



January 5, 2018

Submitted via email to comments-intermtn-regional-office@fs.fed.us

Chris French
Associate Deputy Chief, National Forest System
U.S. Department of Agriculture
201 14th St. SW
Washington, DC 20227

Re: Amendments to the Land Management Plans for Greater Sage-Grouse Conservation

Dear Mr. French:

Western Energy Alliance appreciates that the U.S. Forest Service (USFS) has initiated the process to amend the Greater Sage-Grouse (GrSG) land management plans (LMP). The Alliance supports USFS's goal of managing the GrSG and its habitat on public lands, and a rewrite of the existing LMPs is a necessary step to ensure they balance species conservation with responsible oil and natural gas development and other productive uses.

Western Energy Alliance represents over 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas across the West. The Alliance represents independents, the majority of which are small businesses with an average of fifteen employees.

The Alliance participated in the USFS and Bureau of Land Management's (BLM) GrSG land use plan amendment (LUPA) process, which concluded in September 2015. We provided extensive comments and formal protests dated December 2nd, 2013 and June 29th, 2015, respectively, as the LUPAs were developed and finalized. Given that the process to develop the final plans had been inextricably woven together for years, it is difficult looking from the outside to determine which agency did what. Our comments on the original plans were not broken out by agency, but submitted together, and therefore, our concerns with the BLM plans apply to the USFS plans as well.

While the Alliance welcomes USFS's notice of intent to amend the LMPs, it is unclear how this process will interact with concurrent GrSG plan amendments at BLM, since unlike with the 2015 plans, USFS has initiated the process to amend the LMPs separately from BLM. BLM's scoping period closed on December 1st, 2017, and we submitted comments highlighting numerous issues with the current plans. Because the USFS plans so closely mirror BLM's plans, the same concerns apply and should be addressed by both agencies. As such, our comments to BLM from December 2017 are attached to this letter, and we also incorporate by reference the December 2013 comments and the June 2015 protests.

As it remains unclear to us why USFS and BLM are not following the model of the last several years of working in tandem on plans, might we suggest that rather than try to unwind the process and put them on two divergent tracks, USFS and BLM should reintegrate the process and develop the plans together again. Since the issues are exactly the same whether the GrSG habitat is on USFS or BLM lands, it seems as though it would save considerable time and duplication of resources.

Regardless, we urge USFS to amend the plans to strike a reasonable balance between protection of the species and responsible resource development. We are encouraged that USFS is acknowledging the need for revisions, and we are more than willing to work with USFS as you proceed with the changes.

Thank you for the opportunity to provide scoping comments on potential amendments to the LMPs. Please do not hesitate to contact me with any questions.

Sincerely,



Tripp Parks
Manager of Government Affairs



December 1, 2017

Submitted via email to blm_sagegrouseplanning@blm.gov

Brian Steed
Acting Director
Bureau of Land Management
1849 C Street NW
Washington D.C. 20240

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

Dear Director Steed:

Western Energy Alliance appreciates that the Bureau of Land Management (BLM) has initiated the process to amend the Greater Sage-Grouse (GrSG) Land Use Plan Amendments (LUPAs). The Alliance supports BLM's goal of managing the GrSG and its habitat on public lands, but the existing LUPAs do not balance conservation of the sage grouse with responsible oil and natural gas development. They are based upon invalid and incomplete information and do not comply with applicable laws, regulations, and planning procedures. Further, the LUPAs are severely restrictive and have caused detrimental economic impacts in the West.

Western Energy Alliance represents over 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas across the West. The Alliance represents independents, the majority of which are small businesses with an average of fifteen employees.

The Alliance provided comments and formal protests dated December 2nd, 2013 and June 29th, 2015, respectively, as BLM drafted and finalized the LUPAs. Our concerns identified in these comment letters remain, and the Alliance incorporates by reference our previous letters in full here.

During the comment period for the LUPAs, the Alliance identified several procedural, legal and scientific shortcomings including those associated with:

- Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C 1701 *et seq.*);
- National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 *et seq.*); and
- Data Quality Act (DQA) (Pub. L. No. 106-554, § 515, 114 Stat. 2763, 2764a-153-154 (2000)).

