



THE COLORADO MINING ASSOCIATION

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Bureau of Land Management
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Dan Jiron
Regional Forester, Rocky Mountain Region
U.S. Forest Service
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RE: Northwest Colorado Greater Sage-Grouse Draft Land Use Plan Amendment and Environmental Impact Statement

Dear Sirs:

The Colorado Mining Association (CMA) submits the following comments on the Northwest Colorado Greater Sage Grouse Land Use Plan Amendment and Environmental Impact Statement (DLUPA/EIS or "the Plan"). CMA is an industry association, founded in 1876 and incorporated in 1897, whose 900 members explore for, produce, and refine coal, metals, industrial minerals, and oil shale, as well as firms providing goods and services to the mining industry. Our membership also includes utilities that generate electricity serving customers in Colorado and surrounding states. Our members also operate mines in Northwest Colorado that would have to curtail or even cease operations to comply with the Plan.

CMA understands and supports BLM's goal of demonstrating management practices sufficient to preclude a listing of the Greater Sage-Grouse as Threatened or Endangered by the U.S. Fish and Wildlife Service. The Plan, however, imposes unrealistic and unnecessary restrictions on mineral development that would cause significant economic harm to the communities of Northwest Colorado that rely on the jobs and revenues from coal mining. Our arguments follow.

Coal mining is extremely important to the economy of Colorado and more than 55% of the state's coal is produced from mines in northwest Colorado. According to the attached Coal Production and Employment Report, the state's more than 2,200 coal mine employees earned wages and benefits in excess of \$115,000 in 2012. Overall, the industry employs 6,200 people directly and accounts for 23,700 jobs in Colorado. The state's mines generate more than \$1.1 billion in sales and more than \$2.75 billion in contributions to Colorado's gross domestic product. Federal royalties paid by coal producers approach \$54 million annually, roughly half of which supports the public school system in Colorado. Severance taxes support state and local governments.

CMA is gravely concerned that the Plan would impose draconian restrictions well beyond those needed to conserve the Greater Sage-Grouse, but would cause irreparable economic harm to the coal industry, the economic engine of northwest Colorado. We are especially concerned about the requirement to establish arbitrary buffer zones around mining operations, as well as the arbitrary disturbance caps. If these are imposed, they have the potential to bring mining operations to a screeching halt. Not only would this cause severe economic harm, it would violate BLM's own obligations under the Mineral Leasing Act and subsequently enacted statutes to maximize the production of coal from federal leases. In the end, the taxpayer and the citizens of the United States would lose revenues to which they are entitled from mining operations because those operations would be forced to shut down! Public schools would also lose funding.

The Plan further ignores important measures currently available to conserve the species. Colorado coal producers have won national acclaim for the protection of wildlife, including sharptail grouse and other species. Conservation measures incorporated into permits should govern; not arbitrary disturbance caps.

The Plan fails to reflect the most recent scientific information. By basing all alternatives in the Plan on the National Technical Team report (NTT), the agency fails to incorporate the latest scientific and biological information available. An independent review of the report found many methodological and technical errors, including significant mischaracterization of past research. The NTT does not appear to be based on reasonable consideration of the regulatory tools BLM already has including the 2004 Guidance, Manual 6840, multiple authorities for project specific protections and habitat enhancement measures, and private conservation measures. The NTT does not use BLM Manual 6840 or the Endangered Species Act ("the Act") as a foundation upon which to build, and it does not explain the need for an entirely new regulatory approach that goes beyond protections for listed species under the Act.

The Plan does not include an adequate range of alternatives. The National Environmental Policy Act (NEPA) and regulations of the Council on Environmental Quality (CEQ) require that a well-defined range of alternatives be presented in an EIS. All alternatives (B, C, and D) are based on the NTT or some variant thereof and are highly restrictive in their approach to land use management. None contain alternative management techniques which allow for a broad range of multiple uses on public lands which include mining, grazing, energy production, and recreation access. Little or no consideration was given to conservation measures developed by the Colorado Division of Parks and Wildlife, Garfield County and organizations in Northwest Colorado. The state and communities in Northwest Colorado have worked over several years in conjunction with private interests to identify and implement measures to conserve the Greater Sage-Grouse and the sagebrush habitat. These measures consider and

reflect local conditions in areas where they have been implemented, rather than relying on one-size-fits all approach as seen in Alternatives B, C, and D.

The Plan is overly restrictive in establishing buffer zones. The prohibition on surface occupancy or disturbance within four miles of a lek in Preliminary Primary habitat at various times (nesting, lekking, and early brood-rearing) is excessive and arbitrary. No scientific basis is presented for this restriction that would demonstrate future benefit to the species. And, because no monitoring or documentation of habitat quality is provided within the restricted areas there is no way to determine whether such restrictions are actually beneficial. Further, the arbitrary distance does not take into account site-specific conditions related to topography or variations in habitat quality or use which could render land within the four mile radius unused by the bird. CMA believes that imposing the four-mile buffer in all cases without taking such variability in condition into account unnecessarily limits use of the lands in question.

Disturbance caps are arbitrary and not supported by science. Alternatives B, C, and D all rely on disturbance caps as a method of conserving the Greater Sage-Grouse. However, no scientific basis is provided that demonstrates that these arbitrary caps are necessary, either for the 3% cap under Alternatives B and C, or the 5% cap in Alternative D with a maximum total disturbance of 30%. No data are presented that the caps are 1) scientifically defensible; 2) achievable; 3) would result in stable sage-grouse populations; 4) would not result in irreparable harm to other species; and 5) would not unnecessarily have a negative effect on local economies.

