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### State and Local Involvement in Bureau of Land Management Planning Under the Federal Land Policy Act of 1976

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STATE AND LOCAL INVOLVEMENT IN  
BUREAU OF LAND MANAGEMENT  
PLANNING UNDER THE  
FEDERAL LAND POLICY ACT OF 1976

Senator Tom Glass

The Federal Land Policy and Management Act  
Fifth Annual Summer Program  
University of Colorado  
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Senator Tom Glass University of Colorado  
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**Subject: State and Local Involvement in Bureau Land Management Planning Under the Federal Land Policy Act of 1976**

Opportunities for local, state and general public input into BLM planning are substantial. In practice, however, BLM planning and management is performed mostly by BLM staff with squeaky wheel input from public interest groups, local governments and state governments.

First FLPMA: "The Secretary shall, to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located, including, but not limited to, the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended, and of or for Indian tribes by, among other things, considering the policies of approved state and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of state, local, and tribal land use plans; assure that consideration is given to those state, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between federal and non-federal government plans, and shall for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-federal lands. Such officials in each state are authorized to furnish advice

to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such state and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with state and local plans to the maximum extent he finds consistent with federal law and the purposes of this Act."

Regulations enacted by BLM in 1983 set forth a new procedure (1610.2-2,e) to accomplish this coordination and consistency.

(e) Prior to the approval of a proposed resource management plan, or amendment to a management framework plan or resource management plan, the State Director shall submit to the Governor of the State(s) involved, the proposed plan or amendment and shall identify any known inconsistencies with State or local plans, policies or programs. The Governor(s) shall have 60 days in which to identify inconsistencies and provide recommendations in writing to the State Director. If the Governor(s) does not respond within the 60-day period, the plan or amendment shall be presumed to be consistent. If the written recommendation(s) of the Governor(s) recommend changes in the proposed plan or amendment which were not raised during the public participation

process on that plan or amendment, the State Director shall provide the public with an opportunity to comment on the recommendation(s). If the State Director does not accept the recommendations of the Governor(s), The State Director shall notify the Governor(s) and the Governor(s) shall have 30 days in which to submit a written appeal to the Director of the Bureau of Land Management. The Director shall accept the recommendations of the Governor(s) if he/she determines that they provide for a reasonable balance between the National interest and the State's interest. The Director shall communicate to the Governor(s) in writing and publish in the Federal Register the reasons for his/her determination to accept or reject such Governor's recommendations.

Coordination and consistency sounds great, but let's look at the reality of the situation. Which local governments? What distance from the proposed Federal Land Manager Plan or management decision? How can the problem of notification of state and local government be accomplished? One of the early activities of the Reagan Administration as it reviewed state and local relationships to achieve the decentralization goals of the "New Federalism" was to review operation of the A-95 or Clearinghouse Function. Under this OMB, circular A-95, all Federal activities or expenditures were subject to state and local government review and comments prior to final federal action. There were many problems with this process. Many federal agencies ignored OMB circular A-95, frustrating the input of locals by acting prior to the receipt of comments from State and local governments. In 1982, President Reagan signed Executive Order 12372 concerning the intergovernmental review of federal programs. The states were provided the opportunity to design their own consultation processes and select the federal programs and activities that they wished to review. In Colorado, an intergovernmental review system was established within the Division of Local Government of the Department of Local Affairs. Federal Land managers notified the state clearinghouse concerning planning and management issues. The state in turn, turned all of the information over to the Department of Natural Resources. Most locals are comfortable with the present system because Mr. Dewitt John, the administrator responsible for this function, has established a good relationship with locals throughout the state. Locals express concern, however, that no formal structure exists and that a hit or miss review is possible and in the opinion of certain locals, likely.

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One of the problems with the "consistent" review is that a state or local government can object explicitly on the basis of plans or policies. If the state chooses to fight a BLM plan or activity, however, the BLM in turn will ask the state to show BLM its plan or policy. Since many western states, including Colorado, have few land use related policies, they may have difficulty insisting on "consistency".

Local governments on the other hand are far more advanced in terms of adopting plans and policies, particularly land use plans.

Another problem for the present notification system is that the jurisdiction within which a federal activity takes place is not necessarily the jurisdiction which will receive all of the impacts. In the nineteen-seventies, Routt County received impacts from Moffat County coal mining. Pitkin County points to future impacts from Garfield and Rio Blanco County oil shale development.

