



September 12, 2013

Nevada Sagebrush Ecosystem Council
201 South Roop Street, Suite 101
Carson City, NV 89791-5247
Attn: Tim Rubald

Re: Impacts to OHV Recreation for September 12, 2013 Meeting

Dear Council Members:

The BlueRibbon Coalition (BRC) is a national trail-based recreation group. Our members in Nevada and California remain concerned about the lack of "trail-based OHV recreation" representation in your process. After reviewing the documents for today including the most current staff reports, I continue to share that concern as well.

After being alerted by Nevada BRC members to your process earlier this year, I contacted Tim Rubald on May 14, 2013 regarding the Nevada Sagebrush Ecosystem Program's Request for Information for the State of Nevada Conservation Credit System for Sage Grouse Habitat. I advised Mr. Rubald that BRC would not be able to attend the May 31, 2013 Sagebrush Ecosystem Council meeting in person. However, I would supply him OHV-related information that had already been submitted to the Western Region Project Manager for the Sage Grouse Planning Strategy (March 20, 2012) and the Humboldt-Toiyabe National Forest's Scoping Notice Greater Sage Grouse Bi-State Distinct Population Segment Forest Plan Amendment EIS (January 28, 2013).

I shared my concerns with Mr. Rubald regarding the aforementioned lack of OHV representation on the Council. On May 15, 2013, Mr. Rubald contacted me and acknowledged my concerns about the Council not having a "recreation" seat at the table. It appears our concerns were valid since little if any of the information submitted by BRC has been included to date in this process.

For the benefit of the Council and various stakeholders, I will submit an overview of that information below:

OVERVIEW OF COMMENTS SUBMITTED TO FEDERAL AGENCIES

In April 2010, the U.S. Fish and Wildlife Service (USFWS) published its Listing Decision for the Greater Sage-Grouse and stated in the Federal Register "We find that listing the Greater Sage-Grouse (*Centrocercus urophasianus*) range wide is warranted, but precluded by higher priority listing actions." On a scale of 1-12 for listing priority as established by the agency...1 being the most critical and 12 being

the least, the Grouse was assigned a listing priority number of 8. Currently there are hundreds of species being considered for listing under the ESA. USFWS has established a target date of 2015 to fully address the status of the Grouse. They have further stated that the threat of extinction of the Grouse is unlikely given the size of its current range, even though over 50% of its historic range has been lost over time. Finally, USFWS states, "We will develop a proposed rule to list the Greater Sage Grouse as our priorities allow." These observations and the warranted by precluded finding are topics of dispute, but the Service's decision and strategy as outlined above has survived legal challenge thus far. See, Memorandum Decision dated Feb. 2, 2012 in Western Watersheds Project v. U.S. Fish and Wildlife Service, Case No. 10-CV-229-BLW (D.Idaho).

BRC has reviewed all the relevant literature and issues concerning the current planning process undertaken by the BLM and its National Greater Sage-Grouse Planning Strategy (Charter). We have also reviewed current OHV/ORV literature and statistics from the USDA Forest Service as it applies to use trends and to management on the ground. These trends cross directly over to the BLM and can be used to justify sound management techniques for motorized recreation regardless of the differing Code of Federal Regulations (CFR's) that govern each agency.

Major documents and literature reviewed include:

- 2010 Proposed Rules (Federal Register) USFWS on petition to list the Greater Sage Grouse populations
<http://www.fws.gov/mountain-prairie/species/birds/sagegrouse/FR03052010.pdf>
- Known and Predicted Impacts to Greater and Gunnison Sage-grouse and Lesser and Greater Prairie-chickens http://www.fws.gov/windenergy/docs/Sage_grouse_and_Prairie_chickens.pdf
- Fact Sheet Endangered Species Act Listing Decision for the Greater Sage-Grouse
<http://www.fws.gov/mountain-prairie/species/birds/sagegrouse/FactSheet03052010.pdf>
- U.S. Fish and Wildlife Service Greater Sage Grouse 2011 Fact Sheet
<http://www.fws.gov/mountain-prairie/species/birds/sagegrouse/GreaterSageGrouseFactSheet2011.pdf>
- U.S. Fish and Wildlife Service Endangered Species Greater Sage Grouse
<http://www.fws.gov/mountain-prairie/species/birds/sagegrouse.pdf>
- National Greater Sage-Grouse Planning Strategy
http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/sage-grouse_planning/documents/newsletters.Par.32918.File.dat/Newsletter1December2011_508.pdf
- BLM Documents and Resources (general listing)
http://www.blm.gov/wo/st/en/prog/more/sagegrouse/documents_and_resources.html
- 12/22/2011 Greater Sage-Grouse Interim Management Policies and Procedures
http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2012/IM_2012-043.html

