

To BLM attention Steve Tryon

Comments on streamlining BLM Planning processes in accordance with the invitation by them to do so in a news release on July 3, 2017. Bob Anderson, Retired BLM, submitted on July 21, 2017.

The BLM has always approached planning the same way “Because we have always done it this way”

My approach would be a paradigm shift in BLM thinking for sure but it would comply with Section 202 of FLPMA and cut the time and effort into planning by half; and would not degrade the quality of land use planning and management.

Within a planning unit, the only decision that needs to be made is what lands are off limits to surface disturbance. That is, lands or resources that need to be preserved. No projection of use other than land closures would be made in planning documents. That is, lands and resources not off limits will be under Multiple Use Management to meet FLPMA’s prevention of Unnecessary and Undue Degradation mandate and other laws that require mitigation for any surface disturbances that are **substantially noticeable**. Here are the details:

1. Existing Inventories would still be required. They would indicate where, quality, and quantity of the resource, including targets for energy below and above the surface of the earth.
2. Using FLPMA’s interdisciplinary approach and public input, identify those lands that meet the test for closure of public lands on the planning documents in accordance with the existing Departmental Manual 603 justification for closure of lands, paraphrased as follows:

BLM must demonstrate how the integrity of the land and its resources to be preserved/closed/withdrawn (hereafter referred to as closures) are at risk with the active management of the lands for other public purposes that end up with disturbances, which are substantially noticeable. For example, energy operations, mining, grazing, timbering, rights-of-ways, etc. The measures to be used to justify closures is to described how unique the resources are within the closure area in terms of its rarity, significance, fragility and irreplaceability, and to do so using the minimum amount of acres of land to accommodate the resources to be subject to closure.

3. Upon approval of the planning unit with all the closures mapped out and described, the BLM shall begin the procedure to formally withdraw these lands under 204 of FLPMA.

4. Lands that have previously received approval for funding of projects, such as campgrounds , may proceed even if mining claims have been located after approval or budgeting has been documented. Claims located after the planning or documentation of any improvements are subservient to the BLM's Plans. Effectively, the BLM has established Valid Existing Rights on these lands. For example, if a mining claim is located after a BLM decision to make improvements in an area, and the mining claimant discovers a huge deposit of minerals, the claimant will not receive authorization to mine that area until he/she negotiates a deal with the BLM to move the BLM project or improvement at the mining claimants expense. We have to recognized that mineral deposits cannot be moved, but when the government has established VER, then the claimant must pay for sunk costs.
5. Areas of Critical Environmental Concern (ACEC's) must meet the test in 2 above to qualify for a closure.
6. Once the planning unit in accordance with the provisions above is completed, actions that are substantially noticeable will require NEPA analysis and other environmental compliance, but on a case by case basis only.
7. There should be no NEPA document prepared on land/resources closures. (See 2 above).
8. There should be a section in the new BLM planning manual that lays out some standards of what "Scarcity of the values per 202(c)(6)" means, and examples of such.
9. An exception for land closure in #2 would be consideration for closures on BLM in recognition of a sensitive use by state and local governments.

In summary, if lands are not designated in the proposed planning as a closure, there will be no further study or NEPA analysis of those lands outside of the closure until either the BLM or the Public has a application to use the land under the public land laws or FLPMA.

Other considerations for the new BLM Planning System:

MINING AND MINERAL POLICY ACT OF 1970--In the Congressional Declaration of Policy in Section 102(a)(12) of FLPMA, it reads as follows:)

"the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands"

Comment—Very few in BLM take this congressional desire seriously. It would help to be more aggressive in implementing the current BLM Energy and Minerals policy approved by Director Jim Caswell in 2009. That policy includes the declaration by congress of the Minerals Policy Act of 1970, as follows:

The Congress declares that it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries, (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs, (3) mining, mineral, and metallurgical research, including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable mineral resources, and (4) the study and development of methods for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities. For the purpose of this Act “minerals” shall include all minerals and mineral fuels including oil, gas, coal, oil shale and uranium. It shall be the responsibility of the Secretary of the Interior to carry out this policy when exercising his authority under such programs as may be authorized by law other than this Act.

Recommendation: The requirements of this section of FLPMA and the Mining and Minerals Policy Act should be incorporated into the BLM Planning Manual.

Finally- It has been far too easy to close the land to multiple use. Once recommended by field offices there is little oversight at the Washington Office of the BLM or the Secretary’s Office to ensure lands are not unnecessarily closed to mineral development of any kind. It needs to be stressed that land withdrawals should be used as a last resort. See # 2 above.

Thank You.

Bob Anderson

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July 21, 2017