

POTENTIAL AMENDMENTS TO LAND MANAGEMENT PLANS REGARDING SAGE-GROUSE CONSERVATION

Executive Summary

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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 states of Colorado, Idaho, Nevada, Wyoming, Utah, and Montana that were previously amended in 2015. The Forest Service conducted an initial public scoping process from November 21, 2017 to January 19, 2018. Following that scoping period, the Forest Service released supplemental information regarding the proposed federal action and reinitiated public scoping through a Notice of Intent, published in the *Federal Register* on June 20, 2018. During this second public scoping period the Forest Service received 8,375 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 e-mail; however, comments were also mailed or submitted via the Forest Service’s public participation web portal. A total of 399 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, 7,976 form letter submissions were received (including form masters, forms, and form pluses), based on 10 different form letters.

Table 1, below, provides information on the affiliation of commenters. Most comments were received by individuals (99.5 percent), followed by organizations (0.3 percent) and government representatives (0.2 percent).

Table 1. Submissions by Affiliation

Affiliation	Number of Submissions*
Government (federal, state, tribal, and local)	15
Organizations (businesses and nonprofits)	30
Individuals	8,689

* Number may include multiple submissions by the same entity.

Chapter 2 Comments on Proposed Action

This chapter provides a summary of public sentiment regarding proposed revisions to existing state Greater Sage-grouse Land Management Plans. Due to the number and complexity of substantive comments received, this report provides an overview of key themes and issues by state but is not a comprehensive summary of all comments received.

Colorado

Fluid Minerals: Concern is expressed that the Forest Service resolve any inconsistencies within plan language related to fluid mineral management and ensure conformance with state regulatory plans and guidance.

Idaho

Numerous comments indicate a desire to delete duplicate guidelines and to eliminate sagebrush focal area (SFA) language in the plan, as well as to implement proposed editorial edits, such as adding the missing Appendix XX. However, not all respondents agree with elimination of SFAs or guideline deletions. As one commenter notes, *“According to the proposed action for Idaho, GRSG-GEN-ST-005 is redundant with standard 13. This is not true. 005 applies to priority, general and important management areas, and sagebrush focal areas, and only allows new authorized land uses if, after avoiding and minimizing impacts, any remaining residual impacts to the greater sage-grouse or its habitat are fully offset by compensatory mitigation projects that provide a net conservation gain to the species. The proposed standard 13 (GRSG-LR-SUA-013) allows for co-location and changes the compensatory mitigation standard. The EIS must evaluate the effects of these changes on sage-grouse persistence compared to the*

no action alternative.” Other comments related to general species and habitat plan components include recommendations such as

- re-evaluating prescriptive recommendations presented in the 2011 National Technical Team report;
- removing or only applying the 3% disturbance cap at the biologically significant unit (BSU) level, as well as clarifying that disturbance caps and habitat designations do not apply to private land;
- revising the “net conservation gain” language to “no net loss” at the BSU level in priority habitat management area (PHMA) and eliminating mitigation requirements in GHMA (general habitat management area);
- clarifying how proposed changes to desired conditions from being managed in “all GRSG habitat,” to “At the landscape scale, in all GRSG habitat,” will be enforced;
- implementing annual conifer removal and avoiding a single-species management approach;
- implementing the three-tiered habitat approach found within the Governor's plan and State of Idaho comments to the Bureau of Land Management (BLM); and
- retaining all text with reference to Southwest Montana, or explicitly stating that the sage-grouse plans for southwestern Montana remain unchanged.

Specific plan comments are described by topic below.

Adaptive Management: One respondent requests clarification why a 2011 baseline was selected and how the Forest Service will implement GRSG-AM-ST-XXX-Standard, which states “*When habitat or maximum male population count exceeds the 2011 baseline for habitat or population levels within the Conservation Area, IHMA managed as PHMA consistent with GRSGAM-ST-010, will revert to management as IHMA within the Conservation Area.*” It is also recommended that the Forest Service use the implementation team structure identified in the Management Alignment Alternative of the BLM Plan Amendment.

Coal Leasing: Comments note that there is no commercially available coal in Idaho.

