



December 2, 2013

U.S. Department of Interior  
Bureau of Land Management  
Northwest Colorado District  
Attn: Erin Jones  
NWD NEPA Coordinator  
2815 H Road  
Grand Junction, CO 81506

RE: Northwest Colorado Greater Sage-Grouse Draft Resource Management Plan Amendment and Draft Environmental Impact Statement for the Northwest Colorado District

Tri-State Generation and Transmission Association, Inc. (Tri-State) appreciates the opportunity to comment on the U.S. Department of the Interior Bureau of Land Management (BLM) Draft Resource Management Plan Amendment (DRMP or DLUPA), and Draft Environmental Impact Statement (DEIS) for Northwestern Colorado Greater Sage Grouse (GrSG) published in the Federal Register on August 16, 2013. Tri-State is a wholesale electric power producer/supplier that serves 44 rural electric cooperatives and public power districts in Colorado, Nebraska, New Mexico, and Wyoming. Tri-State's member distribution systems serve more than 610,000 metered customers (translating to a population of more than 1.5 million people). Tri-State's 200,000 square-mile member service territory includes all or parts of 56 of Colorado's 64 counties; all or parts of 27 counties throughout New Mexico; all or parts of 20 counties in western Nebraska; and all or parts of 14 counties in Wyoming. Tri-State's transmission system includes approximately 5,306 miles of high-voltage transmission line and 217 substations/switching stations, and numerous telecom sites that help us control and maintain a reliable and secure interconnected electric power delivery system that is, in part, located in the Northwest Colorado District Office planning area. In the planning area, Tri-State owns, maintains, and operates several high voltage transmission lines and electrical substations (Appendix 1) that may be affected by the proposal to revise the five BLM Resource Management Plans (RMPs) and one United States Forest Service (USFS) Forest Management Plan (FMP). Tri-State, through its subsidiary organization Western Fuels Colorado, also owns and operates the Colowyo coal mine located west of Colorado State Highway 13 in Moffatt and Rio Blanco Counties. The ongoing operation of the mine may also be affected by the proposed revisions to the Little Snake RMP.



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Tri-State operates and maintains the following transmission lines within the DRMP/DLUPA; approximately 116 miles (see attached Figures):

- Meeker – Rangeley; 138kV
- Meeker – Rifle; 139kV
- Axial Basin – Hayden; 138kV
- Axial Basin – Meeker; 138kV
- Gore Pass – Windy Gap; 138kV
- Fraser – Windy Gap, 138kV
- Water Project – Windy Gap, 138kV

Additionally, we have joint ownership on the following lines; approximately 183 miles:

- Archer – Hayden, 230kV
- Ault – Craig, 345kV
- Ault – Hayden, 230kV
- Blue River – Gore Pass/Hinman, 230kV
- Craig – Hayden, 345kV
- Craig – Rifle, 345kV
- Craig – Ute Rifle, 230kV
- Gore Pass – Hinman-Hayden; 230kV
- Ute Grand Junction – Ute Rifle; 345kV

## Introduction

The GrSG and its habitat occupy a massive area in 11 states including California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. For over a decade, concerns about dwindling numbers of sage grouse and its diminished habitat have driven the development of conservation measures across the Western United States. Federal, state, and local governments, industry, landowners, community groups, and others have invested substantial resources in protecting sage grouse and sage grouse habitat through the development and implementation of mandatory and voluntary programs. The common goal of these efforts has been to preserve the species and preclude a formal listing of the bird under the Endangered Species Act (ESA), which could negate much of the existing conservations measures currently in place. Many of these efforts have resulted in stable or even increasing populations of the bird. Tri-State has been a consistent participant and supporter in efforts to develop and implement conservation measures in northwest Colorado, often working directly with BLM, United States Fish and Wildlife Service (USFWS), and Colorado Parks and Wildlife (CPW) to implement specific conservation measures for existing transmission and mining related projects. Tri-State works proactively with resource agencies during the early



planning phase of projects to incorporate sensitive species concerns into routing and siting studies.

As a result of the USFWS schedule to make a listing decision, the BLM has committed to a new approach to conserve GrSG and manage the sagebrush landscape through planning objectives primarily outlined in the National Sage-grouse Planning Strategy, and the National Technical Team Report (NTT report). BLM's conservation efforts in Colorado and across the west will have a significant impact on the management of all activities on public lands and the surrounding landscape for the foreseeable future. Tri-State supports the concept of implementing collaborative conservation efforts to avoid a formal listing of the species under the ESA in a balanced approach that recognizes BLM's multiple use mandate, as well as the substantial and widespread social and economic impacts that its decisions will have in Colorado and across the west. Tri-State requests that BLM give strong consideration to the following comments as it works to finalize the DEIS and DRMP amendments.

