



Record of Decision for the Greater Sage-Grouse Supplemental Environmental Impact Statement

January 2021



Wyoming

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Record of Decision

INTRODUCTION

Greater Sage-Grouse is a state-managed species that depends on sagebrush steppe ecosystems. These ecosystems are managed in partnership across its range by federal, tribal, state, and local authorities. State agencies responsible for fish and wildlife management possess broad responsibility for protecting and managing fish, wildlife, and plants within their borders, except where preempted by federal law. Similarly, the Bureau of Land Management (BLM) has broad responsibilities to manage public lands and resources for the public's benefit. Approximately half of Greater Sage-Grouse habitat is managed by the BLM and Forest Service.

State agencies are at the forefront of efforts to maintain healthy fish and wildlife populations and to conserve at-risk species. State-led efforts to conserve the species and its habitat date back to the 1950s. For the past two decades, state wildlife agencies, federal agencies, and many others in the range of the species have been collaborating to conserve Greater Sage-Grouse and its habitats.

In 2010, the US Fish and Wildlife Service (USFWS) determined that listing the Greater Sage-Grouse under the Endangered Species Act of 1973 was “warranted, but precluded” by other priorities. In its determination, the USFWS found there to be inadequate regulatory mechanisms to protect Greater Sage-Grouse and conserve its habitat. In response, the BLM, in coordination with the Forest Service, USFWS, and state agencies, developed a management strategy that included targeted Greater Sage-Grouse management actions.

The BLM, the USFWS, states and other federal agency partners prepared *A Report on National Greater Sage-Grouse Conservation Measures* (NTT Report; 2011) and the *Greater Sage-Grouse Conservation Objectives: Final Report* (COT Report; 2013) reports to identify rangewide Greater Sage-Grouse conservation objectives and conservation measures that would: inform the USFWS 2015 decision under the Endangered Species Act and inform partners; and provide guidance for the BLM to consider through land use planning, which the BLM did in the 2015 and 2019 planning processes, and again in the 2020 supplemental environmental impact statement (SEIS) process. The NTT and COT reports constituted starting points to develop management actions that the BLM could consider in at least one alternative in the National Environmental Policy Act (NEPA) and land use planning process. They are not compendiums that, standing alone, represent best available science. The NTT and COT reports do not address, or even attempt to address, how the implementation of their Greater Sage-Grouse conservation measures would affect other uses of the public lands—such as recreation, fluid mineral development, mining, and livestock grazing. Moreover, the NTT and COT reports do not quantify, or even attempt to quantify, the Greater Sage-Grouse conservation benefits of each respective conservation measure. Furthermore, while the reports drew upon best available information at the time, they themselves were not peer-reviewed reports. At the time that the NTT and COT reports were being developed, the BLM, USFWS, and state agencies had not completely developed or established the robust programs to conserve Greater Sage-Grouse that exist today.

In 2015, the BLM and Forest Service adopted land use plan amendments and revisions to 98 BLM and Forest Service land use plans across ten western states (for simplicity, these amendments/revisions are

referred to as the 2015 Approved Resource Management Plan Amendments or the 2015 ARMPAs, even though some were plan revisions rather than plan amendments). These planning decisions addressed, in part, threats to the Greater Sage-Grouse and its habitat. The amended land use plans governed the management of 67 million acres of Greater Sage-Grouse habitat on federal lands. In Wyoming, six resource management plans (RMPs) covering BLM-managed public lands in the state were amended to reach this objective; an additional four RMPs incorporated Greater Sage-Grouse conservation objectives into RMP revisions. The BLM used these initial ARMPAs as a platform for its ongoing commitment to on-the-ground activities that promote conservation through close coordination with state, local, and private partners.

