

WRITTEN TESTIMONY OF JOHN FREEMUTH, CECIL ANDRUS PROFESSOR OF ENVIRONMENT AND PUBLIC LANDS AND UNIVERSITY DISTINGUISHED PROFESSOR, BOISE STATE UNIVERSITY BEFORE THE HOUSE COMMITTEE ON NATURAL RESOURCES, SEPTEMBER 10, 2019.

Thank you for the opportunity to speak to the House Natural Resources Committee on the proposed reorganization of the Bureau of Land Management (BLM), primarily the proposed move of the national headquarters to the western United States and Grand Junction, Colorado. My testimony has three components: summary of key points, a context statement regarding BLM public land policy and history, and a discussion of the current reorganization proposal.

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Key Points

The historical trajectory of policy related to BLM has been to treat these as national lands, rather than local lands, managed for a diverse set of public benefits.

BLM is a decentralized agency. The question is not about where agency leadership is located but who makes decisions. Centralized decisions that contradict locally and regionally crafted solutions can admittedly be a problem. But decisions that need to be made in Washington will be made by the people who are in Washington. If the BLM Directorate is not in Washington, it will be much less likely to be part of the decision. Examples are presented below.

Reorganizations proposed at the Secretarial level without consulting those affected are not neutral and will create winners and losers. The suggested outcomes for such reorganizations, such as “efficiency,” “effectiveness,” or “close to those affected,” are less important than other outcomes. Examples are presented below.

Reducing the number of BLM's Resource Advisory Councils (RACs) is counterintuitive as they are locally based and collaborative in purpose. Also, although not part of the reorganization question, collaboratively-based discussions and solutions brought by stakeholders can help unify local and regional support for BLM.

The Public Land Context

Perhaps the words of James Madison in Federalist 10 do best in framing this context:

The federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular to the State legislatures.

The trajectory of the public lands, notably for our purposes the BLM managed lands, has been one of an aggregation of interests and policy, becoming national rather than just local in scope.

Public land policy passed through several eras. U.S. land policy predates the founding of the United States itself, as both the British and the colonists, for example, regulated the cutting of forests to preserve a supply of timber for building naval vessels. After the Revolutionary War, the new American nation quickly sought both to acquire more land and to ensure private sector

ownership through land disposal. These policies have been termed the *Acquisition* and *Disposal* phases of public land policy by Marion Clawson. One precursor to BLM, the General Land Office (GLO) was created to administer the sale of public lands. Disposal was enacted to raise revenue and promote new settlement. The native inhabitants of these lands were removed from much of the public lands, usually by force. These early policies shaped much of the thinking around land use in the U.S. and can be traced into the modern era, as disposing public land to private ownership remains attractive to some people.

The 1860s brought a new policy direction concerning federal land in the western U.S., a policy approach referred to as *Reservation*. This policy began in earnest in 1872 with the creation of Yellowstone National Park, the first national park in the U.S. and the world. Reservation meant that certain public lands would not be sold, but instead be retained or reserved for public purposes that were national in scope. Hence National Parks.

By the 1880s, there were growing concerns over deforestation. Deforestation led Congress to give the President the power to create “forest reserves” in 1891. Renamed “national forests,” they were transferred from the Department of Interior and placed under the administration of the U.S. Forest Service (USFS), which was created in 1905. Congress later took away that presidential power in 1907 but did provide for the creation of additional national forests in the East under the 1911 Weeks Act, which allowed for purchase of certain private lands in the East for conservation purposes. Gifford Pinchot, first Chief of the USFS, helped make it the first professional land management agency in the U.S. Pinchot and others made clear that the forests were to be managed to produce resources to be used by citizens. As time passed, we entered the era of *Management* of our public lands.

In the case of the public domain lands the Management Era really began with the passage of the Taylor Grazing Act in 1934. A few years before the Taylor Grazing Act was passed, federal officials, including Secretary of Interior Ray Lyman Wilbur and President Herbert Hoover, offered to transfer the pre-BLM public lands minus the sub-surface mineral estate to the states to manage. The states, however, declined, citing the poor condition of the surface estate. The Taylor Grazing Act was passed to manage and regulate western livestock grazing and to help reduce overgrazing. One key phrase of that act stated: “That in order to promote the highest use of the public lands pending its final disposal, the Secretary of the Interior is authorized, in his discretion, by order to establish grazing districts.” Some interpreted disposal to mean “getting rid of” but that was not what Congress chose to do. The Grazing Division was created in the Department of Interior to implement the Act, and the Division later became the Grazing Service. The Grazing Service was merged with the GLO in 1946 to create the BLM.

The early BLM was dominated by and generally conformed to the desires of western congressmen and their rancher and mining constituencies, leading scholars such as Phillip O. Foss to refer to it as a “private government” or assert that the agency had been “captured” by the interests it was supposed to regulate. The BLM was sometimes referred to as the “Bureau of Livestock and Mining,” as those were the primary commercial uses and users of these lands. Often, BLM employees came (and still come) from smaller western towns and ranch backgrounds and had been primarily trained at western land grant universities, reinforcing the

tradition of placing a priority on using federal lands for their natural resources. Viewed as a western agency, the BLM catered to local and particularized interests during this time period, and in a way that helps one understand the actions of contemporary individuals who believe western lands managed by BLM should be managed for people like themselves.

The passage of the Federal Land Policy Act and *Management Act* of 1976 (FLPMA) superseded the Taylor Grazing Act, modified and revoked many existing public land laws, and made it national policy that the BLM lands would be retained in federal ownership. FLPMA stated that the BLM lands should be managed: “In a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use” (Pub. L. No. 94-579, Section 102(a) (8)). To implement FLPMA the BLM became a multi-profession agency very similar to the U.S. Forest Service and its organization evolved to reflect that multi-professionalism. The BLM lands became national lands managed for a diverse set of purposes for the people of the United States.

