



Shaping the future for birds

June 29, 2015

Neil Kornze
Director
Bureau of Land Management
Attention: Protest Coordinator
PO BOX 71383
Washington, D.C. 20024-1383

Dear Director Kornze,

Thank you for this opportunity to protest the Northwest Colorado Greater Sage-Grouse Proposed LUPA/Final EIS (FEIS). American Bird Conservancy (ABC) and Prairie Hills Audubon Society, have been participating in the region-wide planning initiative and appreciates the hard work of Bureau of Land Management staff and your leadership to bring the grouse conservation plans to completion.

ABC believes that while in many instances the Northwest Colorado plan marks progress over current management, it in some cases does not follow the management recommendations of scientists, leaves open the potential for further habitat loss or degradation, and does not designate protected reserves or focal areas for Greater Sage-Grouse. We urge that the FEIS be revised to prevent the construction of new transmission lines, oil and gas fields, and roads in priority sage grouse habitat.

A recent rangewide population persistence study (Garton et al) found that the Greater Sage-Grouse population declined 55% from 2007 to 2013, and that many of the remaining grouse subpopulations may be too small to persist over time and are at a high risk of extinction. It is notable that only the state of Colorado chose not to participate in this study and withheld its grouse population data. However, given the drastic rangewide decline, the strongest conservation measures need to be applied in all of the proposed management plans, including Colorado's.

On March 12, a group of preeminent sage grouse scientists sent a letter to the Secretaries of Interior and Agriculture expressing concern "that federal agencies appear to be abandoning science-based conservation measures reflected in the published scientific literature..." A copy of this letter is included in our comments. We are concerned that the final does not reflect the best available science and should be modified to conform to the scientists' recommendations.

We believe that with the following ABC recommended changes the FEIS will adhere to best available science and offer grouse populations an effective and durable conservation strategy. With these changes, this management plan will also benefit a wide array of bird species of conservation concern including: American Peregrine Falcon, Bald Eagle, Brewer's Sparrow, Columbian Sharp-Tailed Grouse, Ferruginous Hawk, Golden Eagle, Gunnison Sage-Grouse, Loggerhead Shrike, Long-billed Curlew,

Northern Harrier, Purple Martin, Sage Sparrow, Vesper Sparrow, Western Burrowing Owl, Whooping Crane, and Wilson's Warbler.

Existing Development, Valid Existing Rights, and Anticipated Cumulative Impacts: ABC is concerned that there is no analysis on how the different management options are likely to affect sage grouse populations. Nor is there a comprehensive review in the FEIS of cumulative impacts that consider existing development (Manier et. al), all valid existing rights, and anticipated cumulative impacts. The FEIS states that there is a net conservation benefit, and that only localized populations of grouse would be at risk from planned developments, but there is no analysis provided supporting that conclusion. Given the high level of expected and allowed impacts, this conclusion is overly optimistic in our view.

For example, a brief review finds that out of the 926,700 acres of priority habitat, a cumulative total of 838,000 acres already have harmful impacts. It is not known how each specific acre of priority habitat is affected, but this is a general indication that a considerable portion of priority grouse habitat on Public Lands and National Forests are already significantly degraded, and that many of these acres are subject to multiple, overlapping negative stressors.

The stated intention to meet all valid existing rights will have further detrimental impacts on sage grouse populations already impacted by the cumulative impacts of this history of past development. As a result, the Final EIS anticipates significant additional cumulative impacts that are not adequately quantified or addressed through mitigation and the designation of protected areas.

It is important to note that Manier et al found a significant portion of priority and general habitat are already impacted by a variety of developments known to be detrimental to sage grouse populations and their persistence in an area over time. For example, there are 40 communications towers in priority habitat, and another 50 towers in general habitat. There are 60 miles of utility corridors in priority habitat impacting 40,500 acres, and another 30 corridors in general habitat impacting 21,000 acres.

There are also 10,400 miles of transmission lines in BLM-manage priority habitat, and 7,500 miles in general habitat. The FEIS states that "numerous multi-state transmission lines are proposed through GRS habitat, as are large-scale oil and gas field developments in excess of 100,000 acres." Existing ROWs already cover 257,600 acres of priority habitat in the decision area, and another 219,000 acres of general habitat. And much more development expected. Each year BLM field offices collectively process more than 300 land use authorizations each year.

