MESA COUNTY

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November 27, 2013

Email: blm_co_nw_sage_grouse@blm.gov
BLM--Greater Sage Grouse EIS
2815 H Road
Grand Junction, CO 81506

RE: Northwest Colorado Greater Sage-Grouse Draft RMP Amendment/Draft EIS

Thank you for the opportunity to comment on the Northwest Colorado Greater Sage-Grouse (GRSG) Draft Resource Management Plan Amendment/Draft Environmental Impact (DRMPA). We have appreciated our role as a cooperating agency in this process and share the BLM and Forest Service goal to manage Northwest Colorado's public lands in a manner that will preclude the listing of the bird as threatened or endangered. Our primary goal is to help the BLM ensure the public lands in Mesa County and the region in general are managed in the most appropriate and beneficial manner. Our comments provided herein are submitted in a spirit of cooperation, coordination and partnership.

Although a very small area within Mesa County is mapped as Preliminary General Habitat for the Greater Sage-Grouse, land management in northwest Colorado greatly impacts Mesa County, the economic regional center for western Colorado and Eastern Utah. Multiple uses of BLM lands and resources in the Grand Junction Filed Office area and surrounding field offices directly and indirectly impact the Mesa County economy, including agriculture, forestry, energy development, recreation, tourism, etc.

Please consider the following comments in drafting the Final Resource Management Plan Amendments and EIS:

1. Extension Requested

Mesa County is a proud participant in the County Coalition for the Conservation of Gunnison sage-grouse, a group of eleven counties and two states. With this model in mind we support the Colorado Package, an update to the collaboratively developed 2008 Conservation Plan for the Greater sage-grouse. We request the BLM grant an adequate extension to the comment period on the DRMPA to allow the Colorado Package to be fully analyzed and included in the final EIS and RMPA.

2. Socio-Economic Impacts

The DRMP greatly underestimates the negative socioeconomic impacts of limiting energy production through disturbance caps and No Surface Occupancy (NSO) designations. We support the comments in the enclosed Western Energy Alliance October 2013 white paper.

3. Disturbance Caps
Although the DRMP states that use of disturbance caps will not consider actions on private lands, only existing conditions on private lands, this approach needs to be justified or amended in light of the approach taken elsewhere in the DRMPA where potential impacts off of BLM are not part of the analysis. For example: NSO's for oil and gas are assumed to shift activity to private lands in the preferred alternative. (See the enclosed Western Energy Alliance October 2013 white paper).

4. Use of Most Current Data
We are encouraged by the BLM's commitment to "... continue to incorporate the most current information we have available as we write our Greater Sage-Grouse planning documents." (Northwest Colorado Greater Sage-Grouse EIS Communication materials 8-9-13). Since the BLM and Forest Service rely on the Colorado Parks and Wildlife (CPW) for habitat maps, the preferred management plan in the final RMPA should include the flexibility to utilize the most current accepted data and mapping provided by CPW over- time. For example, CPW's current and ongoing research and mapping of habitat in the Piceance Basin and review of Garfield County efforts.

Thank you for your consideration of these comments.

Sincerely,

Steve Acquafresca, Chairman
Board of Commissioners

Rose Pugliese
Commissioner

John Justman
Commissioner

Enclosures:
Western Energy Alliance October 2013 White Paper

cc: Governor Hickenlooper
Tom Fisher, County Administrator
Pete Baier, Public Works Director
Keith Fife, Long Range Planning Director
Ron Velarde, Colorado Parks and Wildlife
Lisa Dale, Colorado Parks and Wildlife
US Congressional Delegation

Northwest Colorado Greater Sage-Grouse Draft Environmental Impact Statement and Land Use Planning Amendments
White Paper
October 2013

WESTERN ENERGY ALLIANCE

Background Information

In August, the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) released a draft environmental impact statement (DEIS) and land use planning amendments (LUPA) that will incorporate new Greater Sage-Grouse (GSG) conservation measures on BLM and USFS lands in northwest Colorado. The DEIS and LUPA are part of BLM's "National Greater Sage-Grouse Planning Strategy" that will incorporate new GSG management on approximately 47 million acres of sage grouse habitat in ten western states. BLM and USFS intend to issue separate Records of Decision (ROD) by September 30, 2014. The DEIS has a 90-day comment period, which ends on November 14th.