- 12/27/2011 BLM National Greater Sage-Grouse Land Use Planning Strategy
http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2012/IM_2012-044.html
- Breeding densities of Greater Sage-Grouse across the range
http://www.blm.gov/wo/st/en/prog/more/sagegrouse/documents_and_resources/greater_sage-grouse0.html
- A Report on National Greater Sage-Grouse Conservation Measures Produced by Sage-Grouse National Technical Team
http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/im_attachments/2012.Par.52415.File.dat/IM%202012-044%20Att%201.pdf
- Research Problem Analysis For Greater Sage-Grouse In Oregon
http://sagemap.wr.usgs.gov/Docs/ODFW_Prob_Analysis.pdf
- The History and Current Conditions of the Greater Sage-Grouse in Regions with Energy Development
[http://bogc.dnrc.mt.gov/PDF/Final%20Greater%20Sage%20Grouse%20White%20Paper3-15-07%20\(2\).pdf](http://bogc.dnrc.mt.gov/PDF/Final%20Greater%20Sage%20Grouse%20White%20Paper3-15-07%20(2).pdf)
- Off-Highway Vehicle Recreation in the United States, Regions and States:
A National Report from the National Survey on Recreation and the Environment (NSRE) 2005
http://www.fs.fed.us/recreation/programs/ohv/OHV_final_report.pdf
- Aug 7, 2008 News Releases from the Southern Research Station: Outdoor Recreation Increasing among American Adults
<http://www.srs.fs.usda.gov/news/341>

BRC concludes 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 urbanization/fragmentation
Introduction of invasive plant species
Intrusion 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 (including West Nile Virus (WNV))

In reviewing the available literature and studies listed above, 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.

While the impacts to Grouse are negligible, motorized recreation on Federal lands, both public (BLM) and congressionally reserved (Forest Service), has become meaningfully and increasingly important. In a 2005 report prepared by the USDA Forest Service (FS) entitled; "Off-Highway Vehicle Recreation in the United States, Regions and States: A National Report from the National Survey on Recreation and the Environment (NSRE)." It stated that 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 the FS, as well as by state, county, local and tribal agencies. The current trend for summer motorized recreation management leans heavily on a "designated travel" strategy, where cross-country travel is discouraged or forbidden except under Special Use Permit (SUP). Exceptions for area wide uses are more commonly employed in Over Snow Vehicle (OSV) management and planning or for small tracts of land for specialty uses such as trials or MX.

IMPLICATIONS FOR VEHICULAR RECREATION – A COMMON SENSE STRATEGY

In response to the listing decision and as the lead agency, the BLM, where most of the Grouse habitat is located, issued its National Greater Sage-Grouse Planning Strategy (Charter) and subsequent Instruction Memorandums (IM), along with various FAQ sheets, range maps and other incidental publications.

The production of a National Environmental Policy Act (NEPA) document and subsequent Environmental Impact Statement/Supplemental Environmental Impact Statement (EIS/SEIS), when completed, will guide future management decisions for the Grouse and its sage based habitat. Because of the size of the landmass involving current Grouse habitat and distribution, the BRC considers the production of this NEPA document to be a major landscape level decision. The subsequent Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) will affect motorized recreation in the 11 states where the Grouse currently occurs (both East and West planning units).

In addition the BLM has published 2 Instruction Memorandums (IM) dated 12/22 and 12/27 2011 that will provide "interim conservation policies and procedures for BLM field level operations". These will also have the potential to greatly affect/impact all aspects of motorized recreation, from traditional camping, hunting and fishing access to access for photography, bird watching, mountain bicycling, boating, cross country skiing and wilderness areas. Most of all, these IM's could have a serious negative impact on casual OHV use and permitted special events such as enduros, trials, hare-scrambles and dual sport rides to name a few. 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 affected if the IM's are interpreted in the wrong manner in a "one size fits all" decision.

This has occurred in the past when elements of the motorized recreation community were not included in the planning process. BRC is very concerned that may well be the final outcome if motorized recreation community members are not involved in this planning process from the beginning. We also believe that rather than the broad sweep of the brush as thusly painted in the most recent IM's and summaries of said, a more "common sense" approach (already suggested for adoption by BLM in other Grouse Management Strategy documents) 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 Ranger District 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 sage 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. Under the IM's, the BRC believes that sound, proven OHV management techniques can allow the agency to protect the Grouse and habitat and to provide for responsible, family oriented OHV/ORV recreation, regardless of which form it takes. Part of this process is to determine time and use regulations that minimize real conflicts between the recreating public and the Grouse. BRC notes that hunting of the Grouse is still allowed in at least 8 of the 11 states where it is found and that by setting reduced seasons and bag limits, the Grouse is not considered at risk and that hunting can still occur. The same can be said for motorized access and use.

