

November 27, 2017

Public Lands Council
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VIA EMAIL AND ONLINE SUBMISSION ONLY

Bureau of Land Management
Attn: Johanna Munson
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BLM_sagegrouseplanning@blm.gov

Re: Comments on Notice of Intent to Amend Land Use Plans Regarding Greater Sage-Grouse Conservation and Prepare Associated Environmental Impact Statements or Environmental Assessments.

Dear Sage Grouse Plan Revision Team:

The Public Lands Council (“PLC”), along with its national affiliates the National Cattlemen’s Beef Association (“NCBA”) and American Sheep Industry Association (“ASI”), appreciates the opportunity to provide comments on the Notice of Intent to Amend BLM’s Land Use Plans that were amended or revised in 2014 and 2015 regarding Greater Sage-Grouse conservation in the States of California, Colorado, Idaho, Nevada, Oregon, Wyoming, North Dakota, South Dakota, Utah and Montana (“2015 Sage-Grouse Plans”) and Prepare Associated Environmental Impact Statements or Environmental Assessments. 82 Fed. Reg. 47248 (Oct. 11, 2017).

In May 2015, BLM and the Forest Service released their respective final Environmental Impact Statements, amending 98 Western resource management plans. The decision documents issued in September 2015 included four RODs, one from each agency for the Great Basin region and one from each agency for the Rocky Mountain region. The major planning effort involved coordination between the BLM and the Forest Service. These two agencies manage about half of the 165 million acres where sage grouse are spread among various Western BLM districts and National Forests (“federal lands”).

While the amended plans did not mandate any specific on-the-ground conservation actions, they identified and imposed significant land-use restrictions within vast areas of federal lands. The plan amendment decision was met with substantial opposition, and nine states appealed. Beginning in the

mid-2000s, many Western States had already begun developing their own sage grouse management plans at the request of the federal government, with the goals of both addressing various conservation challenges unique to each state and preventing restrictive federal management plans or a species listing under the ESA. Western States' sage grouse management plans have been the primary driver of improvements to the species range-wide. These affected states have attempted to avoid a restrictive and economically damaging federal sage grouse management plan and address the different management concerns unique to each state. To date, 11 affected Western States have issued state management plans. The current administration is now reconsidering portions of the 98 BLM and Forest Service plan amendments made by the prior administration, and BLM's scoping request is an important first step in that direction. A key concern is how to remove the overly-restrictive components of these amendments, which have been criticized as rushed, too restrictive on land use, and procedurally flawed.

PLC represents livestock ranchers in public policy and federal legislation as part of PLC's mission to preserve the natural resources and unique heritage of the West. Public land ranchers own some of the most productive private land and manage vast areas of public land, accounting for critical wildlife habitat and a huge portion of the nation's natural resources. PLC works to maintain a stable business environment in which livestock producers can conserve the West and feed the nation and world. PLC is a national organization dedicated to representing approximately 22,000 ranching families operating on federal lands in the Western United States. Those 22,000 families graze livestock and steward approximately 250 million acres of federal lands while owning approximately 140 million acres of adjacent private land. As such, PLC is committed to rangeland and farmland use programs that allow their members to continue the responsible and productive use of federal lands within their respective states.

The following are key concerns PLC has about potential amendments to the 98 affected RMPs and Forest Plans.

Plan Amendments are Necessary. As an initial matter, PLC believes that the anticipated plan amendments are necessary. Plan maintenance would not provide the necessary authority to make the significant changes that are needed to properly address sage-grouse management while avoiding overly-restrictive criteria that unnecessarily limits grazing. Plan maintenance can only be used to reflect minor changes in data, not to change plan terms, conditions, or decisions of an approved RMP, or to create new or revised policy. 43 C.F.R. § 1610.5-4.