As raised in our previous comment letters, the LUPAs are inconsistent with FLPMA, interfere with valid existing rights, and are based upon flawed science. The Alliance also

identified overly burdensome restrictions in the LUPAs that have resulted in severe limitations on resource development in the West. New oil and natural gas production has been significantly curtailed due to these provisions. The following restrictions are of great concern to the Alliance:

- Failure to define, recognize and respect valid existing rights
- Imposition of unlawful and overly broad compensatory mitigation and net conservation gain requirements
- Unsupported and overly broad designations of priority habitat management areas
- Unnecessary leasing prohibitions and restrictions
- Overly expansive and burdensome lek buffers
- Scientifically flawed noise restrictions
- Inconsistent and overly burdensome density and disturbance caps
- Inconsistent and overly burdensome No Surface Occupancy (NSO), Controlled Surface Use (CSU), and Timing Limitations (TL) lease stipulations
- Overly restrictive travel and transportation and right of way restrictions
- Unlawful ceding of authority to the U.S. Fish and Wildlife Service (FWS) for approval of exception, waiver or modification of NSO, CSU, and TL stipulations.

We also provide comments on procedural aspects of revising or amending the LUPAs, interaction between the federal and state plans, and interim guidance that would provide immediate relief while the plan amendment process is ongoing.

Process

We support BLM making certain amendments or modifications to the LUPAs without the need for additional National Environmental Policy Act (NEPA) analysis. In some cases, the range of alternatives presented in the draft and final environmental impact statements and existing NEPA analyses would already account for and support targeted amendments. These cases are outlined below in the section on interim guidance.

BLM's NEPA Handbook states:

"You may use existing environmental analyses to analyze effects associated with a proposed action, when doing so would build on work that has already been done, avoid redundancy, and provide a coherent and logical record of the analytical and decision-making process...Use of existing analyses may range from considering them as the basis for decision-making (following a Determination of NEPA Adequacy (DNA) or adoption of another agency's NEPA analysis); using components of them (through tiering or incorporation by reference); or supplementing them with new analysis."¹

¹ *BLM NEPA Handbook*, H-1790-1 at 21.

However, given the expansive and unduly burdensome restrictions in these plans, it is critical that Interior revise the LUPAs rather than simply seeking to make limited changes. We believe preparation of supplementary environmental impact statements (SEIS) will be necessary for many of the revisions outlined below.

Due to the scope of the revisions BLM is contemplating, an Environmental Assessment (EA) will not be legally sufficient. EAs are appropriate when BLM determines there will be no significant environmental impacts based on the actions in the NEPA review. The cumulative effects of the changes we are requesting from BLM are likely to meet the significant impact standard, so we encourage BLM to finalize revisions through the SEIS process.

In finalizing the 2015 LUPAs, BLM issued two records of decision (ROD). We therefore recommend BLM issue two SEISs, one for each ROD, and then issue separate RODs for each of the 14 LUPAs BLM issued in 2015. The SEISs will allow BLM to broadly address issues common to each of the plans, while individual RODs for the various planning areas can make targeted revisions to issues specific to a state or area.

Issuing RODs for each planning area would also provide more flexibility and adaptability for BLM to recognize, adopt, and adapt to state level conservation plans. Meanwhile, two broad SEISs would give BLM the opportunity to conduct a robust cumulative analysis at the range-wide level and an analysis of cross-border populations, which is particularly important given FWS's focus on the range-wide level in its not warranted for listing decision.

We urge BLM to comply with Secretarial Order (SO) 3355 as it prepares these SEISs. SO 3355 directs agencies to complete a final EIS within one year of issuing a notice of intent to prepare an EIS. Western landowners, industries, and governments are suffering ongoing harms due to the current LUPAs, so it is imperative BLM act expeditiously to amend and finalize the plans.

State Plans

Western states and local governments with significant GrSG populations have worked for years on conservation programs to protect the species. They engaged broad groups of stakeholders and devoted significant resources to protecting the sage grouse. Unfortunately, when BLM finalized the 2015 LUPAs, state and local government plans were generally ignored in favor of a one-size-fits-all approach at the federal level.