Most counties have memorandums of understanding or cooperative service agreements with the BLM and the Forest Service. These agreements vary in strength from the very weak to the very strong. Colorado western slope headwater counties' cooperative services agreements with Forest Service spell out the specifics of local plans and policies concerning land use, water quality and water development. Rio Blanco County's memorandums of understanding with the BLM and the Forest Service are legend in that they have created the impression that Rio Blanco County leads the BLM around by the nose. Other counties are merely passive or reactive in developing memorandums of understanding with federal land managers.

The combination of a lack of state policy, the inconsistency of local planning and cooperative services agreements with the Federal Land managers causes problems for BLM managers, local governments and the state.

The following is a generic political environment within which all decisions regarding federal lands are made:

**1. Administrative Climate**

At the state and local levels, the Bureau of Land Management, is susceptible to federal mandates, which reflect political change in both administrations and individual appointees. Nationally the BLM is not insulated from political interference to the same degree as the Forest Service. Thus, BLM policies sometimes change abruptly. For example, the Asset Management policies of James Watt and the Reagan Administration substituted land sales for land acquisitions or exchanges. In fact, a moratorium was placed on land exchanges during most of 1982 and 1983. However, in the late summer of 1983, Secretary Watt announced the Department of Interior would no longer participate in the Asset Management Program. Then on September 26, 1983, BLM Director Bob Burford signed a fee exchange policy statement which encouraged land exchanges with the non-federal sector. Local BLM offices were surprised. Burford wrote "BLM has a responsibility to work closely with other federal resource management agencies, state and local governments, and the private sector to complete these mutually beneficial transactions. Benefits to be derived for the federal and non-federal sectors include elimination of inholdings, better management areas, and greater economic returns for all concerned."

**2. Advisory Boards**

Although much lip service has been given to local decision making, in practice policy directives on most important matters continue to emanate from Washington. At the local level, BLM is subject to the scrutiny and advice of both



District Grazing Advisory Boards and District Advisory Boards. FLPMA states that District Advisory Boards "may furnish advice to the Secretary with respect to the land use planning, classification, retention, management, and disposal of the public lands within the area for which the advisory council is established." (43USC 1739) Even though the Reagan Administration has "packed" District Advisory Boards with political appointees, they generally remain rubber stamps for BLM staff on most issues. Substantial unexercised opportunities exist to influence local BLM planning and management through District Advisory Boards.

### **3. Elected Officials**

Federal, state, and local legislative bodies and members are frequently subjected to appeals from disgruntled citizens regarding pending federal lands actions. It is not uncommon for a Congressman to attempt to stop a proposed federal land management plan or management decision. Although Congressmen lack veto power, they can certainly slow down the administrative process. As recently as 1983 the Colorado Legislature passed a resolution opposing a Forest Service land exchange. Local governments have clout with Congressmen and Senators and can substantially slow down the process.

### **4. Permittees**

Permittees have special status in commenting on plans and land tenure adjustments. FLPMA, as well as BLM policy provide special protection for permittees. FLPMA requires two years notice to Grazing permittees prior to disposal of property subject to a permit. Regulations state that attempts must be made to protect the "interests" of other permittees disrupted by the proposals and decisions of federal land managers.

No discussion of state and local government input into BLM planning and management would be complete without mentioning Nevada Senate Bill 40, which instructs the state Land Use Planning Agency to prepare "in cooperation with appropriate state agencies and local governments throughout the state plans or policy statements concerning the use of lands in Nevada which are under federal management".

The state plan or statement of policy "must be approved by the governing bodies of the county and cities affected by it and by the Governor before it is put into effect". As recently as November, 1983, the Associated Governments of Northwest Colorado sponsored a workshop on state and local involvement in Federal Land Management and Planning. A portion of that workshop was devoted to discussion of the Nevada legislation. Many local officials in western Colorado are keeping an eye on Nevada, surveying both progress and pitfalls. They see a real opportunity to assure that resource issues with respect to federal lands are decided as locally and as "consistently" as possible.

Although Colorado is not really a "Sagebrush Rebellion" state, frustration with local input into federal land management and planning is widespread. In my estimation, Senate Bill 40-style legislation will assure the appropriate levels of local and state input into BLM planning and management under FLPMA. As one State Senator, I will keep an eye on Nevada, along with my local government constituency.