## Scope of Alternatives Considered

The new approach to manage GrSG and its habitat is undertaken in an effort to avoid a USFWS determination that the GrSG should be listed under the ESA as either a threatened or endangered species due to a lack of adequate regulatory mechanisms, and the fragmentation of its habitat. The Colorado BLM Northwest District office DEIS/DRMP adheres to this new paradigm, but in doing so has given little consideration to substantial efforts undertaken by Northwest Colorado organizations to develop and implement a set of conservation measures specific to the GrSG that have provided a benefit to its continued existence and proliferation. The CPW and Garfield County, acting as cooperating agencies in the development of the DEIS have submitted materials and information that should have been more fully considered in the development of the DEIS/DRMP, but were not. These conservation measures were developed in a collaborative fashion, often with BLM and USFWS input. While many of the conservation measures were developed and implemented on a voluntary basis, BLM should be capable of coordinating with local interest groups and converting these measures into requirements that could be relied upon to address the contention that there are inadequate regulatory mechanisms in place, and to avoid a USFWS action to list the species under the ESA. Tri-State has specifically agreed to implement over 50 individual conservation measures for both its transmission operations in northwest Colorado and at its Colowyo Coal mine to benefit GrSG. These conservation measures are identified in the materials submitted by the CPW in sections 3 and 13 (DEIS Appendix N). Tri-State requests that BLM further consider the locally developed conservation measures and incorporate them into the final RMP revisions to the greatest extent



possible, and identify where those measures have been relied upon. These locally developed conservation measures have considered and reflect the local conditions that exist in the areas where they have been implemented, and provide a greater ability to meet the BLM and USFS multiple-use mandates.

## **Sage Grouse Interaction with Tall Structures**

Tri-State requests that the BLM acknowledge in the final EIS/final RMP that additional research is required to better understand the impacts of overhead facilities and other aboveground structures on sage-grouse populations, encompassing the potential for increased predation from raptor perching, right-of-way avoidance, collision risk, and habitat fragmentation. There are few peer-reviewed, experimental studies designed specifically to evaluate the landscape effects of tall structures on sage-grouse, according to a review conducted by the Utah Wildlife in Need, a non-profit foundation working in cooperation with Utah Department of Natural Resources and Rocky Mountain Power (2010). The Colorado Greater Sage-Grouse Conservation Plan acknowledges that “there are few studies in peer-reviewed research that clearly address the impacts from overhead taller structures (such as raptor predation).

The NTT report failed to include more recent long-term studies conducted to assess transmission line impacts to GrSG. A 10-year study of the Falcon to Gondor Transmission Line in eastern Nevada has nine years of data showing that the impacts to sage-grouse are more attributable to natural predation, wildfire impacts-habitat impacts from cheatgrass invasion, and habitat fragmentation. These data suggest that the presence of the power line itself does not seem to be directly or indirectly increasing mortality or causing a reduction in overall breeding success. The TransWest Express transmission line, which will run through Colorado, Nevada, Utah, and Wyoming has initiated a study to survey, monitor, and inventory the presence of sage-grouse pre- and post-construction of this large transmission line. These data will be beneficial in determining the impacts of overhead power lines and tall structures and effective sage grouse conservation measures.

Despite this lack of information, the NTT report specifically identifies transmission lines as a significant threat to sage-grouse conservation. The impacts and the significance of these impacts are still unknown and management recommendations in the revised RMPs and FMP should reflect this uncertainty.

Further research is also required to determine the effective temporal and spatial buffers and setbacks that will effectively mitigate the impacts to greater sage-grouse populations. Based



on grouse science conducted in Wyoming and Colorado, an applicable buffer for sage-grouse leks may vary, based on lek size, topography, habitat, and type of tall structure. The spatial buffers used to date by a number of land management and regulatory agencies have generally been standardized, and do not reflect the best available science or the local conditions. Further research on effective setback distances would facilitate better planning while providing an appropriate level of protection to breeding and nesting GrSG.

Another issue that would benefit from additional research is the incidence of GrSG collisions with power lines. The Colorado Sage-Grouse Conservation plan indicates that sage-grouse collisions with power lines have been documented, but examples have been isolated and anecdotal. These incidences can result in the death of individual grouse, but population-level impacts have not been studied. Research has shown that fences seem to be of greater collision concern for grouse species than do overhead power lines.

Tri-State requests that the BLM's Final EIS and Final RMP consider the results of more recent studies on GrSG and power lines, and in the future utilize the principles of adaptive management that it has presented in the DEIS/DRMP to revise management direction and recommendations as additional information becomes available. The availability of the science to date does not provide sufficient information for land management agencies across the West to make educated decisions relative to sage-grouse responses to aboveground structures. This lack of data has resulted in and could continue to exacerbate agency decisions that are not only infeasible for the electric utility industry (e.g., burying power lines), but also are not structured to support grouse in the long term. Increased communication among all the stakeholders is encouraged in order to identify how this process to obtain the applicable data should move forward.

