



Sievers, Colleen &lt;csievers@blm.gov&gt;

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**Fwd: Record of Decision Sage Grouse 2015**

1 message

CCDOWebmail, BLM\_NV &lt;blm\_nv\_ccdowebmail@blm.gov&gt;

Tue, Dec 29, 2015 at 11:02 AM

To: Colleen Sievers &lt;csievers@blm.gov&gt;, Ralph Thomas &lt;rthomas@blm.gov&gt;

FYI -

----- Forwarded message -----

From: Ira Hansen &lt;irahansen@irahansen.com&gt;

Date: Wed, Dec 23, 2015 at 12:35 PM

Subject: Record of Decision Sage Grouse 2015

To:

Please see my attached report.

Thank you,  
Ira Hansen, Assembly District 32**Assembly Letterhead BLM Record of Decision Sage Grouse Report FINAL PDF.pdf**  
228K



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# State of Nevada Assembly

November 30<sup>th</sup>, 2015

## **SAGE GROUSE AND THE BLM RECORD OF DECISION**

### **IS THE CURE WORSE THAN THE DISEASE?**

**LIKE** many Nevadans I breathed a sigh of relief when I heard the federal government was not going to place the sage grouse (SG) on the endangered species list.

Sadly, that brief sense of euphoria faded quickly. Instead of listing the SG, the Feds have created a whole new mass of draconian rules and regulations, (officially the "BLM Record of Decision and Approved Resource Management Plan Amendment", (hereafter referred to as "BLM Decree").

Through bureaucratic edict, the new BLM Decree nearly wipes away three quarters of a century of congressionally established law and precedence, going back to the Taylor Grazing Act of 1934. The various Federal laws, especially those dealing with "multiple use", are now widely open to an entirely new plethora of highly variable and dangerously arbitrary applications and interpretations, with all sorts of new regulatory "triggers" for Federal bureaucrats to pull.

And those in the crosshairs are the bread and butter industries of rural Nevada: mining, ranching, and outdoor recreation.

The irony is that if the SG had been listed, the federal government oversight would have followed already in-place laws. Bad for Nevada? Yes, very bad, but at least defined. Time will tell if the [BLM Decree] cure may prove worse than the [Endangered Species Act] disease.

Perhaps the greatest danger in the new BLM Decree is its uncertainty; how the bureaucrats will use their new arsenal of red tape and regulatory oversight understandably creates tremendous doubts and dread of the possibilities. There are few checks and balances to offset their almost unlimited reach.

But first a bit of good news: in just the last year the SG population in Nevada has seen a strong spike upward; the sportsmen and ranchers report birds out on the range in numbers last seen in the 1980s. Hopefully, this will prove to be a trend, and not a temporary fluctuation.

Long term trend is, however, down. Yet, as I have documented, historic SG numbers in Nevada, when Europeans arrived, were extremely low. (See "Historic References to Sage Grouse in Nevada" Parts I&II, 2011). Indian use of SG for food shows the same. (See "Historic Nevada Indian Diet and Sage Grouse" 2012).

SG numbers literally exploded following the introduction of livestock and agriculture (see "The Introduction of Agriculture and its Impact on Sage Grouse" 2012). Fundamental habitat requirements for SG are meadows, (see "Sage Grouse and Man-Made Meadows: Critical Habitat?" 2014), and agriculture literally added thousand of man-made and/or man enhanced meadows.

The fact is agriculture, livestock, and SG go together like bread and butter. Indeed, *removal* of livestock grazing, as many in the "save the SG" crowd demand, results in a *decline* in SG populations (see "The Sheldon: A Case Study in Grazing and Sage Grouse" 2014).

Nor are SG the only beneficiaries; as has been well documented by the Nevada Department of Wildlife (NDOW), the very best habitat for *all* wildlife in Nevada is man created meadows (see "Prime Wildlife Habitat in Nevada" 2012).

One man-caused natural phenomenon has been very harmful to SG: the population explosion of ravens. Ravens are aggressive predators of SG (see "Ravens and Sage Grouse" 2014).

Fortunately, all of the above research did not fall entirely on deaf ears. Most of the above observations were in fact incorporated into the 2014 "Nevada Sage Grouse Conservation Plan" (hereafter the "Nevada Plan"), a very thoroughly researched and vetted comprehensive program created by the Nevada Sagebrush Ecosystem Council. A well balanced committee of various stakeholders, including all of the pertinent federal agencies, the Council was created by the Governor. After extensive hearings, debates and workshops, the above mentioned Nevada Plan was adopted – with no "dissenting" opinions.

