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Mining Association

January 28, 2016

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Colleen Sievers, Project Manager
BLM Carson City District
5665 Morgan Mill Rd.
Carson City, Nv 89701

Also sent via email to: blm_nv_ccdowebmail@blm.gov

Subject: Comments Concerning the Nevada and California Greater Sage Grouse Bi-State Distinct Population Segment Land Use Plan Amendment

Dear Ms. Sievers:

The Nevada Mining Association (NvMA) respectfully submits the following comments regarding the Land Use Plan Amendment for the Nevada and California Greater Sage Grouse Bi-State Distinct Population (Bi-State LUPA). Please note the Association previously commented on the Bi-State LUPA/EIS on January 16, 2014 (attached) and hereby incorporates those comments by reference. Also attached and incorporated by reference is a letter dated February 4, 2014 to the U.S. Fish and Wildlife Service (USFWS) concerning the previous listing decision.

For background, the NvMA has been in existence for more than 100 years and represents its members in federal, state, and local policy matters, public relations, and workforce and community support. NvMA has a diverse membership of more than 420 individuals and companies, which include mine operators, explorers, and vendors who serve the industry.

Mining in Nevada and in the U.S. is in global competition. Access to mineral resources and the costs of doing business weigh heavily on a decision to mine in the U.S. verses South America, Africa, or other mineralized areas of the world. Furthermore, the products mined in Nevada have significant strategic importance to the U.S. in terms of economic stability and national interest. Currently, Nevada generates approximately 14% of domestically produced minerals. In the absence of domestic metallic and industrial mineral mining, the U.S. must import from foreign sources, making Nevada mining of real interest to national security.

The Nevada mining industry is spread out over one of the largest, most sparsely populated states in the country. NvMA members strive to be good stewards of the environment. Part of this commitment is ensuring federal and state regulations are grounded in sound science and policy. The unique convergence of Nevada's geographical, geological, vegetative, and biotic qualities must be taken into consideration when developing land use management strategies.

Finally, 86% of the landmass of Nevada is managed by federal entities. As a result, our state, more than any other, feels the impacts of overly restrictive or ineffective land use policies. For all of these reasons, the NvMA and its members have significant interest in the proposed restrictions on lands that contain or may contain significant mineral potential.

1. Disturbance caps, ACECs and other land use restrictions have the potential to negatively impact the economy of the State of Nevada

The total gross domestic product of the State of Nevada is approximately \$132 billion. Of this, mining's economic output is \$8.8 billion, or about 6% of Nevada's economy. The majority of this economic output occurs in rural Nevada, contributing to the economic and social vitality of the state's rural communities. Mining directly employs 11,100 Nevadans in high paying, skilled positions. In 2014, \$1.25 billion was paid to workers in direct wages. It is estimated that for each mining job, four indirect positions are created. The industry also generates significant tax dollars that support schools, road construction, and other state and local functions.

Mining in Nevada has been ongoing since well before statehood, but mining is not the same industry it was in the 1860s. In 2016, technical innovation, corporate responsibility mandates, land reclamation, sensitive species considerations, and environmental protection are engrained in the modern mining business model. Without a doubt, species protection for the bi-state population can successfully and peacefully coexist with mineral exploration and mining without the implementation of draconian measures such as disturbance caps, and other land use restrictions.

2. Mining is not a significant threat to the bi-state sage grouse

In determining the need for the protection of the bi-state species of sage grouse, the U.S. Fish and Wildlife Service developed a listing of threats to the species. Mining and mineral development were low on the list.

Despite the low documented actual and potential impacts to the bi-state sage grouse population from mining, the federal land management agencies are proceeding with land use restrictions (i.e. disturbance caps, and connectivity requirements) that will have a negative impact on the industry with limited benefit to the species and its habitat.

3. Land use restrictions fails to recognize existing conservation plans

The NvMA and its members believe the best way to provide protection for the bi-state sage grouse while simultaneously allowing continued economic development is for the federal land management agencies to recognize and follow conservation measures that have been developed in cooperation with the regulated community. The 2012 Bi-State Action Plan is a model for species conservation. The proposed changes and clarifications as outlined in the Bi-State LUPA provide little or no added value for species protection, yet result in potentially significant economic impacts, especially to mineral exploration and mining.