Tri-State encourages the BLM to include new research and research funding as a legitimate and approved mitigation option. Additional research is required to better understand the implications of overhead facilities and other aboveground structures on the potential for increased predation, right-of-way avoidance, collision risk, and habitat fragmentation. Mitigation in the form of funding to further research studies that could be mutually agreed upon would be beneficial to both the agencies and industry in helping to understand the issues, as well as identifying effective mitigation measures that could minimize these effects. The Colorado Greater Sage Grouse Plan (2008) cites Connelly and Braun 1997 and Connelly et al, 2000 that "the effect of predation on the fluctuations and viability of sage-grouse populations has never been investigated". Even the BLM has acknowledged in public meetings that natural predation could be a significant factor in sage-grouse mortality, yet there is still no clear understanding of



the extent of these impacts on overall sage-grouse populations. Additional research funds could be used to better understand natural mortality rates from predation, and would enable us to better understand how relative raptor predation from increased perching on power poles affects sage-grouse.

Tri-State requests that the BLM initiate a dialogue with members of industry to develop a better understanding of the construction and operational constraints relative to the recommended conservation measures. Tri-State believes that such a dialogue would positively impact the BLMs understanding of other federal and state agency requirements, as well as general operational requirements for the transmission system as they move forward to implement reasonable and feasible conservation measures.

## **Right-of-Way Avoidance and Exclusion Areas**

Alternative B and C would create vast exclusion zones that would prohibit the construction of new transmission facilities. Alternative D assigns a No Surface Occupancy (NSO) conservation measure to Preliminary Priority Habitat (PPH), but also creates an exclusion zone for almost 90,000 acres of sage brush habitat that would prohibit the construction of transmission facilities over 230kV. Tri-State is concerned about the extent of right-of-way (ROW) exclusion areas identified under Alternatives B, C, and D given the lack of data showing that power lines have a significant impact on GrSG populations. Utilities are required by other federal programs to provide service to customers in their service territories. Alternatives B and C will virtually eliminate any possibility that new transmission facilities will be constructed in Northwest Colorado, and Alternative D, the preferred alternative, will make it very difficult to construct new high voltage transmission in this area.

In addition, the BLM has incorporated existing facilities into the ROW exclusion categories for Alternatives B, C, and D. None of these existing facilities have been shown to have a significant impact on GrSG populations. The BLM should consider excluding existing ROWs from this designation and require that existing linear corridors be used whenever feasible when routing new power lines. The provision under Alternatives B and C allowing new ROWs to be collocated only if the entire footprint of the project, including construction and staging, can be completed within the existing disturbance is likely impossible.



## Habitat Restrictions

The DEIS/DRMP proposes to prohibit surface occupancy or disturbance within four miles of a lek in PPH during nesting, lekking, and early brood-rearing periods. The four-mile buffer around leks is a one-size-fits-all application and does not address the variations in habitat quality or use, and given the topography of the planning area there is substantial acreage within four miles of leks that may not actually be GrSG habitat and/or would not be impacted by activities occurring four miles away. The DEIS/DRMP presents no scientific evidence that this buffer distance will actually benefit the species and its habitat. Also, the map of “Ecological Sites Supporting Sagebrush” does not differentiate between sagebrush habitat quality or use by GrSG. As a result, the agencies may be inadvertently expanding areas subject to the management restrictions outlined in the DEIS/DRMP to areas that do not contain active leks or GrSG habitat. Historically, BLM and the USFS have assigned a wide variety of lek habitat NSO requirements, ranging from 0 to 4 miles with 0.25 – 0.60 miles being common distances in non-nesting/early brood rearing habitats (Table 2.5, page 188).

Tri-State requests that BLM provide a mechanism to consider local conditions in the habitat areas on a project-specific basis before imposing one-size-fits-all management restrictions, or provide a mechanism to monitor habitat quality or use in the future. An understanding of the local habitat conditions and the future habitat quality and use will facilitate a greater amount of multiple-use activities in areas that do not actually support GrSG habitat or active leks, promoting good economic activities and minimizing adverse impacts.

## Disturbance Caps

The NTT report approaches the management of GrSG and sagebrush habitat through the perspective of limiting surface disturbances in PPH. The use of a surface disturbance cap to limit sage brush habitat fragmentation and degradation may be a useful methodology to conserve GrSG populations but, as presented, the proposed approaches in all three action alternatives are poorly defined and lack a reasonable scientific justification.

The NTT report places a 3% limit on surface disturbances and that limit is tracked in the DEIS/DRMP Alternative B for disturbances in PPH, and in Alternative C for disturbances in all designated habitat (ADH). The preferred alternative, Alternative D, continues the use of the surface disturbance cap concept, but changes the upper limit to 5% in ecological sites that support sagebrush within PPH. In addition, appendix F at F2 states that:



*A goal associated with Alternative D is to retain in sagebrush habitat, for each management zone, a minimum of 70 percent of the ecological sites capable of supporting 12 percent canopy cover of Wyoming sagebrush or 15 percent canopy cover of mountain sagebrush. Consequently, the BLM would manage a total disturbance cap of less than 30 percent, to include all loss of sagebrush F. Disturbance Cap Management from all causes, including anthropogenic disturbance, wildfire, plowed field agriculture including upland hay, and vegetation treatments.*

BLM, and the NTT report, provide no justification for the selection of the 3% upper limit on surface disturbance used in Alternatives B and C, and similarly provide very little justification for the 5% upper limit on surface disturbance in ecological sites that support sagebrush. Limiting surface disturbances in sagebrush habitat may be a pragmatic approach to conserving sage grouse, but BLM has not provided a sufficient basis for doing so. Several questions arise in the review of this new approach that deserves consideration and response.

