

POTENTIAL AMENDMENTS TO LAND MANAGEMENT PLANS REGARDING SAGE-GROUSE CONSERVATION

Executive Summary

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March 2018

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Chapter 1 Introduction

1.1 BACKGROUND

On March 31, 2017, the United States District Court of Nevada held that the U.S. Forest Service (Forest Service) violated the National Environmental Policy Act (NEPA) by failing to provide the public with enough information to meaningfully participate in the Environmental Impact Statement (EIS) process in the Nevada and Northeastern California Greater Sage-grouse Land Management Plan Amendment. The court remanded the Records of Decision to the Forest Service to prepare a Supplemental EIS.

In order to comply with the court and to address the issues identified by various interested parties, the Forest Service is considering amending greater sage-grouse land management plans in the state of Colorado, Idaho, Nevada, Wyoming, Utah, and Montana that were previously amended in 2015. The scoping period began with a Notice of Intent published on November 21, 2017, in the Federal Register. The public comment period for the assessment occurred from November 21, 2017 to January 19, 2018. During this timeframe, the Forest Service received 50,535 responses (excluding duplicate submittals). These responses are analyzed using the content analysis process described in the next section.

1.2 CONTENT ANALYSIS PROCESS

Content analysis is a method of eliciting meanings, ideas, and other information from written text, pictures, or audio or video messages. The goals of the content analysis process are to

- ensure that every comment is considered,
- identify the concerns raised by all respondents,
- represent the breadth and depth of the public's viewpoints and concerns as fairly as possible, and
- present public concerns in such a way as to facilitate the Forest Service's consideration of comments.

A specific method of content analysis has been developed and refined by the NEPA Services Group, a specialized Forest Service unit that analyzes public comment on federal land and resource management agency assessments and proposals. This systematic process is designed to provide specific demographic information, establish a mailing list of respondents, identify individual comments by topic in each response, evaluate similar comments from different responses, and summarize like comments as specific concern statements. The process also provides a relational database capable of reporting various types of information while linking comments to original letters.

Through the content analysis process, the content analysis team strives to identify all relevant issues—not just those represented by the most respondents. The breadth, depth, and rationale of each comment are especially important. In addition to capturing relevant factual input, analysts try to capture the relative emotion and strength of public sentiment behind particular viewpoints.

1.3 DEMOGRAPHICS

Most respondents submitted comments by email; however, comments were also faxed or submitted via Regulations.gov. A total of 632 unique letters were received. Additionally, campaigns from nonprofit organizations and individuals resulted in a large number of form letters. Letters that represent slight

variations of the form letter without significant additional information were treated as form letters. Those with additional substantive text were treated as form pluses. In total, 49,903 form letter submissions were received (including form masters, forms, and form pluses), based on 24 different form letters.

Table 1, below, provides information on the affiliation of commenters. Most comments were received by individuals (99.8 percent), followed by organizations (0.1% percent) and government representatives (<0.1% percent).

Table 1. Submissions by Affiliation

Affiliation	Number of Submissions*
Government (federal, state, tribal, and local)	41
Organizations (businesses and nonprofits)	69
Individuals	50,425

* Number may include multiple submissions by the same entity.

Chapter 2 Comments on Planning Process

This chapter summarizes the planning process comments received during the scoping period.

2.1 PLAN UPDATES

Comments related to the need for plan updates fall into two main categories: those who recommend that the Forest Service continue implementing the current plans or increase protections and those who feel the plans should be amended to allow more flexibility in management.

Some commenters assert that the Forest Service should not amend the existing greater sage-grouse plans, stating that the plans have been achieving its purpose of habitat and species protection and ensuring the greater sage-grouse is not listed by the Endangered Species Act (ESA). They also assert that the environmental resources and socioeconomic opportunities protected by the 2015 plans should be preserved. Should the plans be amended, the collaborative effort that went into the previous plans would be lost, and special interest groups could potentially influence the amendment process and open public lands for development.