4. Mineral development is a legitimate use of public lands

Nevada is perhaps the most mineral rich state in the U.S. and much of its potential is unknown and unrealized. Currently, 86% of the state is under the management of the federal government. The policies and actions of the federal land managers have an immediate and direct impact on the discovery and beneficiation of precious, strategic and industrial minerals in the state. Four decades ago Congress recognized the vast array of uses of public land (including mineral exploration and mining) and decreed that those lands be managed for the benefit of the public. FLPMA was enacted to ensure the BLM manages the public lands on the basis of multiple use and sustained yield. *“Multiple use management is a concept that describes the complicated task of achieving a balance among the many competing uses on public lands, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and [uses serving] natural scenic, scientific and historical values.”*

NvMA recognizes the difficult task the BLM and US Forest Service face in managing public lands for multiple uses and conserving the environment. Yet mineral exploration and development are a crucial part of the BLM’s multiple use mandate, and the agency must ensure that they are not unreasonably limited. To that end, FLPMA requires the BLM to foster and develop mineral activities and not stifle or prohibit such development. Public lands are to be managed to recognize the nation’s need for domestic sources of minerals. The proposed land use restrictions within the bi-state sage grouse planning area are inconsistent with this mandate.

5. Nevada mineral potential is unrealized

In providing a rationale for the land use restrictions including the disturbance cap, the federal agencies have implied mineral potential within the plan area is well known and documented. Nothing could be further from the truth. Mining exploration, mineral discovery, and mine operation are ever-evolving processes that are dependent on many variables including knowledge of the geological formations, exploration and beneficiation technologies, and commodity values. An illustrative example is the Carlin Trend. For a century, it was known that the area possessed low concentrations of gold. It was not until the 1960s however, with the convergence of leach technology, the ability to move large quantities of earth, and suitable commodity prices that the Trend became viable for large-scale mining. It is now one of the premier gold producing regions in the world.

Another example concerns lithium. Just a few years ago, lithium was utilized primarily for medical purposes. It is now a vital element utilized in energy storage and has been designated a critical mineral by the National Academy of Sciences and USGS. A mineral can be regarded as critical only if it performs an essential function for which no satisfactory substitute exists. Nevada is one of the very few places in the U.S. where lithium is known to exist. The plan area might very well contain elements newly recognized as vital for resolving other national problems, such as energy production and storage. The nation's future is short-changed when natural resources are arbitrarily removed from consideration.

As a prerequisite to land use restrictions and prohibitions of mineral derived land uses, FLPMA section 204 requires the BLM submit to Congress a report containing information on the "...general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential, present and potential market demands".

The federal agencies must make an informed, objective, and honest evaluation of the mineral potential within the plan area that does not unduly restrict exploration and mining activities in mineral rich areas that will provide economic value and meet market demand.

6. Disturbance caps

The Bi-State LUPA includes a land use limitation including discrete anthropogenic disturbances totaling less than 3% of sage-grouse habitat. This restriction is in place regardless of ownership. An anthropogenic disturbance cap suffers from a number of flaws.

First, it is an arbitrary percentage that lacks both scientific justification and the requisite flexibility for responsible land management. By adopting a blanket percentage that applies throughout a planning area, the agencies fail to recognize differing local conditions and habitat quality. The loss of 10 acres of high-quality habitat may be of greater concern than the loss of 100 acres of marginal habitat. The disturbance cap ignores these value-based considerations.

Second, it is unclear how the 3% cap would be applied. Application in differing habitat types could have significant impacts on whether and how a proposed action may be implemented. The imposition of a disturbance cap in planning areas that vary in size can have the potential for inequitable results (e.g., a small disturbance in a small planning area could exceed the cap, but a large disturbance in a large PPMA might not). This lack of clarity and potential for inequity causes great concern with regard to the imposition of a disturbance cap.

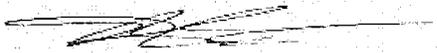
Third, a 3% disturbance cap is inconsistent with FLPMA's and NFMA's multiple-use mandates (see Section 103(c) (43 USC 1702)) and its conflict resolution provisions. A cap could effectively prohibit new uses of public lands for decades based on the slow restoration cycle of sagebrush habitats and how "disturbance" is defined. This prohibition on land uses for the sake of the singular purpose of sage-grouse conservation does not strike the proper balance of land uses.

Fourth, cap calculations include disturbances on private lands. This is an overreach by the federal land managers into private property rights and is outside of their jurisdiction.

Lastly, the disturbance cap improperly focuses solely on anthropogenic disturbance without recognizing other threats to the bi-state sage grouse (especially fire and invasive species). Placing the significant burden of a disturbance cap on public-land users is inappropriate when anthropogenic disturbances are greatly overshadowed by natural threats.