The goal of managing sagebrush habitat to a total surface disturbance regardless of surface ownership to 30% fails to explain how this limit is the appropriate value at which to cap surface disturbances in order to sufficiently conserve sage grouse populations. It also does not explain how BLM would manage the habitat in extreme cases of catastrophic wildfire or drought, and how these cases would consider valid existing rights. It is difficult to understand how BLM can reasonably include wildfire disturbances against the disturbance cap, while at the same time severely limiting the use of fire for habitat management and the prevention of catastrophic wildfire unless in the case of last resort (Table 2.4 p 179). BLM recognizes the issues associated with catastrophic wildfire on Page 601 where it states:

*Alternative B-Fire in PPH and PGH would be suppressed to conserve habitat. Fewer acres of sagebrush habitat would be converted to an early seral stage than under Alternative A. However, there could also be a greater potential for catastrophic fire as a result of fire suppression and exclusion. As a result of habitat restrictions, more fires would be suppressed in the surrounding vegetative communities to protect sagebrush, and less habitat would be lost to fire. However, increased fire suppression could also contribute to larger catastrophic fires due to increases in fuel loading in areas outside of PPH. Changes in soil and water properties would be more likely to occur outside of PPH under this alternative.*



BLM should be more considerate of the use of prescribed fire in ADH to manage the threat of catastrophic wildfire, and make an exception criterion for it in the calculation of disturbance cap limits. Tri-State requests that BLM provide an emergency provision to exclude new surface disturbances from the disturbance cap calculation that would be needed to conduct emergency repair to existing transmission facilities in ADH that may otherwise be limited by the surface disturbance created by wildfire.

The DRMP/DEIS states that initial disturbance calculations provided in Tables F-1 through F-4 were calculated using, “regional GAP Analysis Project data, but implementation would be based on site-specific information wherever it is useful”. However, the details of the calculation and methodology are not provided and unpublished BLM data is cited. Additionally, it is not clear how the BLM will implement the use of site-specific data, e.g. Can it be used in all cases? What type of data will be sufficient, what if there are discrepancies? Is the data collected by the BLM or the proponents?

The BLM recognizes that as disturbance cap limits are approached, there are likely to be a rush of project proposals, and the “authorized officer may consider the relative value to society in terms of employment, tax revenue, and project need versus the potential for impacts on GrSG”. Proposals may be deferred or rejected because the authorized officer determines through environmental documentation that the project is not a prudent use of cap space. Tri-State requests that BLM develop a process to identify projects that may not be approved, due to limited cap space or disproportionate adverse impacts, prior to completion of an extensive and costly environmental document.

Under the disturbance cap methodology, in all alternatives, BLM would include at least an initial accounting of surface disturbances that have occurred on private lands. BLM readily recognizes and acknowledges that it has no authority over private lands, but states in Appendix F at F3:

*The BLM would not inventory private lands, nor does the BLM intend to monitor the activities of private landowners. However, the BLM would map disturbances that are already of public record and would consider impacts on private lands when a proposed project has a federal nexus. Known disturbance on private surface would be considered using air photos as appropriate and included in disturbance cap calculations. Consequently,*



*decisions made by private landowners would affect what the BLM can authorize on land that it administers in the Colorado management zone.*

The decisions made by private land owners will have an impact on BLM's ability to provide authorization for new projects that result in surface disturbance, and for federal lease holders with valid existing rights to exercise those rights. Tri-State is concerned that if improving an existing access road or conducting other types of heavy maintenance activity within 4 miles of an active lek exceeds the 3% or 5% disturbance allowance in a management zone, access could be restricted by the BLM, which would conflict with applicable requirements for maintaining system reliability. Additional mitigation for existing access rights or prohibiting access improvements will affect our ability to safely maintain and operate existing facilities. The discussion of valid existing rights in Appendix F is minimal stating that valid existing rights would be dealt with similarly to private lands, but this explanation leaves Tri-State with more concerns about how BLM would implement valid existing rights. The amount of discretion provided to BLM to determine how to allow valid existing right to be implemented will lead to the inconsistency in implementation of the program over time in different field offices of the district. Tri-State requests that BLM provide substantially greater discussion and detailed descriptions about how it plans to implement and address the consumption of cap space on private lands and the exercise of valid existing rights. For example, will valid existing rights be required to perform mitigation if the cap is exceeded? If so, how will BLM manage this situation? What does BLM plan to do if there are valid existing rights that remain when the cap is fully consumed? How much mitigation will be enough?