The FEIS states "ROW applications across BLM administered lands have increased, and will likely continue to increase; demand for communications site leases....and the demands on BLM-administered lands to locate the facilities (e.g. access roads, communications sites, mineral development, pipelines, water tanks and utility corridors) needed to support the fast-growing infrastructure. As communities and mineral developments continue to expand in the planning area, it is likely that requests for the use of BLM-administered land for facilities would increase."

Oil and gas development is extensive and increasing. The Final EIS projects an increase in oil and gas activities for the next 20 years, which will drive other impacts such as mining sand and gravel, and building new roads. A total of 331,500 acres of BLM-managed priority habitat already has been leased for oil and gas drilling, as has another 221,100 acres of general habitat.

A significant unknown is the effect of the upcoming Oil Shale and Tar Sands Programmatic EIS which is likely to increase pressure for development as a total of 808,000 acres are being proposed for leasing in the planning area which includes northwest Colorado. One shale oil lease covering 359 acres has already been authorized by the White River Field Office.

The number of projected wells in Table 5.2 indicates the agency is planning to develop and degrade a large expanse of grouse habitat. The lack of analysis on the number of acres where mitigation will likely be needed is notable and of concern. The total number of projected well pads completed and expected to have long-term disturbance in sage grouse habitat is 1889 and the number of BLM managed wells will be 5356. The Hiawatha Regional Energy Development EIS is proposing 4,208 new gas wells on 157,361 acres of mixed ownership, including priority habitat, with 91% of the project area managed by BLM.

In addition, there are 2,100 miles of road in priority habitat managed by BLM, impacting another 21,000 acres along with 1,400 miles of road in general habitat impacting 13,800 acres. While the Final EIS does state that new routes would need to be constructed for oil and gas development, no mileage or acreage impacted estimates are included.

There are 19,400 acres of locatable mineral claims in BLM-managed priority habitat, and another 13,500 acres of general habitat. Mineral material disposal sites impact 21,300 acres of priority habitat and 14,600 acres of general habitat.

Grazing allotments not meeting land health standards cover 166,100 acres of priority habitat, 18% of the total, and another 224,100 acres of general habitat. There also 1,500 miles of fences in priority habitat and 800 miles in general habitat.

Forest Service standard GRSG-LR-SUA-ST-004 says that in priority and general habitat require protective stipulations (e.g. noise, tall structure, guy wire removal, and perch deterrent) when issuing new authorizations for infrastructure (p. 2-155, #18a). Forest Service standard GRSG-RT-ST-002 says do not conduct or allow road and trail maintenance within 2 miles from active leks during lekking March 1 to April 30 from 6 pm to 9 am. Forest Service standard GRSG-RT-ST-001 allows no new road construction in priority and general habitat except for public safety or valid existing rights.

ABC Requested Relief: Designate focal areas or additional ACECs with no disturbances allowed to compensate for valid existing rights and projected transmission line projects. New primary, secondary, or high-activity roads should be excluded within 1.9 miles of leks, and all new road construction or location should be excluded within .6 miles of leks without exceptions, waivers or modifications; limit overall open road density to .6 linear miles per square-mile section. Apply GRSG-LR-SUA-ST-004 to development of valid existing rights. Apply GRSG-RT-ST-002 to all sage grouse habitats on BLM managed lands. Apply GRSG-RT-ST-001 to BLM managed lands.

Transmission Lines: ABC is very concerned that while the proposed standards for transmission lines in priority habitat are very strong by designating the habitat as an exclusion area, several major developments, TransWest and Gateway South Transmission Line projects, are exempted and are expected to be built despite there being no decision documents supporting that assumption.

In addition, there is a failure to disclose what are likely to be extensive habitat loss, fragmentation, and degradation that will negatively affect grouse populations. Gateway South is expected to span over 400 miles with a 250-foot right of way; and the TransWest Express will cross over 700 miles.