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, like the Forest Service, state, county, local and tribal land management agencies is also moving towards a mostly "designated route" planning effort for use of roads and trails that are compatible for motorized recreation use and we support that concept. Except for OSV winter use, where snowpack allows, BRC recognizes that unauthorized/unmanaged cross country travel can be damaging to both wildlife and habitat.

The local federal recreation planners and managers are the best suited to work with motorized stakeholders to establish a manageable, designated, user and nature friendly route network for motorized access. 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/ORV categories such as trail bikes, ATV/SBS and or OSV in the winter. Lesser used but just as important to the motorized community are rural 2 track routes that may see little use throughout the year, ATV width

trails and trail bike single track width routes. Routes that are duplicitous or fill no need or are illegally established may be considered for closure and rehab. The desired condition is an adequate system/mixture of routes of suitable length and skill levels that follow Best Management Practices (BMP) established by Best Available Science (BAS).

COMMENTS SPECIFIC TO SCOPING DOCUMENTS

Issue One – OHV Recreation as Major Threat?

On page 3 of the scoping letter, it appears “recreation management” has been added to the ever growing list of impacts to the Grouse. As noted before in this letter, recreation and more specifically “motorized recreation” and related special use permitted OHV events on existing or designated roads, trails and areas has not been shown to have a significant impact on the Grouse or its habitat, in fact, that use almost falls into the background when compared to other threats identified in the EIS.

BRC is concerned the agency(s) proposed action related to recreation standards and the transportation system may have severe impacts on OHV recreation - including permitted events - particularly as it occurs on designated or existing roads, trails and areas.

As you know, the August 1, 2012 Draft Sage-Grouse Conservation Report has –without any new data (remember OHV recreation is hardly mentioned in previous agency reports or related papers as even a minimal threat) – listed OHV recreation as a new major or principle threat along with energy development, transmission, invasive weeds, and juniper encroachment.

This new classification for OHV recreation as a principle or major threat combined with the “minimization” criteria in the proposed action - “The Forest Service (FS) is proposing to amend the Toiyabe National Forest Land and Resource Management Plan (LRMP) and the BLM is proposing to amend the Tonopah Resource Management Plan (RMP) and the Carson City Field Office Consolidated RMP by adding to or changing some of the regulatory mechanisms (management direction) that would reduce, eliminate, or minimize threats to the Bi-State Sage Grouse habitat on federal lands administered by the FS and the BLM under those plans.” – has the potential to impact or functionally ban historic recreation throughout the project area(s) particularly in the Pine Nut region that now has been listed as “high risk” C1 Bi-State Sage Grouse habitat.

One of the proposed standards that is of highest concern is where the proposed action states, “Consider closing recreation sites seasonally or permanently to restrict recreational traffic and avoid disturbance to Bi-State Sage Grouse.”

Issue Two – Seasons of Use/Seasonal Closures – Confusion

In the “Recreation Standards” section it states, “Camping shall not be allowed within 0.6 miles of active Bi-State Sage Grouse leks from March 1-May 15.” Yet, in the “Standards for all Resource Areas” section it states, “Yearlong protection of Bi-State Sage Grouse within 1/3 mile of active Bi-State Sage Grouse leks. Yearlong protection is defined as no discretionary actions which would adversely affect sage-grouse would be allowed. Existing uses and casual uses shall be managed to prevent disturbance which would adversely affect Bi-State Sage Grouse.

Seasonal protection of Bi-State Sage Grouse within two miles of active Bi-State sage-grouse leks from May 1 to June 30. An active lek is defined as a lek in which two or more males are detected for two or more years within a five year period. Seasonal protection is defined as within the period specified, no discretionary actions which would adversely affect sage-grouse would be allowed. Existing uses and casual uses would be managed to prevent disturbance which would adversely affect Bi-State Sage Grouse.”

Again BRC is concerned; the “minimization” criteria could adversely impact both permitted OHV events and casual use. If the “two mile” criterion is applied to areas that are bordered by high canyon walls or cliffs, it could functionally close those existing or designated routes and areas used by OHV recreationists. The unintended consequences of application of the aforementioned “two-mile” criteria/standards for all areas could result in the functional closure of entire regions used by OHV recreationists.

Issue Three – Minimization

The "minimization criteria" directs federal land managers addressing motorized access to "consider effects...with the objective of minimizing" a variety of factors including damage to soil, watershed, vegetation and other forest resources; harassment of wildlife and significant disruption of wildlife habitats; conflicts between motor vehicle and other uses; and conflicts among different classes of motor vehicle uses. The "minimization criteria" have been around since 1972 and long received only passing interest, but were included in the 2005 Forest Service Travel Management Rule. See, 36 CFR 212.55(b).

