

Attachment 1: Oregon Governor’s Consistency Review

Areas of Inconsistency (and Recommended Resolution)

Location of Inconsistency (in BLM FEIS)	Area of Inconsistency (as per state law)	Consistency Concern	Proposed Resolution
<p>Table 2-3, pp 2-18 to -- Action SSS2 (SFO’s); Action MLS 1</p>	<p>OAR 660-023-0115 (land use / development in sage grouse habitats);</p> <p>OAR 635-140-0000 (mitigation in sage grouse habitats);</p> <p>OAR 660-015-0000 (9)(A) (4) (Statewide Land Use Planning Goal 9—Economic Development)</p>	<p>Sage Brush Focal Area (SFA) and protective designations in PHMA.</p> <p>The SFA protective designations undermine state and local government’s ability to address human development proposals and impacts according to state law in a landscape manner across Oregon’s range (i.e., the approach codified in the referenced Oregon Admin. Rules). In addition, BLM’s proposed approach would treat PHMA in 3 of Oregon’s 8 affected counties disparately, making for a disjointed approach.</p> <p>Oregon’s approach relies upon managing human development actions within a mitigation framework of avoid, minimize, and mitigate (compensatory mitigation). We have established strong avoidance tests for Core and Low Density habitats, as well as a 3% cap in PAC’s for human development levels and a metering approach that ensures development levels do not exceed 1% over a 10-year period within the overall cap.</p> <p>Instead of managing renewable energy development, mining, or other</p>	<p>Oregon’s Sage Grouse Action Plan and related laws approach large-scale human development through an avoidance approach and the application of a mitigation hierarchy. The RMPA should do the same. Oregon appreciates the more flexible approach taken to PHMA outside of SFA boundaries in counties where SFA designations exist. However, concerns persist related to an approach that is inconsistent with Oregon’s Admin. Rules.</p> <p>The BLM provisions advance an inconsistent approach that would have the effect of (a) interfering with the State’s ability to apply its land use rules and mitigation hierarchy in a landscape-based manner; (b) complicating the State’s approach to compensatory mitigation and commitments related to BLM and Oregon’s coordinated work on this issue; and (c) forcing human development onto private lands, potentially to the net-detriment of GRSG.</p> <p>The RMPA should approach large-scale development in PHMA consistent with the approach outlined in Oregon’s Admin. Rules. This could take the form of allowing exceptions to the RMPA’s proposed designations where consistent with Oregon law and where a net conservation benefit to GRSG would occur.</p>

		<p>development-based impacts within the above conservation framework, the BLM approach advances inflexible designations (i.e., exclusions, mineral withdrawals, no surface occupancy) that fully preclude specific development types in certain areas without flexibility.</p> <p>In addition, the RMPA approach runs contrary to Oregon’s Statewide Land Use Planning Goal 9 (Economic Development) and related rules. The rules emphasize stable and healthy economies in all regions of the State. The vast majority of communities in Oregon’s GRSG range cannot be said to represent healthy economies at this point in time. The rules speak specifically to emphasizing expansion of and increased productivity from existing industries, and planning based on the comparative advantage of regions in which developments would be located, including the availability of relevant natural resources.</p>	
Action LG/RM 2, p. 2-25	ORS 215.243(2) (<i>“The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state’s economic resources and the preservation of such land in large blocks is</i>	<p>The proposed RMPA states, “Changes <i>must</i> include one or more of several activities that limit grazing on rangeland...” (emphasis added).</p> <p>This and other RMPA provisions related to livestock grazing, if implemented without further clarification or revision, run contrary to Oregon’s strong statutory policy to protect working agricultural lands. ORS 215.243 and OAR 660-015-0000(3).</p>	Oregon appreciates the qualifiers in Table 2-3 p.2-25 (e.g., “*Not in priority order”,) but believes language modifications are needed. While it is noted that no changes in management are required where SRH is being met, the RMPA also states “but could occur to meet other LUP or resource management objectives.”). This vagueness leads to uncertainty and increases the likelihood of disputes in the implementation of the RMPA. Further, the list of options is presented as a requirement “Changes must ...”) rather than recognizing flexibility to choose the best option or other options not

