



***Bureau of Land Management
Director's Summary Protest Resolution
Report***

**Four Rivers Field Office
Proposed Resource
Management Plan and Final
Environmental Impact
Statement**

May 1, 2020

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Acronyms

AMS	Analysis of the Management Situation
AUM	Animal Unit Month
ARMPA	Approved Resource Management Plan Amendment
ACEC	area of critical environmental concern
ARMS	Aquatic Resource Management Strategy
BA	Biological Assessment
BO	Biological Opinion
BLM	Bureau of Land Management
CFR	Code of Federal Regulations
CEQ	Council on Environmental Quality
CH	critical habitat
DEIS	Draft Environmental Impact Statement
ESA	Endangered Species Act
FLPMA	Federal Land Policy and Management Act of 1976
FRFO	Four Rivers Field Office
GHMA	General Habitat Management Areas
GRSG	Greater Sage-grouse
IBLA	Interior Board of Land Appeals
MMBF	million board feet
NEPA	National Environmental Protection Act
NFLSS	National Fluids Lease Sale System
NIDGS	Northern Idaho Ground Squirrel
OHV	off-highway vehicle
PCH	Proposed Critical Habitat
PHMA	Priority Habitat Management Areas
PRMP	Proposed Risk Management Program
RFD	Reasonable Foreseeable Development
ROD	Record of Decision
RMPA	Resource Management Plan Amendment
RHCA	Riparian Habitat Conservation Area
SEIS	Supplemental Environmental Impact Statement
U.S.C.	U.S. Code
USFWS	U.S. Fish and Wildlife Service
WWP	Western Watersheds Project
WSA	Wilderness Study Area

Protesting Party Index

Protester	Organization	Letter ID	Determination
Kristi Blacker		PP-ID-4RivRMP-20-002	Dismissed – Comments Only
Katie Fite	WildLands Defense	PP-ID-4RivRMP-20-003	Denied – Issues and Comments
Katie Fite	WildLands Defense	PP-ID-4RivRMP-20-004	Dismissed – Comments Only
Katie Fite	WildLands Defense	PP-ID-4RivRMP-20-005	Dismissed – Comments Only
Tom Basabe; Darcy Helmick ¹	Simplot	PP-ID-4RivRMP-20-006	Denied – Issues and Comments
Scott Lake	Western Watersheds Project	PP-ID-4RivRMP-20-007	Denied – Issues and Comments
Brieanah Schwartz	American Wild Horse Campaign	PP-ID-4RivRMP-20-008	Dismissed – Letter received via email only
John Robinson	Idaho Conservation League	PP-ID-4RivRMP-20-009	Dismissed - Late

¹ This letter was cosigned by multiple parties. In this report, it is referenced as Tom Basabe et al., Simplot et al.

Endangered Species Act Consultation

Western Watersheds Project

Scott Lake

Issue Excerpt Text: [T]he Final EIS provides no evidence that BLM has engaged in Section 7 consultation with U.S. Fish and Wildlife Service in regard to the potential impacts to bull trout of oil and gas leasing, exploration, and development in this area of known industry interest that was not included in the reasonably foreseeable development scenario.

Issue Excerpt Text: There are several ESA-listed wildlife and plant species within the project area, including the Northern Idaho Ground Squirrel, the Yellow-Billed Cuckoo, Bull Trout, and Slickspot Peppergrass. Final EIS, Appendix K and Appendix L. At the same time, several of the actions authorized under the proposed plan revision-including livestock grazing, OHV use, logging, prescribed fire, mechanical fuels treatments, and energy development-have the potential to cause take of listed species or adverse modification of critical habitat. Yet neither the Proposed RMP nor the Final EIS indicate that BLM has fulfilled its consultation obligations under Section 7(a)(2) of the ESA.

Issue Excerpt Text: We protest BLM's failure to follow these procedures. As noted, the Final EIS provides no evidence that BLM fulfilled its Section 7 responsibilities. Yet various activities authorized under the Proposed RMP, including livestock grazing, oil and gas development, and motorized recreation have the potential to adversely affect listed species.

Summary:

The BLM failed to consult with USFWS under Section 7 of the ESA regarding potential impacts to bull trout, Northern Idaho Ground Squirrel (NIDGS), the Yellow-Billed Cuckoo, and slickspot peppergrass. Actions authorized under the Four Rivers Field Office Proposed Risk Management Program (PRMP)/Final Environmental Impact Statement (FRFO PRMP/FEIS) (Bureau of Land Management [BLM] 2020a), including livestock grazing, off-highway vehicle (OHV) use, logging, prescribed fire, mechanical fuels treatments, and energy development, have not been consulted with the U.S. Fish and Wildlife Service (USFWS) under Section 7(a)(2) of the Endangered Species Act (ESA).

Response:

Section 7(a)(2) of the ESA requires Federal agencies to ensure that their proposed actions will not be "likely to jeopardize the continued existence of any [listed] species or result in the destruction or adverse modification of the critical habitat of such species" (16 U.S. Code [USC] 1336(a)(2)).

In determining whether a proposed action "may affect" a listed species or, conversely, whether there will be "no effect," a Federal agency must determine: what activities are encompassed by its proposed action, what the effects of those activities are likely to be on the environment, and whether those effects will "pose any effect" on a listed species or critical habitat. Only those proposed actions that "may affect" a listed species or critical habitat are subject to the ESA's Section 7 consultation requirements.

Consistent with Section 7 of the ESA, when an action agency determines that a Federal action will have no effect on listed species or critical habitat, the agency will make a "no effect" determination. In that case, the ESA regulations do not require concurrence from the USFW, and the agency's obligations under Section 7(a)(2) for that action are complete.

The BLM conducted informal consultation with the USFWS under Section 7(a)(2) of the ESA throughout the planning process. BLM has submitted formal request for consultation on February 10, 2020, via their Biological Assessment (BA) (BLM 2020b). The BA documented the impacts of the FRFO PRMP on bull trout, NIDGS, and slickspot peppergrass, Bull Trout Critical Habitat (CH), and Slickspot Peppergrass Proposed Critical Habitat (PCH), and provided rationale for omitting the yellow-billed cuckoo from the BA.

Regarding the yellow-billed cuckoo, the BLM determined that it could be omitted as

The public land within the FRFO does not contain areas with potential cuckoo habitat. Cuckoos have been sighted within the field office boundaries. While this species has been observed in the FRFO, occurrences are rare and the birds were most likely migrating through the area when observed. Because there is no suitable habitat and the species only rarely occurs on FRFO, the RMP guidance would have no effect on yellow-billed cuckoo (BA p. 5).