Defer to State Affiliates Concerning State Conservation and Grazing Management Practices. PLC appreciates BLM's continued acknowledgement of the multiple-use and sustained yield mandates of FLPMA, the Forest Service's corresponding management duties under NFMA, and the agencies' recognition that well-managed grazing can be beneficial to Greater Sage-Grouse (GRSG). PLC believes - and science proves - that sage-grouse conservation and livestock grazing can beneficially co-exist. Top threats to the GRSG include rangeland wildfire, invasive weeds, and development pressure, not livestock grazing. Livestock grazing is not even in the top-ten list of threats. Yet, despite this, BLM and the Forest Service have improperly implemented landscape-wide regulatory changes on the grazing livestock industry for purposes of conserving habitat for a single species through an inflexible framework that is overly restrictive and fails to account for the very site-specific conditions necessary to make informed decisions.

As noted above, 11 Western States' sage-grouse management plans have been the primary driver of improvements to sage-grouse range-wide. Currently, there is a lack of evidence that the existing management approaches under each of the Western States' individual state conservation plans are insufficient. To the contrary, state-led management is critical since the factors driving habitat loss and fragmentation vary greatly from state to state. As such, PLC defers to the positions of its state affiliates¹ about whether RMPs and Forest Plans for federal lands within the geographic regions of individual states should be amended, and whether such amendments should include some or all of the sage-grouse conservation measures and strategies contained in the individual state plans. To the extent any of PLC's state affiliates submit scoping comments regarding BLM's intent to amend the 2015 Sage-Grouse Plans, PLF joins and incorporates those comments. To the extent any of PLC's state affiliates submit comments or concerns that vary from PLC's overall comments contained in this scoping letter, PLC conforms its comments with respect to those of its state affiliate regarding local issues.

Unrealistic Funding and Ability to Implement. All guidance issued by BLM, including all seven instruction memoranda (IMs 2016-139 through 2016-145) to provide guidance on certain elements of the 2015 Sage-Grouse Plans, note that implementation will necessarily require substantial future work by BLM – in addition to the *98 land use plans already amended* – with no proportionate increase in budget or staffing for BLM. Without commenting on the substance of any particular case, it is well known that BLM is already under intense litigation pressure from environmental groups and others throughout the Western U.S. due to continuing delays in completing mandatory statutory deadlines, failing to comply with NEPA's procedural requirements, and not completing required monitoring. We are extremely concerned that BLM will simply add more work to its already full decisional plate with absolutely no realistic ability to fund or implement those decisions meaningfully.

As a result, amending the 2015 Sage-Grouse Plans in a manner which undertakes more substantive work, rather than carefully conforming to existing state conservation plans where appropriate, will only result in more litigation, and it will not benefit the resource or those who depend upon the resource for their livelihoods. Any amendments must be designed to allow BLM to affordably and efficiently implement workable conservation in light of BLM's finite resources.

Use Existing Habitat Assessment Framework (HAF) or Adopt State Models. BLM already has a system in place for Rangeland Health Assessments and standards to determine habitat suitability. BLM lacks the budget and training to implement the Habitat Assessment Framework and already has sufficient monitoring protocols that

¹ PLC has state affiliates in California (California Cattlemen's Association, California Wool Growers Association), Colorado (Colorado Cattlemen's Association, Colorado Livestock Association, Colorado Wool Growers Association), Idaho (Idaho Cattle Association, Idaho Wool Growers Association), Nevada (Nevada Cattlemen's Association, Nevada Wool Growers Association), Oregon (Oregon Cattlemen's Association, Oregon Sheep Growers Association), Wyoming (Wyoming Stock Growers Association, Wyoming Wool Growers Association), North Dakota (North Dakota Stockmen's Association, North Dakota Lamb & Wool Producers Association), South Dakota (South Dakota Cattlemen's Association, South Dakota Sheep Growers Association), Utah (Utah Cattlemen's Association, Utah Wool Growers Association) and Montana (Montana Stockgrowers Association, Montana Wool Growers Association).

