

Governor Kate Brown



July 29, 2015

Jerome Perez
Oregon/Washington State Director
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Bureau of Land Management
P.O. Box 2965
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Via Email: jperez@blm.gov;

Re: Governor’s Consistency Review – Bureau of Land Management’s “Oregon Greater Sage-Grouse Proposed Resource Management Plan Amendment and Environmental Impact Statement (June 2015).”

Dear State Director Perez,

Thank you for the opportunity to provide Oregon Governor Brown’s consistency review of the Bureau of Land Management’s (BLM) “Oregon Greater Sage Grouse Proposed Resource Management Plan Amendment and Environmental Impact Statement” dated June 2015 (hereinafter referred to as the “RMP amendment and FEIS”). The RMP Amendment and FEIS will guide management of Greater sage-grouse (GRSG) habitat on over 12 million acres of federal public lands in Oregon. The Governor understands the urgency to finalize and submit the RMP amendment given the pending U.S. Fish and Wildlife Service (USFWS) determination whether to list GRSG across 11 western states, including Oregon, as a threatened or endangered species under the federal Endangered Species Act (ESA). That said, she has concerns over the proposed RMP amendment and FEIS, as further described below and in the attached consistency review table.

Like the BLM, Oregon has also been working to address the findings and threats associated with the USFWS’s 2010 determination that listing GRSG is “warranted but precluded” under the federal ESA. Governor Brown appreciates the strong partnership the State has shared with the BLM together with the Natural Resource Conservation Service (NRCS) through the SageCon Partnership where, along with diverse stakeholders, we have worked together to develop strategies, commitments, and coordinated approaches across the landscape to address threats to GRSG in Oregon. Stemming from this effort, Oregon’s state agencies have recently promulgated new rules that address the USFWS’s concerns over the adequacy of existing state-level regulatory mechanisms in addressing human development-based threats to GRSG and their habitat. With these rules, the strong long-standing foundation of our land-use

system that has conserved most lands in Oregon for sustainable ranching, our investments in improving resilience in the face of wildfire, invasive annual grasses, and juniper encroachment, and the good work of the NRCS and the BLM on federal lands, Oregon believes a federal ESA listing is not warranted in this state.

With over 4.5 million acres of BLM-designated Priority Habitat Management Areas (PHMA) and 5.6 million acres of BLM designated General Habitat Management Areas (GHMA) in Oregon, a lot is at stake for Oregonians and GRSG. Since 1973, Oregon has maintained a visionary statewide program for land use planning, the first of its kind in the nation. The foundation of the programs is a set of 19 Statewide Planning Goals codified at ORS 660.015. The goals express the State's policies on land use and economic development, including natural resources. This statewide policy framework, together with local government implementation and private landowner stewardship, has contributed to the quantity and quality of GRSG habitat we have today. The recent rules mentioned above and articulated further below build upon this strong foundation. With these rules now in place, the Governor regards them as a very relevant part of her consistency review (see Attachment 2 and 3).

Oregon's leadership around GRSG conservation hinges upon the vitality and sustainability of our rural communities and economies. It also depends upon the ability of state and local government entities as well as non-governmental partners to address development proposals and other existing and ongoing habitat threats to GRSG across land ownership boundaries. The State's recently-adopted rules reflect these principles in the context of human development, but they are equally true when it comes to addressing wildlife resilience, invasive annual grasses, and juniper encroachment.

For example, Oregon's system of rangeland fire protection relies upon the capacity of Rangeland Fire Protection Associations, which have existed in Oregon since the 1960's. Today, RFPA's have expanded to the point that 20 individual Associations now exist covering over 15 million acres in Oregon (including approximately 4.5 million acres of private and state-owned lands), which represents the vast majority of Oregon's occupied range of GRSG. The private land-owning and other RFPA members bring assets into the resource management arena in the form of approximately 700 volunteer firefighters, 200 engines, plus other equipment. Without viable working ranches that sustain most RFPA members, these RFPA's would wither, with lost membership resulting in lost assets and capacity to provide a vital role in initial attack and other fire operations.

Further, local districts and counties in Oregon have demonstrated national leadership around the development and signing of programmatic Candidate Conservation Agreements with Assurances (CCAAs), relevant to the health of GRSG habitat on private lands. CCAA coverage now exists in all Oregon counties containing GRSG habitat, with individual landowner enrollment ongoing. On state-owned public lands, our Department of State Lands has also worked with the USFWS and finalized CCAA coverage across state ownership. Currently we have enrolled over 500,000 acres of private land in the CCAAs and 600,000 acres of state public land, representing a substantial commitment to advancement of new conservation measures and continued stewardship. On federal public lands, Oregon appreciates the BLM's efforts in the development of Candidate Conservation Agreements related to public land allotments that are

often tied to private land base ranches where CCAA coverage exists. The key overall point, however, is that as with RFPA's, the landowner and management capacity needed to implement habitat-benefitting actions tied to the CCA's and CCAA's would not exist without viable private land ranch operations and rural communities. The Governor's consistency review's focuses on concerns over the livestock grazing provisions of the BLM's proposed RMP amendment and FEIS are relevant for this reason and others.

