



Tuesday, November 21st, 2017

Quincy Bahr

Bureau of Land Management Utah State Office

440 West 200 South

Suite 500

Salt Lake City, UT 84101

**RE: Notice of Intent to Amend Land Use Plans Regarding Greater Sage-Grouse Conservation and Prepare Associated Environmental Impact Statements or Environmental Assessments**

*Comments submitted to the BLM website at*: <http://bit.ly/GRSGplanning> *and to*: [BLM\_sagegrouseplanning@blm.gov](mailto:BLM_sagegrouseplanning@blm.gov) *and* [qfbahr@blm.gov](mailto:qfbahr@blm.gov).

Yellowstone to Uintas Connection and Wildlands Defense submit these comments on the Notice of Intent (NOI) to Amend Bureau of Land Management (BLM) Land Use Plans Regarding Greater Sage-Grouse Conservation in the States of California, Colorado, Idaho, Nevada, Oregon, Wyoming, North Dakota, South Dakota, Utah and Montana, and on related issues.

Yellowstone to Uintas Connection (Y2U) is a 501c3 non-profit organization working to protect and restore the integrity and habitat quality of the regionally significant wildlife corridor in Southeast Idaho, Southwest Wyoming and Northeast Utah that connects the Greater Yellowstone Ecosystem to the Uinta Mountains and Southern Rockies. Much of this corridor and the ecosystems and mountain ranges it connects are on public lands within the historic range of the Greater Sage-Grouse (sage grouse), and have been fragmented by resource extraction activities approved by land management agencies.

Wildlands Defense is a regional, membership, nonprofit organization dedicated to protecting and improving the ecological and aesthetic qualities of the wildland and wildlife communities of the western United States for present and future generations. WLD advances its mission by means of landscape and wildlife monitoring and scientific research, by supporting and empowering active public engagement and with legal and administrative advocacy.

In 2010, the U.S. Fish and Wildlife Service (USFWS) found that the sage grouse was warranted for listing under the Endangered Species Act (ESA) but precluded from listing due to other species with higher listing priority. In their 2010 finding, the USFWS identified habitat loss and fragmentation and the lack of adequate regulatory mechanisms as the primary threats to the sage grouse.

Livestock grazing and energy development play a substantial role in sage grouse habitat degradation that led to the warranted but precluded finding. These activities were a significant factor in the 2014 and 2015 amendments to land management plans on public lands administered by the BLM and U.S. Forest Service. There was purported hope that the USFWS would make a determination that the sage grouse is not warranted for listing as either endangered or threatened under the ESA, based on the amended land management plans promulgating the adequate regulatory mechanisms necessary to protect sage-grouse and habitat to a level that would stop the population declines that have been documented.

In October 2015 the USFWS issued its determination that the sage grouse did not warrant listing under the ESA. The USFWS cited the conservation commitments in the amended land use plans as a substantial reason behind its “not warranted” finding.

On June 7 of this year, Secretary of Interior Zinke issued Order 3353 with the following purposes:

1. Enhance cooperation between the Department of Interior (DOI) and the States of Oregon, Washington, California, Nevada, Idaho, Utah, Montana, North Dakota, South Dakota, Wyoming, and Colorado in the management and conservation of the sage grouse and its habitat;
2. Support a partnership with clearly defined objectives and roles for Federal and State entities responsible for sage grouse management and conservation in order to sustain healthy populations of the species; and
3. Establish a team to review the Federal land management agencies’ sage grouse plan amendments and revisions completed on or before September 2015.

In short, the Department of the Interior believes the protections or the potential protections in the amended land management plans are too restrictive on commercial activities on the public lands, and it wants to return as much as possible to the earlier status quo.

The NOI indicates the original impetus for the proposal to amend land use plans is the March 31, 2017 U.S. District Court of Nevada ruling that the BLM violated the National Environmental Policy Act (NEPA) by failing to prepare a supplemental Environmental Impact Statement (EIS) for the designation of Sagebrush Focal Areas in the Nevada and Northeastern California Greater Sage-Grouse Resource Management Plan Amendment. The NOI suggests there are other lawsuits pending but doesn’t clearly indicate the nature of legal claims the BLM is responding to in proposing to amend land use plans. It appears the BLM is using the need to remedy the flaws in its amendment processes to justify making changes to the substance of sage grouse conservation in the plans.

