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RE: Scoping Comments on Greater Sage-Grouse Plan Amendments

Dear Planning Team:

Please accept these scoping comments from the Blue Ribbon Coalition/Sharetrails.org (BRC) regarding the Notice of Intent (NOI) for the Bureau of Land Management (BLM) to consider Resource Management Plan (RMP) amendments for some or all BLM land use plans that were amended or revised in 2015 regarding Greater Sage-Grouse conservation in the states of California, Colorado, Idaho, Nevada, Oregon, Wyoming, North Dakota, South Dakota, Utah and Montana ("2015 Plans"). See, 82 Fed.Reg. 47248 (Oct. 11, 2017). BLM is issuing this NOI in response to a March 31, 2017, Order from the U.S. District of Nevada, which found certain aspects of decisions made by the 2015 Sage-Grouse Plans to violate NEPA.

BRC is a nonprofit corporation that champions responsible recreation and encourages individual environmental stewardship. BRC has members in all 50 states, including each of the states affected by the 2015 Plans. BRC members use various motorized and nonmotorized means to access BLM and other public lands for recreation purposes, including lands within the project areas addressed by the 2015 Plans. BRC has a long-standing interest in the protection of the values and natural resources addressed in the Plans, and regularly works with land managers to provide recreation opportunities, preserve resources, and promote cooperation between public land visitors. BRC has actively participated in all aspects of Greater Sage-Grouse management leading to adoption of the 2015 Plans.

These comments are filed in a timely manner on December 1, 2017, within the acknowledged scoping period and 15 days of the last public scoping meeting. This document shall supplement, and not supplant, the rights of other BRC agents and organizational or individual members from submitting their own comments and the agency should consider and appropriately respond to all comments received. For purposes of this comment document, the Greater Sage-Grouse will be referred to hereafter as the Grouse.

BRC understands the BLM wants to receive input on whether it should amend some, all, or none of the 2015 Sage-Grouse Plans. The NOI mentions specific topics upon which BLM seeks comment, including Sagebrush Focal Area designation, mitigation standards, lek buffers in all habitat management types, disturbance and density caps, habitat boundaries to reflect new information, and reversing adaptive management responses when BLM determines they are no longer warranted by resource conditions. BLM also seeks comment on State-specific issues, focusing on those raised by State, tribal and local governments.

SUMMARY

We welcome this opportunity to revisit Grouse planning and request that you seize this moment to institute practical and effective management strategies that will enhance Grouse conservation while allowing appropriate multiple use of our public lands. We write from a unique public lands recreation perspective, and note that recreation has never been identified as a meaningful threat to Grouse or Grouse habitat. Unfortunately, in the generation of the current plans in the waning days of the prior Administration, recreation was potentially thrown under the regulatory bus and ominously yet cryptically implicated within “neutral or net conservation gain” standards, lek buffers, seasonal restrictions and similar concepts. Application of such restrictions to recreation has never been supported by defensible science.

We request that you institute practical, science based, locally driven management solutions to Grouse management. We elaborate below on our suggested approach.

BACKGROUND

It is appropriate to summarize the background, science, and recreation specific factors that preface this renewed effort at Grouse management. We note and incorporate by reference our previous submissions, specifically including the letter dated August 11, 2017 in response to Secretarial Order 3353, the letter signed by Paul Turcke on August 28, 2015 raising our concern about the then-impending listing and coincidental plan amendment decisions, our protests to the various proposed plan amendments (see, e.g., June 29, 2015 protest to Idaho and Southwestern Montana Proposed LUPA).

The Grouse has been intensively studied for the last 60 years and there are a number of factors that have been identified as major contributors to the decline of the species. These include but are not limited to:

- Habitat destruction/modification thru development/fragmentation
- Introduction of invasive plant species
- Intrusion/expansion of Juniper ecotype
- Wildfire and fire management including prescribed burns
- Predation
- Fragmentation from fences, power-lines, roads and other infrastructure
- Hard and liquid mineral leases and development

- Grazing
- Wild horse/burro management
- Disease (e.g. West Nile Virus)

Notably absent from this list of primary threats is human recreational activity. In summarizing this list of threats, the Fish and Wildlife Service noted in 2010 it “did not find any evidence” that “other natural or manmade factors including...recreational activities...either separately or in combination, pose a risk to the species.” 75 Fed.Reg. 13987 (Mar. 23, 2010).

In reviewing the available literature and studies, BRC has also noted there is scant to little information anywhere related to the effects of motorized recreation on the Grouse and there are no definitive studies to that effect cited anywhere in the database. Particularly considering the intense scrutiny and collective scientific energy expended on this species, BRC concludes that motorized recreation in any of its forms is not a significant effect/impact on the Grouse. The USFWS listing petition decision supports this as well. Motorized recreation and/or OHV/ORV are barely mentioned and mostly anecdotal in nature. However, BRC does understand that OHV-related site-specific research may be needed to fine tune vehicle-based recreation on roads, trails, and areas so that future Grouse-friendly motorized access is assured.