These caps ignore the effects of management during catastrophic wildfire or drought and fall prey to inconsistent policies regarding fire management. For example, BLM recognizes that under Alternative B fire in Preliminary Primary Habitat and Preliminary General Habitat would be suppressed while simultaneously recognizing that increased fire suppression could lead to larger catastrophic wildfires as a result. At the same time, habitat lost to wildfire would be included in the calculation of disturbance caps. Large wildfires which are typically caused by lightning strikes are common to sagebrush dominated rangeland in Northwest Colorado. They may be impossible to prevent and difficult to control – possibly increasingly so due to access restrictions; thus, loss of habitat due to wildfire should not be counted against any cap.

Disturbance caps, absent a specific demonstrated need or benefit, unnecessarily restrict economic development within the management zones. The use of disturbance caps will severely limit approval of new projects on public lands. This result is exacerbated by including activity on private lands when calculating allowable disturbance on public lands, but not allowing benefits from mitigation on private lands to offset or increase cap space on public lands. Additionally, without a method of monitoring and documenting the impacts of disturbance within the disturbance cap there is no measure of success or failure.

It is unclear how disturbance caps would be implemented while still giving effect to valid existing rights with the management zones. A high percentage of the land in Northwest Colorado is owned and controlled by the federal government, and the economy of the region is necessarily dependent on the use of those lands whether for grazing, mining, energy production, or providing access to recreational activities such as hunting and fishing. Access for recreation as well as maintenance of existing electric transmission lines and pipelines require some degree of surface disturbance which may conflict with disturbance caps.

The Plan fails to provide for required multiple use of public lands as required by law. The Multiple Use Sustained Yield Act of 1960, the National Forest Management Act (NFMA) of 1976, and the Federal Land Policy and Management Act (FLPMA) of 1976 all require management of federal lands for multiple use. FLPMA specifically recognizes the Nation's need for domestic sources of minerals. None of the alternatives are consistent with multiple use principles, but rather elevate protection of Greater Sage-Grouse habitat above all other uses. This fails to give effect to federal law governing management of public land, thus making the Plan deficient.

The Plan fails to provide for activities necessary to maintain reliable power. As pointed out in the comments of Tri-State Generation and Transmission, numerous sections of the Plan impact and impede the ability to construct and maintain adequate electrical power transmission across the subject lands. The use of perch discouragers to prevent nesting of raptors and other predator birds have shown poor effectiveness and may actually result in increased predation from some species as well as increasing risk of raptor electrocution. Similarly, burying transmission lines to avoid above-ground collisions or surface disturbance could actually result in increased surface disturbance and habitat fragmentation, particularly as buried lines require more frequent maintenance.

Regulations and policies of other federal agencies such as the North American Electric Reliability Corporation (NERC) and the Federal Regulatory Energy Commission (FERC) govern the operation of transmission systems. Co-location of power lines within existing Rights of Way (ROW) as called for in the Plan cannot be achieved because of federal safety requirements. Siting and operation of these lines already are accomplished to avoid impacts to the natural and human environment to the greatest extent feasible. Relocation of transmission lines outside an ROW Exclusion Area is not feasible due to myriad federal, state, and local requirements as well as the necessity to obtain easements on private lands. The costs and time requirements required to accomplish such a gargantuan task make this largely infeasible.

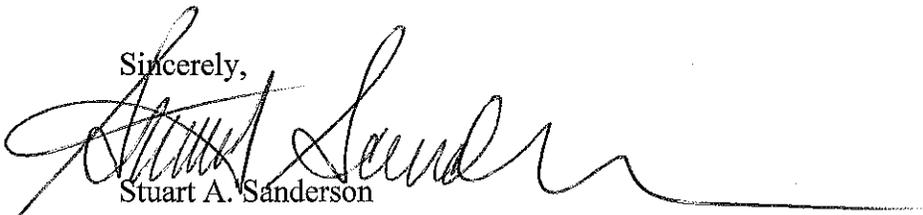
Socioeconomic impacts to the communities in Northwest Colorado are underestimated. Although the Plan addresses socioeconomic impacts on the entire planning area, it does not consider effects on specific areas including counties and towns that would result from the

proposed management restrictions. The socioeconomic analysis appears to be biased in favor of non-market valuation methods which the agencies admit “are not directly comparable to regional economic indicators commonly used to describe how natural resources on public lands contribute to the regional economic indicators such as output/sales, labor income, and employment.”

The economy of Northwest Colorado is dependent on mining, energy production, agriculture, and recreation – all of which depend on the use of federal lands. For example, 53.7% of the land in Moffat County is owned and controlled by the federal government. In 2012 the top ten employers in Moffat County included three coal mines and one power plant with facilities physically located within the planning region. These four employers accounted for nearly 50% of the employees among Moffat County’s top ten employers. Restrictions on land use will impact not only direct, indirect and induced employment within the county but also tax revenues that support county governments and local services, including schools and hospital districts. During the scoping process many of the cooperating agencies which included county governments raised some of these issues. Unfortunately these concerns are not adequately reflected in the Plan.

For these reasons, CMA urges the BLM and Forest Service to re-propose a management plan for Northwest Colorado that reflects on-the-ground experience and recommendations of local communities and the State of Colorado to protect the Greater Sage-Grouse while avoiding adverse impacts on the economy of the region. We appreciate the opportunity to voice our concerns.

Sincerely,



Stuart A. Sanderson
President