BLM and USFS (the agencies) are amending LUPs for five BLM planning areas and one national forest covering 1.7 million acres of GSG habitat within the Northwest Colorado District. The planning area spans Eagle, Garfield, Grand, Jackson, Larimer, Mesa, Moffat, Rio Blanco, Routt, and Summit counties. The following plans are proposed for amendment during this effort:

- BLM Colorado River Valley RMP
- BLM Grand Junction RMP
- BLM Kremmling RMP
- BLM Little Snake RMP
- BLM White River RMP and associated oil and gas amendment
- Routt National Forest Plan/Oil and Gas Leasing Availability Decision and associated amendments

The DEIS contains four possible management alternatives that apply to federal lands and minerals. The final preferred alternative could combine elements of one or all of the alternatives.

- **Alternative A - No Action** continues current management direction under existing LUPs
- **Alternative B - National Technical Team Measures** includes measures outlined in the BLM National Technical Team (NTT) report
- **Alternative C - Conservation Groups** contains recommendations submitted by conservation groups
- **Alternative D - Colorado Sub-regional (Preferred Alternative)** incorporates "local adjustments" to the NTT report.

BLM has mapped GSG habitat in coordination with Colorado Parks and Wildlife (CPW). Within the Northwest Colorado District, 1.7 million surface acres, 43% of total GSG habitat, is located on BLM and USFS-administered lands. The DEIS also covers an additional 1.1 million acres of federal minerals. GSG habitat in the planning area falls into one of the three categories:

- **Preliminary Priority Habitat (PPH)** are areas identified as having the highest conservation value, including breeding, late brood-rearing, and winter concentration areas
- **Preliminary General Habitat (PGH)** is seasonal or year-round habitat outside of priority habitat
- **Linkage/Connectivity Habitat** are areas identified as regions of connectivity to facilitate the movement of GSG.

Problems with the DEIS

General

Colorado's oil and natural gas industry supports the agencies' efforts to craft new management policies to conserve and protect GSG and its habitat in northwest Colorado in order to demonstrate to the U.S. Fish & Wildlife Service (FWS) that a federal listing of the species under the Endangered Species Act (ESA) is unnecessary. Nonetheless, there are many management prescriptions in the DEIS that are unnecessarily restrictive, lack proper scientific justification, and do not coincide with local conditions. Further, the agencies have proposed measures that will not sustain their multiple use mandates or effectively balance the conservation of GSG with continued economic activity in the planning areas. Issues raised by cooperating agencies and other stakeholders in the scoping process were not adequately considered. The agencies must rectify these issues before finalizing the EIS and LUPAs.

Supporting Science

The DEIS contains a number of studies and reports that reach widely inconsistent conclusions about the current status and historical population trends of GSG in northwest Colorado. While some studies indicate decreases in lek attendance, breeding populations, and overall distribution and abundance, others show that populations are relatively stable, or even increasing. For example Connelly et al. (2004), which is quoted extensively on pages 252 to 253, used data for 275 Colorado leks from 1965 to 2003 and found that:

- Lek size has decreased, but populations have increased
- Annual rates of population have been relatively stable to increasing, increasing overall by 1% annually from 1965 to 2003
- GSG have been increasing for about the last 17 years, and breeding populations have not declined for the last 39 years.

The proposed restrictions for oil, natural gas and other economic activities are not commensurate with actual population trends in the planning area. The agencies must ensure that management restrictions for the species truly reflect their current status in the planning area.

Furthermore, the DEIS relies too heavily on BLM's National Technical Team (NTT) report, entitled *A Report on National Greater Sage-Grouse Conservation Measures,* December 2011. While all the recommendations in the NTT report are not directly included in the preferred alternative, some are, including the proposed restrictions for noise.