	<p><i>necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.”)</i></p> <p>OAR 660-015-0000(3) (Statewide Land Use Planning Goal 3—Agriculture) <i>(“Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state’s agricultural land use policy expressed in ORS 215.243 and 215.700.”);</i></p>		<p>on the list that best address local conditions and causal factors.</p> <p>Oregon also requests clarity and certainty be provided that changes would occur based on allotments not meeting rangeland health standards and permit conditions rather than as a matter of course when renewing grazing permits or leases or advancing allotment management plans, as the current language implies. Further, it is our belief that the list of options and related language in Action LG/RM 2 is inconsistent with what exists in other BLM RMP language addressing this same issue, such as Idaho and Montana. We suggest changing the LG/RM 2 language to reflect the following:</p> <p>“ Where an allotment is not meeting one or more Rangeland Health Standards and Guidelines, and the BLM has determined the causal factor is livestock grazing, changes in grazing management that will improve or restore habitat quality will be made as soon as practical but no later than the start of the next grazing year pursuant to 43 CFR 4180.2(c). The BLM identifies the following as grazing management options to consider (BLM 2000, 2011):</p> <ul style="list-style-type: none"> * Changes in salting and/or watering locations; * Change in the season, fencing, duration or intensity of use; * Reducing grazing use levels; * Temporary livestock non-use (rest); and/or * Extended livestock non-use until specific, local objectives are met as identified.”
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<p>LG/RM 15, p. 2-27</p>	<p>ORS 215.243(2)</p> <p>OAR 660-015-0000(3) (Statewide Land Use Planning Goal 3—Agriculture)</p> <p>OAR 660-015-0000(9) (Statewide Land Use Planning Goal 9—Economic Development)</p> <p>** see above for sample of relevant citations</p>	<p>Where voluntary relinquishment of a grazing permit or lease occurs, the proposed RMPA language would require the BLM to consider whether the affected land “should remain available for livestock grazing...”</p> <p>This relates to the potential retirement of relinquished grazing permits, and without clarification or modification, would run contrary to the intent of the Oregon statutory and rule provisions referenced in the adjacent column relating to preservation and maintenance of agricultural lands.</p>	<p>BLM should follow existing laws and authorities related to permit retirement. The RMPA language should be clarified to reflect this and ensure the existing LG / RM 15 language is not expanding upon that authority. Where voluntary permit relinquishment occurs, BLM would normally make lands available to another potential permittee or lessee. The RMPA language should recognize this while also recognizing the ability to consider other options within the scope of established law, including consistency with the Oregon laws referenced herein.</p>
<p>Table 2-4, p. 2-40 to 2-43; Page 4-203.</p>	<p>ORS 215.243(2)</p> <p>OAR 660-015-0000(3) (Statewide Land Use Planning Goal 3—Agriculture)</p> <p>OAR 660-015-0000(9) (Statewide Land Use Planning Goal 9—Economic Development)</p> <p>** see above for sample of relevant citations</p>	<p>The RMPA’s proposed approach to specific indicators of habitat health prescribes fine and site-scale seasonal indicators and desired condition values (Table 2-4). Management changes affecting ranch operations would occur based on achievement of these indicators. Oregon understands that this approach was developed based on the Habitat Assessment Framework (HAF). Oregon has concerns over the potential application and implementation of HAF, which could result in conflicts with Oregon law related to agricultural preservation and maintenance. Some concerns related to the HAF include:</p> <p>Setting a minimum stubble height is problematic due to extreme variability in</p>	<p>While recognizing there is qualifying language that prefaces Table 2-4, Oregon requests revised RMPA language that clarifies and provides more specific information and direction as to the HAF will be applied and used in conjunction with other tools at the BLM’s disposal. Oregon’s Sage Grouse Action Plan and the related CCAA effort rely upon a State and Transition Model approach. While not exclusive of HAF, Oregon proposes that the RMPA language be modified to clarify how the proposed RMPA approach will focus on monitoring and providing for stable or positive trends in cover values for the attributes measured in HAF, as opposed to one point in time height and utilization standards and values. It appears RMPA FEIS p.4-100 supports a trend approach. Proper grazing systems with moderate utilization should create a stable or positive trend in perennial grass and forb cover. The HAF approach to desired conditions should be balanced with</p>

		<p>stubble height potential between years, plant species, and ecological sites (Clark 1945, Heady 1950).</p> <p>HAF utilizes a protocol to measure vegetation on a straight line transect. This protocol under-reports nesting cover. It is well documented that herbaceous screening cover immediately adjacent to a nest can affect nest and chick predation (Holloran et al. 2005, Gregg & Crawford 2009).</p> <p>Long-term trend monitoring is essential, but the cost of implementing the HAF approach at scale is very significant. If BLM resources are not in place for such monitoring, livestock operators could unjustly bear the burden of poor data quantity or quality.</p>	<p>fuel load considerations and realistic expectations for sustainable livestock operations, both of which are critical for the conservation of GRSG.</p>
pp. 2-76 to 2-77.	OAR 636-140-0015	<p>Mapping of priority GRSG habitats. BLM indicates that it has identified and mapped GRSG habitat in coordination with ODFW. In order to ensure a consistent approach to map revision or updates—and in turn a consistent approach to the various significant decisions that flow from or are based on map boundaries for designated GRSG habitats—Oregon is concerned that the RMPA does not ensure consistency with the Oregon Admin. Rules related to this issue.</p>	<p>Under Oregon law, ODFW will be also updating its maps with local knowledge and best available science. Provide direction in the RMPA that BLM will update its maps when ODFW does so, and in coordination with ODFW’s process, including use of local knowledge, implementation teams, and best available science. Also, include an RMPA provision that requires coordination with ODFW prior to BLM making project-level decisions in order to ensure BLM is relying upon the most current information related to GRSG habitat and habitat use.</p>

