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Office of the Governor

November 30, 2017

The Honorable Ryan Zinke
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Via email to blm_sagegrouseplanning@blm.gov; <http://bit.ly/GRSGplanning>

RE: *Comments to the Notice of Intent to Amend Land Use Plans Regarding Greater Sage-Grouse Conservation and Prepare Associated Environmental Impact Statements or Environmental Assessments*

Dear Secretary Zinke:

I appreciate the opportunity to provide comments on the Notice of Intent to Amend Land Use Plans Regarding Greater Sage-Grouse Conservation (Notice). I am encouraged that the Department of the Interior (DOI) is reviewing the 2015 Approved Resource Management Plan Amendments (ARMPA) for Greater Sage-Grouse (GRSG) to better align important management decisions with the individual responsibilities of each state.

The decision made by the U.S. Fish and Wildlife Service in 2015 not to list the GRSG under the Endangered Species Act was the right decision and was based on the federal plan amendments from 2015. I want to assure you that I do not want to throw the whole ARMPA out and start over. I view this as an opportunity to revisit elements of the federal plan that we do not agree with and believe need to be addressed. We also recognize any changes to the ARMPA must be based on solid science in order to avoid a future listing.

Numerous factors contribute to the distinctiveness of Nevada rangelands which sustain multiple uses for our citizens and the nation. I believe that any changes to the *Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan* should be Nevada-specific, as opposed to a one-size-fits-all approach. Nevada has a Greater Sage-Grouse Conservation Plan (Nevada Plan) that includes a

Conservation Credit System (CCS) and we believe this is the appropriate plan for our state.

Through the past several years of my administration we have made significant progress for conservation by creating in statute, and funding, the Sagebrush Ecosystem Program and implementing the CCS to achieve and quantify conservation gains for GRSG. Through this process we have developed trusting partnerships between our state resource specialists and their federal counterparts. In fact, the Nevada Plan was developed with the concurrence of the Bureau of Land Management (BLM), the U.S. Fish and Wildlife Service (USFWS), and the U.S. Forest Service (USFS) as a verifiable system to provide effective and durable conservation through exchange of conservation credits for debits. I view this Notice as a renewed opportunity to reinforce our state-federal partnership as we engage our best resource specialists to implement the Nevada Plan and make great progress for GRSG conservation while supporting our resource-based businesses.

Notice of Intent Issues

The Notice requested comments on six specific topics. Nevada's responses and recommendations are listed below.

1. Sagebrush Focal Areas Designation

Nevada believes that the designation of sagebrush focal areas (SFAs) was unnecessary and were designated without thorough documentation and analysis. With the elimination of the mineral withdrawal component, the SFAs no longer provide enhanced protections for GRSG habitat and are unnecessary. The Nevada Plan and associated maps are based on solid science and identify GRSG habitat management areas throughout the state.

Recommendation: The State of Nevada requests that the designation of SFAs be removed through a Nevada-specific amendment to the ARMPA for Nevada and Northeastern California. All management decisions in the ARMPA that reference SFAs should be deleted.

2. Mitigation Standards

Net conservation gain is integrated into the Nevada Plan and the CCS. The CCS objectively and scientifically quantifies the positive and negative impacts to sage-grouse habitat from anthropogenic activities. Net conservation gain – based on functional acres – is necessary to keep a healthy and thriving sagebrush ecosystem.

Recommendation: Adopt the mitigation policy in the Nevada Plan and the CCS as the preferred approach to incentivize avoidance, minimization through use of required design features and require mitigation for residual direct and indirect impacts that cannot be avoided. This process will provide assurances and quantify net benefits to the

GRSG habitat. The concepts included in the CCS should serve as the standard for mitigation to assure projects account for durability, additionality and verification.

3. Lek Buffers

Sage-grouse lek buffers were built into Nevada's GRSG Habitat Management Category maps and are essentially included in Priority Habitat Management Areas (PHMA). A Space Use Index was created using active leks and incorporated into PHMA. Because Nevada built buffers into its habitat maps, we do not share the same concerns as other states, but support individual states' habitat classification systems.

Recommendation: Adopting the Nevada Plan, associated maps and the CCS avoids the need for additional lek buffers in Nevada. We recommend that the BLM develop a process to incorporate updates to the Habitat Categorization maps based on new science without the need to go through a plan amendment.