For the remaining species and habitats, the BLM determined:

- **Bull Trout:** The FRFO contains limited bull trout habitat and the only type of habitat present is migratory, foraging, or overwintering habitat; no spawning or rearing habitat occurs in the action area. Various activities, if occurring on BLM-managed lands in or adjacent to bull trout habitat, could have the potential to impact but are not likely to adversely affect bull trout or their habitat. Other activities could occur within or adjacent to bull trout habitat, but RMP guidance and conservation measures would reduce or eliminate potential effects to bull trout and their habitat. See Table 9 in the BA for descriptions (BA pp. 45-52).
- **Bull Trout Critical Habitat:** As noted above, the FRFO contains limited bull trout CH with only migratory, foraging or winter habitat present; no spawning or rearing habitat occurs in the action area. The activities with a potential to impact bull trout critical habitat (CH) are the same as noted above, however descriptions specific to bull trout CH are found in Table 10 of the BA (BA pp. 54-61).
- **NIDGS:** The FRFO contains several areas of NIDGS habitat in the action area. Various activities, if occurring on BLM-managed lands in or adjacent to NIDGS habitat, could have the potential to affect, but are not likely to adversely affect, NIDGS. Wildfire suppression, livestock grazing, and minerals management activities have a higher potential to occur and are likely to adversely affect NIDGS. Other activities could occur within or adjacent to NIDGS habitat and RMP guidance, and conservation measures would reduce or eliminate potential effects to NIDGS and their habitat. See Table 11 for descriptions (BA pp. 63-79).
- **Slickspot Peppergrass:** Slickspot peppergrass occurs within the FRFO on the Snake River Plain and adjacent foothills. Many populations are in proximity to a variety of urban and agricultural uses. Actions that are likely to have the most potential to affect slickspot peppergrass, include livestock grazing, vegetation treatments associated with habitat improvements and hazardous fuels treatments, and fire. These activities have a high likelihood of increasing weeds and decreasing the abundance of native forbs and shrubs needed for slickspot peppergrass persistence. Beneficial effects would occur where treatments are successful in reducing the recurrence of fire and increasing native pollinator habitats within slickspot peppergrass habitat. More localized effects would include actions that result from transportation management, land use authorizations, and minerals development. These actions would be expected to have localized impacts to plants and habitat that could be reduced through best management practices. See Table 12 for descriptions (BA pp. 81-87).
- **Slickspot Peppergrass Proposed Critical Habitat:** As noted above, the FRFO contains slickspot peppergrass Proposed Critical Habitat (PCH). The activities with a potential to impact slickspot peppergrass PCH are the same as noted above, however descriptions specific to slickspot

peppergrass PCH are found in Table 13 of the BA (BA pp. 89–95).

The BLM received the Final Biological Opinion from the USFWS on April 22, 2020. The USFWS concurs with the BLM’s determination and rationale that certain resource programs in the FRFO RMP may affect, but are not likely to adversely affect bull trout and bull trout critical habitat. Additionally, the BLM also determined the proposed RMP will have no effect on the yellow-billed cuckoo, Canada lynx, North American wolverine, Snake River physa, and Spalding’s catchfly. The regulations implementing section 7 of the act do not require the Service to review or concur with no effect determinations.

The BLM has developed the FRFO PRMP/FEIS in full compliance with the ESA.

FLPMA – Areas of Critical Environmental Concern

Western Watersheds Project

Scott Lake

Issue Excerpt Text: BLM has not complied with FLPMA’s mandate to give “priority” to the designation and protection of Areas of Critical Environmental Concern (ACECs). Nor has it complied with the guidance described above. As the Final EIS explains: Based on comments received during scoping and internal recommendations from BLM specialists, the Draft Environmental Impact Statement (DEIS) include[ed] eight of the 10 existing ACECs as nominated for continued designation with seven existing ACECs receiving nominations for expansion. Two of the existing ACECs were recommended to be incorporated into a third existing ACEC; an additional 20 nominations were received, including the five [Research Natural Area]s from the Cascade RMP. Final EIS at U-2. All 10 existing ACECs considered were found by BLM to possess both “relevant” and “important” features and were recommended for designation. Id. at 4-6. Further nine of the newly-nominated ACECs were also recommended. Id. Among the values that would be protected by the proposed ACECs are special status plants, sensitive fish and wildlife, and scenic values. Id. Nevertheless, the Proposed RMP eliminates all existing ACECs except the Hixon Sharp-Tailed Grouse ACEC, the Boise Front ACEC, and the Long-Billed Curlew Habitat ACEC, with the latter substantially reduced in size. Moreover, BLM fails to provide a rational basis for this drastic reduction in designated ACECs. The Proposed RMP’s ACEC “management actions” fail to explain why most of the recommended ACECs were not designated. See Final EIS and Proposed RMP at 34-37, 41. Nor is BLM’s rationale explained in the ACEC “report.” See generally id. Appendix U. The EIS and proposed RMP indicate that in the absence of ACEC designation, areas would be managed according to the “multiple use” management actions set forth elsewhere in the proposed RMP. This is wholly inconsistent with Federal Land Policy and Management Act (FLPMA), which directs BLM to designate eligible ACECs in order to “protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.” 43 U.S.C. § 1702(a). The Wilderness Society

Summary:

The BLM has violated the Federal Land Policy and Management Act of 1976 (FLPMA) by failing to give priority to the designation and protection of areas of critical environmental concern (ACECs).

Response:

In FLPMA Section 103(a), an ACEC is defined as

an area on BLM-administered lands where special management attention is required to protect and prevent irreparable damage to important historic, cultural, or scenic values; fish and wildlife resources; or other natural systems or processes, or to protect life and ensure safety from natural hazards.

This special designation is used to allocate areas for special management to protect important and relevant resource values. Furthermore, FLPMA Section 202(c)(3) requires that, in the development and revision of land use plans, the BLM give priority to the designation and protection of ACECs. The implementing regulations at 43 Code of Federal Regulations [CFR] 1610.78-2 provide the agency with guidance for the identification and consideration of ACECs for designation and protection during the resource management planning process. However, there is no statutory or regulatory requirement that the BLM designate any or all ACECs identified or considered during the planning process.