Other commenters express a desire for change, but would rather the Forest Service enact change through other means than amending the plan. They state that the necessary changes can be made through policy guidance, maintenance, and training, thus negating the need for costly NEPA analysis.

Some commenters assert a general desire for the 2015 plans to be amended, whereas others state that the 2015 amendments were unnecessary and that greater sage-grouse warrants protection is inherently flawed; as such, plans should be restored to pre-2015 status.

2.2 PLANNING AREA AND DECISION SPACE

Respondents are mixed on the appropriate planning area and decision space. Some commenters support state-specific plan adjustments, whether as amendments or as plan maintenance. Many of these comments also encourage greater consistency with state plans and management strategies, as well as adherence with federal regulations. Other commenters state that the Forest Service should take a range-wide approach to updating plans that emphasizes science-based habitat and species protection.

Commenters also offer general planning recommendations such as 1) whether to do an environmental assessment versus an EIS, 2) ensuring opportunities for meaningful public involvement, 3) coordinating with the Bureau of Land Management during the amendment process, and 4) conducting a timely analysis that satisfies NEPA's hard look doctrine. Some comments also request further justification for the need for plan amendments.

Several local governments express a desire to be granted cooperating status, stating that since the greater sage-grouse is not listed by the ESA, state and local governments should hold authority over their management.

Chapter 3 Comments on Plan Issues

Issue: Adaptive Management

Respondents express support for adaptive management, yet recommend that the adaptive management processes be consistent with state plans and provide flexibility to account for new science and multiple land uses. Commenters suggest that the Forest Service include a method to identify the causal factor for reaching a trigger and tie it to the threat to greater sage-grouse. This way, appropriate action can be taken. Other commenters state that the Forest Service should use caution in this approach because causal factor analysis can lead to delays in implementing change in management. Some respondents recommend that soft triggers require evidence of landscape or population trends versus annual variability. Respondents also indicate a need for a reverse trigger mechanism that allows for previous management or activities to resume when conditions are deemed adequate to meet greater sage-grouse objectives.

Issue: Allowable Uses

A wide range of topics were received for this category. Comments include:

- **Off-highway vehicle (OHV) use:** Some commenters suggest that analysis must consider recreation impacts (including OHVs and roads/trails), whereas others state that OHV have no significant impact on the greater sage-grouse, and thus should be permitted under the plans. These latter comments state that OHV use is only a tertiary threat, and the benefits of OHV and recreational use should be considered when amending the plan.
- **Hunting:** Two commenters note that hunting of the greater sage-grouse is allowed and assert that hunting is a large aspect in the decline of the species. They recommend that hunting of the species be banned.
- **Restrictions and valid existing rights:** Some commenters express concern that travel or other restrictions do not result in impacts to valid existing rights, such as construction of roads and support facilities needed to support development of leases or un-adjudicated rights-of-way.

- Energy: Some comments request removing the exemption for certain multi-state transmission lines from mitigation and managing greater sage-grouse habitats as exclusion or avoidance areas for energy development. However, other comments encourage greater flexibility in management to accommodate energy development, particularly on lands outside of designated habitat.
- Mineral leasing: Comments express opinions both for and against leasing restrictions for fluid, leasable, saleable, oil shale, coal, and non-energy mineral development on greater sage-grouse habitat. Requests are made for a detailed analysis of potential effects, as well as the need for 1) waivers, exception, or modification to no surface occupancy stipulations; and 2) an emphasis on avoiding, minimizing, or mitigating mineral impacts versus closing lands entirely to mining use.

Issue: Disturbance Caps

Some commenters support current disturbance caps as they are written. They recommend maintaining or reducing current oil and gas infrastructure density and strengthening avoidance and protection measures, as well as including additional sources of disturbance in calculations. In contrast, others argue that the Forest Service should eliminate disturbance and density caps in plan amendments, particularly at the project level. Commenters request additional information on current disturbance values and how they were calculated.