Because sage grouse need at least a 4-mile buffer between leks and such tall structures, the effective habitat loss will be immense; approximately (2 sides x 4 mile buffer x 700 mile line x 640 acres per square mile) = 3,584,000 acres to be impacted by the TransWest Express and another 2,048,000 acres by Gateway South. Given this extensive habitat loss that can be anticipated, and that should have been quantified in the FEIS, stronger mitigation standards and the designation of protected areas are needed to compensate.

Forest Service guideline GRSG-LR-SUA-GL-001 says that for priority habitat new transmission lines and pipelines should be buried to limit disturbance to the smallest footprint unless rationale is provided grouse are not being impacted (p. 2-151, #11).

ABC Requested Relief: Priority habitat should be an exclusion zone for all major transmission line developments. Disclose anticipated acres impacted and designate protected areas of equal size to compensate. Make GRSG-LR-SUA-GL-001 a standard and apply to all sage grouse habitat.

Tall and Low Structures: The proposed decision does not provide adequate protection for grouse from tall and low structures. BLM is proposing a one-mile buffer between active leks and low and tall structures. The Forest Service GRSG-GEN-GL-009-Guideline says development of tall structures within 2.0 miles from the perimeter of occupied leks should be restricted within nesting habitat. Given the amount of anticipated tall structures to be developed, following the USGS lower range is insufficient. Similarly, the 1.2 mile proposed buffer for low structures is insufficient. Forest Service guideline GRSG-M-LM-GL-094 says abandoned mine sites should be closed or mitigated to reduce predation of GRSG by eliminating tall structures that could provide nesting opportunities and perching sites for predators.

ABC Requested Relief: Adopt standards for all grouse habitat requiring a 4 mile buffer for leks from tall structures, and a 3 mile buffer for leks from low structures.

Mineral and Energy Development: The NTT report states that core areas should be withdrawn from mineral entry and that there should no oil and gas leasing in core areas. In addition, the proposed management for valid existing rights is inadequate to protect the species' habitat needs. The agency has significant authority to condition surface use of lease land under three rationales: compliance with lease terms and stipulations; compliance with nondiscretionary statutory obligations; and general authority to impose reasonable measures consistent with least terms.

ABC Requested Relief: Close all core areas, winter concentration areas, Connectivity Areas to future fluid mineral leasing in accordance with the NTT recommendations. These areas should also be declared unsuitable for coal mining and closed to leasable minerals and mineral materials sales. Allow geophysical operations only by helicopter/portable drilling methods and in accordance with seasonal timing restrictions and/or other restrictions that may apply. For all existing leases, impose terms consistent with the National Technical Team, including no new surface occupancy on federal leases (with exceptions for occupancy of no more than 3% inside a 4-mile lek buffer, if the entire leasehold is within such habitat).

Noise Restrictions: The final plan lacks a clear and specific noise standard for BLM managed lands. The Wyoming Basin Ecoregional Assessment found drilling within 4 miles of a lek could have indirect noise disturbance or direct (mortality) negative effects on sage-grouse populations. Forest Service guideline GRSG-GEN-GL-001 says that during lekking avoid noise at 10 decibels above ambient not to exceed 20 24 db. Should be avoided from 6 pm to 9 am at a distance of 3.1 miles (2-145, #10)

ABC Requested Relief: Establish a standard of 10 dBA above a defined ambient noise level of 15 dBA within 4 miles of leks and in identified wintering habitats, to be applied across all occupied sage grouse habitats.

Vegetation Management: Projects that reduce or eliminate sagebrush should be prohibited. While the BLM restricts removal of wintering habitat, it doesn't provide adequate protection elsewhere. The proposed objective says manage for all seral stages, which could become a pretext for removing sagebrush habitat. The Forest Service guideline (GRSG-GRSGH-GL-001) provides the needed direction.

ABC Requested Relief: Vegetation treatments in core areas should be prohibited except where they are consistent with maintaining optimal sage grouse habitat. Remove the "manage for all seral stages" objective and make (GRSG-GRSGH-GL-001) a standard and apply to BLM managed lands.

Wintering Areas: The plan does not adequately identify, map and protect wintering habitat.

ABC Requested Relief: Identified winter habitats inside and outside of core areas should be closed to future mineral leasing and material sales and withdrawn from locatable minerals entry. For valid existing rights impose a 3% surface disturbance limit and one pad both calculated per square mile section, no surface occupancy within 1.75 miles from the edge of wintering habitats, and no high-volume roads within 1.9 miles of wintering habitat; seasonally close to all vehicular access between Nov. 30 and March 15.