Y2U maintains the amended land management plans were insufficiently protective of sage grouse and did not allow recovery of viable populations across the species’ historic range. However, the amendments began to improve on the management problems that led to the “warranted” determination in 2010.

Whereas Y2U welcomes the opportunity to improve the conservation outcomes of land use plan implementation, amending the current plans as proposed is ill-advised and not supported by the best available science, or even by the analysis provided in the Report in Response to Secretarial Order 3353 (August 4, 2017).

In response to DOI Order 3353 and with implementation of the 2015 plans barely underway, plans that formed the basis for the 2015 USFWS “not warranted” decision, the BLM is backpedaling on its prior commitments and reneging on the deal it agreed to by proposing to weaken the very same conservation measures that Y2U maintains to have been inadequate to conserve sage grouse and habitat in the first instance.

The USFWS’ “not warranted” determination included a commitment to conduct a status review in five years to determine if land use plan implementation is conserving the sage grouse and its habitat. The NOI and the DOI Sage-Grouse Review Team (DOI Team) August 4, 2017 Report In Response to DOI Order 3353 do not explain how such a status review is feasible if what is being implemented is to be constantly changed by administrative actions and plan amendments. They also do not explain how a “warranted” decision can be avoided in the next review if the current plans have been significantly altered or abandoned.

We understand that the DOI proposes to weaken more than just the land use plans regarding sage grouse conservation efforts. Purposes 1 and 2 of the DOI Order 3353 indicate administrative changes are being pursued to increase the states’ control over sage grouse habitat management issues. The states have always had the opportunity to implement their own conservation measures to ensure that sage steppe habitats remain conserved. Unfortunately, the history of the states’ involvement has demonstrated a consistent history of states’ failure and/or refusal to do so. States’ are susceptible to politicized management and Y2U is skeptical of efforts to cede management authority and/or influence to the states. Y2U insists that any such efforts must include a clear indication of all enforcement expectations and mechanisms relied upon in all assessments as to the efficacy of relying upon states in the future.

Additionally, the NOI and the DOI Team Report claim that sage grouse conservation measures in BLM and other land use plans conflict with conservation goals of the States. However, the specifics of states’ concerns are not disclosed. The NOI and DOI Team Report do not explain how land use plan or sage grouse conservation measures conflict with anything but the economic interests largely responsible for the sage grouse’s current imperiled status. In fact, the DOI Team Report in particular identifies “a number of measures in the 2015 plans which states felt could be modified to remove or reduce negative consequences to local economies.” The DOI Team report states, “The DOI Team and the SGTF are committed to a balanced approach that provides both responsible economic development and long-term conservation of the Greater Sage-Grouse.” Yet the Report fails to recognize that the 2015 amended plans already represent a measure of “balance” purportedly designed to prevent further declines and recover the sage grouse.

The BLM seeks comments on sage grouse land use plan components such as SFA designation, mitigation standards, lek buffers in all habitat management area types, disturbance and density caps, habitat boundaries, and adaptive management responses. The EIS(s)[[1]](#footnote-1) must disclose the best available science that has guided, or will guide, development of these plan components. The BLM should also explain how it will evaluate science submitted by interested parties, including Y2U.

On the topic of best available science, there is precedent the BLM should strongly consider. For example, the U.S. Forest Service planning rule at 36 CFR § 219.3 requires that agency to “identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered” when amending or revising its land management plans. We are aware that the 36 CFR § 219.3 provisions are not BLM planning requirements. However, we believe the direction it contains for handling science is sound. Y2U maintains that the Endangered Species Act requires the agency to utilize best available science and information in its review and decision-making.

The data sources used to guide plan amendment(s) must be of high reliability. The document, “USDA-Objectivity of Statistical and Financial Information[[2]](#footnote-2)” is instructional on this topic.

The validity of habitat and other modeling utilized in land management plan development and the quality of scientific research are also important topics. The documents, “USDA-Objectivity of Regulatory Information[[3]](#footnote-3)” and “USDA-Objectivity of Scientific Research Information[[4]](#footnote-4)” would also help determine whether alteration of the plans are needed.