Some commenters request that disturbance and density caps not be applied to private lands, recreation activities, or to locatable minerals-related disturbances. They recommend that exceedance of disturbance caps be allowed when 1) disturbance cannot be avoided due to valid existing rights, 2) impacts will be offset by mitigation, or 3) activities occur on unoccupied habitat. Respondents also request that the Forest Service revise the calculation of disturbance caps annually and clearly identify areas of new habitat attributed to the restoration activities immediately after a restoration project occurs.

Issue: Endangered Species Act

Some comments discuss the potential listing of the greater sage-grouse as threatened or endangered under the ESA, either stating that no listing is necessary or that the species should be listed. Commenters also express concern that any proposed actions support the U.S. Fish and Wildlife Service's 'not warranted' decision for the species.

Issue: Fire Management and Invasives

Commenters ask that any plan amendments address fire suppression and related range management. Some commenters identify livestock grazing as a fire prevention method that reduces fuel loads and maintains greater sage-grouse habitat by some respondents. However, other commenters assert that livestock grazing is ineffective for controlling cheatgrass and burned areas should be rested from livestock grazing to prevent the spread of nonnative vegetation.

Other recommendations include topics such as 1) eliminating the widespread use of fire breaks, 2) restricting prescribed fire in greater sage-grouse habitats with less than 12 inches of annual precipitation, 3) implementing passive restoration techniques pre- and post-fire, 4) prohibiting vegetation projects that reduce or eliminate sagebrush, 5) addressing the loss of greater sage-grouse habitat due to conifer expansion, and 6) treating noxious and invasive weeds to protect greater sage-grouse habitats.

Some commenters also note that the plan travel restrictions have limited local counties' abilities to treat weeds for fire reduction and habitat conservation.

Issue: Habitat Mapping

Commenters express concern that the Forest Service should revise mapping of greater sage-grouse habitat by incorporating field-verified, site-specific habitat data. They recommend using existing state habitat maps. Respondents also state that the Forest Service should develop a defensible and standardized process, in cooperation with the states, for identifying how and when to modify mapped habitat boundaries as 1) new scientific information becomes available, 2) if habitat is lost due to fire or other disturbance, or 3) if other habitat that was once non-habitat is restored and becomes functional greater sage-grouse habitat.

Issue: Habitat Objectives

Numerous respondents recommend that the Forest Service eliminate pre-determined measurement standards in favor of site-specific monitoring and adaptive management. Comments state that habitat objective tables should allow for ecological variation, as well as existing condition and ecological potential, using best available science. Respondents also recommend that the Forest Service clarify that these objectives are guidelines, not requirements or conditions. Comments also request that the Forest Service establish long-term trends for management as opposed to using point-in-time measurements. Some comments recommend eliminating the Habitat Assessment Framework from use.

Issue: Lek Buffers

Some respondents state that lek buffers should be consistent with state plans and that uniform lek buffer distances are not appropriate; buffers should be applied based on timing, topography, and type of activity. In particular, several comments point out a need to remove lek buffers on private lands, avoid using lek buffers to prohibit livestock grazing, and address seasonal restrictions on OHV use in lek buffer areas and lek buffer distance (4 miles) for OHV routes.

Other commenters argue for the opposite outcome: consistent, large lek buffers for all surface-disturbing activities to preserve greater sage-grouse habitat. To support lek buffer decisions, one entity requests that baseline lek data be made available to the public.

Issue: Livestock Grazing

Some comments express opposition to livestock grazing, whereas others support livestock grazing. Some respondents state that the plans inappropriately elevate livestock grazing to a primary threat to greater sage-grouse and that grazing can benefit greater sage-grouse habitat. These comments also generally express concern that the plans not be used to restrict grazing or impede livestock trailing or construction of other livestock infrastructure (e.g., fences and water tanks) and access that is necessary for range management. In contrast, other respondents request additional disclosure of potential environmental impacts due to grazing and associated infrastructure. Additionally, some comments request that the Forest Service disclose current conditions of greater sage-grouse habitat at the allotment level and address how grazing seasonality affects greater sage-grouse habitat and standing litter.

