

November 27, 2013

John Mehlhoff
Acting State Director, Colorado
Bureau of Land Management
2850 Youngfield Street
Lakewood, Colorado 80215

Dan Jirón
Regional Forester, Rocky Mountain Region
U.S. Forest Service
740 Simms Street
Golden, Colorado 80401

RE: Northwest Colorado Greater Sage-Grouse Draft Land Use Plan Amendment and Environmental Impact Statement

Dear Mr. Mehlhoff and Mr. Jirón:

The undersigned organizations write to express our concerns with the Northwest Colorado Greater Sage-Grouse Draft Land Use Plan Amendment and Environmental Impact Statement (DLUPA/EIS). This comment letter does not replace but is in addition to detailed technical comments that may be submitted by the individual undersigned organizations to the Bureau of Land Management and U.S. Forest Service (the agencies) on this matter. Our constituents represent a diverse group of stakeholders that drive and rely on economic development in northwest Colorado, utilize public lands for myriad multiple-use activities, and play a significant role in the protection and conservation of plant and wildlife species, including the Greater Sage-Grouse (GSG), and its habitat. We therefore have a direct and vested interest in the proposed management decisions in the DLUPA/EIS.

We believe there have been significant efforts undertaken in northwest Colorado to conserve GSG and we support the agencies' efforts to craft additional management procedures to conserve and protect the species and its habitat in order to demonstrate to the U.S. Fish & Wildlife Service (FWS) that a listing under the Endangered Species Act (ESA) is unnecessary. Nonetheless, after reviewing the DLUPA/EIS we have identified several issues with the document that, if implemented, will have a number of inequitable socioeconomic consequences in northwest Colorado. Furthermore, we have concluded that the proposed management procedures in the DLUPA/EIS far exceed what is needed to demonstrate to FWS that the regulatory mechanisms needed to conserve GSG and its habitat will exist in the planning area.

The signatories of this letter are seriously concerned about many facets of the DLUPA/EIS that will adversely affect our respective constituencies. We collectively believe that the document has been rendered fundamentally flawed due to the following reasons:

1. The document does not contain an adequate range of alternatives as required under the National Environmental Policy Act (NEPA)
2. The analysis and recommendations in the document rely heavily on the BLM National Technical Team's Report (NTT) Report, which failed to include recent scientific and commercial data and would severely limit the ability of the agencies to meet their multiple-use mandates
3. The agencies have proposed overly broad and rigid management restrictions in mapped habitat areas
4. The analysis underestimates the negative socioeconomic impact of the proposed management of GSG in the planning area
5. The disturbance cap methodology proposed in the DLUPA/EIS is not clearly defined and lacks scientific justification

6. The document does not adequately explain the proposed mitigation strategy or the context for its use.

Because the management policies resulting from this planning effort will significantly affect northwest Colorado and the future economic vitality of local communities within the planning area, the agencies must rectify these issues before preparing the final LUPA/EIS and issuing a Record of Decision.

Inadequate Range of Alternatives

NEPA and Council on Environmental Quality (CEQ) regulations require agencies to consider a well-defined range of management alternatives and have a clear basis for choosing among the options. While the agencies claim they “will consider a range of reasonable alternatives, including appropriate management prescriptions,”¹ the DLUPA/EIS does not include an alternative that would protect GSG and its habitat while also meeting the traditional multiple-use concepts required under the Multiple-Use Sustained Yield Act of 1960, the Federal Lands Policy and Management Act of 1976 (FLPMA), and the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976. Alternatives carried forward for analysis must be reasonable and meet existing land use objectives and mandates.

Instead, the preferred alternative (Alternative D) largely represents a mixture of the elements of Alternatives B and C, one of which relies on non-site specific recommendations from the NTT report, and another that employs impractical restrictions developed by special-interest environmental groups. As currently proposed, it is unclear how the BLM would implement any of the proposed alternatives and still be able to meet their multiple-use mandate.

During scoping, the agencies received input from local and state governments that have been recognized as cooperating agencies in this process. During these meetings, the cooperating agencies offered substantive input that would provide a fourth alternative usually reserved for cooperating agency guidance. Unfortunately, those suggestions were not factored into the formulation of alternatives.