On October 11, 2017, following direction in Secretary's Order 3353 to enhance cooperation among western states and the BLM in managing and conserving Greater Sage-Grouse, the BLM issued a notice of intent to amend the 2015 ARMPAs guiding Greater Sage-Grouse habitat management, focused on bringing the plans into closer alignment with the individual states' species management plans and conservation strategies. Reflecting the commitment by the Department of the Interior, the notice of intent indicated that states would play a central role in the planning process, and all partners have declared their desire to avoid the need to list Greater Sage-Grouse under the Endangered Species Act. This effort culminated on March 14, 2019, with the issuance of Records of Decisions and Approved RMP Amendments to RMPs in seven states (these amendments are referred to as the 2019 Approved Resource Management Plan Amendments or 2019 ARMPAs).

In the 2019 ARMPA for Wyoming, the BLM modified its approach to managing Greater Sage-Grouse habitat in land use plans by (1) enhancing cooperation and coordination with the State of Wyoming; (2) aligning with Department of the Interior and BLM policies; and (3) incorporating appropriate management flexibility and adaptation to better align with Wyoming's conservation plan. The BLM achieved these goals while maintaining the vast majority of Greater Sage-Grouse protections it incorporated into its land use plans in 2015. By implementing these land use plan conservation measures and continuing to exercise its discretion to approve future project proposals under appropriate terms and conditions or deny them where appropriate, the BLM can adequately protect Greater Sage-Grouse and its habitat while meeting its general obligation under the Federal Land Policy and Management Act (FLPMA) to manage public lands under principles of multiple use and sustained yield.

The BLM is committed to implementing beneficial habitat management actions to reduce the threats of fire and invasive species to Greater Sage-Grouse. The BLM has treated an increased number of acres of sagebrush habitat in every fiscal year since 2015 in coordination with the contributions of partners, accomplishing important goals for Greater Sage-Grouse conservation and other programs and activities, including fuels, riparian, and range management. The BLM has treated over 2.6 million acres of Greater Sage-Grouse habitat rangewide over the past 5 years. In fiscal year 2019, the BLM funded approximately \$38 million in Greater Sage-Grouse management actions resulting in approximately 632,000 acres of treated habitat. In Fiscal Year 2020, the BLM invested approximately \$37 million in the implementation of habitat management projects resulting in approximately 584,000 acres of treated habitat. These habitat projects show that successful conservation of Greater Sage-Grouse requires a shared stewardship vision among states, private citizens, landowners and federal land management agencies.

On October 16, 2019, the US District Court for the District of Idaho issued an order granting a motion for a preliminary injunction filed by Plaintiffs Western Watersheds Project, WildEarth Guardians, Center

for Biological Diversity, and Prairie Hills Audubon Society. The court found that the Plaintiffs were likely to succeed on the merits of their claims that the BLM violated NEPA when adopting the 2019 ARMPAs.

The BLM prepared a draft SEIS (DSEIS) and final SEIS (FSEIS) to review its previous NEPA analyses (e.g., the analyses that supported the 2015 and 2019 ARMPA), clarify and augment it where necessary, and provide the public with additional opportunities to review and comment. It also helped the BLM determine whether its 2015 and 2019 land use planning and NEPA processes sufficiently addressed Greater Sage-Grouse habitat conservation or whether the BLM should initiate a new land use planning process to consider additional alternatives or new information. To inform this decision, the BLM prepared the SEIS to address four specific issues: the range of alternatives, need to take a hard look at environmental impacts, cumulative effects analysis, and the BLM's approach to compensatory mitigation.

DECISION/DETERMINATION

Based on the FSEIS, the BLM has determined that its decade-long planning and NEPA processes have sufficiently addressed Greater Sage-Grouse habitat conservation and no new land use planning process to consider additional alternatives or new information is warranted. This determination is not a new planning decision. Instead, it is a determination *not* to amend the applicable land use plans. Thus, it is not subject to appeal or protest. The BLM's decision remains as identified in the 2019 ARMPA. The FSEIS focused on four primary topical areas (range of reasonable alternatives, hard look at environmental impacts, cumulative effects analysis, and the approach to compensatory mitigation). Rationale to support the BLM's determination, with respect to each of these topical areas, is provided in the *Management Considerations* section below.