Two specific recommendations are made to include an alternative that eliminates grazing in priority or expanded focal habitat and to allow for voluntary grazing permit retirement within greater sage-grouse habitats.

Issue: Mitigation

Comments on mitigation are mixed. While some respondents support continued use of a “net conservation gain” standard, others recommend eliminating the concept because it is inconsistent with

current federal guidelines. Comments recommend clarification and definition of compensatory mitigation terms, as well as tiering to state-specific mitigation frameworks. Finally, a recommendation is made to seek out opportunities to minimize or eliminate mitigation for projects with minimal potential impact to greater sage-grouse habitat.

Issue: Noise Limitations

Comments express support for noise limits to protect the greater sage-grouse from the noise impacts of development and off-road vehicle use. However, some commenters state that the noise restrictions applied in the 2015 plans are not based on science and that noise limits should only be applied if they have scientifically established effectiveness. Several commenters request applying noise restrictions only in certain habitat designations, rather than throughout all greater sage-grouse habitat. One commenter suggests that the Forest Service rescind numerical noise limitations and require only that heavy equipment not be operated near a lek, from dusk to dawn, unless geography or wind reduces the noise impacts.

Issue: Population Management

Comments generally request that the Forest Service avoid implementing population-based management or use captive breeding; these comments prefer the use of habitat-based management. However, one comment supports captive breeding. Other comments include a request for a current and updated population analysis. Some comments express concern that the greater sage-grouse population continues to decline.

Issue: Predation

Some commenters suggest that the Forest Service address predator control in plan amendments. However, other comments state that predator control is generally not an effective long-term tool, but may be appropriate in short-term situations.

Issue: Required Design Features

Commenters express concern that required design features (RDFs) and best management practices impose a one-size-fits-all management approach that disregards topography, local conditions, socio-economics, and practicality. A commenter recommends allowing exemptions for entities that are engaged with established conservation agreements or have other negotiated arrangements. Comments also identify specific inconsistencies in RDFs between greater sage-grouse plans and state policy.

Issue: Role of Science

Commenters recommend the Forest Service incorporate best available science into any plan amendments. One comment also suggests the Forest Service adopt a science consistency review and adhere to peer review standards when amending plans. Several respondents request that the Forest Service reassess the relevance and scientific validity of previously cited reports in 2015 plans.

Issue: Sagebrush Focal Areas (SFAs)

Many comments recommend that the Forest Service remove SFAs—and any associated management restrictions—from amended plans. Comments also reiterate the need to appropriately analyze the impacts of SFAs through a supplemental EIS process with public comment. Other respondents caution that the Forest Service should not revoke SFAs. As one entity states, “the basic management is not at issue, only the specific boundaries of the SFAs.”

Issue: Socioeconomics

Commenters express concern that existing plans have caused economic harm to affected states and counties and that the Forest Service should include a socioeconomic analysis of proposed actions and restrictions. In particular, travel restrictions and improper habitat mapping have interfered with community development and land disposal, as well as restricted opportunities for recreation, tourism, grazing, and energy development, per some respondents. Commenters encourage the Forest Service to find a balance between species protection and other public land uses.

Issue: Wild Horses and Burros

Commenters state that the Forest Service should ensure that wild horse and burro populations are within appropriate management levels in areas where herd management overlaps greater sage-grouse habitat. It is noted that the Forest Service is under a federal mandate, The Wild Free-Roaming Horses and Burros Act, to protect and preserve wild horses and burros on federal rangelands.

Commenters also opine that wild horses and burros do not affect greater sage-grouse as much as livestock and, therefore, greater sage-grouse management should not pertain to wild horses and burros. Other commenters state the opposite, that wild horses and burros are causing a greater impact on greater sage-grouse habitat than livestock.