To ameliorate this dilemma, we urge the agencies to draw upon the materials submitted by the cooperating agencies that foster GSG conservation as well as a range of public land uses and incorporate those elements into the preferred alternative in the final LUPA/EIS. Taking this step will help ensure that the final LUPA/EIS actually balances economic development with GSG protection in the planning area and that the agencies have considered a broader range of management alternatives as required under NEPA and CEQ regulations.

Overreliance on the NTT Report

We question the reliance on many cited sources in the DLUPA/EIS, particularly the NTT Report. Some recommendations from the NTT report are directly included in the preferred alternative, and it appears the report serves as the basis of many of the proposed management restrictions.

¹ DLUPA/EIS at 25

The use of the NTT report is problematic as it contains overly burdensome recommendations that are not based on local conditions in northwest Colorado. An independent review of the report shows that it contains many methodological and technical errors, selectively presents scientific information to justify recommended conservation measures, and was disproportionately influenced by a small group of specialist advocates.² As such, the NTT report does not adequately represent a comprehensive and complete review of the best scientific and commercial data available and is inappropriate for use as the primary basis of many of the proposed management restrictions.

Overly Broad Application of Restrictions in Habitat Areas

We question the proposal to impose rigid, uniform management restrictions without consideration of local conditions in habitat areas that were mapped by Colorado Parks & Wildlife. The agencies have proposed to prohibit surface occupancy or disturbance within four miles of a lek in Preliminary Priority Habitat (PPH) during nesting, lekking, and early brood-rearing periods. The four-mile buffer around leks does not address the variations in habitat quality or use and given the topography of the planning area there is substantial acreage within four miles of leks that may not actually be GSG habitat.

The map of “Ecological Sites Supporting Sagebrush” fails to differentiate between sagebrush habitat quality or use by GSG. As a result, the agencies may be arbitrarily expanding areas subject to the management restrictions outlined in the DLUPA/EIS to areas that do not actually contain active leks or GSG habitat. In addition, there is no scientific evidence that enforcing rigid, uniform restrictions across thousands of acres will actually benefit the species and its habitat, which is counter to the agencies’ objectives for this planning process. These factors undercut the agencies’ ability to work with users of public lands to identify site-specific plans that allow for development while protecting the GSG and high-quality habitat.

Furthermore, the agencies have not provided a mechanism to ground-truth the habitat areas on a project-specific basis before imposing restrictions, or to monitor its quality or use in the future. Without ground-truthing and future monitoring, the agencies will likely preclude multiple-use activities in areas that do not actually support GSG habitat or active leks, unnecessarily preventing economic activities without commensurate benefit to GSG populations and habitat.

Inadequate Socioeconomic Analysis

Users of public lands in northwest Colorado pump millions of dollars into the national, state and local economies and provide thousands of high-paying jobs within the planning area. The management restrictions and closures in the DLUPA/EIS will undeniably have a direct impact on these users and will have a negative impact on the future viability of coal and hard rock mining, oil and natural gas development, agricultural production, grazing and ranching activities, and power generation in the planning area and beyond. As a result, crucial tax revenue and other economic benefits from these activities will decline.

Unfortunately, the agencies underestimate and consequently underreport this negative impact. The socioeconomic analysis is biased in favor of non-market valuation methods which by the agencies’ own

² Rob Roy Ramey, *Review of Data Quality Issues in a Report on National Sage-Grouse Conservation Measures Produced by the BLM National Technical Team (NTT)*, (September 19, 2013).

admission “are not directly comparable to regional economic indicators commonly used to describe how natural resources on public lands contribute to the regional economic indicators such as output/sales, labor income, and employment.”³ Due to this bias, the agencies have overestimated non-market valuations and underestimated the negative economic impact on local communities and the State of Colorado.

The agencies portray the socioeconomic impacts on the entire planning area but do not delineate the effects that would result from the proposed management restrictions on specific areas, including counties. A more specific portrayal of the projected impacts which was proposed by many cooperating agencies during the scoping process would help those impacted to fully understand the varying levels of socioeconomic impacts that will result from the DLUPA/EIS.

Disturbance Cap Methodology

Limiting surface disturbance in the 21 management zones using a cap is a central component of the management of GSG as proposed in the DLUPA/EIS. The methodology proposed for implementing a cap in the DLUPA/EIS is not clearly defined, lacks scientific justification, and no evidence exists that it will result in sustaining or increasing sage grouse populations.