In a solid slap in the face to Nevada's efforts, the BLM Decree largely ignored the Nevada Plan.

This in turn has led to a series of lawsuits, with Nevada Attorney General Adam Paul Laxalt leading the way. The State of Nevada, the Sagebrush Ecosystem Council, all affected Nevada counties, the mining and ranching industries and others have filed formal protest letters as well as joining in various lawsuits, most of which are pending.

Now for the details: the BLM Decree is 192 pages long, and filled with new restrictions on Nevadan's use of the public domain.

Let's start with one often taken for granted – the right to travel.

**TRAVEL** – Ignoring the fact roads in Nevada fall under the jurisdiction of State and local government control, the BLM Decree calls for "Travel and transportation management" up to and including the complete closure and/or very limited use of roads and trails. For example, up to a four mile "buffer" zone of no allowable road use (thus eight miles in diameter), can be required for "leks" (SG breeding grounds). Keep in mind, there are almost 2000 identified leks across Nevada.

All travel will be regulated through "future travel management planning". There are numerous other "triggers" for road and travel restrictions/closures. Considering we are talking about all access to more than 40 million acres, giving a handful of bureaucrats such King-like authority is truly disconcerting. Like the "bull trout", once used in Jarbidge by then Forest Service de-facto dictator Gloria Flora to shut down public access, the SG will give similar power-mongers the "right" to shut Nevadans out of their own back yards.

Some sportsmen groups, worried about access, have been active in trying to keep federal, rather than state, control of the public domain, under the grossly mistaken assumption of the feds keeping things open. In reality, the federal government has been slowly but very consistently excluding enormous blocks of the public domain from public access. The BLM Decree will in practice greatly accelerate and facilitate even more closures.

**FIRES** The biggest threat to SG listed in the BLM Decree is rangeland fires. It has been BLM policy, paradoxically, that has been the catalyst for these fires. Since the 1970s, the BLM has consistently cut back on livestock grazing in Nevada. Numerous range scientists with Ph.ds sounded the alarm about expanding fuel loads, (see "Livestock Grazing and Wildfire", 2012), and were ignored by the BLM. Starting in 1999, million acre fires swept Nevada, and huge swaths of sagebrush dominated landscapes (and SG habitat) literally went up in smoke.

Some of the higher elevation ranges are coming back fairly well but lower elevation areas, now dominated by cheat grass infestation, remain in very poor condition. And, while theories abound, the only proven tool to reduce fuel loads is livestock grazing.

Yet, the BLM Decree calls for creating "stubble height" triggers for removing livestock; totally unrealistic and surprisingly inflexible "utilization standards"; and other "tools" which all but guarantee further reduction in the one "tool" that can actually reduce and thin cheat grass – livestock grazing. In effect the BLM Decree exacerbates rather than minimizes the likelihood of expanded range fires.

**WILD HORSE AND BURROS** Yet another case of total BLM and federal ineptitude, Nevada's feral horse and burro populations, mandated by federal law to remain below roughly 10,000 animals, is at least three times higher.

The BLM claims a lack of financial resources is the problem, yet, in 2014, they spent less than 2% of their wild horse and burro appropriation on actual gathers. The BLM Decree calls for "prioritizing" gathers in key SG habitat areas. Safe bet: judging from their track record, horse numbers will remain in habitat-damaging excess for the foreseeable future, Decree or no decree.

**MINING & EXPLORATION** Despite requirements in federal law for the public domain to be under "multiple use" regulation, the BLM Decree actually calls for full withdrawal of large sections of Nevada, over nine million acres, from mining exploration and development. It also "may" allow expansion of existing operations; "may" allow geothermal "if certain criteria are met"; creates a 3% "disturbance cap"; "may...consider the potential for the development of valid existing rights" for possible new projects, and is filled with similar vague and entirely subjective probabilities for saying NO to everything.

Yet the BLM Decree openly acknowledges that mining has had almost no impact on SG habitat. Indeed, mining covers less than 1% of the total land mass under consideration.

Boiling it down, the BLM Decree creates little but uncertainty in energy and mineral exploration and development, as well as allowing micro-management by multi-layered federal bureaucrats, all of which will hamper and shrink Nevada's mining and energy sectors.

**PREDATOR CONTROL** Despite scientific, peer reviewed studies (done in Nevada) demonstrating how raven predation strongly impacts SG populations, BLM Decree does not even mention raven or other types of predation as a factor.