Appendix C	<p>OAR 636-140-0015</p> <p>ORS 215.243(2)</p> <p>OAR 660-015-0000(3) (Statewide Land Use Planning Goal 3—Agriculture)</p> <p>OAR 660-015-0000(9) (Statewide Land Use Planning Goal 9—Economic Development)</p> <p>** see above for sample of relevant citations</p>	<p>In order to ensure improvements in GRSG populations and consistency with Oregon law related to agriculture, Oregon asserts that specific Appendix C provisions may run counter to both objectives (and associated state law).</p>	<p>In Appendix C, add as a basis for a RDF variation “A variation is needed to provide protections to other fish, wildlife, or plant species.”</p> <p>Allow variations to better accommodate site specific conditions, such as pasture boundaries and restrictions in riparian areas (i.e., salt blocks). Ensure that Appendix C does not create untenable cross-directives for BLM employees.</p> <p>Modify Appendix C, p. C-3 (Common to All #17), p.C-8 (Livestock Grazing #2 and #7) to allow more flexibility where appropriate to meet resource objectives or RDF variation purposes. There may be site-specific instances where a less restrictive / more flexible approach than current Appendix C language is warranted for GRSG and ranching benefits with respect to placement of watering facilities and features, livestock turnout, and other facilities.</p> <p>The RMPA should provide local BLM managers adequate flexibility to address these issues based on local conditions and realities (e.g., geology, water availability).</p>
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Additional Areas of Concerns: where additional RMPA and BLM / State of Oregon Coordination are needed

Location of Concern(in BLM FEIS)	Concern	Proposed Resolution
Action LG/RM 15, p. 2-27.	Reserve common allotments (or grass banks) created from voluntarily relinquished permits.	Oregon does not oppose the grass banking approach and sees value in some circumstances. We request additional discussion with BLM, however, over how the RMPA language can be modified to reflect that this approach will not be used to undermine existing livestock operations and communities but rather to promote sustainability.
Global	CCAA's	The RMPA should highlight and build off the conservation measures approved by the USFWS for Oregon. The RMPA should encourage coordination with private land owners that are participating in CCAAs to capitalize on those efforts and enhance their benefits for GRSG.
p2-24 and 2-25, table 2-3	Lack of strategic and coordinated approach related to wildfire operations, including RFPA's.	We believe ongoing work on this issue, including a recent Portland meeting with Undersecretary Janice Schnieder, is moving in a positive direction but more work is needed. We recommend further development of RMPA language supporting coordination with RFPAs. Issues related to liability, equipment, and communications remain, and it is in the mutual interests of Oregon, BLM, and GRSG to do so.
LG/RM 1, p.2-25; pp. 2-44 to 2-46 (Table 2-6)	RMPA / FEIS states, "all or portions of key RNAs will be unavailable to grazing"	Oregon proposes that BLM clarify how research will be conducted on RNA's in a manner that compares effects of no-grazing to moderate grazing on relevant acres subject to the same bio-physical conditions.
WHB Objectives, p.2-17	Feral horses are a significant impact across important portions of Oregon's GRSG range.	Oregon appreciates the approach taken to prioritizing Herd Management Area (HMA) assessment including population reduction and gathers (p2-27, table 2-3) but remain concerned over a lack of resources and the need for more specificity over priority actions. Additional concerns relate to the potential for a reduction of AMLs for cattle as a result of lack of feral horse management and removal. We request additional discussion with BLM over how to address these issues in the RMPA language.
p. 2-56, Regional Mitigation – 2.7.3; p.2-58 (compensatory mitigation approach)	Coordinated approach to Mitigation	The proposed RMPA discusses a regional mitigation approach and standards that appear to be consistent with the State and mentions that implementation of a compensatory mitigation program will be developed and applied at the state level in cooperation with state as a partner. Oregon requests more discussion and coordination to ensure this is the case and the overall approach is effective across management boundaries.

