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Office of the Governor

February 20, 2014

Mr. Ren Lohofener
Regional Director, U.S. Fish & Wildlife Service
2800 Cottage Way, W-2606
Sacramento, CA 95825

Dear Mr. Lohofener:

I am disappointed with the unexpected letter you sent late last year expressing your concerns about Nevada's efforts to conserve our sagebrush ecosystems. The letter seems to indicate a poor understanding and appreciation of what Nevada has been working diligently and effectively to achieve, neglects to recognize the incredible innovation and pace at which we are moving forward, and seems to conflate the roles and responsibilities of the state and federal government on this important issue.

Before I address the concerns in your letter, I also must again relay Nevada's alarm at the USFWS decision to list the bi-state population of the sage-grouse as threatened. In this case, Nevada has a proven track record of implementation and an excellent conservation plan. The states – in collaboration with a host of stakeholders, including the USFWS – developed a universally supported plan and have demonstrated significant progress on the ground. Unfortunately, the USFWS made its listing decision because Nevada and California could not assure funding for management of habitat predominantly located on **federal land**. This approach is unworkable, disingenuous and seeks to improperly shift an obvious federal responsibility to the states.

I fully understand that the bi-state listing is a distinct matter from the greater sage-grouse in general; however, I fear that the 11 western states facing this sage-grouse issue may be headed toward a similar fate. We all are working to develop and implement sage-grouse management strategies, when in reality, even if the plans are deemed appropriate, we ultimately may be judged exclusively and inappropriately by the amount of federal funding allocated.

Returning to the concerns in your letter, I believe it is important to articulate that the state plan and alternative that you reference were not finalized at the time of your letter. Many of the points you raised were, and are, actively being addressed by the Sagebrush Ecosystem Council – to which I appointed your State Director as an ex-officio member – and staff. As you seek to become more aware of these efforts, I believe it will alleviate many of your concerns that our efforts “will not achieve the desired outcome.”

Recognizing that you may not have benefitted from the most recent information, I will briefly address your eight points below and welcome the opportunity to discuss these issues with you and your staff at the Capitol here in Carson City.

(1) *“The draft plan needs to establish a clear goal for habitat conservation. We believe Nevada should have a goal that ensures persistence of Priority Areas of Conservation through adequate regulatory mechanisms and addresses the threats of invasive species and fire.”*

Indeed, the very first paragraph of the “Conservation Goals & Objectives” section of the Nevada plan clearly states:

Nevada’s goal for the conservation of sage-grouse in the State of Nevada is to provide for the long-term conservation of sage-grouse by protecting the sagebrush ecosystem upon which the species depends. Redundant, representative, and resilient populations of sage-grouse will be maintained through amelioration of threats; enhancement and/or protection of key habitats; mitigation for loss of habitat due to anthropogenic disturbances; and restoration or rehabilitation of habitat degraded or lost due to Acts of Nature.

This section of the plan further identifies conservation principles, objectives, definitions, policies and procedures that, in part, comprise our strategy through which sage-grouse habitat will be conserved and sage-grouse populations will be preserved in Nevada. Specifically, we commit to “no net unmitigated loss due to anthropogenic disturbances” and define a hierarchical decision process of “avoid, minimize, mitigate.”

(2) *“The draft plan needs to outline how sufficient resources will be available to accomplish habitat conservation and adequately address the threats posed by invasive species and fire. While the draft plan recognizes these threats, the means the State will use to address the threats lacks specificity.”*

Because approximately 84% of Nevada’s key sage-grouse habitat is managed by the federal government, Nevada cannot guarantee funding on federal lands as both a Constitutional and practical matter.

In spite of this fact, however, Nevada has invested millions toward this conservation effort. In addition to the creation of an inter-agency and multi-stakeholder Sagebrush Ecosystem Program, Nevada has invested millions in the creation of cutting-edge habitat modeling and mapping, as well as the development of an innovative Conservation Credit System which will identify, prioritize, monitor and track our mitigation and habitat restoration efforts statewide. Nevada has also revamped and improved our year-round wildland fire and restoration efforts through the Nevada Wildland Fire Protection Program, and established the Nevada Cheatgrass Action Team which is currently working to identify and implement strategies to stop the dominance of cheatgrass in the sagebrush ecosystem.