Soft and Hard Triggers: ABC commends the BLM for inclusion of the soft and hard triggers as a means of adaptive management to ensure that the plans are effectively conserving grouse and its habitat. However, the proposed standards for the hard trigger are too forgiving of population and habitat losses and the standards need to be strengthened.

For example, four populations are completely excluded from the hard trigger, the habitat loss threshold of 30 percent is excessive, and in order to be triggered, there must be both a 25% population decline and a 30% habitat loss in both Northwest Colorado and North Park. In addition, the use of a three-year running average suggests that it could be up to three years before the agency would react to a significant decline. Making matters worse, there is a lag time between habitat loss and population decline which means that by the time adaptive management changes are adopted it may already be too late.

Lowering these hard target thresholds will also help bolster the soft trigger process if there are population declines or habitat loss. Moreover, given that there are valid existing rights, and the plan allows for extensive construction of large transmission lines, oil and gas fields and roads, significant habitat loss must be assumed.

ABC Requested Relief: Reduce the hard trigger's habitat loss threshold from 30% to 10%, include all four populations, and do not require both or all populations to reach the thresholds.

Designation of Protected Areas: In our comment on the draft EIS, ABC requested that protected areas be designated to help anchor grouse conservation and provide a higher degree of certainty that grouse populations would persist over time. Areas of Conservation and Environmental Concerns and Research Natural Areas where management disturbances are not allowed should be designated to preserve core areas and to ameliorate the extensive cumulative impacts that have resulted from past and ongoing management activities.

We are disappointed that no areas were designated for added protection or monitoring and disagree that designating ACECs would not serve the project's purpose and need. Additional protection for additional ACECs would only augment other management standards. Attached is a letter from conservation groups to Department of the Interior staff working on grouse conservation issues. The letter was in response to a FWS letter urging the designation of so-called SuperPACs as part of the planning to provide a higher degree of protection for remaining grouse population strongholds.

ABC Requested Relief: Designate focal areas, ACECs and Research Natural Areas with no disturbances allowed to compensate for valid existing rights and projected transmission line projects, roads, and oil and gas developments.

Grazing Allotment Retirement: Similarly, there is a need to develop additional management options for grazing allotments that include the voluntary relinquishment and retirement of grazing allotments as was proposed on Alternatives B and C. The claim that additional NEPA analysis is needed to close allotments does not address the need to analyze how retirement as a management strategy may benefit grouse conservation. By ignoring this recommendation, the public has not been offered a complete range of management options to consider. The agency is proposing relinquished allotments could be used as a forage reserve, but this would not provide any certain conservation benefits to sage grouse.

ABC Requested Relief: Allow for permit retirement and the permanent closure of allotments in priority habitat. This would allow for private funds to be paid to ranchers to assure their financial solvency. Conservation funders will not make these payments for forage allotments that may be grazed. If forage reserves are created, they should be designated as sage grouse forage reserves, and not used for livestock grazing.

Additional ABC Requests for Relief in the Final EIS

In many instances the proposed alternative does not follow the best available science. The Draft EIS often analyzed more protective alternatives that were not chosen in the FEIS. We urge BLM to consider changes to the proposed FEIS to adopt the more stringent conservation standards recommended by sage grouse scientists. All of the following listed items are from Table 2.8.

NTT No. 3 – Proposed LUPA does not include a specific time period to complete travel plans. Alt. B required it be completed within 5-years. It is notable that the Forest Service has already completed this work. ABC requests that a 5-year time limit be required to complete travel management plans.

NTT No. 4 – Allows for construction of new routes in priority habitat. Alt. B limits route construction to realignments of existing routes if it has minimal impact or eliminates need for a new road. The Forest Service does not allow for new routes, except for realignments necessary for resource protection. ABC requests that new routes not be allowed in priority habitat.

NTT No. 5 – Provides guidance to use existing roads and realignments whenever possible. Alt. B required the use of existing roads and realignments for valid existing rights not yet developed. ABC requests that portion of Alt. B be adopted combined with the 3 percent cap in the BLM Proposed LUPA.

