



STATE OF NEVADA
Sagebrush Ecosystem Program

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The Honorable Governor Brian Sandoval
State Capitol Building
101 N. Carson Street
Carson City, NV 89701

RE:

Dear Governor Sandoval:

As a Governor appointed Council and Program, per Executive Order 2012-19 drafted in law in AB 461 later codified in NRS 232.161 and 232.162 and NRS 321.592 and 321.594, the Sagebrush Ecosystem Program (SEP) is requesting you use the consistency review as allowed under 43 CFR 1610.3-2 (e) to provide a reasonable balance between the national interest as outlined in the Nevada and Northeastern California Greater Sage-Grouse Proposed Land Use Plan Amendment and Final Environmental Impact Statement (FEIS) and the State's interest as outlined in the 2014 Nevada Greater Sage-grouse Conservation Plan (State Plan).

The SEP has spent considerable time and effort in submitting comments throughout this EIS process to address inconsistencies between the State Plan and the FEIS. Although the FEIS includes significant portions of the State Plan in the final alternative, there are several items that we believe are not consistent with the State Plan. FLPMA and its implementing regulations require that BLM's land use plans be consistent with officially approved state and local plans to the extent state and local plans comply with federal law. We believe our State Plan is consistent with the purposes, policies, and programs of federal laws and regulations applicable to the public lands, is based on the best available data and science, addresses each of the threats identified by the Conservation Objectives Team (COT) report, was developed entirely in a public and transparent process, and is supported by a wide array of stakeholders across the State of Nevada. Although the FEIS very briefly describes why inconsistencies remain with state and local plans, the FEIS does it specify how the State Plan is inconsistent with BLM purposes, policies, and programs and therefore, why it cannot be incorporated in its entirety as the preferred alternative.

As you know, our State Plan includes a robust process for the avoidance and minimization of impacts from anthropogenic disturbances. In instances where impacts cannot be avoided or sufficiently minimized, the State created the Conservation Credit System (CCS), a rigorous, scientifically based mitigation program that achieves net conservation gain for GRSG and a single method for determining mitigation across the entire Sage-grouse Management Area, covering approximately 48,627,000 acres in Nevada.

The main issues the SEP would outline for inclusion in your consistency review are as follows:

- **The BLM is not committing to the primary use of the CCS as the mitigation system for Greater sage-grouse in Nevada.** The preferred alternative allows for the development and use of other applicable mitigation systems in addition to the Nevada Conservation Credit System

(CCS); however, it fails to provide detail on the level of rigor and net conservation gain of other systems, or assurance that they incorporate the best available science. The CCS is a rigorous, scientifically based mitigation program that includes measures for habitat suitability and availability to ensure net conservation gain for the greater sage-grouse. In addition, the CCS is a system that is transparent and consistently applied to credit and debit projects in each mitigation situation.

- **The Habitat Objectives in Table 2-2, 2-5, and 2-6 and their associated management actions are inconsistent with Section 4 of the State Plan.** Language in the State Plan points out that vegetation community response to management techniques can be highly variable and may take years to reach desired conditions, if that transition pathway is even possible. Management actions must focus on maintaining or trending toward objectives based on ecological site potential and state and transition models. The State Plan does not use the habitat objectives/desired conditions to restrict any permitted uses on the land.
- **The creation of Sagebrush Focal Areas (SFA) are inconsistent with conservation strategies in the State Plan.** The State Plan uses best available science to delineate core, priority, and general management areas throughout the state that are most important to sage-grouse. Overall, the criteria described for producing SFAs does not match the State’s assessment of breeding bird densities (per Doherty et al. 2010) or resistance and resilience mapping statewide (Chambers et al. 2014).
- **Creation of large areas which restrict or exclude certain land use allocations does not meet the intent of the State Plan which is to conserve sage-grouse and their habitat in Nevada while maintaining the economic viability of the State.** The State Plan does not identify exclusion zones, but instead provides an “avoid, minimize, mitigate” process to address impacts to achieve net conservation gain from anthropogenic disturbances (pages 12 – 18, 61 – 66, 69 – 70, State Plan).
- **A disturbance cap is inconsistent with the State Plan, inconsistent with best science, does not adequately address the threats identified in the Conservation Objectives Report (COT), and will interfere in the effective implementation of the Conservation Credit System.** The disturbance cap fails to account for the quality of habitat and seasonal habitat types, which should be considered based on best available science. A disturbance cap is not a useful management tool given Nevada’s spatial distribution of seasonal habitats. In many instances greater than three percent disturbance in winter habitat, where winter habitat is the majority of the landscape within a BSU, would not have a negative impact on populations, whereas less than three percent disturbance on limited brood rearing habitat could have a detrimental impact. A disturbance cap does not adequately address the importance of limiting habitat types in Nevada. The Conservation Credit System (CCS) in the State Plan more adequately accounts for this by:
 - consistently defining habitat quality including site, local, and landscape quality for both impacts from development (debits) and benefits from enhancement and protection (credits) using functional acres as the common unit of measure, accounting for both direct and indirect effects of anthropogenic disturbances, and
 - rigorously addressing limiting habitat needs within a given project effects’ area.
- **The FEIS does not require mitigation in Other Habitat Management Areas (OHMAs). It also does not require mitigation for indirect effects that impact PHMA or GHMA habitats due to by disturbances occurring in OHMAs.** The State Plan requires mitigation for anthropogenic disturbances in OHMAs (the State Plan terminology for OHMAs is General Management Areas (GMAs)). This consideration requires the assessment for mitigation needs within an additional 7,620,000 acres of important sage grouse habitats that have been determined

by the best available science (Coates et al. 2014) to be moderately suitable habitat for sage-grouse in areas of estimated low space use. These areas are spatially important to sage-grouse as they maintain connectivity throughout the range in the sub-region and thus require analysis for appropriate mitigation through the CCS. The CCS takes into consideration the direct and indirect impacts that occur due to anthropogenic disturbances within all Sage Grouse Management Areas (SGMA) that affect habitats within the PHMA, GHMA, and OHMA. In administering mitigation, the CCS also considers the indirect effects outside the actual footprint of an anthropogenic disturbance that may impact habitats that are in other management areas.

- **The FEIS implements unduly restrictive livestock grazing actions that do not include all available tools through proper range management to address site-specific concerns.** The State Plan supports proper grazing management practices that incorporate a high level of flexibility through adaptive management to achieve the overall management and resource objectives as defined by the permittee and the land manager.

In conclusion, according to 43 CFR 1610.3-1 (d) and 43 CFR 1610.3-2 (a) the BLM shall ensure that resource management plans are consistent with officially approved or adopted resource related plans of State governments, however the LUPA is inconsistent with the State Plan. The BLM has failed to follow 43 CFR 1610.3-1 (d) by not identifying where inconsistencies exist between the LUPA and State Plan and “provide reasons why the inconsistencies exist and cannot be remedied.” The State has provided written comments throughout the planning process detailing these inconsistencies between the State Plan and the LUPA. The BLM has failed to document how these inconsistencies were addressed and, if possible, resolved as required under 43 CFR 1610.3-1 (f) and FLPMA Sec 202 (c) (9) (43 USC 1712). The SEP would again like to request you use your consistency review to rectify the above issues (more detail on each was provided in the attached letter of protest).