Despite this incredible omission, BLM Decree does severely restrict power lines, claiming power poles act as "perch" stations. Perch stations for what? BLM Decree never defines what will be perching there, nor mentions why that matters. After all, if predators are not even listed as a potential threat, what difference does it make where they sit? Either predators are a threat or they are not. If not, as the BLM Decree by omission implies, why are power lines mentioned at all?

**LOCAL/STATE/FEDERAL COOPERATION** While several federal laws require the BLM to work in tandem with State and local governments "as much as possible", the BLM Decree, while giving lip service to those requirements, almost totally ignores various official State and County working group's research and recommendations. In fact, the official Nevada Plan was, during its development, done with a careful and deliberate inclusion of local, State and, most importantly, full federal agency integration.

Yet, the Nevada Plan's actual implementation guidelines were almost totally ignored by these same federal agencies in the BLM Decree. The BLM Decree and their responses to protest letters are riddled with "BLM respectfully declines to adopt... [Local and State] recommendations..." – including "recommendations" already agreed to by the participating federal agencies.

**ARBITRATION** Equally of interest is who calls the shots when conflicts arise. "Exceptions" in many cases will be granted only with "concurrence from the BLM, the State of Nevada and the U.S. Fish and Wildlife Service (FWS)". Since FWS have absolutely no jurisdiction over any non-migratory species not on the endangered list – like SG – why they in effect have a veto power in these processes is an unexplained anomaly, which places the State of Nevada at the mercy of two federal agencies.

And who gets to represent the State of Nevada? "NDOW".

This is a huge problem; The Nevada Plan was, by the Governor's instruction, to be a single document fully representing ALL State government and created by consensus. NDOW was the only State agency which deliberately attempted to destroy that consensus.

In an effort to undermine the Nevada Plan and just days before it was to be made public, NDOW released, in a preemptive strike, a public letter which, in a nut shell, unlike the Nevada Plan, blamed most SG problems on livestock grazing. After public outrage, the Governor demanded retraction and NDOW pretended the letter release was a mere misunderstanding.

Exactly why the BLM Decree makes the determination in advance for Nevada, of whom we can select to represent our interests, is equivalent to a prosecutor determining which lawyer a defendant can hire. Like so much of the BLM Decree, this reeks with contempt for Nevadans and our intelligence.

If NDOW is to remain the "chosen one" to represent Nevada, NDOW will need to be subordinated to Division status and placed in the Nevada Department of Conservation and Natural Resources to insure a balanced, integrated presentation, representing all Nevadans, occurs.

**RECOVERY** Conspicuously absent from the BLM Decree is any plan for recovery. It's all doom and gloom, strongly tilted towards "saving" everything. Yet SG are a resilient species and as the current increase shows, fully capable of rapid expansion. Certain conditions – meadows properly grazed with resultant increase in select forbs, low raven populations, alfalfa plantings, and of course sage brush, create a near pristine climate for, as Nevada history strongly demonstrates, huge numbers of birds.

This is not mere theory. In fact these conditions in Central Nevada did align, in the 21st century no less, and the birds rapidly expanded in numbers.

Truth is, despite all the claims, SG were not in any danger of "extinction". Nor is sagebrush; we have around 40 million acres of it in Nevada alone.

So, why all the hoopla? Why this endless expansion of government regulation? Why this Federal usurpation of State responsibilities?

**SUCCESS?** One final thought: do results ever matter to the Federal government? Think about it; how successful has the BLM been with the wild horse problem? How about the rangeland fire problem? How about the cheat grass infestation problem? Their track record is embarrassing. I almost feel sorry for them, but they have damaged our state in so many ways by what in hindsight appears to be classic top-down management ineptitude that my pity quickly turns to disgust. Yet the government answer is a broken record: *more money, more rules, and more government agents telling us what to do.*

Equally of interest is how bureaus budget; if a problem is reduced or solved their budget would consequently shrink as would the agency. Hence *government bureaus have a perverse financial incentive to endlessly perpetuate - and even expand- the problems!* Think about it; the BLM budget for fires, once minimal, is now in multi-millions and climbing. What would happen if livestock grazing reduced the fuel load and range fires declined? *The budget and Agency would, or at least should, shrink!*

With all the new laws and rules and regulations, should we all breathe a sigh of relief? The "lack of regulatory mechanisms" the FWS said was their reason for starting this whole charade now have apparently met their threshold.

And Nevadans will be forced to live under this entangling web for the indefinite future.

So, say a prayer for the efforts of Adam Laxalt & Co. At the moment, it seems little short of divine intervention, a major change in the Presidency, or some sensible Federal judges stand between we once free people and a life of perpetual bureaucratic dictatorship.

Ira Hansen  
Assemblyman, District 32