

STATE OF COLORADO

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John W. Hickenlooper
Governor

July 28, 2015

Ruth Welch
Director, Colorado State Office
Bureau of Land Management
2850 Youngfield St.
Lakewood, CO 80125-7093

RE: Governor's consistency review of the proposed Northwest Colorado Sub-regional Greater Sage-Grouse Proposed Land Use Plan Amendments (Proposed LUPA)

Dear Ms. Welch,

Thank you for your ongoing efforts to work with the State of Colorado on the Northwest Colorado Sub-regional Greater Sage-Grouse Proposed LUPA, along with other important sage grouse conservation efforts.

In accordance with the regulations at 43 C.F.R. § 1610.3-2(e), please take note of the following inconsistencies between the Proposed LUPA referenced above and Colorado plans, programs, or policies. For each inconsistency, we have recommended changes to the LUPA to reconcile it with the State's policies.

1. Exceptions to No-Surface-Occupancy (NSO) Stipulations in Priority Management Habitat Areas (PHMA)

The Proposed LUPA delegates to the U.S. Fish and Wildlife Service (FWS) the ability to veto proposed exceptions to NSO stipulations generally required on oil and gas leases in PHMA, even if Colorado's Division of Parks and Wildlife (CPW) and BLM biologists find that the proposed exception is unlikely to harm greater sage-grouse. (See Appendix D and Table 2.2 at p. 2-21). With the exception of species listed under the Endangered Species Act (ESA), Colorado's Parks and Wildlife Commission and CPW have statutory authority over wildlife management in Colorado. Colo. Rev. Stat. §§ 33-1-101, 104, 33-9-103. As the greater sage-grouse has not been listed as endangered or threatened under the ESA (and the goal of the LUPA is to keep it that way) FWS does not have jurisdiction over management decisions concerning the greater sage-grouse or its habitat in Colorado. The LUPA should preserve the jurisdiction of CPW over wildlife in the state and of BLM over management of public lands, and restrict FWS's role in these decisions to an advisory one.

Recommendation:

Revise the Proposed LUPA so that FWS's role in considering NSO exceptions in PHMA is strictly advisory.

2. Exemptions for High-Voltage Transmission Line Projects

The Proposed LUPA classifies PHMA and general habitat management areas (GHMA) as “avoidance” areas for large-scale transmission lines, subject to certain conditions and stipulations. Proposed LUPA at 2-15. At the same time, the Proposed LUPA expressly exempts two proposed high-voltage transmission projects, TransWest Express (TWE) and Gateway South, from the requirements and restrictions of the Proposed LUPA. According to the Final Environmental Impact Statement (FEIS) prepared by BLM in conjunction with Proposed LUPA, the proposed route for these projects would impact approximately 26 miles of PHMA in Colorado and 57 total miles of greater sage-grouse habitat in the *state*. Proposed LUPA/FEIS at 5-46.

This decision is inconsistent with the priority and urgency that both Colorado and the federal government have placed on improving protections for the greater sage-grouse in this state. The FEIS discusses the many adverse environmental consequences of constructing and operating high-voltage transmission lines in greater sage-grouse habitat. The impacts can be significant, including habitat loss, fragmentation and degradation, invasion of noxious weeds, increased predation of grouse, direct mortality, changes in lek dynamics, lek abandonment, and avoidance and/or lower population growth rates near power lines. LUPA/FEIS at 4-79, 4-81, 5-42-43, 5-45. Construction of access roads and ancillary facilities add to these adverse impacts. *Id.* at 5-46. BLM also notes that greater sage-grouse “would be particularly vulnerable to the effects of new transmission lines in Colorado,” in both PHMA and GHMA. *Id.*

Notwithstanding their potential benefits, we recommend that TWE and Gateway South not be exempted from the LUPA. At a minimum, given BLM’s statement regarding the particular vulnerability of Colorado’s greater sage-grouse, we recommend that the LUPA require adequate compensatory mitigation that takes place *in Colorado*, as well as best management practices and seasonal limitations on construction, for TWE and Gateway South.

Recommendation:

Delete the portions of the LUPA that exempt TWE and GWS from the LUPA. Alternatively, add a provision to the LUPA mandating that these otherwise exempted projects provide net-conservation-benefit mitigation, that the mitigation must take place in Colorado, and that the projects must comply with best management practices and seasonal limitations on construction contained in the LUPA.

3. Habitat Recovery Objectives

Depending on a number of environmental factors including elevation, temperature, and moisture, sagebrush habitats can vary in density, height, canopy cover, and other variables. Greater sage-grouse in different areas have adapted to local habitat types. Accordingly, whenever possible, site-specific science should be used to establish habitat objectives. Specifically, the Proposed LUPA habitat objectives should be consistent with Colorado’s Statewide Greater Sage-grouse Conservation Plan. As currently written, however, the Proposed LUPA does not reflect Colorado-specific habitat objectives.

Recommendation:

Replace the objectives in Tables 2.3 and H.1 with Colorado-specific desired habitat conditions as reported in the Statewide Conservation Plan.

4. PHMA and GHMA Map Updates

As noted in both the Statewide Greater Sage-grouse Conservation Plan and the “Colorado Package” submitted to BLM in 2013 for use in the Proposed LUPA, Colorado is committed to keeping range maps of greater sage-grouse PHMA and GHMA up to date and ensuring that they reflect the most recent data and analysis of local, site-specific conditions. We are concerned, however, that the LUPA does not adequately commit to updating the maps to reflect Colorado’s revisions.

BLM staff have verbally responded to these concerns, informing the State that the relevant BLM Field Office(s) would update PHMA and GHMA maps as a matter of plan maintenance – not with a plan amendment – upon receiving updates from CPW. Chapter 1 of the LUPA appears to suggest the same approach: “The current delineations of GRSG habitat may be refined in collaboration with CPW, Forest Service, and USFWS as additional information is gained and data are refined regarding GRSG habitats and use. . . . land use plan decisions and supporting components can be maintained to reflect minor changes in data.” Proposed Plan FEIS at 1-5.

The Adaptive Management Plan in the Proposed LUPA (section 2.7.1), however, suggests that whether updates would be considered plan maintenance or plan amendments would be a case-by-case decision by BLM:

Adjustments to PHMA or GHMA boundaries should be made if BLM biologists, in coordination with state of Colorado biologists, determine site specific conditions warrant such changes to more accurately depict existing or potential GRSG habitat. The appropriate planning process (i.e., plan maintenance or plan amendment) would be used, as determined on a case-by-case basis considering site-specific issues. Table 2.7.1 and Proposed LUPA/FESI at 1-5.

Recommendation:

Revise the Proposed LUPA to provide that whenever CPW updates maps of PHMA and GHMA, BLM will adopt the updates for the LUPA. When doing so, absent extraordinary circumstances, BLM will treat the updates as plan maintenance rather than as a land use plan amendment.

Thank you for your continued cooperation with the State of Colorado on these difficult management decisions. I trust that we can continue working together to iron out the issues raised above. Please contact John Swartout if you would like to discuss these further.

Sincerely,

A handwritten signature in black ink, appearing to read "John Hickenlooper". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John Hickenlooper
Governor