The use of the NTT report is extremely problematic as it contains overly burdensome recommendations that are not based on local conditions in northwest Colorado. The NTT report also asserts that oil and gas "impacts are universally negative and typically severe" but provides no scientific data to support that assertion. The DEIS is predicated upon a select few studies utilized by the NTT report, which ignores other data and studies that clearly demonstrate impacts from oil and gas are not universally negative and typically severe. BLM should refrain from directly incorporating any of the NTT report recommendations into the proposed or final EIS.

For more information, please refer to the attached *Review of Data Quality Issues in A Report on National Greater Sage-Grouse Conservation Measures Produced by the BLM Sage-Grouse National Technical Team (NTT)* which describes a number of shortcomings with the report, including:

- Failure to use the best available science
- Selective presentation of scientific information
- Misrepresentation of the impact of oil and gas operations on GSG
- Disproportionate influence from a small group of specialist advocates
- Bias against voluntary conservation
- Unnecessarily restrictive recommendations
- Undefined priority habitat
- Lack of credible peer review.

Range of Alternatives

While the agencies claim they "will consider a range of reasonable alternatives, including appropriate management prescriptions," they have failed to comply with provisions of the National Environmental Policy Act (NEPA), as well as 40 CFR § 1502.14, which requires a well-defined range of management alternatives and a clear basis for choosing among the options. The agencies have failed to develop an alternative that truly promotes responsible resource development in the planning area. As a result, the preferred alternative (Alternative D) only blends elements of Alternatives B and C, one of which relies on non-site specific and overly-restrictive recommendations from the NTT report, and another that employs impractical restrictions developed by conservation groups that emphasize resource protection over economic development. Without a true multiple-use alternative, the preferred alternative is fundamentally flawed and the range of alternatives unreasonable.

Lack of Site-Specific Considerations in Individual Planning Areas

The agencies have proposed management goals and restrictions that will be applied across the entire planning area, rather than for each individual area covered by the various field offices. Besides the no action alternative (Alternative A), the management restrictions in all three action alternatives are proposed as blanket restrictions that are not specific to each field office, despite differing levels of quality and quantity of habitat, conditions of populations, and threats in each planning area.
The agencies have not clarified whether the proposed management objectives and restrictions in the DEIS will completely replace all existing GSG management in each planning area. For example, the draft White River Resource Management Plan Oil and Gas Amendment (RMPA) proposes a "threshold cap" to manage disturbance. If an operator limits disturbance on its leases overlapping GSG habitat to below a certain percentage, it may develop year-round. However, the preferred alternative stipulates that existing leases within four miles of an active lek will be subject to seasonal restrictions and no waivers will be granted without data verifying the sage-grouse population is healthy and strong. These two management policies are inconsistent and will lead to confusion.

Restrictions on Oil and Natural Gas Leasing and Development

The cumulative impact of the closures and designations in the DEIS will essentially preclude oil and natural gas development on hundreds of thousands of acres across northwest Colorado, crippling the development potential of the Piceance Basin, one of the major production areas in the country, including prospective production from the Niobrara and Mancos shales. Under the Federal Land and Policy Management Act (FLPMA), oil and gas development is defined as a principal or major use of the public lands. Accordingly, BLM is required to foster and develop mineral development, not stifle and prohibit such development.

- BLM proposes to close 100,200 acres in the planning area to future leasing in the preferred alternative
- BLM would designate all unleased parcels in PPH (1,347,400 acres) as No Surface Occupancy (NSO) throughout the planning area and would not grant exceptions to NSO within 0.6-miles of active leks in all designated habitat.
- Surface occupancy or disturbance would be prohibited within four miles of a lek in PPH during nesting, lekking, and early brood-rearing periods. Given the topography of the planning area, there is substantial acreage within four miles of leks that is not sage grouse habitat. This overly broad restriction will greatly limit year-round development and its associated benefits, which include reduced truck traffic, fewer emissions, and phased development.
- There are 1.29 million acres with oil and natural gas development potential in the planning area, with 73% (937,100 acres) considered "high" potential by the U.S. Geological Survey. 708,900 acres designated as PPH and PGH are considered "high potential" and are currently unleased.
- Another 930,500 acres would be designated as right-of-way (ROW) avoidance areas and another 25,600 acres would be designated as ROW exclusion areas.