In accordance with BLM Manual 1613, *Areas of Critical Environmental Concern* (1983), the BLM interdisciplinary team reviewed BLM-administered lands in the Planning Area to determine whether new areas should be considered for designation as ACEC and existing ACECs should continue to be managed as ACECs or if they should be expanded or reduced to protect the ACEC values. The BLM determined that management actions as applied under the Proposed Plan are adequate to protect the relevant and important values of those potential ACECs that were not carried forward for designation. For example, many of the ACECs considered identified special status plant and animal species as values of concern, including Bannister Basin, Buckwheat Flats, Cartwright Canyon, Cherry Gulch, Goodridge Creek, Hulls Gulch, Lost Basin Grassland, Mountain Home, Rebecca Sandhill, Sand-capped Knob, Sand Hollow, Sheep Creek, Summer Creek, Willow Creek, and Woods Gulch ACECs. The management direction in the Proposed Plan includes requirements to design features that will minimize and/or eliminate impacts to special status species during site-specific project planning (FRFO PRMP/FEIS pp. 13–15). The Proposed Plan also incorporates management actions as applied in USFWS recovery plans or equivalent cooperating agency policies for certain special status species like slickspot peppergrass (FRFO PRMP/FEIS, MA-SSS-15, p. 14). In other cases, the BLM has entered into a Candidate Conservation Agreement (CCAA) with USFWS regarding the management of a sensitive species (e.g. Packard’s milkvetch, Aase’s onion, Mulford’s milkvetch, and slickspot peppergrass (FRFO PRMP/FEIS, Appendix U). The management direction contained in the Proposed Plan was found to be adequate for the protection of ACEC values within the nominated and proposed ACECs that were not proposed for designation. As a result, the FRFO PRMP/FEIS would retain only the Hixson sharp-tailed grouse, Boise front, and long-billed curlew habitat ACECs and manage them to maintain, enhance, and protect relevant and important resource values. Appendix U of the FRFO PRMP/FEIS includes a discussion of the consideration of all ACECs, as well as rationale regarding the decisions of whether or not to carry proposals forward in the preferred alternative.

As noted in Appendix Z of the FRFO PRMP/FEIS (p. Z-17, Comment 11), the existing ACECs in the Four Rivers Planning Area were designated in 1988 or 1993, based on the evaluation of resources and potential threats to those resources at the time of the evaluation. In 2008, during the development of the Analysis of the Management Situation (AMS), the relevant and important values and potential threats to those values within the existing ACECs were again evaluated. The BLM found that, despite management direction that does not close all of the ACECs to surface use, the management direction of the ACECs was sufficient to protect the values for which they were identified. As a result, several ACECs that were designated to protect Type 2 special status plants were not included in the Proposed Plan, but the BLM instead decided to require specific avoidance and protection measures for all Type 2 special status plants and element occurrences, whether they occur within an ACEC or not. The FRFO PRMP/FEIS also includes three ACECs which provide special management for several wildlife species and their critical habitats. Table 3.2 (Special Status Plants-Special Management Areas, Focus Species, and Condition) of the FRFO PRMP/FEIS (pp. 47–48) includes special status

plants for 13 designated locations, including eight ACECs and five Research Natural Areas (RNAs). Table 4.5.2 (Acres of RNAs/ACECs and Restrictions Within SSP RNAs/ACECs by Alternative) of the FRFO Draft RMP/EIS discusses restrictions and designated areas for special status plant species protection.

The BLM has discretion to designate all, some, or none of the potential ACECs that were evaluated during the planning process; there is no requirement that the agency carry forward potential ACECs into the PRMP (see BLM Manual 1613.33.E). A comparison of estimated effects and trade-offs associated with the alternatives led to development and selection of the proposed plan (see PRMP/FEIS pp. 2-1 to 2-5).

FLPMA – Land Tenure Adjustments

Simplot et al.

Tom Basabe et al.

Issue Excerpt Text: First, the PRMP/FEIS did not fix its mistake to designate T1N, R1E Section 13 NWSE as satisfying and as being within the “direct sale” or “modified competitive sale” category. Here is a map of such parcel. [See attachment for photo of the map] BLM failed to acknowledge our comments upon this point. See generally, Appendix R to the PRMP/FEIS.

Simplot et al.

Tom Basabe et al.

Issue Excerpt Text: Second, the PRMP/FEIS did not fix its mistake to designate T3S, R5E, Sections 1 and 12, as satisfying and as being with the “exchange” criteria. Here is a map of such parcel. [See attachment for photo of the map] BLM failed to acknowledge our comments upon this point. See generally, Appendix R to the PRMP/FEIS.

Simplot et al.

Tom Basabe et al.

Issue Excerpt Text: Third, the PRMP/FEIS did not fix its mistake to designate T7N, R3W, Section 1, as satisfying and as being with the “exchange” criteria. Here is a map of such parcel. [See attachment for photo of the map] BLM failed to acknowledge our comments upon this point. See generally, Appendix R to the PRMP/FEIS.

Simplot et al.

Tom Basabe et al.

Issue Excerpt Text: Fourth, the PRMP/FEIS did not fix its mistake to designate T7N, R3W, Section 12, NWSE as satisfying and as being within the “direct sale”, “modified competitive sale”, or “exchange” criteria. Here is a map of such parcel. [See attachment for photo of the map] BLM failed to acknowledge our comments upon this point. See generally, Appendix R to the PRMP/FEIS.

Simplot et al.

Tom Basabe et al.

Issue Excerpt Text: Fifth, the PRMP/FEIS did not fix its mistake to designate T8N, R3W, Section 32, as satisfying and as being with the “direct sale”, “modified competitive sale”, or “exchange” criteria. Here is a map of such parcel. [See attachment for photo of the map] BLM failed to acknowledge our comments upon this point. See generally, Appendix R to the PRMP/FEIS.

Summary:

The FRFO PRMP/FEIS (BLM 2020a) failed to correct errors in parcels identified for land tenure adjustments from the FRFP Draft RMP/EIS (BLM 2019).

Response:

The *BLM Land Use Planning Handbook* (H-1601-1) provides guidance on land tenure adjustments (Appendix C § II.E, p. 20). The BLM may identify lands for retention (43 CFR 2400), proposed disposal, or acquisition (based on acquisition criteria identified in the land use plan; FLPMA Section 205(b)) consistent with the goals and objectives for natural resources within the planning area. Generally, BLM policy directs that lands are to be retained in Federal ownership, unless it is determined that disposal of a particular parcel will serve the national interest (FLPMA Section 102(a)(1)). “Land use plans should avoid prescribing the method of disposal, acquisition, or property interest to be acquired” (BLM H-1601-1, Appendix C, p. 20).

Lands or interest in lands that are identified available for disposal in an RMP are subject to a variety of disposal authorities, provided they meet the criteria outlined in FLPMA (Sales § 203, 43 U.S.C. 1713(a); Exchanges, § 206, 43 U.S.C. 1716(a); and Reservation and Conveyance of Minerals, § 209, 43 U.S.C. 1719(a)) or other statutes and regulations. Lands available for disposal in the Four Rivers Planning Area are identified by parcel or by specific areas in Appendix I of the FEIS.

The BLM followed appropriate Federal law, as well as current policies and guidance, when determining which parcels to retain or list for disposal. Section 203 of FLPMA specifies that BLM may only sell a tract of public land if the tract is identified through the land use planning process, pursuant to Section 202 of FLPMA, as meeting one or more of the disposal criteria listed in Section 203. In preparation for the Four Rivers RMP effort, the BLM conducted an inventory of the public land in the planning area to determine whether there are any tracts that meet one or more of the Section 203 of FLPMA criteria for disposal out of Federal ownership:

- Such tract, because of its location or other characteristics, is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal department or agency; or
- Such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or
- Disposal of such tract will serve important public objectives, including, but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on land other than public land and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership.