ALTERNATIVES

Throughout the decade-long planning and NEPA processes, the BLM has analyzed in detail 143 alternatives across the range of Greater Sage-Grouse. The range encompasses conservation measures put forth in the NTT and COT reports within the BLM's authority; conservation measures suggested by stakeholder groups; State Greater Sage-Grouse management plans; and variations in-between.

Specific to Wyoming, the 2018 FEIS analyzed in detail a No-Action Alternative, the Management Alignment Alternative, and the Proposed Plan Amendment, while incorporating by reference the full range of five alternatives considered in detail by the BLM in its 2015 FEIS plus three other alternatives considered in various RMP revisions that had differing management approaches for Greater Sage-Grouse. The SEIS likewise considered this full range of reasonable alternatives, while adding a greater level of detail about each alternative and giving the public an additional opportunity to review and comment on these 10 alternatives. The CEQ regulations provide for incorporation by reference to reduce bulk of the NEPA document (40 CFR 1502.21¹). This is different from tiering (40 CFR 1502.20.), in which a more narrowly-defined project is implemented under the umbrella of a larger program, and environmental analysis in the step-down document can tier to the analysis in the broader document. For example, projects that implement Greater Sage-Grouse management are able to tier to the analyses in the applicable Greater Sage-Grouse planning EISs.

¹ References to the CEQ regulations are to the regulations in effect prior to September 14, 2020. The revised CEQ regulations effective September 14, 2020 are not cited because this SEIS process began prior to that date.

Additional alternatives were considered but not analyzed in detail as described in the 2015 FEIS (p. 2-200 – 2-202), the 2018 DEIS (p. 2-1 – 2-3), and the 2020 FSEIS (p. 2-9 – 2-11).

Alternatives Described in the 2019 Planning Process

No Action Alternative

Under the No Action alternative, the BLM would have not amended the 2015 ARMPA. Greater Sage-grouse habitat and populations would have continued to be managed by the 2015 ARMPA.

Management Alignment Alternative and Proposed Plan

These two alternatives were derived through coordination with the State and cooperating agencies to better align with the Wyoming conservation plan and to support conservation outcomes for Greater Sage-Grouse. The Proposed Plan was derived by combining the Management Alignment Alternative from the 2018 DEIS, with the further clarifications and modifications received from the Governor's Greater Sage-Grouse Task Force members and from applicable public comments.

Alternatives Incorporated from the 2015 Planning Process

Alternative A

Alternative A would have retained the management goals, objectives and direction specified in the BLM RMPs effective prior to the 2015 Record of Decision/ARMPA.

Alternative B

Alternative B was based on the conservation measures developed by the National Technical Team planning effort, as directed in BLM's Washington Office Instruction Memorandum 2012-044. This alternative also analyzed designation of 4 new areas of critical environmental concern.

Alternative C

Alternative C was based on a citizen group's recommended alternative. This alternative emphasized improvement and protection of habitat for Greater Sage-Grouse and would have applied to all occupied Greater Sage-Grouse habitat. Alternative C would have limited commodity development in areas of occupied Greater Sage-Grouse habitat and would have closed or designated portions of the planning area to some land uses.

Buffalo Alternative C

Buffalo Alternative C would emphasize resource uses and reduce constraints on resource uses to protect physical, biological, and heritage and visual resources. The emphasis on resource uses under Alternative C would reduce the amount of habitat protection for Greater Sage-Grouse and its habitat.

Alternative D

Alternative D, which was identified as the Preferred Alternative in the Draft RMPs/RMPA/EISs, balanced opportunities to use and develop the planning area and protects Greater Sage-Grouse habitat based on scoping comments and input from cooperating agencies involved in the alternatives development process. Protective measures would have been applied to Greater Sage-Grouse habitat. Alternative D generally applied greater restrictions on surface disturbance and disruptive activities to protect sensitive wildlife habitats, including occupied Greater Sage-Grouse leks. Alternative D implemented the State of Wyoming's Core Area Strategy.