have been developed and implemented through its existing rangeland health assessment. At most, the Habitat Assessment Framework should be applied as a guideline and only at appropriate scale – never at the allotment level or for grazing decisions. We believe that permit requirements together with the existing Rangeland Health Assessment monitoring provide all of the necessary standards and should remain the only required tools for assessing livestock grazing. BLM should stop using the HAF, including tables 2-2, at the site scale to inform management of grazing permits (for example, for perennial grass height). Recent science (citations below paragraph) shows grass height not to be as critical as previously thought. Management of fine fuels, and implementation of flexible grazing rotation systems that create resistant and resilient native bunch grass systems are much more pertinent to the long-range survival of Sage Grouse. Decisions about the application of HAF at the higher orders should be coordinated with the US Fish & Wildlife Service (USFWS) to ensure the service's ability to continue to support a decision not to list the species. If another method is determined to be needed, BLM should adopt and incorporate models that states like Oregon have included in their state conservation plan, which is more ecologically based, flexible in terms of its guidelines, and compatible with other conservation plans than HAF. HAF is not sustainable over the long term given BLM's commitments and current level of funding.

Allow Proper Grazing and Compatible Grazing Practices. Implementing the 2015 Sage-Grouse Plans has resulted in eliminating livestock grazing on some RNAs and ACECs. There is no rational reason under either FLPMA or NFMA to close certain areas to livestock grazing, particularly where proper grazing is compatible with the ecology of the local areas. We are further concerned that incorrect assumptions and speculation, rather than science, is being used to support these broad closures. Many RNAs have accommodated livestock grazing since their inception, which has been found to be compatible with sage-grouse conservation by reducing fuels, helping to control the spread of invasive species, providing a food source for young chicks, and maintaining rangeland health. The agencies should more explicitly recognize that livestock grazing practices complement sage-grouse conservation and have improved habitat by sustaining a diversity of plants that are important to the greater sage-grouse and by reducing the risk of wildfire that destroys the habitat.

No Permit Modification Pending NEPA Analysis and Documentation. The agencies should provide certainty that they will not be modifying any grazing permits based on greater sage-grouse population or habitat criteria pending finalization of the land use plan amendments anticipated by BLM's latest scoping notice and the anticipated Forest Service scoping notice. For all of the reasons set forth in these comments, modifying grazing permits based on these criteria is unworkable.

Remove Constraints to Manage Water Development. Members of PLC have constructed and maintain ditches, canals, water diversion structures, guzzlers, watering troughs, and watering holes within federal allotments and sage grouse focal areas (SFAs), priority habitat management areas (PHMAs), general habitat management areas (GHMAs), important habitat management areas (IHMAs), and other habitat management areas (OHMAs). These water developments also occur within lek buffer zones where activity is restricted during the breeding season under the 2015 Sage-Grouse Plans. These improvements and features represent a significant investment and are absolutely necessary for our members' agricultural and ranching operations. In addition, developments have proven to be very beneficial to numerous wildlife species including grouse. BLM should amend the 2015 Sage-Grouse Plans within affected Western States to remove constraints and interference with our members' ability to maintain and operate these water developments.

De facto Creation of ACECs. BLM absolutely must reevaluate its creation and decision to set aside *millions of acres of federal lands designated off-limits* as SFAs, PHMAs, GHMAs, IHMAs, and OHMAs because such designations have unlawfully created de facto Areas of Critical Environmental Concern (ACECs). BLM should avoid using SFAs and these other de facto land allocations as a tool to prioritize the review or evaluation of grazing allotments. These areas were adopted without sufficiently complying with the required notice and public comment and plan amendment procedures, and their creation violates FLPMA, NFMA, and NEPA. These areas were not properly analyzed in adopting the 2015 Sage-Grouse Plans. Several levels of sage-grouse habitat with associated restrictions already existed, and if specific areas of concern warrant added restrictions they should be addressed locally through flexible guidelines on a site-specific basis.