A change in BLM logos clearly illustrates this change.



FLPMA’s passage, in combination with other new environmental laws and growing public interest in non-commercial purposes such as recreation, wildlife and wilderness, ignited the Sagebrush Rebellion of the late 1970s. There had been previous protests dating back to the creation of forest reserves early in the 20th century, but this 1970s rebellion brought new attention to federal land management, primarily BLM-managed lands. Now, Foss’s “capture” era appeared over. BLM was slated to manage for multiple uses much like the Forest Service, and that meant users and uses beyond grazing and mining. Citizens who might wish to better understand the era of that Sagebrush Rebellion should consult R. McGregor Cawley’s *Federal Land, Western Anger: The Sagebrush Rebellion and Environmental Politics*.

The BLM Reorganization

Two of the most eternal, vexing and often intermixed questions regarding public land management have always been “who decides?” and “by what set of criteria?” Answers to these questions advantage certain perspectives and actors, while disadvantaging others. “Who decides” questions are question of power and control. This proposed reorganization, as any

reorganization like it, is not neutral. There are winners and losers, those advantaged and those disadvantaged. It seems obvious that Madison's "local and particular interests" are those advantaged, and those arguing that BLM lands are national lands, disadvantaged. It is also important to understand that other suggested reasons for reorganization, efficiency and effectiveness, are not the only goals of a public agency like BLM. It must be responsive, both in terms of diverse values and in terms of diverse cultures and demographics. It should also be representative of the various publics it serves.

One of the arguments presented for the reorganization of BLM is that it will bring decisions and decision makers "closer" to those affected. While it is true that BLM is located almost completely in the western U.S. in terms of surface management, it has been well established by the Public Lands Foundation and others that 95%+ of BLM employees are already in the western U.S. BLM is also currently organized by state, not by region. Governors and congressional delegations have more input and relationships with BLM state leadership than they do if BLM was organized by regions. Conversely the Director of BLM has a constituency that is Congress, other federal agencies and so on. It is much easier to work with those constituencies if one is near to them as Director. It is also where senior leadership builds the relationships that allow them to make more effective and sustainable decisions.

Where decision makers are located may not be as important as who they are. Sometimes it has been my experience working with BLM that local and state level decisions have been reversed in Washington, sometimes without effective communication and frustrating BLM decision makers in the west. But as importantly, if BLM leadership is relocated to Grand Junction, then it will be even more likely that important national decisions will be eventually made, not by that leadership but by political appointees in Washington.

Experience with the wildfire part of BLM provides evidence. When, for a time, all of BLM Fire and Aviation was in Boise, including both policy and budget and operations, policy direction and budget migrated up to the Secretarial level. In other words, decision-making and power abhorred a vacuum.

There is another part of the reorganization that needs to be rethought. In the case of Idaho, several range specialists, apparently, will be transferred to the state. The listed reasons for this include helping with litigation, permit management and help with what appears to be BLM Idaho state priorities, though it is hard to be certain from the way the description is written. There are a few problems with this staff change. One, it will be more difficult than perhaps realized, to integrate high level policy specialists with field-level range specialists and expecting them to help with permits may seem farfetched and will not bring more resources to the ground. Dropping these specialists into a rural state where sitting range specialists have already developed relationships with permittees may cause unanticipated problems. Finally, these policy specialists frequently work with policy specialists from other natural resource areas and isolating these specialists from each other will lead to ineffective communication and problem solving.

A related issue is an apparent disconnect between the desire to move decisions to a more "local" level and the desire of the current administration to reduce the number of federal advisory

committees by one-third. The BLM's RACs are one of the most effective forums for localized discussion, deliberation and collaboration; reducing their number seems counterintuitive. Having chaired the BLM's Science Advisory Board (SAB) (abolished in 2001) I can attest that that board provided useful advice to BLM and might have been useful today as sage grouse numbers once again decline. BLM staff support to the SAB was exemplary in our view. Although not the focus of this hearing, there have been several collaborative efforts centered on BLM-managed lands that suggest that locally driven solutions within the context of national laws can work without the need for reorganization.

Finally, reorganizations have consequences - some intended, some not, and some left open for reversal later. There have been questions over whether this reorganization will weaken BLM, causing some of its most effective personnel to leave and thus opening the door to what some claim would be the transfer of BLM lands (only Congress can do that) or their sale, and some may be leaving already. I do not know if this is true, but it is certainly possible. It is also possible that a future administration will return BLM leadership to Washington, a decision that will whipsaw the agency. This reversal occurred in the past with the "rightsizing" initiative. This is not unlike what a future administration might decide to do with Bears Ears and Grand Staircase-Escalante National Monuments, a policy whipsaw that often exhausts those who must implement it. There is plenty of wisdom about political leadership of agencies and changes in policy or reorganization work best if the sitting professionals and managers are consulted because it is much more likely that the proposals will be amended to be more successful. But when professionals and managers are not consulted you are more likely to get resistance and higher chance of failure.

Conclusion

The best way to conclude this statement is to reference the concerns of the Public Lands Foundation (PLF). This organization of former BLM employees, employees who served through the west in local and state offices, and in Washington, have taken a uniform position against this reorganization. A rough calculation suggests that they have 12,000 years of experience working for the agency. I know PLF well, having spoken to them at past meetings and worked closely with them on the four Student Congresses they held to bring young college students interested in public lands together to learn about real issues from current and former professionals. PLF members run the gamut from wilderness specialists to oil and gas specialists. If they collectively take the position they have taken, it means something to a close observer of public lands like me and it should to the committee as well. Thank you for the opportunity to speak with you today.