The 2005 National Forest Service OHV Recreation Survey states that over 23% of the U.S. population participates in OHV recreation on an annual basis. The 2005 Travel Management Rule plainly provides for designation of “areas” for OHV use. BRC believes many sites within the project area are uniquely suited for designation of a meaningful area(s) for OHV travel.

Regardless of the range of alternatives considered or ultimate decision adopted, the agency would be wise to discontinue further investment of resources in the current procedural template. Only recently, on January 4, 2013, the Forest Service learned yet again of another instance in which it inadequately considered the “minimization criteria” in a travel management decision. See, Order (Dkt. #65), Central Sierra Env'tl Resource Center v. U.S. Forest Service, Case No. CV-10-2172-KJM (E.D.Cal.). This latest decision, in conjunction with earlier cases like Idaho Conservation League v. Guzman, 766 F.Supp.2d 1056 (D.Idaho 2011), suggests a possible need for changes in the manner in which the Forest Service is conducting and describing its travel management decisions.

The Forest or BLM would be wise to take this opportunity to adjust its procedures so that it can avoid creating needless legal vulnerability for whatever decision ultimately comes from the current planning process. In making this observation, we recommend the agency analyze previous actions or proposed actions related to OHV recreation that have or will address the minimization criteria (route designation, Wilderness designations, non-motorized land-classifications, etc.).

A robust analysis of “minimization” will not only better insulate the final decision against challenge, but should, in fact, allow for options which expand areas or opportunities for OHV recreation based on

previous NEPA decisions that have already unduly “minimized” OHV use and its impacts to the environment and/or other users.

Issue Four – Focus on Designation of Roads, Trails, and Areas

BRC commends the agency(s) for identifying the concept of limiting OHV use to existing and/or designated roads, trails and areas as a primary strategy to help protect Bi-State Sage Grouse habitat. BRC believes this is the appropriate method by which to “minimize” environmental impacts.

Recommendations:

One – Acknowledge in planning document that OHV recreation existing or designated roads, trails and areas is not a threat to sage grouse habitat.

Two – Avoid the use of seasonal closures to manage (e.g. restrict) OHV recreation. If a seasonal closure must be used it should be for the shortest and most critical time period (breeding season) related to routes within close (e.g. .6 mile) of an active lek. Since birds vacate the lek at sunrise, the agency might consider a time period when motorized use within close proximately to the lek is restricted until 1 hour after sunrise.

Three – Analyze and disclose the agency’s strategy to “minimize” OHV Impacts to the grouse and habitat. That strategy should focus on elimination of cross-country travel and restricting OHV use to existing routes and/or to designated roads, trails, and areas.

Four – Avoid excessive restrictions (which could eliminate historic motorized permitted events) on motorized permitted events. Give special consideration to “Legacy” events where an event has been held on an annual basis for over 10 years. If there are event course restrictions, they should be limited to routes already approved in a previous permit and/or NEPA decision. For example, riders should not use a course route within .6 mile of an active lek until 1 hour after sunrise during breeding season.

Conclusion:

BRC strongly feels the agency’s goals and objectives to protect the Bi-State Sage Grouse habitat can be met without severely limiting or restricting responsible managed motorized recreation uses within the planning area. Thank you for this chance to comment and we look forward to assisting in the NEPA planning process as it moves forward.

+++++ END OF BRC COMMENTS SUBMITTED TO FEDERAL AGENCIES+++++

As you can see, OHV recreation and its management is different and distinct from other active and passive uses of public land.

BRC has a number of concerns about this process moving forward without recreation representation on the Council. Casual and permitted OHV recreation are important elements in Nevada’s Recreation Opportunity Matrix. Each year, thousands of participants ride in the Virginia City Gran Prix. This event fills up local hotels and restaurants which brings a large economic benefit to the area. Thousands of

OHV recreationists in California travel to Nevada to explore public lands on roads and trails which also brings an economic stimulus to Nevada. Listed below are a few of our concerns.

Indirect and Cumulative Impacts

OHV events or “projects” and even casual use could be seriously impacted based on the evaluation criteria related to indirect effects and/or cumulative impacts to sage-grouse habitat that is located inside or outside of said habitat areas.

Proposed Four Mile Buffer

The proposed change to establish a four-mile buffer zone around both active leks and project or event boundaries could functionally eliminate many, if not most, OHV permitted events such as the Virginia City Grand Prix, the Ride Reno 200 Dual Sport Ride, and public land competitive events hosted by the Motorcycle Racing Association of Northern Nevada.

In closing, BRC wants to commend the Council for its goal to avoid listing of the Greater Sage-grouse as a federally threatened or endangered species. However, BRC cautions the Council on developing a plan that could adversely impact OHV recreation on public lands in Nevada.

BRC looks forward to working with the Council on this process. We also request this letter be included in the formal record for today’s meeting for future use by the Council and staff in their decision-making process.

Respectfully submitted,

Don

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