The lack of deference to states and local governments is apparent by the number of consistency reviews that were submitted and subsequently ignored, the 283 protests lodged against the plans, and the fact that several states and counties have filed legal challenges to the LUPAs. As an example, the land use plan for the Idaho sub-region

identified the state plan (which was endorsed by FWS) as a co-preferred alternative; however, upon finalization the state plan was completely ignored.

Each state with sage grouse habitat presents unique on-the-ground circumstances that require different management prescriptions. For instance, in Utah the state has undertaken habitat restoration through the removal of pinyon juniper. New habitat is being created on a large scale throughout the Utah habitat, but the federal plans do not recognize these efforts or credit the restoration.

BLM should ensure that revisions to the LUPAs serve to align the federal plans with the executive orders and conservation plans that have been in place at the state level for years. We urge BLM to work with state agencies and local stakeholder groups in amending each LUPA. To that end, we support and incorporate by reference comments submitted during this scoping period by the Montana Petroleum Association, the Petroleum Association of Wyoming, and the West Slope Colorado Oil and Gas Association. These organizations have been actively involved in ongoing conservation efforts in their respective states and are well aware of the unique issues presented therein. BLM should analyze their comments for issues that are specific to the individual LUPAs.

Meanwhile, the federal plans can be helpful in buttressing state plans by defining certain concepts, such as mitigation standards, which have been left uncertain at the federal level for years and have caused confusion and uncertainty at the state level. Guidance on how the federal government plans to interpret these concepts will be helpful to the states, while not imposing the same one-size-fits-all requirements that the 2015 LUPAs did.

Interim Guidance

There are several actions BLM can take immediately, without the need to revise the land use plans, which will provide relief to Alliance members who are attempting to operate on federal lands. Under the current plans and agency guidance, projects are being delayed, BLM State Offices are remanding Field Office approvals of Applications for Permits to Drill (APDs), lease parcels are being deferred, and onerous compensatory mitigation requirements are being imposed.

BLM Instruction Memorandum (IM) 2016-105 instructs that implementation-level activities (e.g. leasing and permit approvals) must conform to the goals, objectives and management actions established by the GrSG RMPAs. This policy perpetuates the actions, goals, and objectives outlined in the LUPAs, which conflict with FLPMA's statutory multiple-use mandate and violate valid existing rights.

BLM IM 2016-143 details a prioritization sequence for leasing and development that violates valid existing rights, inhibits oil and gas leasing, and is unlawful and completely unnecessary. Under FLPMA's multiple use requirement, resource development and wildlife conservation are on equal footing. Consequently, BLM must strike an appropriate balance

between potentially competing interests and land management objectives, while considering the needs of all species – including the needs of Americans for resource development.

For BLM this balance is to be achieved in the Section 202 land use planning process and the resulting resource management plans. FLPMA does not authorize the subordination of any of these uses in preference for a single land use such as sage grouse habitat conservation outside the requirements under § 202(c)(3), and BLM’s planning regulations at 43 C.F.R. § 1610.7-2. Further, BLM’s Manual 6840 (Sensitive Species Manual) provides for prioritization of “sensitive species” only after considerations “such as human and financial resource availability, immediacy of threats, and relationship to other BLM priority programs and activities...” The Sensitive Species Manual further provides that BLM should, “[i]n the absence of conservation strategies, incorporate best management practices, standard operating procedures, conservation measures, and design criteria to mitigate specific threats to Bureau sensitive species *during the planning of activities and projects*” (emphasis added).²

The GrSG plan amendments have already prioritized areas outside of habitat over those in general and priority habitat by virtue of the onerous restrictions applied; a further prioritization is not necessary or lawful. Where a leaseholder proposes an oil and gas development project in GrSG habitat, BLM cannot prioritize consideration of non-GrSG habitat projects above such GrSG habitat projects. Instead, IM 2016-143 further raises sage-grouse conservation above all other resources.

BLM should rescind these two IMs effective immediately, and replace them with an IM defining valid existing rights (VER) to guide implementation-level activities, pending revisions to the plans. During the revision process, interim guidance must allow for continued access and development of VERs.