Cody and Worland RMP Revisions Alternative E

Cody and Worland RMP Revisions Alternative E was the same as Alternative B outside of Greater Sage-Grouse Key Habitat Areas. Within Greater Sage-Grouse Key Habitat Areas, Alternative E included additional management actions and designates the area as an area of critical environmental concern.

Cody and Worland RMP Revisions Alternative F

Cody and Worland RMP Revisions Alternative F was the same as Alternative D outside of Greater Sage-Grouse Priority Habitat Management Areas. Within Greater Sage-Grouse PHMAs, Alternative F included additional management actions and designates these areas as an area of critical environmental concern.

Proposed Land Use Plan Amendment

The Proposed Land Use Plan Amendment incorporated guidance from specific State Conservation strategies, as well as additional management based on the NTT recommendations. This alternative emphasized management of Greater Sage-Grouse seasonal habitats and maintaining habitat connectivity to support population objectives.

MANAGEMENT CONSIDERATIONS**Range of Alternatives**

These alternatives are described above to demonstrate the range of reasonable alternatives considered through the planning effort undertaken by the BLM. Additionally, the BLM has continued to review new science as it is published, which affirms that the BLM has considered a full range of plan-level conservation measures in the alternatives already analyzed. The BLM is not selecting a new alternative or plan in this decision. The BLM's decision remains as identified in the 2019 ARMPA.

Hard Look

The BLM has continued to take a hard look at environmental impacts every step of the way in planning for Greater Sage-Grouse habitat conservation. In the 2015 planning process, the 2019 planning process, and in the 2020 SEIS process, the BLM incorporated detailed analysis of environmental impacts into our decision-making processes and disclosed these expected impacts to the public.

As scientific information has continued to evolve, the BLM has closely reviewed and considered any changes from such science to expected environmental impacts, both at the land use plan scale and in site-specific analyses. The BLM has continuously collaborated in the development, review, and application of new science. As acknowledged by the NTT and COT reports and the growing body of scientific information, there exist site-specific variables not anticipated in either report or adopted in the 2015 ARMPA, though BLM did analyze such considerations as an alternative in the 2015 FEIS. As such, the 2015 ARMPA took a broad scale, one-size-fits-all approach, to achieve conservation objectives. The 2019 planning process built upon that work by addressing new science and the specific regulatory and policy considerations within each state. This tailored and adaptive approach accounted for more site-specific conditions, maximized the collaborative approach between federal and state resource management.

To address public comments raised during this supplemental analysis, the BLM convened a team of biologists and land use planners to evaluate scientific literature provided to the agency. The BLM

concluded that none of the additional science or information represents findings or implications that conflict with the conservation measures identified within the NTT and COT reports or otherwise considered by the BLM in its 2015 and 2019 planning processes. In other words, the BLM has found that the most up-to-date Greater Sage-Grouse science and other information has incrementally increased, and built upon, the knowledgebase of Greater Sage-Grouse management evaluated by the BLM most recently in its 2019 FEISs, but does not change the scope or direction of the BLM's management. While this science and information is thus consistent with the scope of the environmental analyses supporting the 2019 ARMPA, in some instances it is likely relevant to site-specific proposed actions that potentially affect Greater Sage-Grouse. Where appropriate, the BLM will consider this science and information through implementation-level NEPA analysis, consistent with its approved land use plans.

Cumulative Effects Analysis

The BLM considered cumulative impacts on a rangewide basis, organizing that analysis at the geographic scale of each Western Association of Fish and Wildlife Agencies (WAFWA) management zone, in order to consider impacts at biologically meaningful scales. The management zones were delineated based on floristic provinces (identified by Connelly et al. 2004²) within which the vegetative communities comprising Greater Sage-Grouse habitat as well as the Greater Sage-Grouse populations are responding similarly to environmental factors and management decisions (Stiver et.al. 2006³).