Perhaps most importantly, we have proposed a comprehensive strategy that, if adopted, will ensure that the funds Nevada has invested are applied in the areas where they can do the greatest good for sage-grouse. When implemented, it will utilize the best science and partnerships between state, local, federal and industry partners to realize meaningful action on the ground, and conserve sage-grouse.

It would be a grave injustice if the decision to list the sage-grouse became dependent upon Nevada's ability to guarantee revenue for the management, protection and restoration of federally managed lands. Nevada has committed to do its part and the federal agencies need to seek federal commitments to provide the funding necessary to manage federal lands in collaboration with the state.

(3) "The draft plan needs to state clear goals, and define the means to achieve the goals, that will address the threats identified in the Conservation Objectives Team report."

The draft Nevada plan currently has clear goals and objectives that address the threats identified in the Conservation Objectives Team report. Moreover, when finalized, the plan will provide even more detailed actions, plans and procedures for addressing these threats and more. I have asked my staff to share these updates with you directly when the content is ready for this level of review.

(4) "A robust monitoring strategy will be needed to ensure the Nevada plan is being implemented and is working to conserve the bird and its habitat."

(5) "The draft plan needs a strong adaptive management component to deal with uncertainties and unforeseen circumstances that may require action."

The "robust monitoring strategy" and "strong adaptive management component" are explicit and fundamental aspects of the Conservation Credit System that Nevada is currently developing. The system defines a landscape scale mitigation approach that is definitive and has an ongoing requirement to demonstrate performance, thereby resulting in durable mitigation. Moreover, our efforts are largely consistent with the same goals and objectives called for by Secretary Jewell in Order 3330 which calls for better mitigation policies and practices of the Department of the Interior.

(6) "Because the majority of sagebrush habitat in Nevada is on federally managed lands, the draft plan needs to clearly articulate how the State's conservation actions will mesh with federal conservation planning efforts. Where can Nevada best direct its efforts to make a difference?"

Your point above notes we must "articulate how the State's conservation actions will mesh with federal conservation planning efforts" and misses the point completely that Nevada is proposing an alternative in Sage-Grouse Land Use Plan Amendment and Environmental Impact Statement (DEIS) being developed by the BLM/USFS.

It is Nevada's intention that much, if not all, of its proposed alternative will be chosen as the Final Preferred Alternative. In particular, we expect the federal agencies to take advantage of the Conservation Credit System, and respect the roles and responsibilities of the Sagebrush Ecosystem Council, the Sagebrush Ecosystem Technical Team and the Local Area Working Groups. When this occurs, Nevada's conservation planning and actions will be one and the same with the federal efforts.

This is central to Nevada's proposal and, I believe, represents a fundamental shift in how land management decisions are made in Nevada. It is my understanding that it would be helpful if the federal agencies did a better job articulating their conservation planning efforts. Nevada's strategy will clearly define how we can invest our resources in the most effective and efficient manner for the sage-grouse and its habitat. Of course, the federal entities must choose to utilize the tools Nevada is prepared to offer.

(7) "Nevada's plan proposes to use a conservation credit system to mitigate habitat loss...we encourage more clarity on how the conservation crediting system will ensure sagebrush conservation, especially the revenue expected and how the revenue will be used to mitigate for habitat loss in habitats that require decades to restore."

Your point above largely expresses concern about the potential effectiveness of Nevada's Conservation Credit System. Although Nevada does have a limited amount of private land with sage-grouse habitat (approximately 14% of the species' habitat), many of these lands are important to sage-grouse. Nevada believes that our program will provide sufficient incentives to encourage willing landowners to participate in our program. Ultimately, the Conservation Credit System will maximize the benefits of sage-grouse conservation in Nevada by (1) identifying and encouraging landscape-level mitigation efforts, (2) creating a defensible, consistent and transparent framework for mitigation, and (3) providing a mechanism to ensure that the success of the mitigation measures is monitored, tracked and validated. Thereby the credit system will establish and/or utilize mechanisms that will provide for durable mitigation on federal lands.