Pursuant to the Federal Land Policy and Management Act’s (FLPMA) statutory mandate, BLM cannot terminate, modify, or alter valid existing property rights. The lease’s terms, conditions, and stipulations operate as contractual limitations on BLM’s authority to restrict the lessee’s subsequent leasehold development activities.³ Consequently, BLM’s ability to add additional terms, through conditions of approval, to oil and gas development proposals is subject to the requirement that subsequent limitations imposed upon the lessee must be consistent with existing development rights.⁴

² Manual 6840 at .2A1; .2C7

³ See 43 C.F.R. § 3101.1-3; *cf. Mobil Oil Exploration & Producing S.E., Inc. v. United States*, 530 U.S. 604, 615-18 (2000) (finding the terms of the government’s lease contract limit the application of subsequent environmental laws and regulations).

⁴ 43 U.S.C. § 1701 note (h) (mandating that “[a]ll actions by the Secretary concerned under this Act shall be subject to valid existing rights.”).

Any modifications restricting surface-disturbing activities based on GrSG management must be reasonable and only be required after site-specific analysis supporting such a modification.⁵ Therefore, applying broad timing and location restrictions on oil and gas development, as contained in the GrSG LUPAs, without site-specific analysis and a determination that certain measures are reasonable within the framework of the underlying lease violates BLM's contract with lessees' valid existing rights.

BLM should explicitly state that the GrSG LUPA provisions do not apply to any leases or permits issued prior to September 22, 2015 (the issuance date for the RODs), thus guaranteeing the VERs for those leaseholders. Then, for any leases, permits or project decisions issued after September 22, 2015, BLM should address stipulations pursuant to the LUPAs on a case-by-case basis.

Further, the purpose of the land use planning process and the resulting RMPs is to provide broad guidance for future on-the-ground actions BLM undertakes. Decisions in land use plans guide future land management actions and subsequent site-specific implementation decisions. These land use plan decisions establish goals and objectives for resource management (desired outcomes) and the measures needed to achieve these goals and objectives (management actions and allowable uses). Where there are competing resource uses and values in the same area, Section 103(c) of FLPMA (43 U.S.C. 1702(c)) requires that BLM manage the public lands and their various resource values so that they are utilized in the combination that will best meet multiple use and sustained yield mandates. As such, prescriptive measures at the RMP level are inappropriate and should only be contemplated at the project or lease level analysis.

Mitigation Standards

The LUPAs unilaterally and substantively amended BLM's regulations governing minimization of adverse impacts and imposed a significantly heightened and costly compensatory mitigation requirement and "net conservation gain" standard. BLM did so without following the formal rulemaking requirements of the Administrative Procedures Act (APA) or the procedural requirements of NEPA.

The LUPA's mitigation standard is defined as "the actual benefit or gain above baseline conditions, after deductions for impacts, in habitat function or value to species covered by a mitigation program." On its face, this standard violates FLPMA's "unnecessary or undue degradation" standard, which authorizes the Secretary to promulgate rules only to prevent degradation above which is unnecessary or undue. Inherent in this language is the recognition that some degradation is incidental to resource use and development.

The net conservation gain standard was not presented for public review or analyzed in the draft LUPAs, especially as it relates to general habitat designations where no alternative at

⁵ See 43 C.F.R. § 3101.1-2; *Yates Petroleum Co.*, 176 IBLA 144, 155 (2008).

the draft stage included a uniform mitigation requirement. The new standard was also not analyzed in a supplemental EIS. As such, the final EISs failed to provide for meaningful analysis, and the net conservation gain standard must be analyzed or removed as part of a supplemental EIS.

Furthermore, the heightened mitigation standard is contrary to Secretary Zinke's Secretarial Order 3349, which among other things revoked the 2013 Secretarial Order on mitigation policies, and required review of mitigation policies adopted by the Department pursuant to the 2015 Presidential Memorandum.

The Fish and Wildlife Service recently opened a comment period on its mitigation policies and the concept of net conservation gain. BLM should work with FWS to establish a reasonable mitigation standard that follows statutory definitions and does not arbitrarily impose heightened, overly burdensome requirements.

There are a few key principles that BLM should promote in its mitigation standard. First, land users should have the flexibility to utilize whichever mitigation mechanism best suits their needs, is cost-efficient, and is readily available. BLM should not promote or discourage a particular mitigation mechanism (in lieu fee, permittee responsible, conservation banks, third party, etc.), nor should BLM impose requirements that make a particular form of mitigation too onerous to use.