The parcels identified by the protesting party were reviewed by the BLM during the planning process. The agency determined that they did not meet the statutory disposal criteria under FLPMA Section 203. Nevertheless, the FRFO PRMP/FEIS does not preclude case-by-case consideration of exchange of lands that have been determined to fulfill important management objectives and that meet the public interest requirements in 43 CFR 2200.0-6(b), specifically:

1. **Township (T) 1 North (N), Range (R) 1 East (E), Section 13:** This parcel is larger than 160 acres and directly adjacent to BLM lands. Per criteria stated in Appendix I of the FRFO PRMP/FEIS (p. I-2), this parcel does not meet the criteria for the Proposed Plan lands available for disposal.
2. **T3S, R5E, Sections 1 and 12:** This parcel is within the Morley Nelson Snake River Birds of Prey National Conservation Area and is managed under the direction of the 2008 Snake River Birds of Prey National Conservation Area Resource Management Plan (BLM 2008a).
3. **T7N, R3W, Section 1:** Lands are occupied by Type II special status species (i.e., NIDGS) and is adjacent to another BLM parcel, per the criteria stated in Appendix I of the FRFO PRMP/FEIS (p. I-2).

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4. **T7N, R3W, Section 12:** Lands are occupied by Type II special status species (i.e., NIDGS) and directly adjacent to a parcel in Section 1, and another BLM parcel is 0.3 miles away. Per criteria stated in FRFO PRMP/FEIS Appendix I (p. I-2), this parcel does not meet the criteria for the Proposed Plan lands available for disposal.
 5. **T8N, R3W, Section 32:** Parcel is 287 acres and therefore is not less than 160 acres in size and lands are occupied by Type II special status species (i.e., NIDGS). Per criteria stated in Appendix I of the FRFO PRMP/FEIS (p. I-2), this parcel does not meet the criteria for the Proposed Plan lands available for disposal.

Table I-1 in Appendix I identifies all of the parcels that are available for disposal, whether by exchange or sale (p. I-3). Additionally, the BLM may consider other lands not currently identified for disposal on a case-by-case basis once the planning effort is complete. As noted in Appendix I

In addition to lands classified as potentially suitable for disposal under section 203 of FLPMA, the manager may exchange other Federal lands, on a case-by-case basis, where the exchange proposal has been determined to fulfill important management objects and meets the public interest requirements of 43 CFR 2200.0-6(b), including, but not limited to: 1) consolidating Federal lands for more efficient and cost-effective management, 2) acquiring public access to Federal lands for recreational purposes, 3) acquiring important and/or critical wildlife or riparian habitat, and 4) acquisition of non-Federal in-holdings within specially-designated areas (i.e., wilderness area, ACEC, wild and scenic river corridor, etc.) (p. I-2).

At the time of the request, BLM would review the need for an additional land use plan amendment and conduct a site-specific National Environmental Protection Act (NEPA) review of potential impacts of disposal.

The BLM has complied with FLPMA and required policy in determining which parcels would be available for land tenure adjustments.

FLPMA – Unnecessary or Undue Degradation

Western Watersheds Project

Scott Lake

Issue Excerpt Text: It does not appear that BLM has analyzed the livestock carrying capacity of any of the lands within the field office, or conducted any sort of capability or suitability analysis. By omitting these crucial studies, the Final EIS ignores a significant aspect of the planning challenges facing BLM in this area. Federal regulations provide that permitted livestock use must be “based on the amount of forage available for livestock grazing,” 43 C.F.R. § 4110.2-2, and authorized livestock use must not “exceed the livestock carrying capacity of the allotment.” 43 C.F.R. § 4130.3-1(a). In other words, authorized use may not exceed “the maximum stocking rate possible without inducing damage to vegetation or related resources.” 43 C.F.R. § 4100-5. Without a robust analysis of capability, suitability, and carrying capacity, BLM cannot determine whether grazing will be sustainable over the lifetime of the revised RMP, or whether BLM will be able to meet RMP goals and objectives. More broadly, BLM cannot be sure that grazing authorized under the proposed RMP will not unduly or unnecessarily degrade public resources.

Summary:

The BLM failed to specifically account for unnecessary or undue degradation in regard to livestock grazing as they did not analyze the livestock carrying capacity of the lands within the field office or conducted suitability analysis for grazing in the FRFO PRMP/FEIS (BLM 2020a).

Response:

Section 302(b) of FLPMA requires that “in managing the public lands the Secretary [of the Interior] shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.” The PRMP/FEIS provides for the balanced management of the public lands in the Planning Area. In developing the FRFO PRMP/FEIS, the BLM complied with its planning regulations (43 CFR 1610), the requirements of NEPA, and other statutes, regulations, and Executive Orders related to environmental quality. The FRFO PRMP/FEIS identifies appropriate allowable uses, management actions, and other mitigation measures that prevent the unnecessary or undue degradation of public lands. It does not authorize any use of the public lands, much less any that would result in unnecessary or undue degradation.

Congress recognized that through the BLM’s multiple-use mandate, there would be conflicting uses and impacts on the public land. The FRFO PRMP/FEIS would not specifically authorize any uses of public lands or make an irreversible and ir retrievable commitment of resources, and the alternatives evaluated in the FEIS comply with all applicable statutes, regulations, and policies; therefore, the PRMP/FEIS will not result in “unnecessary or undue degradation of the lands” under Section 302(b) of FLPMA.

The FRFO PRMP/FEIS includes management direction for the BLM to follow the Standards for Rangeland Health, which were incorporated by reference into the PRMP (see FEIS Table 2-1, Proposed Resource Management Plan). Specifically, the Standards were incorporated into management action MA-SSS-18 (i.e., special status species) to manage livestock grazing and trailing conserve suitable habitat conditions for slickspot peppergrass.

Grazing leases are generally reviewed on a 10-year schedule to determine whether standards are being met. At the site-specific review of the lease renewals, the BLM may adjust grazing levels, management practices, and/or range improvements when needed to meet or make progress toward meeting the standards for rangeland health. This may result in adjustments to the terms and conditions of livestock grazing leases (see FEIS pp. 18 and 22).

The BLM received multiple comments on the FRFO Draft RMP/EIS regarding potential impacts of livestock grazing management actions (see FEIS Appendix Z). In response to these comments, the BLM clarified management actions, updated tables to reflect corrected permitted use Animal Unit Months (AUMs), incorporated management actions into the PRMP to address adjustments to grazing within the life of the plan and through the use of temporary non-renewable forage allocations, and clarified that implementation-level decisions will be made through the appropriate site-specific NEPA process. For example, MA-LG-16 and MA-LG-17 were incorporated into the FRFO PRMP/FEIS (p. 22) to address adjustments to grazing within the life of the plan and through the use of temporary nonrenewable forage allocations. Implementation-level decisions will be made through the appropriate site-specific NEPA process. These decisions may include approaches such as rotational grazing strategies; incorporating rest, deferment, and restoration actions (i.e., measures that may also be implemented if necessary to attain land health standards); and removal of range improvements and utilization levels to address identified issues. The Proposed RMP/Final EIS provides guidelines, processes, and protocols, but does not make implementation-level decisions or analyze the impacts from such decisions (FRFO PRMP/FEIS, MA-LG-07 at p. 21).