NTT No. 6 – Allows for upgrades to existing routes. Alts. B and C allowed for no upgrading that would change route category unless upgrading would have minimal impact or preclude the need to build another road. ABC requests that Alt. C be adopted.

NTT No. 10 – Manages priority habitat as avoidance areas for ROW permits or FS SUA permits and exclusion areas for high-voltage transmission lines. However, the TransWest and Energy Gateway South Transmission Line projects are exempted from this requirement. ABC requests that ROWs in priority habitat be managed as exclusion areas except for valid existing rights, and that either these two transmission line exemptions be eliminated (preferred), or that BLM disclose the anticipated acres impacted and designate protected areas of equal size to compensate.

NTT No. 13 – Does not manage general habitat as a ROW avoidance area. Alt. B proposed general habitat be an avoidance area. ABC requests that Alt. B be adopted.

NTT No. 14 – Does not require colocation of new ROWs in general habitat. Alt. B proposed to require colocation. The Forest Service standard requires colocation. ABC requests that Alt. B be adopted.

NTT No. 17 – Alt. B proposed priority habitat for mineral withdrawal. The Forest Service includes a guideline allowing mineral withdrawal to prevent detrimental activities. ABC recommends that Alt. B be adopted, or that mineral withdrawal be analyzed as an option to prevent detrimental activities and that additional mitigation requirements, such as a minimum 5 to 1 mitigation standard be adopted.

NTT No. 18b – Alt. C recommends that wind energy not be sited in occupied grouse habitat. ABC recommends that the BLM and Forest Service standard be modified to manage both priority and general habitat as a wind energy exclusion area and site wind energy development at least 5 miles from active leks (p. 2-157, Alt C, #18c).

NTT No. 18c – Alt. C recommended that wind energy development be at least 5 miles from active leks. ABC requests that this standard be adopted by BLM and Forest Service.

NTT No. 18d - Alt. C recommends that industrial solar energy not be sited in occupied habitat. ABC recommends that the BLM and Forest Service standard be modified to manage both priority and general habitat as an industrial solar energy exclusion area.

NTT No. 21 – BLM states it will prioritize review of grazing permits in priority habitat. While commendable, the BLM could also immediately implement grouse conservation standards into existing permits and leases. It should be noted that the Forest Service immediately implements new grazing standards. ABC and partners sent an attached letter which shows BLM likewise has authority

to immediately implement grouse conservation grazing standards, which could then be further modified when the environmental reviews take place. ABC supports this standard, with the addition of the inclusion of a requirement for immediate implementation.

NTT No. 22 – Alt. C recommended retiring grazing allotments within all grouse habitat. The Forest Service guideline LG-GL-002 allows for the consideration of allotment closure. ABC requests that Alt. C be adopted and that all grazing allotments in priority habitat not meeting both land health and sage grouse conservation standards be closed until they are able to meet that standard, unless the allotment holder make an immediate and binding commitment (that is monitored and enforced) to actions needed to very quickly bring the allotment into compliance.

NTT No. 25 – The proposed alternative provides general guidance, but more specific standards are needed. BLM proposes to rest treated areas from grazing for two full seasons unless recovery dictates otherwise (p. 2-212, #80). ABC requests that a 7-inch grass height be maintained in all nesting and brood rearing habitats and that treated areas be rested for three years instead of two.

NTT No. 28 – Alt. B proposed to conserve or enhance wet meadow complexes to maintain or increase the amount of edge or cover during the late brood-rearing period. ABC requests that Alt. B be adopted.

NTT No. 29 – Alt. B proposes that riparian and wet meadows not meeting proper function should be managed to attain the correct reference state. The proposed alternative does not include this recommendation, and instead relies on permit renewal to adopt new standards for riparian and wet meadow areas. Given the lack of immediate implementation of grazing standards and the lengthy delays for permit renewals under NEPA, there is no assurance this will ever happen absent clear requirements. ABC requests that Alt. B be adopted and that standards to conserve riparian and wet meadows be immediately implemented.