4. Disturbance and Density Caps

The ARMPA provided an exemption to Nevada for the 3% disturbance cap at the Biologically Significant Unit (BSU) level. The exemption can be implemented when reviewed by a technical team, which consists of a field biologist or other GRSG expert from the Nevada Department of Wildlife, USFWS and the BLM. This team must unanimously determine that a project can be modified to result in a net conservation gain. The 3% disturbance cap exemption can then be approved by an Authorized Officer with the concurrence of the State Director.

Recommendation: Maintain the Nevada exemption to the disturbance cap at the BSU level as it is a workable solution for Nevada. At the project level, develop processes that emphasize co-location of development projects and would provide benefits to Nevada and reduce new disturbance areas.

5. Habitat Boundaries

GRSG Habitat Categorization maps will require updating as new science becomes available. The ability to update habitat boundaries without an amendment will ensure the use of best available science and prevent decision-making that relies on out-of-date information.

Recommendation: Incorporate Nevada's current habitat maps, by reference, in the ARMPA. Within the Nevada Plan, maps are required to be updated every five years using new and best available science. It is essential that the BLM, USFS and the USFWS all use the same maps as the state. A mechanism needs to be developed so that that revised maps can be incorporated into the ARMPA without completing a plan amendment.

6. Reversing Adaptive Management Responses

Consistent and appropriate monitoring are critical to addressing this issue. Adaptive Management is an iterative process for allowing proper management to occur as resource needs change, objectives are met, and new science is developed. The process of implementing management changes in response to monitoring includes determining when it would be appropriate to reverse actions that are no longer necessary. A causal factor analysis must be completed to assure that adaptive management responses are appropriate to resolve the cause of observed population or habitat decline.

Recommendation: Clear and defined protocols and timelines for causal factor analyses need to be developed and in place so issues can be resolved in an expedient manner. Analyses should be completed quickly enough that management actions can affect change in time for meaningful conservation. Monitoring results analyzed in the context of adaptive management plans should be used to direct future management responses for GRSG.

Nevada Specific Issues

In addition to the six elements identified in the Notice, we have identified additional Nevada-specific issues and recommendations that need to be considered as well.

7. Wildfire and Invasive Species

Wildfire is one of the most serious issues facing Nevada and management decisions in the ARMPA do not adequately address the magnitude of the problem. Attention to pre-suppression treatments, fuels management, rehabilitation and restoration, and the real threat of invasive species and noxious weeds is very important and requires action. Managers must recognize that fire rehabilitation efforts in Nevada will not always be successful the first time they are applied, primarily due to unpredictable precipitation and other factors beyond our control, and plan post-fire management accordingly. The Great Basin continues to face the expansion of invasive species and noxious weeds due to catastrophic fires. Nevada is not unique to the challenges of fire and invasive plant species; however, these threats dominate our sagebrush ecosystem and need to be addressed at an appropriate scale.

Recommendation: With 85% federal land, Nevada would benefit from increased and more secure funding for fire suppression and rehabilitation. Extended timelines for conducting rehabilitation would allow for accommodations for environmental conditions when implementing projects. Grazing is a tool that should also be used for reducing fine fuels and managers must be given the flexibility to implement targeted grazing when and where it can be effective. Additionally, management plans that allow for flexibility and adaptive management in addressing the threats of invasive species are essential to having resilient landscapes and management decisions to control invasive and noxious weeds should be components of annual work plans and budgets.

8. Wild Horses and Burros

Nevada wild horse and burro populations are almost three times above the identified appropriate management levels. Many of these excess animals exist within GRSG habitat and their negative impacts are realized throughout the year and will continue to influence conditions long into the future unless removals are given priority. The BLM has not met the management commitments outlined in the federal plans or the requirements in the Wild and Free Roaming Horses and Burros Act (Act).

Recommendation: Appropriate resource commitments should be allocated on a recurring basis to address wild horse management in accordance with the full authority of the Act. The DOI through the BLM should develop and implement a plan to immediately bring the wild horse and burro population in Nevada at appropriate management levels.

9. Habitat Objectives

There has been considerable discussion about the habitat objectives listed in Table 2-2 and whether the objectives are being applied as a standard for land health assessment. The ARMPA interchanges the concepts of habitat objectives with desired conditions, which has created confusion and frustration in the field and for stakeholders.