Further, the concept of "additionality" must be reasonably applied to land users who are subject to restrictions to protect the GrSG. This concept is relatively easy to apply when few if any regulatory measures exist to protect a species. However, this concept is more difficult to administer when numerous existing regulatory measures exist, and more burdensome on land users. The regulatory baseline used to determine "additionality" should not include enhanced requirements implemented specifically to benefit GrSG, such as those included in state conservation plans or BLM RMPs.

Finally, the requirement for mitigation prior to impacts is unnecessarily inflexible and could indefinitely delay commencement of development projects. There are a number of circumstances that could delay the implementation of mitigation efforts, ranging from seasonal restrictions on wildlife to the lack of lands available for mitigation. We encourage flexibility in the timing of mitigation to account for various issues, and allow some resource development to proceed ahead of mitigation.

Habitat Designations and Mapping

BLM failed to analyze, explain, or otherwise justify the imposition of buffer distances, timing limitations, and noise restrictions on existing and new oil and gas leases and development in the RODs, in violation of the APA. Nor did BLM attempt to rationalize the arbitrary nature of why some restrictions and requirements are imposed in certain habitat

designations in some states or geographic areas, but not within the same habitat designations or geographic areas located in different states.

The habitat designations reflected in the current LUPAs are based on mapping exercises built around leks and far-reaching buffers, premised upon inaccurate and flawed mapping and GIS data, resulting in overbroad and inaccurate habitat designations.

Each state, and each resource management area within each state, has varying ecosystems, topography, landscapes, surface and mineral ownership patterns, variance in local GrSG populations, existing surface disturbance and habitat fragmentation, geologic conditions for producing formations, and location of valid existing rights. The one-size-fits-all approach imposed in the LUPAs is not viable.

Not all lands within designated habitats actually contain viable habitat (e.g., non-habitat in the form of agricultural fields, topography, or existing oil and gas fields, within designated core areas). Past practice has shown through a variety of wildlife and other mapping exercises that reliance on Geographic Information System (GIS) mapping layers leads to inaccurate landscape and habitat assumptions and arbitrary imposition of restrictions on valid existing rights.

The LUPAs and RODs should expressly allow for adaptation of designated habitat based upon local conditions and data upon state and local recommendations. State and local governments have up-to-date lek data that should be relied on instead of inaccurate and flawed mapping and GIS data. Where local mapping has been developed by local governments at a finer scale or with greater accuracy than state mapping, BLM should rely upon and incorporate the local mapping as the best available information.

LUPA revisions should expressly acknowledge and account for existing development and landscape conditions as part of the baseline for GrSG habitat, and existing development should be excluded from habitat designations. The plans should be revised to provide states with primacy in designating habitat and expressly allow for adaptation of designated habitat based upon local conditions and data from State recommendations. The revised plans and RODs should also include an express provision that affords site-specific ground-truthing of habitat areas on a project-specific basis.

In addition, BLM failed to allow for meaningful public involvement when it designated millions of acres as sagebrush focal areas (SFAs) between the time of the release of the draft EISs and the final EISs. In *Western Exploration, LLC et al. v. U.S. Department of the Interior et al.* the court held the change in designation to SFA amounts to “significant new circumstances or information relevant to environmental concerns and bearing” requiring the agencies to prepare a SEIS. While this decision was limited to land use plans in Nevada, BLM should reconsider the designation of SFAs across the GrSG LUPAs, as the legal deficiencies are not unique to Nevada.

Lek Buffers

The LUPAs establish and impose specific lek buffer distances based on disturbance type, which is generally set at a 3.1-mile buffer for energy development and related infrastructure. BLM arbitrarily imposed this 3.1 mile buffer everywhere except within the Wyoming and Montana plans, which allow for a 0.6 mile buffer.

BLM provided no explanation for this significant difference or an explanation for why a uniform lek buffer is required in the general habitat areas. BLM also did not analyze a reasonable range of alternatives to the buffers. The standardized, range-wide lek buffers, and the U.S. Geological Survey Lek Buffer Study on which they were based, were not presented for public review and comment or analyzed in the Final EISs.

