



December 1, 2017

Acting Director Michael D. Nedd
Bureau of Land Management
U.S. Department of the Interior
1849 C St., NW, Room 2134 LM
Washington, DC 20240

Attention: Notice of Intent to Amend Land Use Plans Regarding Greater Sage-Grouse Conservation and Prepare Associated Environmental Impact Statements or Environmental Assessments, 82 Fed. Reg. 47248 (October 11, 2017)

Public scoping process for RMP amendment(s) with associated NEPA document(s)

Dear Mr. Nedd:

With this letter, API and IPAA are pleased to submit its comments in response to the captioned public notice, published in the Federal Register October 11, 2017, describing the intention of the Bureau of Land Management (BLM) to consider amendments to “some, all or none of the BLM land use plans that were amended or revised in 2014 and 2015 regarding Greater Sage-Grouse (GRSG) conservation in the States of California, Colorado, Idaho, Nevada, Oregon, Wyoming, North Dakota, South Dakota, Utah and Montana” (2015 GRSG Plans).

API is a national trade association representing over 625 member companies involved in all aspects of the oil and natural gas industry. API’s members include producers, refiners, suppliers, pipeline operators, and marine transporters, as well as service and supply companies that support all segments of the industry. API member companies are leaders of a technology-driven industry that supplies most of America’s energy, supports more than 9.8 million jobs and 8% of the U.S. economy, and since 2000 has invested nearly \$2 trillion in U.S. capital projects to advance all forms of energy, including alternatives. API member companies have a direct interest in how the BLM plans to manage lands in the states mentioned above with respect to the GRSG and its habitat. These companies hold valid existing leases and are interested in future oil and natural gas leasing, exploration, and production activities in areas that will be directly affected by the BLM’s management decisions. These companies are also dedicated to meeting environmental requirements, while economically developing and supplying affordable energy to consumers.

IPAA represents thousands of independent oil and gas explorers and producers that will be the most significantly affected, either positively or negatively, by potential changes to BLM land use plans for the greater sage grouse. Independent producers develop 90 percent of the nation’s oil and natural gas wells. These companies account for 54 percent of America’s oil production, 85 percent of its natural gas production, and support over 2.1 million American jobs. IPAA’s members are participants in federal, state, and private efforts to protect and conserve endangered and threatened species and their ecosystems. IPAA’s

member companies have enrolled millions of acres in conservation plans and committed tens of millions of dollars to fund habitat conservation and restoration programs.

With the Federal Land Policy and Management Act (FLPMA), Congress declared that the nation's public lands must be managed on the basis of multiple use in a manner that both recognizes the need for domestic sources of minerals and will provide food and habitat for fish and wildlife, among other uses. U.S.C. § 1701(a)(6), (8), (12). Our member companies continuously strive to responsibly develop oil and natural gas resources in a manner compatible with wildlife conservation. Oil and natural gas development leaves a small and temporary impact on the land and coexists with wildlife protection. To minimize the potential impacts of their activities, Our member companies work closely with state wildlife management agencies, which have the local expertise to best manage wildlife resources, to minimize potential impacts of oil and natural gas exploration and development on the GRSG and other wildlife. Our member companies also commit to conservation measures to protect the GRSG identified through environmental analysis performed under the National Environmental Policy Act of 1969 (NEPA). These efforts balance multiple use in the manner in which Congress intended.

API and IPAA member companies support BLM's goal of managing the GRSG and its habitat on public lands to demonstrate to the U.S. Fish and Wildlife Service (FWS) that the species does not warrant listing as threatened or endangered under the Endangered Species Act. However overly burdensome restrictions in the current GRSG Land Use Plans have resulted in severe limitations on resource development in the states where the BLM has implemented these plans, which do not balance conservation of the GRSG and responsible oil and natural gas development, and which elevate conservation of the GRSG above all other land uses in a manner wholly inconsistent with multiple use management.