Recommendation: Develop and provide a clear description of what Table 2-2 is and what it is not. Provide additional training for field staff to ensure there is consistent application of Table 2-2 and reinforce that the elements listed are objectives – not standards and guidelines. The level of specificity provided in Table 2-2 and the associated management actions are better handled at the local planning level through Stewardship Plans, Allotment Management Plans, Rehabilitation Plans, and other similar plans within the context of ecological potential.

10. Livestock Grazing Flexibility

Both livestock management and range management are among the best tools available to achieve healthy, resilient and resistant habitats. Nevada supports the need to clearly articulate that proper grazing is compatible with enhancing or maintaining sage-grouse habitat.

Recommendation: Opportunities for outcome-based grazing should be pursued to provide clear benefits to operators and GRSG. Parameters used in any outcome-based grazing management should be developed in cooperation with the State to clearly identify the conditions where flexibility can be considered. Programmatic environmental analyses should be completed to allow flexibility to implement changes in livestock management based on monitoring without preparing new environmental analyses each time adaptive management dictates change is needed.

11. Monitoring and Land Assessment

Monitoring needs to be focused on strategies for short-term monitoring and on objectives for long-term monitoring. The Assessment, Inventory and Monitoring (AIM) and Habitat Assessment Framework (HAF) protocols were not set up to be grazing management tools alone. The AIM is really a snapshot in time of the current condition of vegetation at a particular location and the HAF is intended to assess various sage grouse seasonal habitats in terms of the vegetation. There is often confusion at the field and state levels regarding the difference between AIM and HAF and agreement between departments and agencies is important.

With regard to grazing management, neither HAF nor AIM is sufficient individually or in combination. If technicians confuse when and how data is applied across the protocols, it most likely will lead to poor management decisions based on incorrect assumptions and what may appear to be correlation or causation, when it could be neither.

Recommendation: Because the two methods are different, we believe that the U.S. Department of Agriculture and the DOI should agree on one way to collect range data or determine opportunities to crosswalk these methods. The BLM needs further clarification or policy changes on how HAF, AIM, rangeland health assessments, and Habitat Objectives (Table 2-2) are integrated in order to ensure consistent application in the field. This will improve the way BLM evaluates GRSG habitat and applies the data and assessments to management decisions.

12. Energy Development

Fluid mineral leasing as it pertains to geothermal exploration and development in Nevada cannot be managed subject to no surface occupancy (NSO) since drilling rigs must be used on leases to explore and develop fluid mineral resources. Long distance directional and horizontal drilling are listed in the ARMPA as a means to achieve NSO, but this is not currently practical for geothermal exploration and development. This restriction essentially eliminates geothermal exploration in PHMA, with or without exemptions. The exemptions allowed for oil and gas leases in PHMA are too complicated to be readily implemented consistently in the field and may lead to denying activity.

Recommendation: Simplify and clarify management decisions for *Unleased Fluid Minerals* and *Leased Fluid Mineral Estate Actions* and avoid exemptions, where possible. There is no significant distinction between the ground disturbing activities associated with drilling for oil, gas, and geothermal resources so the conservation actions associated with permitting should be the same and allow flexibility and required design features to be used as conditions of approval.

The State of Nevada has and will continue to be an innovator for conservation and a steward of our natural resources, including GRSG and the sagebrush ecosystems. The time is right to embrace new concepts and allow us to take a renewed look at regulatory

approaches. The Nevada Plan and the CCS are based on extensive collaborative research and advanced science, much of which was supported cooperatively by our respective agencies. This is an opportunity for our state agencies to continue to work cooperatively with our federal partners to incorporate the Nevada Plan and CCS.

Please feel free to contact me or my office for additional information and discussion. Pam Robinson, my Policy Director, can be reached at 775-684-5670 or probinson@gov.nv.gov.

Thank you again for your commitment to addressing the challenges faced by the states with the ARMPA and taking into consideration the differences of each state. I look forward to working with you on this important issue.

Sincere regards,



BRIAN SANDOVAL
Governor, State of Nevada

cc: David Bernhardt, Deputy Secretary, U.S. Department of the Interior
Michael D. Nedd, Acting Director, Bureau of Land Management
John Ruhs, Nevada State Director, Bureau of Land Management