The BLM determined the total amount of forage (as measured in AUMs) available for livestock in the FRFO PRMP/FEIS. This determination is the equivalent of a “carrying capacity” or “suitability analysis,” as it determines the level of livestock use that can be sustained. As described in the FRFO PRMP/FEIS, lands within the planning area are suitable for livestock grazing and have been used for that purpose for many years. Adjustments to forage availability would occur at the allotment level: “Available livestock forage may change over the life of the RMP resulting from forage type conversions occurring in response to habitat restoration activities. Changes to AUMs in the future will

be determined at the allotment scale based on monitoring and evaluation.” (FRFO PRMP/FEIS, p. 22).

Because the FRFO PRMP/FEIS would not authorize any uses of the public lands, and the alternatives evaluated in the FEIS comply with all applicable statutes, regulations, and policies, including Standards and Guidelines for Rangeland Health, the resource management plan will not result in “unnecessary or undue degradation of the lands” under Section 302(b) of FLPMA.

For a discussion of the analysis related to livestock grazing, see the “NEPA – Impacts Analysis – Livestock Grazing” section below.

NEPA – Best Available Information

Western Watersheds Project

Scott Lake

Issue Excerpt Text: BLM’s use of stale data via the outdated AMS violates NEPA. “Reliance on data that is too stale to carry the weight assigned to it” does not satisfy NEPA’s “hard look” requirement and may indicate “arbitrary and capricious” decisionmaking. *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1086 (9th Cir. 2011). Courts have faulted agencies for relying on ten-year old aerial surveys, *id.*, and six-year-old habitat data. *Lands Council v. Powell*, 395 F.3d 1019, 1031 (9th Cir. 2005). Here, BLM’s analysis omits habitat and population data for a whole host of sensitive and ESA-listed species, including greater sage-grouse, bull trout, Snake River Steelhead, and slickspot peppergrass. Nor does the AMS take into account increasing demands on public resources due to population growth since 2008. Consequently, BLM cannot accurately predict the likely environmental impact of its proposed action.

Summary:

The BLM has failed to use the best available information, including omitting habitat and population data for sensitive and ESA-listed species, Greater Sage-grouse (GRSG), bull trout, snake river steelhead, and slickspot peppergrass. The AMS failed to take into account increasing demands on public resources due to population growth since 2008.

Response:

The Council on Environmental Quality’s (CEQ) regulations implementing NEPA require that agencies use “high-quality information” (40 CFR 1500.1(b)). NEPA regulations require the BLM to “insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements” (40 CFR 1502.24).

The BLM NEPA Handbook also directs the BLM to “use the best available science to support NEPA analyses, and give greater consideration to peer-reviewed science and methodology over that which is not peer-reviewed” (BLM Handbook H-1790-1, p. 55). Under the BLM’s guidelines for implementing the Information Quality Act, the BLM applies the principle of using the “best available” data in making its decisions (BLM Information Quality Act Guidelines, February 9, 2012).

Upon review of the scoping comments and in coordination with the Boise BLM Resource Advisory Council, as well as state, tribal and local governments, the BLM determined that the issues raised during scoping for the FRFO RMP were still pertinent. In 2017, the BLM consulted with the Tribes and engaged with Cooperating Agencies and the Boise District Resource Advisory Council to determine whether or not conditions in the Planning Area had changed to the extent that the issues identified in scoping were no longer accurate. Each of these groups indicated that the issues were

unchanged. The affected environment and impact analysis have been updated with best available information available at the time for incorporation into the FRFO PRMP/FEIS (p. Z-3). Although in many instances of the FRFO PRMP/FEIS information from the AMS was incorporated by reference, including a discussion of changes in the planning area population and demand trends (see AMS, p. 224–246), the affected environment and impact analysis have been updated with best available information available at the time for incorporation into the FRFO Draft RMP/EIS and FRDO PRMP/FEIS.

Best available information for GRSG was incorporated by reference into the FRFO PRMP/FEIS through the 2015 ROD-Approved Resource Management Plan Amendment [ARMPA Amendments for the Great Basin Region, including the GRSG Sub-Regions of Idaho and Southwestern Montana, Nevada and Northeastern California, Oregon, and Utah (ARMPA 2015) (BLM 2015)]. As noted on p. B-5 of the FRFO PRMP/FEIS, the BLM and U.S. Forest Service (USFS) completed a planning effort to amend land use plans with management direction that best responds to GRSG threats identified as part of a National GRSG Planning Strategy. This effort was completed during the development of the FRFO PRMP/FEIS. Habitat and population data, along with management direction resulting from the 2015 ARMPA was incorporated in the FRFO PRMP/FEIS. Biologically significant units (BSUs) have been designated in the 2015 ARMPA; two BSUs, the Idaho Desert Conservation Area and the Idaho Mountain Valleys Conservation Area, occur over 62,264 and 94,799 acres in the Four Rivers Planning Area, respectively (p. B-5 of the FRFO PRMP/FEIS). Within each Conservation Area, GRSG habitat consists of lands designated as GRSG habitat Important Habitat Management Areas (IHMA), General Habitat Management Areas (GHMA), and Priority Habitat Management Areas (PHMA). PHMAs have the greatest value for providing intact Sage-Grouse habitat. IHMA encompass areas of high conservation value habitat and occur on 83,260 acres of the Four Rivers Planning Area. GHMA are areas of occupied seasonal or year-round habitat outside of PHMA or IHMA, where some special management would apply to sustain sage-grouse populations. IHMA and GHMA occur in the Four Rivers Planning Area, but there are currently no PHMAs in the Four Rivers Planning Area. These data represent best available information for GRSG in the Four Rivers Planning Area.

Analysis for special status aquatic species (e.g., redband and bull trout) focuses on streams occupied by those species and adjacent uplands (FRFO PRMP/FEIS, p. 76). Available spatial data that delineates distribution of these species were included in the analysis where possible. The FRFO PRMP/FEIS does not contain management actions that overlap Snake River steelhead habitat.

Slickspot peppergrass habitat in the Four Rivers Planning Area was identified using element occurrences as defined as part of the 2003 and updated 2006 Candidate Conservation Agreements (CCAA) for the species (State of Idaho et al. 2003, 2006). Additionally, conservation measures were identified and have been included in many of the current guidance documents, including the 2014 Conservation Agreement (BLM and USFWS 2014), as updated, amended, or reauthorized (p. 47 of the FRFO PRMP/FEIS). Slickspot peppergrass is endemic to the Snake River Plain and located in the southern portion of the Four Rivers Planning Area. Within the Planning Area, there are 10 slickspot peppergrass management areas, totaling 33,522 acres (FRFO Draft RMP/EIS p. 76). The occurrence data for slickspot peppergrass analyzed in the FRFO PRMP/FEIS represent best available information.