Disturbance Caps

The agencies would restrict anthropogenic and total disturbance in 21 distinct management zones in northwest Colorado based on caps. The preferred alternative would place a 5% cap on anthropogenic disturbances on ecological sites that support sagebrush and limit total disturbance to 30% in each zone to account for anthropogenic disturbance plus other disturbances, including wildfire, grazing, agriculture, and vegetation treatments. New projects would generally not be approved if a disturbance cap for a particular zone has been reached.

The management zones are based on a framework developed by the Western Association of Fish and Wildlife Agencies' (WAFWA). While the management zone framework may be appropriate for broad a cumulative impacts analysis, it is not appropriate for use in site-specific planning.

The agencies have provided no scientific information that supports the disturbance cap concept in the DEIS. Without this scientific justification, the disturbance cap concept is a broad application of an experimental Wyoming-based mitigation system. The calculation methodology is fraught with challenges that will prevent consistent and clear implementation. The agencies have not adequately explained several crucial details about the application of the concept:

- What base year would be used to calculate the anthropogenic and total disturbance caps?
- Would temporary disturbances, like oil and gas well pads, be treated differently than permanent anthropogenic disturbances?
- How will the disturbance percentage reflect reclamation or habitat enhancements?
- How will the disturbance database be managed and updated?
- Will GSG population levels be monitored in each zone?
- How will surface use conflicts be resolved?

Establishing caps could result in a "permitting rush" whereby multiple companies submit projects as fast as possible in anticipation of declining cap space. Besides inequity to future projects, this could cause a serious backlog in the agencies' NEPA workload, with ancillary impacts on day-to-day activities, including permitting.

While the agencies do not have the authority to restrict development on private land, they could preclude project authorizations on public lands in order to compensate for disturbances on private land. The agencies contradict themselves by stating that they will not inventory private lands for disturbances, but will track and account for large projects on private lands and apply them against the cap. Consequently, decisions made on private lands would affect what the BLM can authorize on public lands, yet the agencies won't have accurate inventories. This type of management would disadvantage federal leaseholders with no control over developments on private lands and could force them to abandon federal leases and forego significant capital investments. As a result, millions of dollars in annual federal royalty revenue and associated socio-economic benefits to local communities would be in jeopardy.

The disturbance cap concept lacks design features to incentivize operators to minimize disturbance and functionally prevents year-round drilling in PPH and PGH areas. Year-round activities provide a number of significant benefits to the environment, including reduced duration of drilling, reduction in truck traffic, and earlier interim and full reclamation. Year-round activity also significantly reduces development timeframes, which decreases impacts to habitat from heavy vehicle traffic associated with rig moves.

Valid Existing Rights

There are currently 552,600 acres of existing federal leases in PPH and PGH areas in the planning area. While the agencies claim that the DEIS and LUP amendments will recognize valid existing rights, the management restrictions for GSG could wholly or partially deny operators their rights. For example, the disturbance cap concept proposed by BLM could result in the denial of projects simply because other disturbances have decreased available cap space, ultimately denying valid existing lease rights. According to Appendix F in the DEIS which outlines the disturbance cap methodology, "the BLM has no authority to deny valid existing rights; consequently, decisions made by entities with valid existing rights would affect what the BLM can authorize for other potential users of land it administers in the management zone." In other words, by using the cap concept, BLM may uphold the valid existing rights of one leaseholder at the expense of another. BLM cannot unilaterally modify existing oil and gas leases or deny development on a lease after it has been issued.

DNR Colorado Package and Local Plans

The State of Colorado has regulations in place to protect GSG populations and habitat. Local governments have also developed strategies to protect the species. BLM gives only passing reference to these efforts in its Preferred Alternative, rather than giving them the emphasis and deference they deserve. State and local efforts are critical to preserving GSG populations and should be given credit in the planning process.