NTT No. 30 – Alt. B proposes new water developments be allowed only if they benefit sage grouse priority habitat. Alt. C would authorize no new water developments in grouse habitat. The Forest Service standard LG-ST-001 does not authorize water developments unless beneficial to grouse habitat. The BLM proposed alternative allows water developments that will not affect grouse from habitat loss. However, this standard ignores the risk posed by West Nile Virus. ABC requests that Alt. C be adopted.

NTT No. 32 – Alt. B and C would only allow for treatments to increase forage for livestock if it enhances or restores grouse habitat. The proposed alternative says manage for all seral stages, which could become a pretext for removing sagebrush habitat, unless it would have a population level effect on grouse. ABC requests that Alt. C be adopted.

NTT No. 35 – Proposes to mitigate potential impacts of West Nile virus. ABC requests that no new water developments be allowed that are not beneficial to sage grouse and its habitat.

NTT No. 38 – Alt. C proposes that any vegetation treatment include non-grazing exclosures and include long-term monitoring for at least years. ABC requests that Alt. C be adopted.

NTT No. 39 – Alt. B would allow for retirement of grazing permits on all or part of an allotment in priority habitat. The proposed would allow voluntarily relinquished permits to remain available for grazing, used as fuel breaks or as a common grass reserve. ABC requests that Alt. B be adopted.

NTT No. 60 – Alt. C says that no waivers will be issued in all habitat. ABC requests that Alt. C be adopted.

NTT No. 65 – Alt. B recommends withdrawal from mineral entry based on risk to grouse and habitat. ABC requests that Alt. B be adopted.

NTT No. 66 – Alt. B makes claims with the withdrawal area subject to validity claims or buy out. ABC requests that Alt. B be adopted.

NTT No. 67 – Alt. B requires effective mitigation in perpetuity for conservation such as purchasing private land or mineral rights. ABC requests that Alt. B be adopted.

NTT No. 89 – Alt. C excludes livestock grazing from burned areas until plants achieve desired condition. ABC requests that the proposed action be modified from two years of rest, to three years of rest.

NTT No. 89 – Alt. C says that where burned habitat cannot be fenced from unburned, the entire area should be closed to grazing. ABC requests that either Alt. C be adopted, or that three years of rest be required.

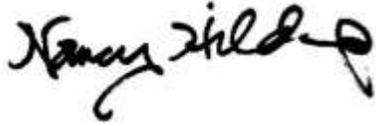
NTT No. 95 – Proposed LUPA habitat restoration objective is to manage for a mosaic of seral stages and sagebrush in all age classes. This objective could justify removal of sagebrush habitat. ABC requests that Alt. B be adopted.

Thank you for this opportunity to protest. We look forward to working with Bureau to develop a final plan that will ensure the conservation of the Greater Sage-Grouse in Northwest Colorado. Please contact me at 202-234-7181 ext. 216 or sholmer@abcbirds.org if you have any questions.

Sincerely,



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Prairie Hills Audubon Society (“PHAS”) is a non-profit South Dakota corporation with its principal place of business in Black Hawk, South Dakota. Our members generally reside in western South Dakota. PHAS is a chapter of the National Audubon Society. The mission of PHAS is to engage in educational, scientific, literary, historical, and charitable pursuits that will educate about, protect, and restore the environment and natural heritage. Its members use BLM and Forest Service lands for wildlife and plant observation, hiking, photography, aesthetic appreciation, spiritual renewal, and other recreational purposes. We have a special interest in birds and sage grouse. PHAS believes that sage grouse in North and South Dakota are fringe populations to Montana, and the continued existence of these birds in northwest South Dakota and North Dakota is contingent on grouse management in Montana and Wyoming. We believe any possible recovery (repatriation) of our southwestern South Dakota sage grouse leks is dependent on sound management in Wyoming and Montana.

[American Bird Conservancy](#) (ABC) is the Western Hemisphere’s bird conservation specialist—the only organization with a single and steadfast commitment to achieving conservation results for native birds and their habitats throughout the Americas. With a focus on efficiency and working in partnership, we take on the toughest problems facing birds today, innovating and building on sound science to halt extinctions, protect habitats, eliminate threats, and build capacity for bird conservation. ABC has working on the regional sage grouse conservation planning initiative since 2009 and commented on the draft EIS for Northwestern Colorado which is attached.