impacts of resource management plans at “appropriate scales”, rather than just on “local economies.” 81 F.R. 9688



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§ 1610.3-1 Coordination of planning efforts.

- ~~(d) ...the State Director shall: (1) Ensure that it is as consistent as possible with existing officially adopted and approved resource related plans, policies or programs of other Federal agencies, State agencies, Indian tribes and local governments...(2) Identify areas where the proposed guidance is inconsistent with such policies, plans or programs and provide reasons why the inconsistencies exist and cannot be remedied; and (3) Notify the other Federal agencies, State agencies, Indian tribes or local governments with whom consistency is not achieved and indicate any appropriate methods, procedures, actions and/or programs which the State Director believes may lead to resolution of such inconsistencies..."~~
- BLM Explanation:**
 - This section is unnecessary and inappropriate in the regulations. FLPMA provides direction that BLM's resource management plans must be consistent with State, local, and tribal land use plans to the extent practical and to the extent consistent with Federal laws and regulations. 81 F.R. 9703



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§1610.3-2 Consistency Requirements.

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

BLM Explanation:

- We propose to remove existing § 1610.3–2(b). The existing section ***exceeds the statutory requirements*** of section 202(c)(9) of FLPMA by providing that in the absence of officially approved and adopted plans, resource management plans should be consistent with “policies and programs” of other Federal agencies, State and local governments, and Indian tribes.



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§1610.4 Planning Assessment

- Added information gathering step prior to scoping
- Would not include "specific requirements and constraints to achieve consistency with policies, plans and programs of other Federal agencies, State and local governments and Indian tribes."
 - **BLM Explanation:** At this early stage in the process, the BLM would identify these plans, but would not have sufficient information to identify "requirements and constraints" related to consistency, as the BLM would not yet be developing resource management alternatives. 81 F.R. 9709.



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1610.5-2 Protest Procedures.

- Added requirements that protester submit
 - How they participated in preparation of RMP
 - Statement of how RMP is inconsistent with federal law or regulation



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FLPMA § 202(c)(9) Requires More, Not Less

- FLMMA expressly mentions plans, policies, and programs
 - More words should be added like “activities,” and “inventories”
- FLPMA does not confine the BLM to “officially approved” or “land use” plans
 - FLPMA says any “resource related” plans, programs, activities, inventories, policies or “plans germane” to federal land use plans
- Requires consistency unless the local or State plan, policy or program violates Federal law
 - There is nothing in FLPMA that requires a State or local government to raise in writing specific inconsistencies
- Yet these changes remove across the board the language needed to support and implement FLPMA §202(c)(9).

(See handout for exact language (43 USCS § 1712(c)(9)))



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