In conclusion, the Nevada Mining Association believes the comments outlined above are substantive and critical to the continued economic viability of the mining industry in the state and the protection of bi-state sage grouse habitat. Unduly restricting the use of the lands from exploration and mining will harm Nevada's economy and will not directly improve the habitat or the species. We appreciate your careful consideration of these comments.

Sincerely,



Dana R. Bennett, Ph.D
President
Nevada Mining Association

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Mining Association

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January 16, 2014

Humboldt-Toiyabe National Forest
Bi-State DEIS
1200 Franklin Way
Sparks, Nevada 89431

Re: Bi-State Sage Grouse DEIS

To Whom It May Concern:

On behalf of the Nevada Mining Association, the following comments are hereby submitted on the Bi-State population of the Greater Sage Grouse Draft Environmental Impact Statement (DEIS). For background, the Nevada Mining Association is a statewide organization formed over 100 years ago to address issues facing the mining industry in Nevada. The Association has hundreds of members representing mine operators, the exploration community and vendors.

General Comments:

It should be noted that mining, geothermal development and minerals exploration are not considered major threats to the Bi-State population of sage grouse or its habitat.

On Page 6, it should be noted that the no action and preferred alternatives both include and require permits or other regulatory controls for mineral exploration and development to reduce impacts to sage grouse.

The Association is pleased to note that the preferred alternative does not include exclusion zones or withdrawal of land for mineral exploration or development.

Since the drafting of the DEIS, significant wildfires have occurred within habitat and potential habitat areas that have dramatically modified existing conditions. How will these events be addressed in the final EIS and the determination of a final preferred alternative?

The USFS and BLM are required to manage public lands for multiple use and sustainable yield. The difficulties for the federal land agencies to fulfill this obligation is appreciated and understood. With that said, certain rights for mineral exploration and development are embodied in various federal statutes, laws and Executive requirements and the agencies must ensure that mineral exploration and development are not unreasonably limited.

Specific Comments:

Page 2 – Footnote, Reference 1 – It should be noted that for mineral exploration, development and production current practices include minimization, avoidance and mitigation measure for the protection of a variety of species including sage grouse.

Page 14, Standard 2a – The standard should reference the use of sound scientific principals when establishing mitigation requirements.

Page 14, Standard 2b - The standard should reference the use of sound scientific principals when establishing buffers, timing limitations and mitigation requirements.

Page 14, Standard 2c - The standard should reference the use of sound scientific principals when establishing mitigation requirements to ensure no net loss of habitat.

Page 18, Table 5, Minerals – Be advised the current condition in the no action alternative includes permitted and non-permitted protections of sage grouse and habitat.

Page 18, Table 5, Minerals – Economic impacts to mineral related activities will indeed occur and the table should also reference mitigation requirements.

Page 21, Discretionary Saleable Minerals – In the proposed action how will permits be “discouraged”? This concept/requirement is not defined elsewhere in the document or in the preferred alternative.

Page 22, Discretionary Leasable Minerals – In the proposed action how will permits be “discouraged”? This concept/requirement is not defined elsewhere in the document or in the preferred alternative.

Page 32, Table 9 – We disagree with the analysis that changes will be minor with regard to access impacts related to permitted activities.

Page 32, Table 9 – We disagree with the analysis that changes will be minor related to opportunities for the development of geothermal/alternative energy.

Page 33, paragraph 1 – For minerals exploration and development, the option of movement to other lands cannot occur. Development happens in conjunction with the location of the resource.

Pages 34 through 41 – The section implies that all mineral resources within the study area are known and have been identified. In fact, only a small portion of the mineral potential has been evaluated and future technical developments and economic conditions could dramatically change the outlook for mineral and energy related activities.

Page 50, Table 13 - It is noted that minerals exploration and geothermal development are not significant risks to sage grouse habitat.

Page 55, paragraph 1 – Reference is made to “habitat would be closed to non-energy leasable mineral leasing”. This is inconsistent to the actual alternative and with statements made elsewhere within the document that no lands would be considered exclusion zones.

Page 55, paragraph 1 – This section should reference ongoing Alternative 1 (No Action) activities were permits and other management actions avoid, reduce and mitigate impacts to sage grouse habitat.

Page 57 – Alternative 2 will have an impact to mineral exploration and development by imposing restrictions and associated costs on infrastructure development.