Rescind the Instructional Memoranda. BLM should rescind the seven instructional memoranda (IMs 2016-139 through 2016-145) that provide guidance on certain elements of the 2015 Sage-Grouse Plans and issue replacement IMs for the interim period while plan amendments are being prepared. Key concerns about the IMs include the following:

IM 2016-139. This IM outlines use of BLM's Assessment, Inventory and Monitoring ("AIM") to monitor and assess aquatic systems. This framework contains unproven recommendations for monitoring and should be replaced with BLM's 2011 Multiple Indicator Monitoring ("MIM") system. Water quality monitoring should be managed and maintained by states consistent with EPA requirements and protocols set forth in the Natural Resources Inventory ("NRI"). The NRI field protocol is already an accepted protocol for data collection to estimate conditions and trends across BLM lands. NRI, along with supplemental legacy data, is a better protocol to address habitat dynamics, and relying on HAF is unnecessary and duplicative.

IM 2016-141. This IM sets priorities for processing grazing permits and leases in sage-grouse habitat. BLM already has a process for prioritizing allotments. The IM unlawfully elevates the sage-grouse to a priority species, and it should be vacated.

IM 2016-142. This IM provides guidance for incorporating thresholds and NEPA analysis into grazing permits for lands within SFAs or PHMAs. This IM is duplicative of BLM's annual monitoring, contains thresholds generally not influenced by grazing (e.g., sagebrush canopy and tree cover requirements), and introduces concepts that do not belong in permit terms. These adaptive management triggers should be reversed. The Habitat Objective table should also be deleted. The Table is being strictly implemented and is contrary to establishing objectives based on site-specific conditions. The IM also relies on HAF to assess habitat conditions along with Habitat Assessment Summary Reports. HAF should be eliminated in favor of standards and guidelines based on existing evaluation practices, and the report requirement should be rescinded.

IM 2016-144. This IM requires policy on use of sage-grouse HAF to assess habitat, and under what circumstances habitat assessment is required. This entire IM and HAF framework should be eliminated. HAF is designed for single-species management, contrary to both the mandates of BLM and

the Forest Service. Implementing AIM and HAF is highly variable between states and field offices, results in excessive data collection and duplicative Habitat Assessment Summary Reporting, and should be abandoned in favor of legacy monitoring and Rangeland Health Assessments, including use of NRI protocols and MIM.

Surface Disturbance Cap and Mitigation Policy. Under existing direction, disturbance caps are applied to all habitats whether public or private, and BLM and the Forest Service can preclude authorizations on federal lands to compensate for disturbances on private land. We believe that the 3% anthropogenic disturbance feature found in the 2015 Sage-Grouse Plans is not supported by the best available science, and that the calculation methods BLM uses are significantly different than the research BLM relies on to support the 3% cap. The 1% decade cap was also not analyzed, and it is not supported by science. There also is a lack of best available science and policy support for excessive, one-size-fits-all stubble height requirements and expansive lek buffers.

Travel Management Plan. There is limited research on the impacts of roads on sage-grouse and what scant research exists is conflicting. Implementing travel management plans across all BLM districts within affected Western States on a large scale within set time frames is irrational, unnecessary, and completely unrealistic. Potential conflict areas (for example, high traffic roads close to leks) should not be established in BLM RMPs, but instead should be addressed locally on a site-specific basis with flexible guidance for possible restrictions that can account for seasonal, type of use, or date/time restrictions, as needed based on local conditions.

Manage Lek Buffers on a Site-Specific Basis. Lek buffers increased dramatically in size and breadth in terms of restrictions during the plan amendment processes for the 2015 Sage-Grouse Plans. If certain areas around leks require closure due to certain activity, such as restrictions on grazing within lek buffers, those areas should be identified and managed on a site-by-site basis. Since there is no single distance that is appropriate for all populations and all habitats across the range, it makes abundant sense to revise the RMPs so that decisions about distance can be made flexibly based on local conditions, using guidelines that assess the specific topography and vegetation near the lek.

Grazing Season Language. Language under the 2015 Sage-Grouse Plans about timing and location of livestock turnout impacting livestock concentrations on leks during the breeding season is also vague and unclear and leads to uncertainty and ambiguity for ranchers and agency range staff.