We also urge the BLM to partake in a Science Consistency Review for the draft amended land use plan(s). Guldin et al. 2003[[5]](#footnote-5):

...outlines a process called the science consistency review, which can be used to evaluate the use of scientific information in land management decisions. Developed with specific reference to land management decisions in the U.S. Department of Agriculture Forest Service, the process involves assembling a team of reviewers under a review administrator to constructively criticize draft analysis and decision documents. Reviews are then forwarded to the responsible official, whose team of technical experts may revise the draft documents in response to reviewer concerns. The process is designed to proceed iteratively until reviewers are satisfied that key elements are **consistent with available scientific information.**

Such a review and analysis must be conducted transparently, evenhandedly, and pursuant to the Federal Advisory Committee Act.

In the Sage Grouse National Technical Team, “Report on National Greater Sage Grouse Measures[[6]](#footnote-6)” causes of sage grouse population declines include: human land use, tillage agriculture, grazing management, energy development, roads, power lines and recreation. The adequacy of management is measured by science-based effectiveness monitoring of the biological response of sagebrush landscapes and sage-grouse populations. Conservation, enhancement or restoration of habitats is necessary to “promote movement and genetic diversity” and offset declines in specific locations.

Roads and human activity impact wildlife, including sage grouse, through increased mortality, behavioral changes, habitat loss and fragmentation, spread of exotic species, and increased human access. Road densities are high in sagebrush habitats. Permanent or seasonal road or area closures are recommended. Where previous development has occurred that is no longer in use (road, fence, well, other structures), remove the features and reclaim the site.

Livestock grazing can alter structure and composition of sage grouse habitat, trample nests and eggs, alter sage grouse behavior, particularly seasonal nesting site preferences, and create impacts from structures associated with livestock grazing (fences, water developments, other). Grazing management should maintain adequate residual cover of 7” herbaceous vegetation in nesting and brood rearing areas. Grazing timing is important to avoid disturbing nest sites and to provide for adequate cover in nesting and brood rearing areas in sagebrush, meadow and riparian areas. Working cooperatively with land management agencies and livestock grazing associations, while incorporating clear terms and conditions that are consistently enforced on grazing management plans and completing habitat measurements for comparison to ecological site potential and habitat objectives can improve habitat. Adjusting livestock grazing to avoid these areas during nesting and brood-rearing (spring and summer) promotes recovery. Providing regulatory avenues for the retirement of grazing where necessary can be used to benefit sage grouse and their habitats.

The EIS(s) should identify the “hundreds of thousands of acres of sagebrush rangelands” the DOI Team Report says “have been restored or are on their way to being restored” along with the management techniques used to implement this restoration.

The EIS(s) must disclose all the administrative changes that have been and will be implemented to address Purposes 1 and 2 of DOI Order 3353, and analyze their impacts on sage grouse habitats.

The EIS(s) must identify the initial “policy and clarifications” believed needed to ‘better align’ federal land use plans with State plans as indicated in the DOI Team Report.

Sincerely,

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Jason L Christensen

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*And on behalf of:*

Natalie Ertz, Executive Director

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1. Given the significant nature of the proposed amendments, use of Environmental Assessments would be inappropriate. [↑](#footnote-ref-1)
2. [https://www.ocio.usda.gov/policy-directives-records-forms/guidelines-quality-information/statistical-and -financial](https://www.ocio.usda.gov/policy-directives-records-forms/guidelines-quality-information/statistical-and-)  [↑](#footnote-ref-2)
3. <https://www.ocio.usda.gov/policy-directives-records-forms/guidelines-quality-information/regulatory> [↑](#footnote-ref-3)
4. [https://www.ocio.usda.gov/policy-directives-records-forms/guidelines-quality-information/scientific-res earch](http://www.ocio.usda.gov/policy-directives-records-forms/guidelines-quality-information/scientific-rese) [↑](#footnote-ref-4)
5. Guldin, James M., David Cawrse, Russell Graham, Miles Hemstrom, Linda Joyce, Steve Kessler, Ranotta McNair, George Peterson, Charles G. Shaw, Peter Stine, Mark Twery, Jeffrey Walte. 2003. The Science Consistency Review: A Tool to Evaluate the Use of Scientific Information in Land Management Decision Making. United States Department of Agriculture Forest Service FS-772, September 2003. [↑](#footnote-ref-5)
6. Sage-grouse National Technical Team. 2011. A Report on National Greater Sage-Grouse Conservation Measures.

   Members of the team included resource specialists and scientists from the Bureau of Land Management, State Fish and Wildlife Agencies, US Fish and Wildlife Service, Natural Resources Conservation Service, and US Geological Survey. [↑](#footnote-ref-6)