(8) "Overgrazing by domestic livestock and feral horses is a factor limiting habitat conservation in some areas. The draft plan should provide more detail on how this this [sic] threat will be reduced."

It is anticipated that the final plan will provide greater detail regarding overgrazing, among other issues. However, overgrazing by wild horses and burros – an issue almost exclusively controlled by the federal government – is indeed a factor limiting habitat conservation in some areas. As with the fire and invasive species efforts at the federal level, it is disappointing that Nevada's livelihood could be negatively impacted by the failure of the federal government to meet its responsibilities in regards to managing wild horses and burros. Furthermore, although improper domestic livestock grazing has been identified as a threat, proper grazing techniques have also been shown to be an effective tool for resource stewardship. It is important to make this distinction and the

Sagebrush Ecosystem Council is currently revising recommendations relevant to this point in regards to overgrazing by domestic livestock and wild horses/burros.

Furthermore, the final sentence in paragraph two of your letter states the following: "Given the complexity of the threats to the bird and sagebrush habitat and the time it will take to prepare the finding, the Service will have to make a decision well before the settlement's deadline." The settlement timeframe is already compressed and your representation that states will have even less time to develop and implement state approaches is disturbing. Please define more specifically what "well before the settlement deadline" means.

In addition, you reference Nevada's "self-assessment" of the draft Nevada plan. Please know it is Nevada's intent to provide an updated self-assessment to you based on the accomplishments made since our last submittal. Nevada is moving at a very rapid pace and it is important that the tools you reference actually reflect the work that is taking place.

I believe that honest, proactive coordination with all parties – state, local, federal, private and non-governmental – will be central to our collective success in precluding the need to list the sage-grouse. Nevada and its stakeholders in the sage-grouse conservation planning effort have stepped up to take responsibility for developing an effective, science-based and innovative plan. We also continue to implement meaningful actions on the ground. Nevada pledges its continued good faith in working to conserve sage-grouse and our sagebrush ecosystem.

Unfortunately, Nevada's very best conservation planning efforts cannot change the fundamental fact that more than 85% of Nevada's land – including most key sage-grouse habitat – is controlled by the federal government. Although we will do all we can, Nevada cannot be expected to bear the burden to remedy problems that occur primarily on federal land. Despite our limited land holdings, Nevada has and will continue to invest significant resources towards addressing this critical issue. I look forward to the federal government demonstrating that it will shoulder its proportionate share of the responsibility in this matter.

I welcome the opportunity to meet with you and your staff to discuss this important matter further. Please contact my Chief of Staff, Mr. Gerald Gardner, at (775) 684-5670 to schedule a meeting here in Carson City.

Sincere regards,



BRIAN SANDOVAL
Governor

CC:

The Honorable Sally Jewell, Secretary of the Interior
The Honorable Tom Vilsack, Secretary of Agriculture

The Honorable Harry Reid, U.S. Senate
The Honorable Dean Heller, U.S. Senate
The Honorable Joe Heck, U.S. House of Representatives
The Honorable Dina Titus, U.S. House of Representatives
The Honorable Mark Amodei, U.S. House of Representatives
The Honorable Steven Horsford, U.S. House of Representatives
The Honorable Jerry Brown, Governor of California
The Honorable John Hickenlooper, Governor of Colorado
The Honorable C.L. "Butch" Otter, Governor of Idaho
The Honorable Steve Bullock, Governor of Montana
The Honorable Jack Dalrymple, Governor of North Dakota
The Honorable John Kitzhaber, Governor of Oregon
The Honorable Dennis Daugaard, Governor of South Dakota
The Honorable Gary R. Herbert, Governor of Utah
The Honorable Jay Inslee, Governor of Washington
The Honorable Matt Mead, Governor of Wyoming
The Honorable Dan Ashe, Director, U.S. Fish & Wildlife Service
The Honorable Neil Kornze, Director, Bureau of Land Management
The Honorable Tom Tidwell, Chief, U.S. Forest Service
Jim Barbee, Director, Nevada Department of Agriculture
Leo Drozdoff, Director, Nevada Department of Conservation & Natural Resources
Tony Wasley, Director, Nevada Department of Wildlife
Nevada Sagebrush Ecosystem Council
Western Governors Association