Lek buffers are unsupported by scientific evidence. They are based upon the subjective opinion of select authors that the majority of GrSG nests are located within four miles of a lek. There is no data that lek buffers address any specific threat or that such buffers would result in any quantifiable benefits to survivorship or reproduction. These buffers do nothing to mitigate specific cause-and-effect threats to GRSG. Further, lek buffers leave no allowance for tailoring to local conditions.

BLM should analyze alternatives to the 3.1 mile buffer in the SEIS, and only require buffers that are based on the best available science.

Disturbance and Density Caps

The surface disturbance and density caps in the LUPAs create operational and legal issues. Disturbance and density caps create an ultra-competitive environment for companies to obtain the first permits to drill in an area to get under the cap, and they create legal issues and litigation risk for companies. By using a cap, BLM may be required to uphold the valid existing rights of one leaseholder at the expense of another.

Rather than blanket surface disturbance and density caps, disturbance thresholds should be based on discrete areas of biological significance (e.g., the Wyoming Executive Order disturbance cap which applies only to actual suitable habitat disturbed within the analysis areas included in core areas), and clearly exclude non-occupied, non-critical habitat in the calculation.

Establishing the baseline and methodology for calculating any surface disturbance or density caps is critical, and needs to be explained in detail in the SEISs, including incorporating a sound monitoring framework. Furthermore, existing surface disturbance should be considered environmental baseline prior to calculation of caps, and should be calculated with a sound, science-based equivalent to a habitat quantification tool.

Given the lack of federal or state enforceability of disturbance and density caps on private lands, density and disturbance calculations should not encompass these lands. Application of a cap based upon private development would result in a rush to develop on private lands, creating higher densities at the expense of federal minerals, and creating legal issues for BLM, companies, and other stakeholders such as counties.

Most companies already engage in pre-siting and screening for avoidance and minimization even prior to submitting an application for permit to drill (APD). Pre-siting practices coupled with focused offsite mitigation elsewhere can provide conservation and protection of local populations and habitat, resulting in no net loss for the species or its habitat. When mitigation and conservation measures associated with a particular surface disturbing activity/project result in no net loss for the species or its habitat, then that surface disturbance should not count against disturbance and density caps.

BLM should also provide a mechanism to ground-truth habitat areas on a project-specific basis in order to effectively assess the quality of the habitat and potential impacts of management decisions.

The LUPAs further need flexible provisions that allow opportunities for the disturbance caps to be exceeded when there is an opportunity for overall reduced disturbance on a greater scale, or when disturbance cannot be avoided due to valid existing rights, and where an opportunity for conservation and restoration can be achieved.

Reclamation of temporary impacts should be recognized and calculated as non-disturbed lands under the disturbance cap calculation. Lands should be counted as reclaimed and no longer disturbed when the acreage is trending toward the surrounding area instead of waiting for the land to reach baseline. While caps may be utilized in certain locations to preserve high priority habitat, caps are not appropriate in areas with existing development, valid existing leases, or areas with marginal habitat or potential habitat.

The use of any cap as a management tool for conservation needs to be limited, based on site-specific habitat areas critical for the survival of the species, based in science, thoughtfully considered, well defined, customized to local conditions, and justly implemented.

Science

Western Energy Alliance joined a number of local governments and stakeholder groups in submitting three Challenges for Correction of Information against the BLM Report on National Greater Sage-Grouse Conservation Measures (NTT Report); FWS's Greater Sage-grouse Conservation Objectives Final Report (COT Report); U.S. Geological Survey's (USGS) Buffer Report; and the USGS's Comprehensive Review of Ecology and Conservation of the Greater Sage Grouse: A Landscape Species and its Habitats (Monograph) pursuant to the Federal Information Quality Act. Our challenges were never adequately addressed by BLM.

We urge BLM to reevaluate and remove these three reports from consideration in the land use plans due to the faulty conclusions each supplies.

The COT Report was prepared to develop range-wide conservation objectives for the GrSG. The Monograph was heavily relied upon by FWS in its 2010 listing decision, and BLM developed the NTT Report and relied upon it extensively in developing the LUPAs. Each of these three reports failed to meet basic standards of science, resulting in severely misinformed policy decisions in the LUPAs.

The reports were highly influential, but they advanced a one-sided narrative that is simply not supported by the full body of scientific literature and data. The agencies relied on an insular group of scientist-advocates who deviated from providing credible, accurate scientific data to advance policies they personally support.