Of particular concern to us is specification of lek buffers in which all vehicle access will be restricted. We support this concept, but are seeing it grossly misapplied by at least some agency units/personnel. The primary reference relied upon in recent agency efforts has been the 2014 “USGS Report” entitled “Conservation Buffer Distance Estimates for GRSG – A Review” (Manier et al. 2014). As the title indicates, this does not constitute field research, but is instead a narrative summary of other research. Whatever utility may attend its discussion of other issues, the Review presents zero data or information addressing recreational use of dirt roads or single-track trails. Rather, the Review summarizes, as does the Service’s 2005, 2010 and 2016 status reviews, the research on interstate highways, major paved roads, and secondary paved roads. See, e.g., 75 Fed.Reg. 13929 (Mar. 23, 2010). Despite these shortcomings, the 2015 Plans direct that the Review guide project-level implementation of any lek buffers. See, e.g., Great Basin Record of Decision at I-23. Our fears about lek buffers remain informed speculation, with a noteworthy exception in the Bi-State Grouse Decision issued by the Humboldt-Toiyabe National Forest dated May 16, 2016. There, under the guise of “resolving” objections, the agency imposed special recreation permit stipulations that impose 4 mile lek buffers from March 1 to June 30. Bi State ROD at 14. The Bi State lek buffers lack a defensible scientific basis and are not acceptable to BRC.

While the impacts to Grouse are negligible, motorized recreation on public lands has become a meaningful and increasingly important activity and contributor to rural communities. In a 2005 report prepared by the USDA Forest Service entitled; “Off-Highway Vehicle Recreation in the United States, Regions and States: A National Report from the National Survey on Recreation and the Environment” OHV annual sales were shown to have more than tripled between 1995 and 2003. A newer USDA Forest Service report from August 2008 titled “Aug 7, 2008 News Releases from the Southern Research Station: Outdoor Recreation Increasing among American Adults” as well as subsequent annual statistics from the Motorcycle Industry Council (MIC)

show that trend to be continuing with All Terrain Vehicle (ATV) sales accounting for up to 70% of all OHV sales. This trend is expected to continue upwards for decades to come as more traditional forms of outdoor recreation see a decline. It also shows that total OHV participation/use days are 44.2 million/year, up over 56% from 2000 to 2007. National OHV economic impacts may conservatively exceed 10 billion dollars/year (in 2004 alone the economic affects in CA were 4.5 Billion USD) and a more recent OHV study done in AZ contributes another 3.3 Billion USD.

The need to manage this major OHV recreational use by the public has been historically addressed by the federal land management agencies such as the BLM and Forest Service, as well as by state, county, local and tribal agencies. The importance of this role has been recently highlighted in the April 25, 2017, Executive Order on Promoting Agriculture and Rural Prosperity in America. That Order establishes an interagency Task Force, which “shall identify legislative, regulatory, and policy changes” in rural America “including changes that...(xiii) address hurdles associated with access to resources on public lands for the rural communities that rely on...recreation, and other multiple uses.” EO, Section 4. BLM should balance these considerations in formulating a revised Grouse management strategy.

VEHICULAR RECREATION – A COMMON SENSE STRATEGY

BLM has invested immense energy and money in the 2015 Plans and related efforts. Unfortunately, much of this was probably bureaucratic effort for the sake of effort. The resulting 2015 Plans reflect an ironic kaleidoscope of hope and horror, providing a handful of tangible regulatory concepts but the potential of accommodating existing uses through the absence of any site-specific application. This has been reflected in litigation thus far, where Federal Defendants have effectively argued in many cases that the 2015 Plans are not ripe for challenge because, putting it colloquially, they don't yet do anything. These elements are uniquely juxtaposed for vehicle-riding recreationists. All forms and aspects of motorized recreation...off-highway/off road motorcycle, dual sport/adventure sport motorcycle, ATV, SBS, OSV, 4WD and even all street legal vehicles...may be improperly affected by “one size fits all” Grouse management.

There should be a better way. Rather than the broad sweep of the brush as thusly painted in the 2015 Plans, a more “**common sense**” approach needs to be implemented in order to minimize the affects/impacts on both the Grouse and the recreating public.

In order to accomplish this “**common sense**” approach to management, local land managers at the Field Office level need to be heavily involved with the motorized public to establish achievable goals for protection of the Grouse (Lek /nest disturbance, wintering areas and habitat degradation) and to mitigate potential affects upon recreation through closure of existing, inventoried and managed routes. These types of closures should always be viewed as the most extreme measure to undertake after all other management techniques and measures have failed. Sound, proven OHV management techniques can allow the agency to protect the Grouse and habitat and to provide for responsible, family oriented OHV recreation in all its forms.

For example, Grouse leks are concise, well-established, historic areas that can last for decades. Add to this that the leks are mostly in use for strutting/mating during crepuscular hours and that motorized recreation is generally NOT undertaken during those hours...the two can be successfully separated. BRC also notes the BLM is well along a “designated route” planning effort for motorized travel on roads and trails. BRC strongly supports that concept.