Fluid Minerals: Comments regarding fluid mineral plan components are mixed. Some respondents express concern that plan measures are overly restrictive and will impact the economic viability of industries without helping sage-grouse or their habitat. However, other comments suggest that proposed plan changes will weaken greater sage-grouse protections. In one example, it is noted that the previous plan required unanimous concurrence from a team of agency greater sage-grouse experts from the U.S. Fish and Wildlife Service, the Forest Service, and state wildlife agency, while the proposed plan allows “authorized officers” to grant exceptions to No Surface Occupancy (NSO) stipulations for new oil and gas leases in important and priority habitat.

Land Ownership and Withdrawal: Some commenters oppose deleting existing Idaho GRSG-LR-LW-GL-034-Guideline, as “*Land withdrawals are an important tool for protecting greater sage-grouse habitat.*” Respondents also question why important and general habitat is removed from land ownership standards.

Livestock Grazing: Comments related to livestock grazing plan components vary greatly in perspective and philosophy. Some comments favor a hands-on plan approach that encourages livestock grazing, including removal of water development and fence maintenance restrictions, site-specific lek buffers, maintenance of grazing permits and allotments, and removal of pre-determined habitat objectives and the

Habitat Assessment Framework. However, other comments express concern that plan language may weaken sage-grouse protections. As one comment states, “*The proposed change to Idaho GRSG-LG-GL-037-Guideline is not highlighted in the online document, but it reduces by half the required distance for bedding sheep and placing camps in relation to a lek. The original guideline requires 1.2 miles (2 km) between sheep camps and the perimeter of the lek and the proposed alteration halves that to .62 miles (1 km). The forthcoming NEPA documents should provide a rationale for this change given that the original distance was selected in order to reduce disturbance from sheep, human activities, and guard animals to lekking birds.*”

Mineral Materials: Comments include the opinion that 1) standards that prohibit mineral material development contradict the law, and 2) the Forest Service should apply disturbance caps to mineral material activities.

Special Use Authorizations: Respondent comments include requests to keep the perch deterrent requirement for infrastructure, as well as comments for and against infrastructure development in GHMA outside of existing designated corridors or rights-of-way. Other comments encourage 1) the use of pilot programs, and 2) implementation of GHMA management practices as presented in the BLM plan.

Transportation/Recreation: Transportation and recreation plan component comments include recommendations to incorporate relevant language from 2018 State of Idaho comments to the BLM and to modify language to allow for temporary road closures during lekking season.

Wild Horses and Burros: Some comments request that the Forest Service revise language to make prescriptions mandatory (using shall). It is also noted that there are no Herd Management Areas within the Forest Service Plan area in Idaho.

Nevada

General: General plan component comments vary greatly but include the following topics.

- Concern is expressed that noise standards are not scientifically supported and inflexible.
- Concern is also expressed that the Forest Service does not have authority to mandate net conservation gain and it is unclear how the standard will be applied across projects. These comments request that the concept be replaced with no net loss. Other related comments note that the plan should allow projects to be authorized in priority habitat where the impacts are offset by compensatory mitigation and that the Forest Service should partner with local government to develop achievable mitigation standards.
- Respondents provide a mixed response to SFA elimination. Some favor removal in plan while others express concern that the elimination of SFAs will compromise long-term conservation of the species and may hasten the need to list greater sage-grouse under the ESA.
- Some commenters request that the plan permit flexibility into the three percent disturbance cap to accommodate for clustering proposed projects in areas that are already disturbed or are sited in non-habitat. Other comments recommend that “*the Forest should remove the disturbance caps or, at the very least, clarify that the disturbance caps do not apply to any land except National Forest system land and locatable mineral related disturbances should be exempt. The overly restrictive disturbance caps that add private land as well as other non-US Forest Service land to the equation are not scientifically justified.*”

- Concern is expressed that proposed addition of the language “at the landscape scale” will be used to justify or permit more or larger vegetation treatments, which would reduce protection for greater sage-grouse.
- It is requested that temporal, seasonal use restrictions be eliminated in favor of spatial lek buffers. Other comments request that the plan provide similar protections for inactive leks as for active and pending leks.
- Respondents encourage the use of varied habitat management methods including livestock grazing, prescribed burns, soil treatments, and reseeded projects to achieve desired sage-grouse habitat, as well as micro-siting and other site-specific studies to minimize impact to priority habitat.
- Comments state that the Forest Service must ensure that the plan recognizes valid existing rights.