Comply with the WHBA and Avoid Unlawful Range Degradation. BLM and the Forest Service are currently mismanaging our federal lands by adopting science-based maximum Appropriate Management Levels (“AML”) for wild horses under the Wild Horse and Burros Act (“WHBA”), but then failing to act to achieve AML – and in many territories, failing to take sufficient action to even come close to achieving AML. As a result, overpopulations of excess wild horses well above the AML are causing serious, permanent degradation to rangeland and riparian areas. As part of any conservation strategy, BLM must first comply with the law, comply with its own management directions for achieving AML, and act sufficiently to achieve and maintain AML. Attempting to achieve balance without achieving AML violates the WHBA, as well as the multiple use and plan consistency mandates

under FLPMA and NFMA. BLM is already overcommitted financially, and it makes little sense to undertake further major tasks where the agency is unable to complete the backlog of mandatory duties it already has.

Thresholds on Grazing Permits. This concept was adopted without sufficiently complying with the required notice and public comment and plan amendment procedures. Creating “thresholds” foreign to grazing permits without such process and public vetting violates FLPMA, NFMA, and NEPA. The public did not have an opportunity to comment on this. BLM already had the authority under current grazing law to make immediate changes to livestock management if grazing management is deteriorating habitat. Additional thresholds that lack flexibility are unnecessary and unlawful.

Primary Threats of Wildfire and Invasive Species. Rather than address the primary threats of juniper encroachment, wildfire, and the spread of invasive species, the 2015 Sage-Grouse Plans increased regulatory measures on many secondary and perceived threats that are relatively insignificant. This approach will have negative impacts on sage-grouse populations and is detrimental to rural economies. BLM must direct resources and address threats directly and correlate their importance to sage-grouse. Wildfires are among the top threats to sage grouse along with invasive species such as cheatgrass, which is positively correlated with wildfire. Wildfires result in habitat loss and fragmentation of sage-grouse habitat and have devastating social and economic effects on rural communities.

Any plan amendment must incorporate measures acknowledging that control of invasive species through active management and reduction of fine fuels is key for controlling fuel loads and avoiding wildfire. The best available science demonstrates that properly grazed rangeland is more resilient and resistant to fire than ungrazed landscapes. Control of invasive species through active management and reduction of fine fuels is an instrumental part of controlling excessive fuel loads. Vegetation treatments such as controlled, prescribed fire and manipulation of canopy cover can also improve rangeland health to benefit sage-grouse and increase livestock forage. Range specialists and researchers have concluded that grazing is an important and effective tool for the prevention and mitigation of wildfires, especially in moderate fire conditions. For example, flame length can be significantly reduced in areas where grazing has occurred and can result in a mosaic burn or gaps across which fire will not jump. Any plan amendments should be designed to prevent excessive fuel loads that will contribute to more frequent and intense range fires harmful to sage-grouse, healthy range, and adjacent private lands. BLM must use the best available science about the negative effects of reduced grazing on the incidence, intensity, and damage from wildfire.

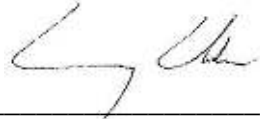
In sum, sagebrush habitat supports an agricultural economy critical to rural communities and generates over \$1 billion in economic activity. States, ranchers, farmers, energy developers, and other stakeholders have combined in an unprecedented effort to collaborate to conserve key sage-grouse habitat and avoid listing to the greater sage-grouse, while also continuing to promote sustainable economic use of the resource. We are very concerned that BLM might continue to duplicate state conservation and management efforts unnecessarily. We cannot emphasize enough how important it is

for BLM to abandon its unworkable, unfunded framework in favor of planning designed to provide better protection and resource balance using a flexible, site specific approach, rather than simply more duplicative, cost-prohibitive federal regulation. We hope that our feedback is useful in considering possible amendments to the 2015 Sage-Grouse Plans, and that BLM will continue to recognize the ecological and economic importance of livestock grazing.

Sincerely,



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