In developing planning criteria for use in considering possible amendments to the 2015 GRSG Plans, the BLM should not use the U.S. Fish and Wildlife Service's *Greater Sage-Grouse (Centrocercus urophasianus) Conservation Objections: Final Report* (Feb. 2013) ("COT Report") and the BLM's *Report on National Greater Sage-Grouse Conservation Measures Produced by the BLM Sage-Grouse National Technical Team* (Dec. 2011) ("NTT Report"), as these reports failed to utilize the best available science; failed to adhere to the standards of integrity, objectivity, and transparency required by the agency guidelines implementing the Information Quality Act ("IQA"), Consolidated Appropriates Act of 2001, Pub. L. No. 106-554, § 515, 114 Stat. 2763, 2763A-153 – 2763A-154 (2000); and suffered from inadequate peer review (additional comments describing the flaws in these reports in the June 29, 2015 Letters of Protest to be submitted as an attachment). Rather, BLM should:

- Undertake a comprehensive and unbiased review of all available scientific literature on the GRSG and prepare an annotated bibliography suitable for public reference. Generally follow and employ IQA guidelines on the information and data used in ascertaining the status and health of GRSG populations and the effects and significance of factors that may influence these populations.
- Ensure that field surveys and data compilation and analyses which serve as a basis for the above-identified scientific literature have been conducted in consistent manner to allow reasonable comparisons from all data sources (federal, state, academic and private).
- Seek independence and breadth of opinion and expertise in the review and application of scientific information in review of factors that may affect GRSG populations or species habitat, wherever possible employing a hypothesis testing approach, transparency of data and methods, and where appropriate relying on the review standards established by the National Academies to address these issues, found at <http://www.nationalacademies.org/coi/index.html>.
- Rely on publicly available data sources, and provide public independent access to data sources used in its review and analysis. Describe where data are archived, the responsibility for their curation, and any conditions that governed sharing or use of the data.

- Describe the methodology used (including but not limited to mapping and field survey techniques) and the criteria employed for any determinations made as to the importance of habitat or habitat characteristics on the life stages of the GRSG and the health of GRSG populations.
- Describe strengths, weaknesses, and opportunities for error in any methods used to estimate GRSG populations, including but not limited to reliance on lek counts, and to estimate and characterize suitable habitat and the condition of suitable habitat.
- Examine causes of GRSG mortality using an unbiased, reproducible, statistically-based and empirical methodology that is described to the public, and rank or weight these causes in terms of their effects on the GRSG at a population level. This evaluation should:
 - Make a quantifiably robust inquiry into the effects of hunting on GRSG populations where hunting is allowed.
 - Similarly examine the effects of predation on GRSG populations and the ameliorative effects (if any) on predation from predator management where practiced.
 - Investigate the effects of infectious disease on GRSG populations, and note and explain any regional differences observed.
 - Investigate the effects, if any, of any human activity with a reasonable likelihood of occurring on the range of the GRSG, and provide the methodological basis for reaching any determination as to the significance or permanence of these effects.
 - Identify any management practices employed by persons or organizations carrying out these activities to mitigate their effects on the GRSG or its habitat, and provide an informed assessment as to the merits of these management practices. Examine and discuss the significance of site-specific conditions and their influence on the effectiveness of these management practices.
 - Identify the progress of reclamation practices in Critical and General habitat, including propagation of native sagebrush and forb species and their potential effects to future habitat estimates.
 - Provide access to any data used in the foregoing assessments and determinations.
- Provide citations and explanations derived from the literature on the GRSG to support identification of any habitat or habitat characteristics as important for the thriving of the GRSG during any particular life stages or for the survival of the species.
- Provide definitions derived from the literature for any terms that are used to describe the status of the GRSG or the health of GRSG populations.
- Explain in suitable detail how any conservation measures recommended or discussed with reference to maintaining or improving the health of GRSG populations meet the Policy for Evaluation of Conservation Efforts (PECE) criteria established by the U.S. Fish and Wildlife Service.
- Describe any threat criteria identified for the GRSG with reference to whether the threat is envisioned as temporary or permanent, and provide an explanation for such designation.
- Direct BLM and FWS to collaborate with State wildlife agencies and third party subject-matter experts to develop tools and techniques to estimate and set population objectives, including
 - Establishing a State/Federal/academic partnership that is working to develop and refine techniques to better estimate range-wide populations over the next two to five years;