Adaptive Management: Some comments include support for soft and hard trigger concepts plus express a desire to develop reverse triggers. Conversely, other comments indicate that hard triggers are not necessary and that soft triggers “*should be implemented only when absolutely necessary, considering all factors.*”

Appendix A: Comments related to Appendix A include 1) support for table updates using new and regionally-specific data, 2) incorporation of wildlife risk into Table A-1, and 3) request for additional language stating, “*that adequate nesting cover and adequate brood rearing habitat are required, but that those may be found in a variety of combinations that are not necessarily found in the Habitat Assessment Framework.*”

Appendix B: Support for implementation of the standard mitigation hierarchy is expressed. However, commenters indicate that the plan needs additional clarification on how mitigation would be implemented, and which actions would require mitigation. Comments also support the development of a standard method to determine impacts and commensurate mitigation.

Fluid Minerals: Commenters express both support and opposition to proposed plan changes with regards to fluid mineral leasing and operation. Concerns include a need to make NSO waiver/exemptions publicly available and a fear that plan modifications will “*weaken the process and standard for granting exceptions to NSO for fluid mineral leases from unanimous concurrence by team of sage- grouse experts to concurrence by interagency technical team.*”

Land Ownership and Withdrawal: Concern is expressed that plan changes will eliminate the Forest Service’s authority to use land withdrawals to protect PHMA and GHMA.

Livestock Grazing: Support is expressed to eliminate specific habitat objective guidelines, such as stubble heights, as well as eliminate water development restrictions. Other comments provide specific wording revisions to allow for management flexibility, and request that the Forest Service eliminate language that can be used to relinquish or retire grazing leases or allotments. With regards to riparian areas and meadows, comments are mixed; some respondents indicate that the requirement for no more than 50% utilization should remain in the plan, while others express concern that the standard is not scientifically supported or should be eliminated entirely.

Predation: Support for this addition to minimize predators of greater sage-grouse is expressed.

Renewable Energy: One commenter requests that the Forest Service explain why solar and wind energy are treated differently and whether they may be permitted if they can meet the compensatory mitigation standard.

Sage-Grouse Habitat: Support for fuel treatment and invasive species treatment is expressed, along with a request to coordinate with local government, weed districts and conservation districts to maximize such efforts and leverage funding opportunities. Other comments include 1) concern that “*Single species management is not good science,*” 2) a request that any treatments involving water (i.e. springs and seeps) should be consistent with State Water Law, 3) a recommendation to permit use of desirable, non-native species in habitat restoration and enhancement efforts, 4) a recommendation to use compensatory mitigation to achieve desired habitat objectives, and 5) a request to increase the frequency of conifer removal.

Special Use Authorizations: Support is expressed for several proposed changes; however, commenters also request that the Forest Service 1) justify plan requirements for perch deterrents, 2) allow pilot projects, 3) avoid guidelines that are not practical or feasible to implement, such as requirements for burial of new transmission lines, 4) addresses inconsistencies in plan development restrictions, and 5) clarify language related to exceptions to special use authorization restrictions and who makes those determinations.

Transportation: It is requested that the Forest Service coordinate any road closures with local government and permit roads to access new authorized uses in priority habitat.

Wild Horses and Burros: Some comments request that the Forest Service revise language to make prescriptions mandatory (using shall). It is also requested that the Forest Service justify deletions to GRSG-HB-GL-072 with regards to climate change impacts to wild horses and burros.

