



January 9, 2017

Sent via email: gusg_amend@blm.gov

Gunnison Sage-Grouse EIS
BLM Colorado State Office
2850 Youngfield Street
Lakewood, CO 80215

**RE: Gunnison Sage-Grouse Rangewide Draft Resource Management Plan
Amendment/Draft Environmental Impact Statement (EIS)**

Dear Sir/Madam:

Western Energy Alliance supports Alternative A, the No Action Alternative, in the Bureau of Land Management's (BLM) Draft Resource Management Plan Amendment and Environmental Impact Statement (DRMPA) for the Gunnison Sage-Grouse (GuSG). BLM should defer to state and local GuSG efforts rather than adopting the one-size-fits-all federal approach adopted in this planning effort. BLM is undertaking this planning effort despite being involved in ongoing litigation with the State of Colorado over the threatened listing of the GuSG under the Endangered Species Act (ESA), and we believe that litigation should be resolved before BLM continues forward with this plan.

Western Energy Alliance represents over 300 members involved in all aspects of environmentally responsible exploration and production of oil and natural gas in Colorado, Utah, and across the West. The Alliance represents independents, the majority of which are small businesses with an average of fifteen employees. Alliance members have valid existing leases, current oil and natural gas production, and plans for future leasing, exploration, and production activities in the planning area and therefore a direct interest in BLM's effort.

State and Local Conservation Plans

Alternative D, the Preferred Alternative, would unnecessarily restrict oil and natural gas development in the planning area. There are myriad efforts, plans, regulatory mechanisms, and other actions currently in place for the conservation and protection of the GuSG and its habitat.¹ These efforts should drive BLM's management of the species, rather than the top-down approach envisioned in the DRMPA. State and local efforts are supported by recent data regarding population trends and habitat conditions, guided by local experts,

¹ These actions are documented in a number of resources, including the Western Governors Association's *Special Report to the Western Governors, Inventory of State and Local Governments' Conservation Initiatives for Sage-Grouse* (December 2013 Update). Available at: <http://www.westgov.org/initiatives/wildlife/sage-grouse-and-sagebrush-conservation>

and represent a sensible approach to protecting the species and its habitat while providing opportunities for economic activities.

Deferring to state and local control would also allow for a more nimble approach as new scientific discoveries are made, assumptions change, and technology advances. As one study put it,

If sage grouse and energy development are to coexist successfully in the long term and effective management be developed in a timely manner, it is imperative that both threats and management actions be treated as potentially falsifiable hypotheses, rather than as certain knowledge...Such a scientific approach to adaptive management increases the likelihood that conservation effort will be allocated in a way to provide the greatest benefit.²

The approach taken in BLM's DRMPA would lock into place management actions that cannot be changed in the responsive manner outlined above, creating a system that will ultimately harm the species.

In our comments to the Fish and Wildlife Service (FWS) on the listing decision and proposed designation of critical habitat, we challenged the agency's finding that inadequate regulatory mechanisms on federal and private lands pose a threat to the species throughout its range. Specifically, we stated that BLM and the U.S. Forest Service "are fully implementing several regulatory mechanisms available to conserve GuSG and their habitats on federal lands through restrictions in applicable RMPs and Land and Resource Management Plans, and other National Environmental Policy Act (NEPA) processes, including grazing and oil and gas permitting." We continue to believe that there are adequate regulatory mechanisms to protect the species and that BLM should not vastly increase surface restrictions in the DRMPA.

NSO Restrictions Unnecessary

Under the Preferred Alternative, BLM would add a No Surface Occupancy (NSO) stipulation to oil and natural gas leasing on an additional 287,790 acres in the planning area. These new NSO restrictions are unnecessary, as oil and natural gas development can successfully coexist with GuSG populations and habitat under current management practices.

Oil and natural gas operators voluntarily take a number of different actions that successfully avoid, minimize, and mitigate impacts to GuSG populations and habitat, and they commit to these measures in NEPA documents. In the few short years since the threatened determination was made, Alliance members have developed and implemented

² "Oil and Gas Development and Greater Sage Grouse (*Centrocercus urophasianus*): A Review of Threats and Mitigation Measures," *The Journal of Energy and Development* Vol. 35 No. 1, Dr. Rob Roy Ramey II, Laura M. Brown, and Fernando Blackgoat, 2011, p. 72.

sophisticated mitigation measures and reclamation techniques to protect GuSG populations and habitat.

SWCA Environmental Consultants have found that oil and natural gas companies operating in sage grouse habitat committed to 773 total conservation measures in just a small sample of 103 NEPA documents, an average of 6.5 per project.³ Furthermore, recent technological innovations such as directional and horizontal drilling have decreased habitat disturbance as much as 70%.⁴ These conservation measures and technological advances make further NSO stipulations unnecessary and overly burdensome. BLM should remove the new NSO stipulations before finalizing the RMPA.

Non-Federal Lands and Valid Existing Rights

A decision to prohibit surface disturbance within 0.6 miles of a lek, as considered in the Preferred Alternative, would block access to significant energy resources on federal lands, and it would also impact development on adjacent non-federal lands. BLM does not have jurisdiction over these non-federal lands, so the DRMPA would impose restrictions that exceed BLM's authority. We strongly oppose the NSO stipulations and the lek buffers in the Preferred Alternative, and specifically request that BLM remove any restrictions that affect non-federal lands in the final plan.

Finally, while the RMPA mentions the protection of valid existing lease rights, the conservation measures ultimately imposed by BLM may result in the violation of those valid existing rights. Specifically, we are concerned by this language in the DRMPA: "In accordance with standard lease terms and conditions, existing leases are subject to applicable laws, including ESA, and therefore, may be required to adopt conditions of approval that would reduce adverse impacts to the species consistent with site-specific environmental analysis and ESA conference or consultation."

BLM should not impose conservation measures or restrictions that would provide the same or greater restrictions on activities that would be applied under the ESA, at the expense of valid existing lease rights. For example, BLM may try to impose NSO restrictions on active leases or require certain Best Management Practices as Conditions of Approval (COA) for permits. BLM cannot legally impose new NSO stipulations or COAs on existing lease rights that differ from those entered under the original contractual terms.

³ [*Evaluation of the NEPA Process as an Adequate Regulatory Mechanism to Eliminate or Minimize Threats to Greater Sage-Grouse Associated with Oil and Natural Gas Development Activities*](#), SWCA Environmental Consultants, July 2014

⁴ "Oil and gas impacts on Wyoming's sage-grouse: summarizing the past and predicting the foreseeable future," *Human-Wildlife Interactions* Vol. 8 No. 2, Fall 2014, p. 284-290.

Conclusion

We are hopeful BLM's effort to update management of the GuSG will help convince FWS to withdraw its listing determination and proposed critical habitat designation. However, the final plan must not unnecessarily restrict oil and natural gas development on federal and non-federal lands that overlap GuSG habitat. The final RMPA should strike a reasonable balance between sustained oil and natural gas development and sensible restrictions for the species that are supported by the best and most recent science and data. We believe that balance is reflected in the No Action Alternative.

Thank you for the opportunity to comment, and please do not hesitate to contact me with any questions.

Sincerely,



Tripp Parks
Manager of Government Affairs