Tri-State recognizes that section 2.10 states:

*If the decision on this document includes a cap on disturbance, the BLM would anticipate developing a data management system to track the disturbance caps, similar to other web-based tracking systems developed in Wyoming (e.g., the Jonah Infill data management system). The data management system would be used to inventory, prioritize, and track disturbance data within the decision area, including those projects that cross field office boundaries.*

Tri-State appreciates the commitment by BLM to develop a data management system to "inventory, prioritize, and track disturbance data", but the nature of this system also raises many concerns. Specifically what information would be collected from whom and in what timeframe, at what cost, and what else may this data be used for in the future? Also, does BLM already



have the budget and personnel for this system? The reliance on the concept of a disturbance cap is the cornerstone of the new paradigm for managing GrSG and its habitat. Without dedicated personnel and budget, the process of managing the disturbance caps in each of the management zones could be severely disrupted.

Tri-State believes that the DRMP/DEIS has over-simplified the mitigation process associated with Disturbance Cap Management; “no cap and trade provisions are included and an elaborate long-term tracking process is not included”. However, cap space may be credited and reserved by authorized officers. It is unclear how consistent and fair mitigation can be implemented without a long-term tracking process. Additionally, the provision to not include indirect mitigation, such as easements on private land, towards cap space seems to contradict the BLM’s proposal to include impacts on private land counted against cap space.

There are several critical details about the functionality and application of the disturbance cap management concept proposed in the DEIS/DRMP, and they present numerous challenges that may prevent a clear and consistent implementation of the measure. The information presented in the DEIS/DRMP does not adequately demonstrate that the disturbance caps are scientifically supported or would result in stable populations for GrSG. The functionality of this tool must be more thoroughly developed and presented to those that will be impacted by it before anyone will have a chance of understanding the impacts of its implementation.

## **Regional Mitigation Strategy Appendix I**

The regional mitigation strategy is not clearly defined or structured in the DEIS; however, it is understood that this strategy will be further defined through a Mitigation Implementation Team. Tri-State requests that the process for off-site mitigation, including mitigation ratios and associated costs be clearly delineated in the final strategy. Establishing consistent methods and processes for identifying mitigation ratios and mitigation strategies is critical to future applicants’ planning and budgeting efforts and the overall success of the strategy across various districts. Debit and credit ratios are key measures in identifying what is expected of an applicant. The Final RMP should discuss how it will prevent inconsistencies in the implementation of mitigation efforts on private lands. Specifically, Tri-State requests that the strategy clarify that public lands purchased for GrSG conservation must be purchased at fair market value.



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Tri-State encourages the BLM and USFS to engage electric utilities to better understand both construction, operation, and maintenance related impacts to ensure mitigation is commensurate with the estimated impacts on the ground.

## **Transmission Line Specific Conservation Measures**

### Burying Power Lines

In all three of the proposed action alternatives, BLM identifies the need to remove or bury power lines as a possible mitigation measure for new and existing facilities. Tri-State appreciates that the BLM acknowledges that burying transmission lines is not always a viable option and offers additional comment on the issues associated with burying power lines, and why it is not a viable option for high voltage transmission lines in most situations.

It is important to consider several factors when determining the feasibility of burying power lines, including voltage class, locations/geography, size of line, length of line, load serving characteristics, land use, economics, terrain, soils and geology of the area, density of existing buried facilities (water, gas, etc.), highway crossings, surface water crossings, floodplains, and presence of other biological and cultural resources of concern. Burying high voltage transmission lines poses a significant operational issue for utilities and significantly increases the cost of new projects, which results in a direct cost increases to rural electric cooperative customers.

Burying a high voltage transmission line, if feasible, will increase overall project cost 4 to 10 times the costs of an overhead line. Tri-State is a not-for-profit organization. Costs incurred by Tri-State and our member systems are directly passed along to the individual rate payers. Burying a transmission line in one part of our service territory could result in the inequitable sharing of costs for sage-grouse conservation for customers outside of the overall range for sage-grouse. For this reason, Tri-State has a Board Policy that states we will only consider burying transmission lines if the landowners and/or local jurisdictions agree to pay the difference in cost from overhead construction. Tri-State's Board Policy also states that we will not construct underground high voltage lines in areas that would compromise the reliability of the transmission system. Examples of these scenarios include: constructing through difficult terrain, surface water crossings, floodplains, or areas with seasonally restricted access or uncertain geological conditions.

Other factors regarding the feasibility of building an underground transmission line include longevity, maintenance and operational issues, and increased habitat fragmentation

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effects. Underground transmission lines typically have half the life expectancy of an overhead transmission line and when an outage occurs on an underground line, it takes much longer to respond because it is difficult to pinpoint and reach the source of the outage. Repairs will take longer and require additional ground disturbance, potentially increasing disturbances to sensitive habitats.