Governor Brown is concerned about the effects of not just a potential ESA listing but of the BLM's proposed RMP amendment on the social and economic values of not only the eight Oregon counties spanning two-thirds of our state, but of the overall economy of our entire state. Agriculture is Oregon's number two industry in terms of economic impact and our farms, nurseries, ranches, dairies and fisheries employ tens of thousands of Oregonians. The beauty and bounty of Oregon's agricultural landscapes and the values and culture they sustain in communities throughout the state are central to Oregon's identity. The Governor believes that we owe it to our forbearers and our children to continue to nurture and care for an Oregon where our farm and ranch families can and will succeed. In addition, renewable energy and other economic development opportunities that provide future opportunities for these areas of Oregon will be affected by the proposed RMP amendments and the BLM's decision on the FEIS. Oregon believes our approach to addressing these interests is sound, sustainable, and supportive of both GRSG conservation and rural economies.

It is our intent through our State Action Plan, new state rules, continued CCAA enrollment and substantial existing as well as new state-based funding commitments from our legislature and state agencies to make a compelling case to the USFWS that Oregon has a rigorous, carefully-designed program with robust financial and community support in place, one that addresses all of the significant threats to the vitality of GRSG and their habitat. Oregon's approach has been crafted to stem and reverse the further decline of the species. However, to be successful, we need to be well coordinated with the BLM through planning and implementation at all levels. This includes consistency in approaches as a regulatory matter.

The Governor is pleased to see much of the work-to-date to coordinate the state's efforts with the BLM's proposed RMP and FEIS for Oregon, bear fruit. This includes RMP measures that are consistent with the State Action Plan and legislative funding priorities, such as development of a disturbance methodology and mitigation approaches consistent with the State Action Plan, increased emphasis on reducing invasive annual grasses, addressing juniper encroachment, curtailing feral horse numbers in needed areas, and prioritizing efforts in areas vulnerable to fire. However, there remain several areas of inconsistency with state law, plans and policies that need to be addressed to ensure coordinated implementation.

The Federal Land Policy and Management Act (FLPMA) requires that BLM land use plans observe the principles of multiple use and sustained yield; achieve integrated consideration of physical, biological and economic sciences; and "coordinate the land use inventory, planning, and management activities of or for such [BLM] lands with the land use planning and management programs of ... the States *and* local governments within which the lands are located[.]" 43 U.S.C. §1712 (c)(1)-(9)(emphasis added). Further, FLPMA requires that, "Land use plans of the Secretary under this section shall be consistent with State *and* local plans to the

maximum extent [the Secretary] finds consistent with Federal law and the purposes of this Act.” 43 U.S.C. §1712 (c)(9); 43 CFR 1610.3-2(a)(emphasis added) (further underscoring this consistency requirement without qualification for “officially approved or adopted resource related plans, and the policies and programs contained therein, of ... State and local governments.”). Accompanying this letter is a more detailed accounting of the areas where the Governor believes key areas of inconsistency exist, along with possible ways to resolve them (see Attachment 1). In summary, they relate to two primary issues: (1) proposed Sage Brush Focal Area (SFA) overlays in three of our eight sage grouse counties, and associated protective designations, and (2) proposed rangeland health management practices.

In addition, FLPMA directs the Secretary, to the extent she finds practical, to “keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials[.]” Id. Based on this, while not adopting them or necessarily endorsing them, the Governor has requested that Harney County’s comments concerning consistency also be considered by the BLM. These comments are attached to this letter as Attachment 4. In addition, the Governor reserves the right to submit a subsequent consistency review of her own according to the appeal process provided under 43 C.F.R. §1610.3-2(e).

Oregon is confident that our demonstrated partnership with the BLM through our shared commitments to address the threats to GRSG habitat will be beneficial for sage-grouse in Oregon. The Governor wants to be equally as confident in the vitality of our rural communities as well as the ability of our State and local government and non-governmental partners to be strong partners in implementation of GRSG-related actions.

There has never before been anything like this GRSG conservation effort across the West. The BLM is a key partner in making an effective, landscape-based approach work across land ownership boundaries, and Governor Brown appreciates that you and your staff have done remarkable work under tremendous time and resource constraints. We look forward to your response to this consistency review and to our continued collaboration.

Sincerely,



Richard M. Whitman
Governor Brown’s Natural Resource Policy Director

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