The agencies have not adequately elucidated several critical details about the functionality and application of the cap concept. For example, the DLUPA/EIS does not clearly explain the scientific data or the sources for that data that is being used to establish the cap; how the disturbance database would be managed and updated and by whom; if or how disturbance percentages will capture reclamation or habitat enhancements; whether and how temporary anthropogenic disturbances will be treated differently than permanent disturbances; and whether and how GSG populations will be actively monitored in each zone and by whom. Because a cap tool, like the one proposed in the DLUPA/EIS, presents myriad challenges that may inhibit consistent and clear implementation, the basis and functionality of the tool must be clearly thought out and presented to entities that will be impacted by its use.

The agencies have not presented information adequately demonstrating that limiting total disturbance to less than 30% in a particular management zone is actually achievable, scientifically defensible, and would result in stable populations in the management zones. Habitat disturbance should be managed according to more localized considerations including habitat quality and habitat distribution, as well the nature and variability of multiple use activities and their associated mitigation.

We are similarly concerned that the cap approach affords the agencies the unprecedented discretion to halt projects on public lands in order to compensate for disturbances on private land. While the agencies state they will not inventory private lands or monitor the activities of private landowners, they will track and account for large projects on private lands and apply them against disturbance caps.⁴ This approach represents a broad overreach of the agencies’ authority and is inappropriate.

³ DLUPA/EIS at M-13

⁴ DLUPA/EIS at F-3

Mitigation Strategy and Context for Use

Throughout the DLUPA/EIS, the agencies reference the notion of utilizing mitigation strategies but have not adequately defined the basis or context when mitigation might be used. While BLM has adopted an interim offsite mitigation policy, the DLUPA/EIS lacks the specificity necessary to implement approaches that would meet the parameters of this policy, much less give adequate direction to BLM Field Offices that mitigation is a viable option.

Colorado, through a diverse stakeholder process, has under development a mitigation approach called the *Colorado Habitat Exchange* that would meet, if not exceed, BLM's mitigation policy. We request that the agencies develop a more meaningful strategy for mitigation and further define the means by which mitigation might be used in the context of the alternatives in the DLUP/EIS with special attention paid toward the efforts underway in the State around the *Colorado Habitat Exchange*.

Conclusion

We respectfully request that the agencies rectify the issues identified above before preparing the final LUPA/EIS and issuing a Record of Decision. As written, the DLUPA/EIS does not represent a balanced approach to the future conservation of GSG and economic development in the planning area and its implementation may ultimately preclude the agencies from carrying out their respective multiple-use mandates. It also far exceeds what is needed to demonstrate to FWS that a federal listing of the GSG is unnecessary. The undersigned organizations appreciate the agencies' consideration of these concerns and are fully willing to further discuss these comments and recommendations with you in more detail.

Sincerely,

American Petroleum Institute
Associated Governments of Northwest Colorado
Bord Gulch Ranch
Club 20
Colorado Cattlemen's Association
Colorado Farm Bureau
Colorado First Conservation District
Colorado Mining Association
Colorado Off-Highway Vehicle Coalition
Colorado Oil and Gas Association
Colorado Petroleum Association
Colorado Public Lands Council
Colorado Snowmobile Association
Colorado Trails Preservation Alliance
Colorado Woolgrowers Association
Douglas Creek Conservation District
Garfield County Board of County Commissioners
Grand County Board of County Commissioners
Grand Junction Chamber of Commerce
Independent Petroleum Association of America
Moffat County Board of County Commissioners

North Park Conservation District
Jackson County Board of County Commissioners
Public Lands Advocacy
Rio Blanco County Board of County Commissioners
Tri-State Generation & Transmission Association, Inc.
West Slope Colorado Oil and Gas Association
Western Energy Alliance
White River Conservation District

cc: The Honorable John Hickenlooper, Governor, State of Colorado
The Honorable Mark Udall, U.S. Senate
The Honorable Michael Bennet, U.S. Senate
The Honorable Scott Tipton, U.S. House of Representatives
Tom Tidwell, Chief, U.S. Forest Service
Neil Kornze, Acting Director, Bureau of Land Management
Jim Cagney, Northwest Colorado District Manager, Bureau of Land Management
Mike King, Executive Director, Colorado Department of Natural Resources
Steve Yamashita, Acting Director, Colorado Parks & Wildlife