Direct impacts to sagebrush habitats increase when burying a transmission line versus building an overhead line. The ROW required to construct and operate an underground transmission line is generally wider and would result in more direct impacts to sagebrush habitats, increasing habitat fragmentation for sage-grouse. Burying transmission lines can result in greater ground disturbance and more regular maintenance in seeding and weed prevention. It is important to consider the other resources (biological and cultural) and conservation objectives associated with burying a high voltage transmission line compared to the ground disturbance for an overhead line. Restoring sagebrush habitat and weed control in a wide linear corridor is inherently more difficult. In the DEIS/DRMP BLM has identified the surface disturbance associated with undergrounding a power line as a temporary feature, however BLM has also acknowledged that sagebrush restoration can take decades to reach pre-construction results/conditions.

#### Co-Locating Transmission Lines

The DEIS/DRMP calls for co-locating power lines within existing ROWs in each of the action alternatives. For operational and safety reasons, electric utilities cannot co-locate facilities within existing ROWs. Utilities are required to maintain clearances identified in the National Electric Safety Code for the safe and reliable operation of the transmission system. The FEIS/FRMP should recognize that there are requirements, policies, and guidelines defined by the North American Electric Reliability Corporation (NERC) and the Federal Regulatory Energy Commission (FERC) for the safe and reliable operation of transmission systems. Tri-State must also comply with these requirements and must adhere to the policies and guidelines of these agencies. Tri-State requests that the FEIS/FRMP clarify that these linear facilities should parallel existing ROWs (not co-locate within) to the greatest extent feasible, in order to allow electric utilities the ability to comply with other federally mandated operation standards and directives.

These same issues apply to the suggestion to re-locate transmission lines outside of PPH. Re-locating a multi-million dollar facility is cost-prohibitive and not a viable option for Tri-State and its members in almost all situations. Transmission lines are originally routed to avoid impacts to the natural and human environment to the greatest extent feasible. Transmission



siting and routing is a complex process that must consider many different resources. Re-locating and removing existing power lines requires local, state, and federal permits; the acquisition of new easements on private lands; and complete environmental compliance under the National Environmental Policy Act, often for facilities that have been in operation for decades. Re-locating a transmission line can cost millions of dollars in permitting, engineering, and construction fees. All of these costs are passed along to the rate payers in the community. Potential line re-location also could result in cumulative impacts to greater sage-grouse from increased habitat fragmentation across the landscape for power lines that cross federal and private lands and, therefore, could not be moved entirely out of a geographic area (due to engineering constraints or established electrical paths). Given the extent of ROW exclusion areas identified for the DEIS alternatives, it is likely not feasible to re-route a power line outside of PPH or PGH.

#### Perch Discouragers

Perch discouragers were originally designed to reduce raptor electrocutions by moving birds from an unsafe (electrocution risk) perching location to a safer alternative, either on the same structure or a nearby structure on the same distribution line. Recent data has documented poor effectiveness in perch discouragers and greater effectiveness of covers for preventing electrocutions (see Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006 [APLIC 2006], pages 17-18).

Despite their declining use by electric utilities to prevent avian electrocution, perch discouragers are now being required by resource agencies to be installed in sage-grouse habitats to dissuade raptors and corvids from perching or nesting on power poles in areas with sage-grouse or other special status species. Perch discourager research has shown limited effectiveness in preventing perching. Discouragers actually increase the potential for nesting on structures because they provide a better foundation for nest material. Furthermore, use of discouragers to avoid perching on a structure may increase electrocution risk, particularly on lower voltage distribution lines by forcing raptors to perch in unsafe areas (the discourager reduces the separation required to prevent bird contact from phase to phase or phase to ground). In areas where raven predation on sage-grouse nests is a concern, perch discouragers may aid in the accumulation of nest material (APLIC 2006), and could potentially increase raven predation pressure due to nest construction on discouragers in sensitive areas. The negative impacts of perch discouragers must be weighed against the limited benefits, if any, they may provide, particularly if they are contributing to mortalities of protected birds and facilitating increases in predator nesting opportunities.



Hunting techniques and strategies of avian predators of sage-grouse should also be considered, because they differ for different prey species. For example, golden eagle diet is largely mammalian (80-90%, Kochert et al. 2002). Golden eagles prey on sage-grouse opportunistically, and typically hunt sage-grouse by stooping from a high soar (Watson 1997, Kochert et al. 2002). Consequently, power poles may not play an important role in eagle predation of sage-grouse. Golden eagles are vulnerable to electrocution mortality (APLIC 2006), and perch discouragers have been correlated with increased eagle electrocution risk (PacifiCorp, in prep.). Common ravens are known predators of sage-grouse nests, yet ravens are able to overcome perch discouragers, will perch on wires, and may experience higher nesting rates on poles with perch discouragers.

Because of these concerns, Tri-State requests that the BLM focus on other more effective alternatives to sage-grouse conservation, such as habitat conservation or enhancement efforts, which are compatible with conservation measures for other protected species (e.g., electrocution prevention measures for raptors and other migratory birds). Consideration must be given to other federally protected species and should not result in impacts to migratory birds, including eagles.