The local recreation planners and managers are the best suited to work with the motorized stakeholders to establish a manageable, designated, user and nature friendly route network for motorized access, and to balance access needs against other resources. This includes access roadways away from paved highways, high clearance routes for pickups, jeeps and other 4WD vehicles that can be shared under combined use by other OHV categories such as trail bikes, ATV, UTV and OSV in the winter. Lesser used but just as important to the motorized community are rural two track routes that may see little use, ATV width trails and single track routes. Routes that are duplicitous or fill no need or are illegally established may be considered for closure and restoration. Recreation is an increasingly dominant use of public lands, and BLM should acknowledge in this latest Grouse management effort that it must redouble its commitment to active and effective recreation management at all levels of the agency.

KEY COMMENT THEMES

We appreciate that this scoping opportunity is an initial step in a process to reconsider the direction of the 2015 Plans. We believe the 2015 Plans were erroneously designed, intended to dole out politically-desirable exactions purportedly needed to stave off an otherwise unavoidable listing of the Grouse under the Endangered Species Act. Preservationist interests invested in that prior effort will be watching closely and will be quick to redirect their energy back into listing. We recommend that several key themes anchor a revised strategy moving forward.

I. State Driven Efforts Should Lead Grouse Management.

The agency should shift to a regional or State-driven model in charting the future of Grouse management. For example, Idaho conducted a robust process under the leadership of a Task Force containing public officials, wildlife managers, leading biologists, industry representatives, conservation leaders, and other engaged publics. The 2015 Plans were eventually going to confront this local perspective if and when their broader template was implemented on any particular site(s). Rather than create potential for procedural challenge or intensify any friction caused by unjustified programmatic elements like “no net loss” or disturbance caps, it makes better sense to conduct a more unified planning effort that will develop and implement management strategies geared toward specific sites and Grouse populations, through the people that know them best.

Effective Grouse management will rely on creation and application of management strategies tailored to unique sites, forged through local stakeholder involvement. A fundamental flaw in the 2015 Plans is their “one size fits all” template. BLM has a chance, through a renewed planning effort, to shed this ineffective template and pursue better focused planning on a more useful scale.

II. Recreation Must be Properly Recognized as a Tertiary Threat.

Best available science needs to be a fundamental tenet of any future Grouse management. We emphasize this concept for recreation management, as recreation activities have unique effects, or lack of effects, on Grouse and Grouse habitat when compared to other more primary factors. The Service's numerous reviews have referred only sparingly to recreation, and found recreation to be a tertiary factor in grouse population/habitat impacts. See, 75 Fed.Reg. 13987 (Mar. 23, 2010).

It remains unclear under the 2015 Plans whether or how vehicular access on dirt roads/trails would be restricted through application of concepts such as management area designations, disturbance caps, or lek buffers. The affected public is entitled to know what management prescriptions will exist and where/when they will be applied. Essential in this process will be to connect management prescriptions to valid field research, rather than using narrative discussion to justify policy decisions made at upper levels of the agency. A professed commitment to Grouse conservation will mean nothing if disconnected from best available science.

III. Recreation Must be Actively and Effectively Managed.

Instead of the 2015 Plans' cryptic references to recreation, BLM should recognize in future Grouse planning the importance of a management commitment to recreation and public access. This will include personnel, budget, and management tools geared toward active management of a diverse range of recreation opportunities. Vehicle travel is a universal element of nearly every BLM-land visitor's experience. Targeted recreation experiences on BLM lands increasingly feature or rely on vehicle use. Aside from the 2015 Plans, recreation and travel planning will be priorities through issuance of the new 8342 Handbook, and ongoing implementation of the Settlement Agreement in *SUWA v. U.S. DOI*, Case No. 2:12-cv-257 DAK (D. Utah), which BRC helped negotiate, signed, and now helps BLM defend.

Proper Grouse management, and recreation management, will rely on more than drawing lines on a map and telling people to stay away. BLM should continue to develop a more holistic recreation management effort, and seize this new moment of Grouse management to apply science-based management prescriptions to evaluation of route and area designations for vehicle use.

IV. The Agency Must Carefully Navigate the Tightrope to Listing.

A perceived weakening of "protections" in the 2015 Plans will cause supporters of those Plans to ask courts and/or the Service to revisit the "not warranted" listing decision. It is not entirely clear what impact this might have on actual Grouse management. As noted earlier, BLM has most effectively defended its 2015 Plans against legal challenge thus far by arguing that the Plans don't do anything.

BLM can chart an appropriate course that prioritizes real Grouse protections, specifies what existing regulatory mechanisms will actually be, and implements meaningful action to protect Grouse and other public land resources. Again, this will be most effective in a practical and legal sense on a more localized level.

CONCLUSION

BRC wants to continue to partner in effective Grouse conservation. These efforts might include reasonable restrictions on human access, such as limiting travel to existing routes, and restricting travel/noise near leks during crepuscular (dawn/dusk) hours. These efforts will be most effective through the existing and extensive State and local efforts, including input by experienced biologists and conservation community leaders. We look forward to participating in this process and aiding that effort.

Sincerely,

Don

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