Habitat Maps

The agencies reference the habitat maps developed by CPW, but must also recognize that these maps should not be used to impose rigid, uniform management restrictions. The agencies must provide a mechanism to ground-truth the proposed PPH, PGH, and linkage areas on a project-specific basis in order to effectively assess the potential impacts of management decisions. Without that flexibility unintended consequences will include greatly restricting future oil and gas development in areas that do not actually support GSG habitat.

The PPH, PGH and linkage connectivity maps appear to be overly coarse and may include areas without true habitat. Lower quality habitat within each designation could be regarded the same as high quality habitat. Because they may not accurately represent habitat at specific project locations, the agencies must ground-truth habitat for proposed projects instead of just applying blanket restrictions.

Reclamation

The proposed Surface Reclamation Plan creates unnecessarily prescriptive and burdensome requirements that may actually undercut the agencies' reclamation objectives. For example, the seed mix application requirements are inherently flawed because the prescribed seed mixes are not diverse enough to meet plant community requirements. The agencies would achieve reclamation goals more effectively by setting performance-based standards and enabling companies to meet them using innovative reclamation methods, rather than prescriptive, one-size-fits-all approaches.

Monitoring Framework

The agencies intend to develop a monitoring system that will rely extensively on Geographic Information Systems to track the proposed disturbance cap. However, the DEIS provides few details. Without a clear framework, the implementation of a complex monitoring system is certain to be fraught with problems. The Jonah Infill Data Management System, cited in the DEIS, has serious issues at present. Given funding constraints, it is uncertain that staff or critical technology updates will be available for a new tracking database in Colorado. Because major decisions will be based on the DEIS tracking database, it is imperative that the system work efficiently and effectively.

Project Prioritization

According to the DEIS, the agencies will consider the relative value to society in terms of employment and tax revenue versus the potential impact to GSG, and make decisions accordingly. Considering the relative value of a project versus the potential impacts on GSG is a positive step forward, but the metrics

that will be used in the evaluation have not been explained in the DEIS. Without a clear statement on methodology, the agencies will have too much discretion to approve or disapprove projects based on subjective criteria. The agencies must explain the methodology and metrics that will be used to evaluate the relative value to society versus the potential impacts on GSG.

Split Estate

On split-estate lands with federal minerals and private surface, BLM would apply disturbance caps (see above) to federal mineral leaseholders as lease terms and COAs. This proposed management action may present unworkable situations on split estate lands, potentially disrupting reasonable development projects that have already been agreed upon by private landowners, oil and gas operators, and appropriate federal agencies.

Design Features

Alternatives B and C require design features for oil and natural gas development that may not be technically feasible, economic, or appropriate. While most of these design features in the preferred alternative are "preferred" or "suggested" instead of "required," it's important that the final EIS do not *require* operators to utilize design features that are not feasible. BLM should retain a list of practical best management practices (BMP) that are effective and can be applied based on site-specific circumstances, rather than required design features that may not be universally applicable.

Sound Requirements

BLM and USFS propose a requirement to limit noise to less than 10 decibels above ambient measures (20-24 dBA) at sunrise at the perimeter of a lek during active lek season, a restriction that was pulled directly from the NTT report. This requirement is based on a questionable study, is overly restrictive, and will be difficult, if not impossible, to achieve.

Socioeconomics

BLM grossly underestimates the negative impact the restrictions and closures in the DEIS, including the disturbance cap and NSO designations, will have on future production of oil and natural gas in the planning area. Projected gas production in the preferred alternative (alternative D) is only 13% lower than the current management scenario (alternative A), and projected oil production is only 5% lower. It's hard to believe that the restrictions and closures in the preferred alternative, including the disturbance cap and NSO designations, will only decrease production by such a small amount. As a result, the BLM greatly underestimates the negative impact on the region's economy.

For More Information

For more information about the DEIS and its impact on future oil and natural gas development in the planning areas, please contact Spencer Kimball (kimballstrategiesllc@outlook.com) or Brian Meinhart (bmeinhart@westernenergyalliance.org).