## Coal Mining Specific Conservation Measures

The conservation measures specifically identified in the DEIS/DRMP for Alternatives B and C would virtually eliminate future surface recovery of coal resources, or would place a substantial burden on those seeking to obtain a new lease to develop these resources on BLM managed lands. Alternatives B and C would find unsuitable all surface mining of coal in priority habitat and would apply the criteria set forth in 43 CFR 3461.5 to surface mining of coal resources. Specifically, Criterion 15 sets forth:

*(o) (1) Criterion Number 15. Federal lands which the surface management agency and the state jointly agree are habitat for resident species of fish, wildlife and plants of high interest to the state and which are essential for maintaining these priority wildlife and plant species shall be considered unsuitable. Examples of such lands which serve a critical function for the species involved include:*

*(i) Active dancing and strutting grounds for sage grouse, sharp-tailed grouse, and prairie chicken;*



*(ii) Winter ranges crucial for deer, antelope, and elk;*

*(iii) Migration corridor for elk; and*

*(iv) Extremes of range for plant species; and*

*A lease may be issued if, after consultation with the state, the surface management agency determines that all or certain stipulated methods of coal mining will not have a significant long-term impact on the species being protected.*

*(2) Exemptions. This criterion does not apply to lands: To which the operator made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977; or which include operations on which a permit has been issued.*

Because surface mining operations require large contiguous surface disturbances, it is infeasible to expect that a patchwork of small surface parcels would be able to be effectively mined to remove coal resources that would be of economic value.

Alternative D does provide relief from the requirements of 43 CFR 3461.5 by requiring it to "...ensure the specific Lek instance or reference is adequately addressed." when the disturbance cap limitations are not exceeded, but if exceeded, providing for the application of "...additional, effective mitigation necessary to offset the resulting loss of habitat" (Table 2.4 pg. 169). Tri-State supports the use of effective mitigation to offset adverse impact to GrSG. Alternative D provides for a pragmatic approach to recovering these resources under new leases, but the implementation of "...additional, effective mitigation necessary to offset the resulting loss of habitat." would be facilitated by additional definition of how much mitigation may be determined to be appropriate. Tri-State also appreciates the inclusion of the disturbance cap exception criteria for new leases in ADH which states:

*Where data-based documentation is available to warrant a conclusion that GRSG populations in the applicable Colorado GRSG MZ are healthy and stable at objective levels or increasing, and that the development will not adversely affect GRSG populations due to habitat loss or disruptive activities, the authorized officer may authorize disturbance in excess of the 5 percent disturbance cap without requiring additional mitigation. In many*



*cases, this exception will require project proponents to fund studies necessary to secure the “data-based documentation” requirement.*

This criterion helps to recognize that surface mining operations can proceed within GrSG habitat and not have an adverse impact on the species. While surface mining operations do generate large contiguous surface disturbances on the landscape, they are required to engage in active reclamation activities that restore the landscape to a prescribed and healthy mix of habitats that benefit a range of resources including GrSG. Typically, these restored habitats are better positioned to support species such as GrSG.

## **Travel & Transportation Management**

Tri-State is sensitive to the impacts associated with access roads to wildlife, increased spread of noxious weeds, and BLM’s concerns from a travel management perspective. Tri-State is committed to construct and maintain access roads to the minimum standard required for the safe access to our transmission lines and operation of our maintenance equipment. Tri-State has a long history of siting new roads to avoid impacts to sensitive species/resources whenever present and feasible. Also, noxious weed management is typically a condition of our permit approvals/renewals. Utilities only utilize access roads during annual inspections and when maintenance of the transmission line is required. Impacts from the use of access roads are very limited and short-term in nature.

For the past several years Tri-State has effectively worked with BLM and USFS to identify and designate access (or administrative) roads for our transmission infrastructure during the process of renewing the ROW grant permits for transmission facilities and at our coal mining operations. Tri-State has been using access roads, with BLMs concurrence, for several years and in some cases for the entire term of the permit. This collaborative process has been effective and efficient and we appreciate the ability to work with the agency on these issues; however, it would be more effective if BLM would identify in the final EIS/Final RMP, for any alternative adopted, that continued access to transmission facilities for maintenance and emergency services is required and an acceptable activity.

Table 2-4 of the DEIS/DRMP identifies several conservation measures that are in some cases common to all three action alternatives or may be limited to an individual alternative. Tri-State supports the provision common to all three action alternatives to complete travel management plans within 5 years of signing the Record of Decision (ROD), and the proposed measure in Alternative D to construct new roads to the appropriate Gold Book standard. The



ability to safely maintain, operate, and access our existing electric delivery facilities is crucial to providing a reliable source of electricity to our customers. Tri-State requests that the BLM acknowledge in the final RMP that access is a critical component to existing facility authorizations, and that the BLM would not close designated or non-designated roads that may be critical to maintaining existing electrical facilities.