The 2018 DEISs and FEISs largely incorporated by reference the cumulative effects analysis from the 2015 FEISs and the 2016 Sagebrush Focal Area Withdrawal DEIS, which comprehensively analyzed the cumulative impacts associated with the planning decisions under consideration in that process. The 2015 FEISs, and to some degree the 2016 Sagebrush Focal Area Withdrawal DEIS, evaluated the cumulative impacts associated with the No-Action Alternative in the 2018 FEIS. The 2018 FEIS's effects were effectively within the range of effects analyzed by the 2015 and 2016 EISs. To the extent that there have been new actions or developments, the impacts associated with those actions or developments are in line with the projections in the 2015 FEISs regarding reasonably foreseeable actions and effects. Additionally, changes that have occurred due to wildfires were generally addressed with prompt suppression efforts to minimize fire size. Subsequently, the burned areas were generally treated to aid in rehabilitating the land. Since the nature and context of the cumulative effects scenario has not appreciably changed since 2015, and the 2015 analysis covered the entire range of the Greater Sage-Grouse, the BLM's consideration of cumulative effects in the 2015 FEISs adequately addresses most, if not all, of the planning decisions made through the 2019 planning process.

The BLM updated certain data in the 2018 FEIS and 2020 FSEIS analyses that it collected and evaluated in the 2015 FEISs concerning the 2015 allocation decisions to reflect maintenance-related changes, adaptive management responses, and refined source data. The BLM used these data to represent the No-Action Alternative for the 2019 planning process. Other data used in the 2015 FEIS analyses that were not subject to change in the 2019 planning process decisions were also carried forward in the No-Action

² Connelly, J. W., S. T. Knick, M. A. Schroeder, and S. J. Stiver. 2004. "Conservation assessment of greater sage-grouse and sagebrush habitats." Western Association of Fish and Wildlife Agencies (WAFWA). Paper 73. Internet website: http://www.fwspubs.org/doi/suppl/10.3996/022015-JFVVM-008/suppl_file/022015-jfvm-008.s2.pdf.

³ Stiver, S. J., A. D. Apa, J. R. Bohne, S. D. Bunnell, P. A. Deibert, S. C. Gardner, M. A. Hilliard, et al. 2006. Greater Sage-Grouse Comprehensive Conservation Strategy. Western Association of Fish and Wildlife Agencies. Cheyenne, Wyoming.

and action alternatives in the 2018 FEIS and 2020 FSEIS to provide a wholistic look at Greater Sage-Grouse management decisions. The BLM was also able to provide allocation decision data representing changes included in the 2018 DEIS alternatives, which were then used in the comparative analysis in the 2018 FEIS and 2020 SEISs.

In the 2019 planning process, each State-level EIS analyzed cumulative effects across the sage-grouse range by considering, across each state, reasonably foreseeable future actions and their effects in every WAFWA management zone (excluding management zone VI, which was excluded from the 2015 planning process, the 2019 planning process, and the 2020 SEIS process). Each State-level EIS further analyzed cumulative effects at the management zone level for their state. While the 2019 planning process largely incorporated by reference the analysis from the 2015 planning process, and updated it where needed to account for current conditions, the 2020 SEIS process elaborated on this information in greater detail and updated the analysis to ensure that the BLM appropriately evaluated cumulative effects at biologically meaningful scales.

Approach to Compensatory Mitigation

In the 2018 DEIS, the BLM requested public comments on a number of issues, including the BLM's approach to compensatory mitigation. As part of the 2015 ARMPA, the BLM selected a net conservation gain standard in its approach to compensatory mitigation, which the 2019 ARMPA modified to align with the BLM's 2018 policy on compensatory mitigation. Through the 2020 SEIS process, the BLM requested further comments about the BLM's approach to compensatory mitigation. Comments received and BLM's response to those comments are shown in the 2020 FSEIS at Appendix F. After reviewing the comments that the BLM received about compensatory mitigation, the BLM determined that its environmental analysis supporting the 2019 ARMPA was sound. The public has now had substantial opportunities to consider and comment on the BLM's approach to compensatory mitigation at the land use planning level, including the approach taken in the 2019 ARMPA.