- Understanding and accounting for the influence of factors such as drought/rainfall cycles, predation, and disease on populations at appropriate regional levels; and
- Evaluating USGS-supported research to improve the ability to find new leks, understand the percent of leks not counted because they are unknown, and increase the accuracy of counts once leks are detected.
- Assess and where suitable organize and examine conservation measures in such a way that they address the specific cause and effect mechanisms that underlie each threat that is identified as potentially deleterious to GRSG.
- Direct BLM and FWS state offices to confer with State wildlife agencies to review existing policies and lease and permit stipulations commonly required for operations in areas of GRSG concentrations to assess their efficacy and to develop State-specific guidelines for stipulations that provide for alternatives.
 - Direct BLM to consult with States to establish common methodologies for calculating the amount of surface disturbance and density of energy facilities at the project/permit level, guidelines for consistent reporting of surface disturbance associated with various uses, as well as restoration actions that achieve conservation of habitat.
 - As a component of this effort, examine each State's approach to identify how it differs from each 2015 GRSG Plan. Prepare a report that ascertains whether the States' approaches, including compensatory mitigation, could adequately address the threats in the area, avoid habitat loss or fragmentation, and ensure effective and durable conservation, while providing for economic development.
 - Based on this work, develop guidelines for ongoing management of Federal lands in GRSG country, and submit these for public review and comment through a regular administrative rulemaking process.
 - Establish the baseline and methodology for calculating any surface disturbance or density caps and explain these in detail, including incorporation of a sound monitoring framework. Existing surface disturbance should be considered environmental baseline prior to calculation of caps, and should be calculated with a sound, science-based tool equivalent to a habitat quantification tool.
 - Provide a detailed explanation, referenced to the literature as appropriate, for any disturbance thresholds used in considering effects of certain human activities on GRSG concentrations, the relationship between these disturbance thresholds and observable and documented effects on the GRSG at the population level.
 - Because lek buffers in particular are based on subjective opinions of select authors rather than on objective scientific evidence that these buffers address any specific threat or would result in quantifiable benefits to survivorship or reproduction, BLM should analyze alternatives to the 3.1 mile buffer in the SEIS, and only require buffers that are based on the best available science.
 - Because certain measures such as the lek buffer distances, required design features, and density and disturbance caps constitute substantive rules, any such measures proposed for implementation as a result of the review undertaken following this notice must be subject to the requirements of the Administrative Procedures Act including notice and the opportunity for public comment.
 - Further assure that such measures allow for adaptation of designated habitat based wherever possible on state and local recommendations and data. Where local mapping has been devel-

oped by local governments at a finer scale or with greater accuracy than state mapping, BLM should rely upon and incorporate the local mapping as the best available information.

- Direct BLM and FWS to develop memoranda of understanding (MOUs) with appropriate State agencies to establish agreement on consistent application of the mitigation hierarchy (avoid, minimize, and compensate), and methods and standards for incorporating compensatory mitigation alternatives for conservation of habitat when deemed appropriate.
 - Based on the results of this effort, the Federal compensatory mitigation policy should be withdrawn and a revised policy developed that is consistent with these MOUs.
- In any discussion or analysis of the significance of wildland fires on GRSG populations provide a justification for any recommended actions or approaches for fire suppression or related rangeland management techniques with that considers the full operational and risk management context in which these measures may be considered.
- In any discussion of enforceable measures contemplated for management of GRSG populations or their habitat, BLM should clearly describe the legal authority and justification for the measure proposed as well as the limitations on any such authority, as appropriate.
 - Provide a mechanism to ground-truth habitat areas on a project-specific basis in order to effectively assess the quality of the habitat and potential impacts of management decisions.
 - Revise identified Priority Habitat Management Areas (PHMA) boundaries to match the most current state boundaries where delineated;
 - Eliminate compensatory mitigation requirements on federal lands in General Habitat Management Areas (GHMAs)
 - Grant timing stipulation relief in GHMA lek buffers on federal lands consistent with the EO compensatory mitigation framework;
 - Eliminate project-by-project compensatory mitigation calculation determinations and instead utilize state compensatory mitigation frameworks in states where developed.
 - Eliminate compensatory mitigation requirements on federal lands in PHMA when EO thresholds are not exceeded .

Thank you for considering these recommendations as you undertake the planning effort described in the captioned public notice. Should you have any questions, please contact Richard Ranger of API at 202.682.8057, or via e-mail arangerr@api.org, or Samantha McDonald of IPAA at 202.857.4722, or via e-mail at smcdonald@ipaa.org.

Sincerely,



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