Utah

General: Support is expressed by some commenters for proposed changes to only apply the disturbance cap at the BSU level and to revise net conservation gain language to no net loss. However, other commenters ask for scientific proof to support a three or five percent cap, or request that the plan permit flexibility in application of the three percent disturbance cap. It is also recommended that the Forest Service not focus efforts on “*pushing development and land uses to areas outside priority habitat management areas (PHMA) and general habitat management areas (GHMA).*” Other recommendations include deleting Table 1 or incorporating other habitat values from the scientific literature; developing more quantitative/objective habitat measures; and ensuring that priority habitat continues to be included and protected through management prescriptions.

Fluid Minerals: Support for proposed changes that remove conditions of approval on existing fluid minerals leases, such as density criteria, within Anthro Mountain is expressed. However, one entity indicates that the Forest Service should go further and remove all management stipulations. One commenter also recommends that the Forest Service delete the standard requiring a NSO stipulation for new oil and gas leases in PHMA.

Land Withdrawal: It is stated that the Forest Service should remove guidelines that do not comply with state guidance and could result in elimination of land uses and activities.

Livestock Grazing: Support is expressed for: removal of limitations of water development, plan acknowledge of the role of livestock grazing to achieve desired habitat conditions for sage-grouse, and the ability to use Habitat Assessment Framework (or similar process) to determine sage-grouse habitat. However, commenters request that the Forest Service not seek to vacate, cancel, suspend, or reduce grazing allotments or permits in Utah.

Mineral Material: It is requested that the Forest Service allow mineral material development or disposal in PHMAs that do not directly impact sage-grouse.

Special Use Authorizations: Support for proposed changes that eliminate requirements for burying transmission lines and that permit land authorizations, such as transmission and distribution lines, is expressed. Commenters also request that the Forest Service permit special uses that may result in habitat loss or long-term species' impacts if mitigation can offset such impacts. One commenter expresses concern that the Forest Service should not remove protections for Anthro Mountain without further analysis and disclosure in the EIS.

Transportation: Concern is expressed that changes to standards should allow greater flexibility in new road or trail construction and/or only employ seasonal restrictions where warranted.

Wyoming

Numerous comments indicate that language in the plan must be revised to be consistent with Wyoming Executive Order (EO) 2015-4. As with other plans, comments express both support and opposition to the removal of SFAs.

Adaptive Management: Respondents request that the Forest Service address 1) the need to allow for circumstances beyond the control (or influence) of any authorized use, 2) "untriggering" language for soft triggers, 3) incorporation of longer time periods and gradual changes in the adaptive management process, and 4) information on who will serve on the Adaptive Management Working Group and how decision appeals/protests would be handled. Support for a plan process to reverse management actions is also expressed.

Appendix B: Comments recommend that the Forest Service revise their mitigation strategy to rely on the Wyoming Compensatory Mitigation Framework or remove Appendix B altogether.

Appendix XX: Support is expressed for the Forest Service's shift of Table 1 from the plan to Appendix XX. However, it is stated that the Forest Service should address appendix inconsistencies with other parts of plan and ensure alignment with the Forest Service's goal of focusing protection in priority areas and the State of Wyoming's EO. Some respondents express concern that the appendix is "*duplicative, unnecessary and potentially counter-productive.*" Conversely, other comments request that the Forest Service clarify that the appendix will remain an enforceable part of the plan.

Coal Mining: General support is expressed to delete standards that are inconsistent with the Wyoming EO. In contrast, one commenter states that "*adjustments to a federal coal lease should not occur without additional requirements in the readjusted lease to protect and reduce threats to conserve, enhance, and restore the greater sage-grouse and its habitat for long-term viability.*"

Fire and Fuels: Comments are mixed. Some respondents state that the Forest Service should not prioritize habitat management areas for fire suppression activities, while other comments request that the plan revision redirect management actions to focus on priority (core) habitat. Comments also request the addition of connectivity habitat language in some plan components.

Fluid Minerals: Several comments request that the Forest Service eliminate components that go beyond what is required in the Wyoming EO and ensure the plan allows flexibility for land users in non-core areas or GHMAs. Other comments include a request to 1) implement BLM required design features, 2) authorize Applications for Permits to drill inside PHMA only for valid lease rights that predate the sage-grouse plan, 3) allow habitat to be restored to conditions desired by the landowner in split-estate situations, 4) ensure that guidelines apply to new activities only, and 5) exclude the offering of new oil and gas leases in PHMA.