The FRFO PRMP/FEIS acknowledges population growth and increased demand on public resources and provides U.S. Census Bureau population data from 2017 on pages 1 and 2 (Section 1.1, *Introduction and Background, Decision Area*). Alternative B was developed to emphasize the protection of natural and cultural resource values from potential negative impacts of population growth and increased use (FRFO PRMP/FEIS, p. 8). Alternatives C and D also acknowledge population growth as a factor influencing land management decisions in the Four Rivers Planning Area (FRFO RMP/FEIS, p. 8). The Proposed Plan largely reflects Alternative D, with changes as

summarized on p. 7 of the FRFO PRMP/FEIS. The FRFO PRMP/FEIS adequately evaluated increasing demands on public resources due to population growth since development of the 2008 AMS (BLM 2008b).

NEPA – Impacts Analysis – Climate Change

WildLands Defense

Katie Fite

Issue Excerpt Text: Climate change stress and the threat climate change poses were only minimally, considered. A new and current AMS and present-day baseline inventory of the status of public lands and values must be prepared and used as the basis for a Supplemental Environmental Impact Statement (SEIS). We Protest the failure to prepare a SEIS to address this need.

Summary:

The BLM failed to adequately analyze climate change impacts and should prepare an updated AMS and Supplemental Environmental Impact Statement (SEIS) to consider a present-day baseline inventory.

Response:

The BLM must make a comprehensive consideration of a proposed action, to evaluate different courses of action (i.e., take a “hard look” at the environmental consequences) (*Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976), n. 21; *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989)). The agency may not rely on incorrect assumptions or data when analyzing effects (*Native Ecosystems Council v. U.S. Forest Service*, 418 F.3d 953, 964 (9th Cir. 2005)). The BLM takes a “hard look” when the NEPA document contains a “reasonably thorough” discussion of an action’s environmental consequences, and the agency can make an informed decision about whether there are any significant environmental impacts (*Nat’l Parks and Conservation Ass’n. v. BLM*, 606 F.3d 1058, 1072 (9th Cir. 2010) (citing *State of California v. Block*, 690 F.3d 753, 761 (9th Cir. 1982)); *Biodiversity Conservation Alliance, et al.*, 171 IBLA 218, 226 (2007)) (internal citations omitted). The effects analysis must demonstrate that the BLM took a “hard look” at the impacts of the action (BLM NEPA Handbook, H-1790-1, 6.8.1.2, Analyzing Effects). The Council on Environmental Quality (CEQ) regulations specify that the environmental information made available to public officials and citizens before decisions are made must be of “high-quality” (40 CFR 1500.1(b)).

A “hard look” is a reasoned analysis containing quantitative or detailed qualitative information. (BLM NEPA Handbook, H-1790-1, 6.8.1.2 Analyzing Effects). The BLM must use information of high-quality and scientific integrity in its NEPA analysis, including information provided as part of the public involvement (40 CFR 1500.1(b) and 1502.24). The NEPA documents are to be analytic, rather than encyclopedic (40 CFR 1500.4(b) and 1502.2(a)). The NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)).

The NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR § 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR § 1500.1(b)). The BLM is required to take a hard look at potential environmental impacts of adopting the Proposed RMPs/Final EIS.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (i.e., impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative, rather than quantitative or focused on site-specific actions. The baseline data provide the necessary basis to make informed land use plan-level decisions.

Because the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decisions or actions (e.g., the BLM is not approving an Application for Permit to Drill to start drilling), the scope of the analysis was conducted at a regional, programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

Additionally, the BLM must discuss the cumulative effects of the proposed action and the alternatives when preparing an EIS (BLM Handbook H-1790-1, § 6.8.3). The CEQ regulations (40 CFR § 1508.7) define cumulative effects as "...the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such actions."

Appendix Q (Climate and Meteorology) of the FRFO PRMP/FEIS incorporates additional and more recent baseline information on climate change since the development of the AMS. Appendix P (Air Quality) of the FRFO PRMP/FEIS incorporates up-to-date information for baseline greenhouse gas emissions, oil and gas development (e.g., current regulations, drilling and production rates, and emissions inventories) and the state of the atmosphere for the Four Rivers Planning Area. The FRFO PRMP/FEIS properly considers and analyzes the direct, indirect, and cumulative impacts of public land management provided for under the alternatives to contribute to climate change in Section 4.10 (*Air Quality*, pp. 85–90), which included discussion of the potential effects of the alternatives in terms of the greenhouse gas (GHG) emissions resulting from anticipated activities (pp. 89 and 90). Cumulative effects are discussed in Section 4.21.10, *Air Quality and Climate* (p. 114 and 115).

The BLM complied with climate change analysis requirements and provided a programmatic analysis of climate change/GHG emissions in development the FRFO PRMP/FEIS. Accordingly, this protest is denied.

NEPA – Impacts Analysis – Livestock Grazing

WildLands Defense

Katie Fite

Issue Excerpt Text: regarding the sudden appearance in the FEIS of separate cheatgrass AUMs --- BLM provides no basis for determining the AUM numbers used for RMP allocations in any part of the FEIS. In fact, there is no data and cogent analysis provided on whether the AUM numbers under all alternatives of the FEIS are actually present and grazable.

Western Watersheds Project

Scott Lake

Issue Excerpt Text: Because BLM here has not considered the direct, indirect, and cumulative impacts of the proposed additional 19,270 AUMs, or informed the public of the likely impacts of this new proposal, the Final EIS and Proposed RMP violate NEPA.

Western Watersheds Project

Scott Lake

Issue Excerpt Text: The Final EIS and Proposed RMP also violate NEPA because the Proposed RMP would authorize an additional 9,635 animal-unit-months (“AUMs”) of livestock grazing across 19,270 acres (id. at 21 [MA-LG-06]), but the Final EIS fails to consider the impacts of these additional AUMs on vegetation, special status species, fish and wildlife, and aquatic resources. These additional AUMs, moreover, were not proposed or analyzed in the Draft EIS, and no opportunities for public comment have been provided on this new proposal. Compare id. with Draft EIS at 28. NEPA requires that the public be informed, and its comments considered throughout the planning process. 40 C.F.R. § 1503.1(a)(4) (public comment must be requested after publication of a draft EIS); § 1503.1(b) (public comment may be requested after publication of a final EIS but before a decision is made); § 1506.10 (requiring notice of draft and final EISs to be published in the federal register and setting time periods for public comment); § 1505.2 (requiring publication of a record of decision after the decision is made). When a final, selected alternative differs from the alternatives analyzed in a Draft EIS, “NEPA does not permit an agency to remain oblivious to differing environmental impacts, or hide these from the public, simply because it understands the general type of impact likely to occur. Such a state of affairs would be anathema to NEPA’s ‘twin aims’ of informed agency decision-making and public access to information.” *New Mexico ex rel. Richardson v. Bureau of Land Management*, 565 F.3d 683, 707 (10th Cir. 2009).