The BLM's approach to compensatory mitigation, as adopted in the 2019 ARMPA, is further discussed in the 2020 FSEIS (Section 2.3, page 2-2). The details of Wyoming's mitigation program and policy as it relates to Greater Sage-Grouse is described in Appendix C of the 2020 FSEIS.

The environmental effects between a no net loss and a net conservation gain standard cannot be meaningfully analyzed at such a broad plan-level scale, which is why there was no quantified analysis in the 2018 FEIS and 2020 SFEIS regarding the change in mitigation standard from net conservation gain to no net loss. It is not possible to predict the amount of compensatory mitigation that might voluntarily occur in the future and the environmental consequences of that compensatory mitigation. Therefore, analysis of the environmental impact of compensatory mitigation (or lack thereof) is more appropriate for future project-specific NEPA, where it is possible to assess any project-specific compensatory mitigation that is offered voluntarily or as part of a state approach, including avoidance, minimization, and rectification measures applicable to the specific project and site. See the 2020 FSEIS at pages 4-107 – 4-108.

MITIGATION MEASURES

The BLM remains committed to achieving the planning-level management goals and objectives identified in the 2019 ARMPA and the 2015 ARMPA by ensuring Greater Sage-Grouse habitat impacts are addressed through implementing mitigating actions consistent with the governing RMP. The BLM will

continue to apply the mitigation hierarchy as described in the CEQ regulations at 40 CFR 1508.20; however, the BLM will focus on avoiding, minimizing, rectifying, and reducing impacts over time. Compensation, which involves replacing or providing substitute resources for the impacts (including through payments to fund such work), will be considered only when voluntarily offered by a proponent, required by a law other than FLPMA, or to meet a State recommendation or requirement. The BLM commits to cooperating with the State to analyze applicant-proposed, State recommended, or State-imposed compensatory mitigation to offset residual impacts.⁴

PLAN MONITORING

Plan monitoring commitments were made in the 2015 ARMPA and were retained in the 2019 ARMPA. Plan monitoring will continue as explained in the 2015 ARMPA.

PUBLIC INVOLVEMENT

The notice of availability for the DSEIS was published in the *Federal Register* on February 21, 2020 (85 *Federal Register* 10183, February 21, 2020), followed by a 90-day public comment period ending on May 21, 2020.

The BLM received comments primarily through the online comment form that was provided on the project website.⁵ The BLM recognizes that commenters invested considerable time and effort to submit comments on the DSEIS; as such, the BLM developed a comment analysis method to ensure that all comments were considered, as directed by NEPA regulations.

Across all six DSEISs that were published on February 21, 2020, a total of 125,840 submissions were received; 222 of these were considered unique submissions. Responses to comments are included in Appendix F of the FSEIS.

Because this effort was solely a supplemental process under NEPA, the BLM land use planning requirements for a governor's consistency review and a protest period do not apply. Similarly, because no decisions are made in this document, there is no applicable appeal authority.

⁴ With respect to any State compensatory mitigation requirements, the BLM will defer to the appropriate State authority to quantify habitat offsets, durability, and other aspects used to determine the recommended compensatory mitigation action.

⁵ <https://eplanning.blm.gov/eplanning-ui/project/103347/510>

APPROVAL

The 2019 Wyoming Greater Sage-Grouse ARMPA is hereby reaffirmed by the following signee:



Kimber Liebhauser,
Wyoming Acting State Director



Date

Approved 2019 Plan Amendment

The decisions from the 2019 ARMPA remain unchanged. The 2019 ARMPA can be found here: <https://eplanning.blm.gov/eplanning-ui/project/103347/570>.