Land Ownership and Withdrawal: Some commenters oppose deleting existing land withdrawal guidelines that may protect greater sage-grouse habitat.

Livestock grazing: Comments related to livestock grazing include

- support and opposition for removal of guidelines that facilitate permit waivers or cancellation,
- removal of restrictions on animal husbandry practices that are considered de minimis activities, such as sheep bedding,
- a request to “*utilize the State of Wyoming's livestock grazing management guidelines and regulations to determine appropriate desired conditions at sites capable of producing GRS habitat,*”
- application of guidelines in priority and connectivity sage-grouse habitat only,
- recognition of the role of livestock grazing as a tool for habitat management. However, other comments express concern that the redefinition of livestock grazing is “*an inexplicable shift and reflects an ideological rather than scientific perspective shaping the proposed plan revisions; it's also arbitrary and capricious to make such a sweeping adjustment in the plan's perspective on land use without evidence of need for such a change.*”
- support and opposition for the elimination of grazing guidelines table and use of the Habitat Assessment Framework to adjust livestock grazing. Many of these comments prefer development of site-specific guidelines developed in collaboration with state and local agencies and grazing permittees.

Locatable Minerals: It is requested that mitigation requirements should not be restricted to avoidance and minimization. It should also include rectifying impacts to greater sage-grouse and its habitat.

Predation: Support for predator management is expressed.

Sage-Grouse Habitat: Support for invasive species treatment is expressed, along with a request to coordinate with local government, weed districts and conservation districts to maximize such efforts and leverage funding opportunities. One respondent encourages the Forest Service to promote ongoing collaborative efforts to manage greater sage-grouse and its habitat.

Special Use Authorizations: Respondents state that the Forest Service should 1) clarify management direction regarding new transmission lines and (non-major) pipelines outside of transmission corridors, 2) remove special-use permits provisions for lands that have existing protections in place to limit disturbance, and 3) maintain provisions that provide sage-grouse protection.

Transportation: Comments note that differences between the requirements in and outside of core habitat and for Winter Concentration Areas should be qualified.

Allowable Uses: Comments related to allowable uses include the following topics.

- Comments recommend the Forest Service follow the Core Area Strategy's prescriptions for Winter Concentration Areas (WCAs) or reinstate WCAs language from the 2015 LMP and add exceptions language. It is also recommended that any restrictions placed on surface disturbing activities in WCAs be determined through public process and that the Forest Service adjust proposed dates to ensure that they accurately reflect greater sage-grouse use of winter habitat.

- Concern is expressed that allowing new land authorizations in general habitat may lead to adverse species impacts. It is also noted that this provision contradicts the Forest Service's goal to focus protections in priority habitat and to provide flexibility for users.
- It is requested that surface disturbance timing provisions be revised to allow for production and maintenance activities to take place as necessary while seasonal use restrictions are in effect. Also, one commenter states that shifting seasonal stipulation timeframes reduces regulatory certainty when planning for development and that operators should be provided with ample notice if they are going to be affected by this change.
- Some comments state that the Forest Service should revise plan language to match EO 2015-4 regarding noise requirements and to incorporate new noise research. Alternatively, other comments express concern that the revised noise standard is too weak and will remove protections outside of PHMA.
- Concern is expressed that a 0.6 lek buffer is too small to protect greater sage-grouse from oil and gas development.
- Commenters indicate that plan components should revise language to refer to the State of Wyoming's Compensatory Mitigation Framework.
- Some respondents express concern that that science used to establish timing, disturbance, and other development thresholds in previous plan components is flawed and not appropriate for use.

Chapter 3 Other Comments

Many of the comments received reiterated concerns and topics presented during the previous scoping process. These comments include the need for plan updates, appropriate planning area and decision space, and resource-specific issues related to livestock grazing, vegetation management, predation, allowable uses, fire and fuels, and socioeconomic conditions. The reader is referred to the April 2018 Executive Summary for additional details.