Tri-State is required to comply with federal regulations and guidelines for the safe and reliable operation of our transmission facilities, and requires access to these facilities to comply. Violation of federal regulations regarding reliability for transmission lines regulated under FERC can reach up to one million dollars per day. In cases of an emergency (outage), a utility will be required to access the line and repair the damage to restore power immediately without regard for timing or access constraints. Generally, new Special Use Permits acknowledge this exception to travel management stipulations and seasonal buffers/restrictions. Tri-State believes that having a permitted functional access route will minimize overall environmental impacts by keeping maintenance crews in pre-approved designated areas and minimize unauthorized off-road travel by the public.

## **Social and Economic Impacts**

The electric power delivery system is a critical component to the infrastructure that contributes to the general public's welfare in Northwest Colorado and throughout the United States. The management restrictions proposed in the DEIS/DRMP alternatives for managing GrSG will have direct social and economic impacts to this critical infrastructure. Tri-State owns and operates the Colowyo Coal Mine and holds an interest in the operation of the Trapper Coal Mine. In addition, Tri-State and its member cooperatives own and operate several high voltage transmission system facilities, and a distribution system that impacts numerous electrical end users in Northwest Colorado. BLM recognizes the economic impacts that restrictions on the use of BLM and USFS administered lands can have in section 4.24.3 on page 905 where it states:

*Management actions that affect development of infrastructure could have important hindering effects on the growth of economic activity in the area. Limitations on new ROWs for power lines, pipelines, and access routes or restrictions to route construction and to travel on existing roads could increase the cost of new economic investments or make them no longer economically viable.*



and in section 5.4.1 on page 958 where it states:

*Restrictions on ROWs outlined in the alternatives, combined with restrictions from other management plans in the area, would have a significant cumulative effect by reducing routing options and possibly increasing project construction or implementation costs.*

The costs associated with reduced routing options and ROW restrictions would be real and would be attributable to increased project timelines, decreased construction windows, increased planning and coordination, and likely increased route lengths/material costs. Continuous, safe, reliable delivery of power to end-users is a critical function in our society and often there is no other economically feasible or reasonable alternative than to have transmission system infrastructure traversing BLM administered lands. Species conservation through its habitat management often places restrictions on significant portions of those lands. The increased costs associated with the imposed restrictions are directly passed on to our members system electrical end users.

Tri-State also appreciates that BLM recognizes that coal mining is an important social and economic factor in Northwest Colorado. In section 5.9 on page 961 BLM offers:

*Coal exploration and development would continue under all alternatives on existing leases. However, new coal leases and development would be impacted from an increase in the amount of lands allocated as unacceptable for coal leasing and development. Restrictions on new coal developments across all of the alternatives would reduce exploration opportunities.*

The proposed management restrictions and land closures in the DEIS/DRMP would undeniably have a direct adverse social and economic impact on Northwest Colorado citizens, business, industry, and government. The BLM has underestimated this adverse impact and should conduct further research into the quantification of these impacts. The socioeconomic analysis favors many of the non-market valuation methods which are not a good measure of how natural resource use on public lands contributes to the regional economic indicators, such as output/sales, labor income, and employment. The DEIS/DRMP assesses the social and economic impacts of the entire planning area, but should work to identify the effects that would result from the proposed management restrictions on specific areas, including counties.



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Tri-State's overall siting and maintenance operations for the transmission system are aligned to comply with the BLM regulations and principles of multiple use contained in the Federal Land Policy and Management Act of 1976 (FLPMA) to: (1) conserve BLM managed land values and characteristics; (2) protect human health and safety; (3) supply continuous, affordable, reliable electricity; (4) preserve wildlife habitats where necessary; (5) maintain existing facilities and access to those facilities; and (6) construct new facilities and access with a regard to BLM requirements and resource protection. The efficient and effective operation of the electric power delivery system is fundamental to Tri-State and its member systems' operations. The operation of the electric power delivery system infrastructure encompasses the maintenance of existing transmission facilities to ensure a reliable supply of electricity and the construction of new transmission facilities to support electricity demand and load growth. Tri-State currently holds numerous ROW grants from the BLM for multiple facilities located throughout its service territory, and has an interest in the specific management prescriptions that BLM is considering for management of GrSG in Northwest Colorado.

Tri-State appreciates the opportunity to comment on the proposed rules, and requests the BLM give adequate attention to these issues in preparing any final rule. Tri-State would welcome the opportunity to work with BLM on developing a process to address these issues. Tri-State is a member of the Avian Power Line Interaction Committee (APLIC) and is actively participating in the APLIC work group with USFWS and BLM to develop best management practices for sage grouse management. Tri-State supports the comments submitted by APLIC on the Colorado BLM Grand Junction District Office GrSG DEIS/DRMP. Should you have any questions about our comments or any other issue regarding this topic, please contact Doug Lempke at (303) 254-3590.

Sincerely,

Barbara A. Walz  
Senior Vice President  
Policy and Compliance  
Chief Compliance Officer

BAW:DAL:pvt

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