Western Watersheds Project

Scott Lake

Issue Excerpt Text: BLM has failed to take the required “hard look” at the impacts of domestic sheep grazing under the Proposed RMP. BLM’s response to Western Watersheds Project (WWP’s) DEIS comments-which simply restates the management direction in MA-FW-08, MA-LG-08, and MA-LG-09-only underscores the extent to which BLM has refused to consider risks to bighorn sheep. See Final EIS at Z-6.

Summary:

The FRFO PRMP/FEIS fails to adequately analyze livestock grazing impacts by not:

- Providing a basis for determining AUMs and grazing allocations as part of the FEIS;
- Considering the direct, indirect, and cumulative impacts of additional AUMs proposed, including impacts on vegetation, special status species, fish and wildlife, and aquatic species; and,
- Considering the impacts of domestic sheep grazing and risks to bighorn sheep in the analysis of Livestock Grazing.

Response:

The BLM must make a comprehensive consideration of a proposed action, to evaluate different courses of action (take a “hard look” at the environmental consequences) (*Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976), n. 21; *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989)). The agency may not rely on incorrect assumptions or data when analyzing effects (*Native Ecosystems Council v. U.S. Forest Service*, 418 F.3d 953, 964 (9th Cir. 2005)). The BLM takes a “hard look” when the NEPA document contains a “reasonably thorough” discussion of an action’s environmental consequences, and the agency can make an informed decision about whether there are any significant environmental impacts (*Nat’l Parks and Conservation Ass’n. v. BLM*, 606 F.3d 1058, 1072 (9th Cir. 2010) (citing *State of California v. Block*, 690 F.3d 753, 761 (9th Cir. 1982)); *Biodiversity Conservation Alliance, et al.*, 171 IBLA 218, 226 (2007)) (internal citations omitted).

The effects analysis must demonstrate that the BLM took a “hard look” at the impacts of the action (BLM NEPA Handbook, H-1790-1, 6.8.1.2, Analyzing Effects). The CEQ regulations specify that the environmental information made available to public officials and citizens before decisions are made must be of “high-quality” (40 CFR 1500.1(b)).

A “hard look” is a reasoned analysis containing quantitative or detailed qualitative information. (BLM NEPA Handbook, H-1790-1, 6.8.1.2 Analyzing Effects). The BLM must use information of high-quality and scientific integrity in its NEPA analysis, including information provided as part of the public involvement (40 CFR 1500.1(b) and 1502.24). The NEPA documents are to be analytic, rather than encyclopedic (40 CFR 1500.4(b) and 1502.2(a)). The NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)).

The BLM NEPA Handbook also directs the BLM to “use the best available science to support NEPA analyses, and give greater consideration to peer-reviewed science and methodology over that which is not peer-reviewed” (BLM Handbook H-1790-1, p. 55). Under the BLM’s guidelines for implementing the Information Quality Act, the BLM applies the principle of using the “best available” data in making its decisions (BLM Information Quality Act Guidelines, February 9, 2012).

The FRFO PRMP/FEIS used appropriate baseline information for determining grazing allocations and AUMs, as described in the Analysis of the Management Situation Sections 2.1.6, *Vegetative Communities*, and 2.2.1, *Livestock Grazing*, in the FEIS Sections 3.4, *Vegetation Resources*, and 3.13, *Livestock Grazing Management*, and Appendices J and R (i.e., Livestock Grazing Allotments). Appendix J, *Vegetation Resources*, notes, “Plant phenology and growth rates are tied to weather, past disturbances, and species interactions, and these complex relationships are still poorly understood. Therefore, determining the carrying capacity and timing for benign spring grazing is difficult to apply consistently across years” (p. J-2).

Additional AUMs (9,635) for use in annual grass dominated lands are separate and apart from the available AUMs. These AUMs would only be used as described in MA-WFF-05 (FRFO PRMP/FEIS, p. 18). The additional AUMs were added in response to comments received on the FRFO Draft RMP/EIS. In the FRFO Draft RMP/EIS (MA-WFF-02, Alternative D), targeted grazing is mentioned, (LG-15 also mentions considering grazing to reduce annual plants), the BLM indicated that targeted grazing would be implemented, but lacked quantification on how the plan would allow for grazing on rangelands dominated by annual plants and exhibiting increased fire frequency. To provide for clarification, the BLM identified areas that additional AUMs could be used to address fuel loads and calculated available AUMs (see FRFO PRMP/FEIS p. 95, Comment Response Livestock Grazing Comment #5, and Fire and Fuels Management Comment #4, EPA Comment Issue 2, State of Idaho Comment 21).

The AUMs were calculated by using a LANDFIRE vegetation layer to show areas within the FRFO Planning Area with annual grass dominance. This calculation provided an acreage for pastures that met this criterion (19,270 acres). A heavy stocking rate to provide for utilization of forage was applied to those acres.

NEPA also directs that baseline data and environmental analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (i.e., impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, § 6.8.1.2).

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (i.e., impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative, rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions. As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions (e.g., the BLM is not approving a livestock grazing permit), the scope of the analysis was conducted at a regional, programmatic level. The analysis focuses on the direct, indirect, and cumulative impacts that could potentially result from on-the-ground changes. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

Additionally, the BLM must discuss the cumulative effects of the proposed action and the alternatives when preparing an EIS (BLM Handbook H-1790-1, § 6.8.3). The CEQ regulations (40 CFR § 1508.7) define cumulative effects as "...the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such actions."

The BLM sufficiently analyzed the effects from livestock grazing on vegetation in Section 4.4 of the FEIS, noting that

dispersed human disturbance such as dispersed recreation use and livestock grazing do not typically result in changes at the vegetation community scale. However, if improperly managed, they can reduce resiliency in vegetation communities, making them more susceptible to community scale changes over time (p. 74).

Analysis of livestock grazing on special status species is discussed in Section 4.5, noting that

improperly managed livestock grazing has potential to negatively impact riparian areas because livestock tend to congregate in those areas. The Proposed Plan provides management direction to complete restoration of riparian areas by establishing desirable vegetation and for protection of riparian areas from the impacts of livestock grazing through construction of riparian exclosures or changing season of use. Fences would also be constructed to reduce impacts to wildlife (p. 76).

Analysis of grazing on fish and wildlife is discussed in Section 4.6, which includes a discussion of the effects of domestic sheep/goat use in Bighorn Sheep Habitat (pp. 80–81). The analysis notes

the Proposed Plan would not increase risk of contact over current management, management over time would reduce risk of contact by requiring coordination with the Idaho Department of Fish and Game to achieve separation of domestic sheep and bighorn sheep. Risk of contact during sheep trailing activities would be reduced by coordinating with domestic sheep permittees and the State of Idaho to determine alternate trailing routes where Best Management Practices to reduce risk of disease transmission are not effective (pp. 80–81).