The small group of scientists had interlocking relationships as authors of the reports, authors of the studies used in the reports, peer reviewers, editors, and policy advocates. Their conflicts of interest included receiving millions of dollars from the agencies while supposedly developing independent studies. When faced with conflicting science, they simply ignored studies that didn't fit their bias. Meanwhile, more diverse expertise and viewpoints were simply ignored when BLM was developing the LUPAs.

The Reports were developed with unsound research methods resulting in a partial and biased presentation of information, and peer reviewers have found them to be inaccurate, unreliable, and biased. They contain substantial technical errors, including misleading use of authority and failure to address studies that do not support a federal, one-size-fits-all narrative. As a result, the reports reach conjectural conclusions that are not scientifically supported, especially the frequently repeated but flawed assumption that a temporary decrease in lek counts equates to a population decline.

Driven by policy considerations rather than defensible biological criteria, the reports do not address specific cause and effect threats to the GrSG. Rather, they selectively present biased information while ignoring contrary information and the scientific method. BLM's review of the plan amendments should rely on unbiased and properly peer-reviewed science rather than incorporating the faulty conclusions reached in the NTT, COT, and Monograph reports.

Adaptive Management

Adaptive management allows refinement, over time, of conservation measures that are successful and beneficial to the species. However, adaptive management changes should require high scientific standards and any changes should occur with a frequency that accommodates land users' need for certainty. Adaptive management change processes must also provide for proper input by the affected land user and due process of decision making. For example, adaptive management changes should not occur every time a new

scientific study is released that contributes to an already well-developed body of scientific literature. Land users such as oil and gas operators require certainty in order to plan and budget future activities, and frequent, ongoing adjustments to conservation strategies undermine such certainty.

In the LUPAs BLM bases effectiveness monitoring and determination of when adaptive management triggers have been reached on lek count data. Although the counts of male sage grouse on leks has been, and continues to be, the primary mechanism for collecting data about the relative abundance and population trends of sage-grouse, the LUPAs fail to acknowledge that lek counts provide only a crude, nonrandom, and statistically invalid estimates of population trends.⁶ Fundamentally, BLM failed to recognize that populations of any given species naturally fluctuate. Consequently, the land use restrictions in the LUPAs, which are based solely on the unfounded premise that restricting human activities will benefit sage grouse, are not scientifically justifiable and have a low likelihood of actually benefitting sage grouse and its habitat.

Sage-grouse are responsive to such factors as seasonal and long-term fluctuations in regional weather conditions, short-term weather extremes and stochastic events, intra- and inter-species competition for resources, intra- and inter-species behavioral competition, predator-prey relationships, and subtle or severe changes in habitat quality. The reason this is important is because with relatively good precision global climate patterns related to the Pacific/North American Pattern, Pacific Decadal Oscillation, El Niño-Southern Oscillation and their predictable interactions can be modeled to predict when a dip or surge in sage-grouse populations will occur, triggering a soft and/or hard trigger.

Adaptive management measures and the triggers that precede them should be reevaluated and defined in a way that provides clarity and certainty for resource development in GrSG habitat.

Conclusion

Western Energy Alliance strongly supports BLM's intent to revise the GrSG LUPAs. We urge BLM to amend the plans through supplemental EISs that are based on sound science and strike a reasonable balance between protection of the species and resource development. We are encouraged that BLM is acknowledging the need for revisions, and we are more than willing to work with BLM staff as they proceed with the changes.

⁶ See "Evaluation of the lek count index for greater sage-grouse," *Wildlife Society Bulletin* 32:56-68 D.P. Walsh, G.C. White, T.E. Remington, and D.C. Bowden, 2004. See also "Hierarchical Bayesian Analyses of Greater Sage Grouse Population Dynamics in the Pinedale Planning Area and Wyoming Working Groups:1997-2012," Wildlife Science International, R.R. Ramey, J. Thorley and L. Ivey, 2014.

Revisions to the Greater Sage-Grouse Land Use Plans
December 1, 2017

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Thank you for the opportunity to provide scoping comments on potential revisions to the LUPAs. Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Tripp Parks" with a stylized flourish at the end.

Tripp Parks
Manager of Government Affairs