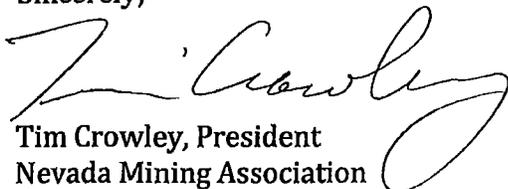
Page 58 – Feral horses have a significant impact on sage grouse habitat. The preferred alternative should be revised to more thoroughly address this significant threat.

Pages 75 and 76 – The section fails to note that the finding of saleable, leaseable and fluid leasable resources is ongoing. Discoveries in the future may change the complexion of these discretionary actions.

Page 78 (incomplete information) - This section fails to note that the finding of mineral and non-mineral resources is ongoing and that information about the resource is not complete. Exploration is ongoing and discoveries in the future may change the complexion of these non-discretionary actions.

Thank you for your consideration of these comments.

Sincerely,



Tim Crowley, President
Nevada Mining Association

NEVADA

Mining Association

February 4, 2014

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U.S. Fish and Wildlife Service
4401 North Fairfax Drive
MS 2042-PDM
Arlington, Virginia 22203

RE: Bi-State Greater Sage Grouse Listing Decision

To Whom It May Concern:

The Nevada Mining Association (NvMA) is a statewide organization formed over 100 years ago to address issues facing the mining industry in Nevada. The Association has hundreds of members representing mine operators, the exploration community and vendors. We appreciate the opportunity to comment on the proposed decision to list the Bi-State Distinct Population Segment of the greater sage grouse (Bi-State) as threatened under the Endangered Species Act and encourage the U. S. Fish and Wildlife Service (Service) to reconsider this decision.

The area identified as habitat for the Bi-State has been subject of exploration and mineral beneficiation activities for more than 150 years. With that said, mining and mineral exploration are not considered major threats to the species or its habitat. None the less, the proposed listing decision will have significant negative implications to ongoing and future mineral exploration and mining in the area. Consequently, the Association and its members are very dismayed with the listing decision. We believe that under Service oversight, mining activities will be severely restricted and/or curtailed in a manner that is not proportional to the threat nor in keeping with federal land use policies, federal mining law and the recognition of valid existing rights.

We believe that the Service improperly evaluated and undervalued the efforts of local area working groups who have spent more than 12 years in developing conservation plans to preserve and protect the species and its habitat. The 2012 Bi-State Action Plan is a model for species conservation and has been endorsed by local, state and federal agencies as the best hope in ensuring the population of the Bi-State remain viable.

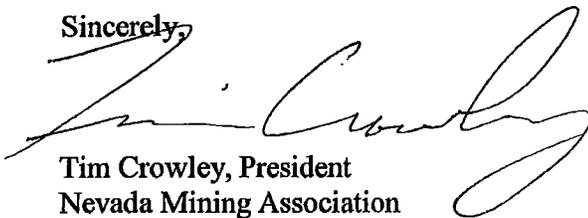
The efforts to date have been significant. Livestock grazing practices have been improved, tens of thousands of acres habitat and potential habitat have been placed under conservation easements and tens of thousands more acres have been treated for pinyon and juniper encroachment. The Conservation and Natural Resource Service (NRCS), a sister federal agency of the Service within the Department of Agriculture, has been actively engaged in the area securing additional lands for protection while working with farmers and ranchers in implementing practices that benefit both agriculture and the species. In fact, just last month it was announced that 3,800 acres of the Fairfield Ranch along the Walker River in Nevada were being placed into conservation easement specifically for sage grouse habitat. Unbiased measurements demonstrate these efforts are paying off. Bi-State populations have stabilized and monitored leks are showing high numbers.

Ironically, at the January 8, 2014 meeting of the Nevada Sagebrush Ecosystem Council, the NRCS reported the proposed listing decision has had a chilling effect on private efforts to protect habitat. Due to the uncertainties the decision has on private and federal lands, many landowners and agricultural producers are backing away from cooperative efforts with the NRCS and others on habitat protection. It is dismaying that the Fairfield property may be one of the last cooperative efforts in the Bi-State. To be clear, the preliminary listing decision is counterproductive to species protection.

In summary, the Nevada Mining Association requests the U.S. Fish and Wildlife Service revisit its listing decision on the Bi-State Distinct Population Segment of the greater sage grouse and recognize the successes of more than a dozen years of cooperative planning and habitat improvement, closely evaluate the unintended consequences of the listing decision and take a hard look at the ability of the Service to improve upon the private, local state and federal protection efforts.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Crowley", written over a horizontal line.

Tim Crowley, President
Nevada Mining Association