

American Petroleum Institute  
Independent Petroleum Association of America  
Statement for the Record  
U.S. Senate Committee on Energy and Natural Resources  
Subcommittee Oversight Hearing on the Bureau of Land Management's Planning 2.0 Initiative  
June 21, 2016

API is a national trade association representing over 650 member companies involved in all aspects of the oil and natural gas industry. API's members include producers, refiners, suppliers, pipeline operators, and marine transporters, as well as service and supply companies that support all segments of the industry.

IPAA is the national association representing the thousands of independent crude oil and natural gas explorer/producers in the United States. It also operates in close cooperation with 44 unaffiliated independent national, state, and regional associations, which together represent thousands of royalty owners and the companies which provide services and supplies to the domestic industry.

Access to affordable energy gives U.S. manufacturers a competitive edge, putting downward pressure on power and materials costs for producers of steel, chemicals, refined fuels, plastics, fertilizers and numerous other products. According to a recent study from the Boston Consulting Group (BCG),<sup>1</sup> U.S. industrial electricity costs are now 30-50 percent lower than those of our foreign competitors. BCG also found that American manufacturing costs are 10 to 20 percent lower than those in Europe and could be 2 to 3 percent lower than China's by 2018.

API and IPAA provide this statement regarding Bureau of Land Management (BLM) management of public lands, in particular BLM's proposed rule entitled "Resource Management Planning," 81 Fed. Reg. 9673 (Feb. 25, 2016) (the "Proposed Planning Rule"). Many of API's and IPAA's member companies have a direct interest in how BLM plans to manage public lands. These companies hold valid existing leases and are interested in future oil and natural gas leasing, exploration, and production activities in areas that will be directly affected by BLM's management decisions. These companies are also dedicated to meeting environmental requirements, while economically developing and supplying affordable energy to consumers. Issues raised by the Proposed Planning Rule will have a direct impact on the future viability of oil and natural gas development on public lands throughout the United States.

BLM stated in the preamble to the Proposed Planning Rule that the agency "initiated this rulemaking as part of a broader effort known as 'Planning 2.0' to improve the land use planning procedures required by FLPMA [the Federal Land Policy and Management Act]." 81 Fed. Reg. 9674. Under this Planning 2.0 initiative, "the BLM aims to improve the land use planning process in order to apply this policy and strategic direction and to complement related efforts within the BLM." *Id.* BLM has described the goals of its Planning 2.0 initiative as:

- (1) Improve the BLM's ability to respond to social and environmental change in a timely manner;
- (2) provide meaningful opportunities for other Federal agencies, State and local governments, Indian tribes, and the public to be involved in the development of BLM resource management plans; and
- (3) improve the BLM's ability to address landscape-scale resource issues and to apply landscape scale management approaches.

Our general comments on the Proposed Planning Rule are as follows:

---

<sup>1</sup> BCG, America's Unconventional Energy Opportunity (June 2016).

- BLM must explain how the Proposed Planning Rule—as a whole—changes the agency’s resource management planning process and must allow the public to review, understand, and comment on all elements of BLM’s new planning approach together at one time.
- The Proposed Planning Rule introduces significant uncertainty into the resource management planning process by proposing numerous provisions that create ambiguous standards or otherwise expand agency discretion.
- API and IPAA are concerned that a process redesigned by the Proposed Planning Rule would disfavor multiple use interests, including the development of oil and natural gas resources on public lands, by potentially subjecting each step in the process to a new round of objections by parties committed to opposition of resource development.
- The Proposed Planning Rule violates other federal requirements because BLM has put it forward without engaging in National Environmental Policy Act analysis or completing a Statement of Energy Effects, both of which are required.

API and IPAA believe the Proposed Planning Rule shows a bias against oil and gas interests

- For example, the Proposed Planning Rule would remove the phrase “maximize resource values for the public” from the objectives of resource management planning, 81 Fed. Reg. 9683, a step that appears to be a thinly-veiled effort to bias the planning process against resource extraction.
- BLM’s proposed objective “recognizes the Nation’s need for domestic sources of minerals, food, timber, and fiber from the public lands,” 81 Fed. Reg. 9684, but fails to provide any commitment to protecting valid existing mineral rights and interests. The Proposed Planning Rule must clearly state that BLM will honor these rights and interests in carrying forward resource management planning.
- While BLM concedes that “mineral exploration and production” are “principal or major uses” under FLPMA, 81 Fed. Reg. 9708, the Proposed Planning Rule would dilute the value of such congressionally designated uses by placing them into a newly concocted basket of goods and services including such vague terms as “ecosystem services,” *id.*
- Specific programs like oil and gas development, which are facilitated by FLPMA, must not be excluded, delayed, or obstructed in favor of vague objectives.

America’s emergence as a global energy leader has fundamentally reordered the world’s energy markets. It has elevated the importance of North American energy production and reduced what had been the once-dominant roles of OPEC and Russia. This unique American moment is the result primarily of American ingenuity and technological advancements in hydraulic fracturing and horizontal drilling, with market-based leasehold access to the privately held subsurface estate and – at least up to now – access on reasonable terms and under a predictable regulatory regime to the mineral estate held by the government. This “energy renaissance” has resulted in cost savings for American consumers and good paying jobs here at home; provided renewed opportunities for the U.S. manufacturing sector; and strengthened our economy and strategic alliances abroad. In the Western states where most of the government-held mineral estate is found, the share of the energy renaissance from BLM-managed lands has proven to be a major benefit to state and regional economies, and an important contributor to our national energy security.

API and IPAA are concerned that a process redesigned by the Proposed Planning Rule would disfavor multiple use interests, including the development of oil and natural gas resources on public lands, by potentially subjecting each step in the process to a new round of objections by parties committed to opposition of resource development. The overhauled resource management planning process that the Proposed Planning Rule envisions would lead to regulatory and legal uncertainty, delays, and costs. The Proposed Planning Rule and its preamble mark a shift from BLM’s historic conformity to the principles outlined in FLPMA that include support for balanced multi-use resource development and recognition of

the benefit from such development for local and regional economies where BLM administers lands and minerals for which it is responsible.

If BLM intends to develop a new rule to revise its resource management planning process, it should do so only when the agency has completed its work on the supporting policies, guidance documents, and other tools discussed in the Proposed Planning Rule that have not yet been prepared or published. The regulated community and the public need to understand how the different elements of BLM's resource management process will work as a coherent whole, and fulfill the statutory mandate of FLPMA that America's public lands be managed under the principle of multiple use and sustained yield – and in a manner that does not close off access to the resources that a robust national economy will continue to require.

For these reasons the Proposed Planning Rule as published should be withdrawn.