In the analysis of impacts on aquatic resources, the BLM looked at the effects of returning streams to proper functioning condition, considered under Standard 2, Riparian Areas and Wetlands, in the Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management (see § 4.7, pp. 81–82).

Livestock grazing management is authorized according to 43 CFR 4100. Specific options or actions that would change the management on any given livestock grazing allotment would be implemented at the site-specific level and through the permit renewal process. Through this site-specific process, the BLM would apply terms and conditions such as season of use, forage allocations (e.g., AUMs),

and any other stipulations that would comply with applicable Standards and Guides as described through the Idaho Standards for Rangeland Health (BLM 1997).

The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action. The BLM complied with NEPA's requirement to rely on high-quality information and the best available data and to analyze the environmental consequences/impacts from livestock grazing in the FRFO PRMP/FEIS. Accordingly, this protest is denied.

NEPA – Impact Analysis – Greater Sage-Grouse

Simplot

Darcy Helmick

Issue Excerpt Text: The PRMP/FEIS did not fix its mistake associated with its failure to reference or otherwise tier to the 2019 Record of Decision (ROD)- ARMPA). While we may appreciate that the 2019 RODARMPA was preliminarily enjoined by Memorandum Decision and Order filed October 16, 2019 (after our September 20, 2019 comments were submitted) in *Western Watersheds Project v. Schneider*, 1:16-cv-00083-BLW (U.S. District Court, District of Idaho), such Memorandum Decision and Order is on appeal to the Ninth Circuit Court of Appeals via a Notice of Appeal. Both the injunction issue remains in the mix and the merits of the Complaint filed against the 2019 ROD-ARMPA remains in the mix. The PRMP/EIS failed to acknowledge this point in Appendix Z at p. Z-5 (wherein it only references the Memorandum Decision and Order filed October 16, 2019). Moreover, in response to the Memorandum Decision and Order dated October 16, 2019, BLM published six (6) draft supplemental environmental impact statements (“SEISs”). These Draft SEISs for sage-grouse plans in Idaho, Wyoming, Colorado, Utah, Nevada / northeastern California and Oregon are currently subject to a review and comment process February 21, 2020, and April 6, 2020. See <https://www.blm.gov/programs/fish-and-wildlife/sagegrouse/blm-sagegrouse-plans> (last checked 3/12/2020). The PRMP/EIS failed to acknowledge this point in Appendix Z at p. Z-5 (wherein it only references the Memorandum Decision and Order filed October 16, 2019).

Western Watersheds Project

Scott Lake

Issue Excerpt Text: Idaho statewide lek counts for greater sage-grouse were down 52% from 2016 and decreased 25% in 2019 alone, and population declines in the majority (5 of 8) of Idaho's sage-grouse habitat management areas exceed the “hard-trigger” population thresholds established under BLM's Sage-Grouse Plan Amendments for Idaho. Yet the Final EIS fails to consider the direct, indirect, and cumulative impacts of authorized activities on sage-grouse habitats and populations.

Western Watersheds Project

Scott Lake

Issue Excerpt Text: We protest BLM's failure to consider the direct, indirect, and cumulative impacts to greater sage-grouse from livestock grazing, oil and gas development, and motorized travel under the proposed RMP.

Summary:

The BLM failed to adequately tier to, or incorporate by reference, goals, objectives, and management actions associated with the 2019 Greater Sage-grouse ARMP-ROD and did not acknowledge the Draft SEIS GRSG Plans. The BLM did not acknowledge that the October 16, 2019, preliminary injunction from the U.S. District Court for Idaho has been appealed to the Ninth Circuit Court of Appeals.

The FRFO PRMP/FEIS failed to adequately address direct, indirect, and cumulative impacts on Grater Sage-grouse because population declines in Idaho’s sage-grouse habitat management areas exceeding hard-trigger population thresholds established under the BLM Greater Sage-grouse Plan Amendment were not considered.

Response:

As noted in the response to comments on the issue of incorporating BLM planning decisions made in the ROD for the 2019 Greater Sage-grouse Resource Management Plan Amendment (RMPA), that RMPA has been preliminarily enjoined and it would be improper to incorporate its planning decisions into the Four Rivers planning process. However, the Four Rivers FO developed alternatives that are consistent with both the 2015 and 2019 Greater Sage-grouse land use planning decisions, incorporating by reference the analysis from both the 2015 and 2019 EISs.

Regarding the Greater Sage-grouse analysis in the Four Rivers PRMP/FEIS, the CEQ regulations implementing NEPA describe how baseline data and environmental analyses in an EIS should be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (i.e., impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2).

Only the Bennett Hills area has a GRSG population and important habitat where the hard-trigger thresholds could be considered. As noted in the FEIS:

Bennett Hills BCA would be managed for primitive recreation in support of hunters and anglers and would promote high-quality wildlife-dependent recreation activities. Management actions in the BCA would largely support this objective... Designation would further highlight the specific wildlife-focused recreational opportunities for hunting, camping, and wildlife viewing in this area, and ensure retention of this area for future recreational opportunities (p. 94).

These actions and other management described in the PRMP, such as MA-SSS-01 (incorporate GRSG seasonal habitat objectives from the 2015 ARMPA, p.13), MA-SSS-10 (incorporates by reference the 2015 ARMPA habitat management areas, p.14), and OB-WFF-05 (manage wildfires to minimize loss of sagebrush and protect Greater-Sage grouse habitat, p. 18), provide management direction to minimize impacts. Management actions “that reduce habitat loss, fragmentation, and disturbance (human and natural) will be most beneficial in reducing downward trends and impacts...” (p. 105).

Impacts to the GRSG and their habitat are analyzed in several sections of the document including, Section 3.5.1, *Special Status Animals* (p. 45), Section 4.4, *Vegetation Resources* (pp. 74–75), Section 4.5.1, *Special Status Species Animals* (p. 76), and Section 4.7, *Aquatic Resources* (p. 81); cumulative impacts are discussed in Section 4.21.5, *Special Status Species* (pp. 109–110).

The BLM complied with NEPA’s requirement to analyze the impacts to GRSG in the FRFO PRMP/FEIS.

NEPA – Reasonably Foreseeable Development / Oil and Gas

Western Watersheds Project

Scott Lake

Issue Excerpt Text: Because industry has already asked BLM to offer oil and gas leasing in a portion of the Four Rivers planning area that BLM did not include in the Final EIS’s Reasonably Foreseeable

Development Scenario, the Final EIS's analysis of the direct, indirect, and cumulative future impacts of oil and gas development impacts in the Four Rivers planning area is insufficient to meet BLM's NEPA obligations.

Western Watersheds Project

Scott Lake

Issue Excerpt Text: Because of all of these potential impacts, the direct, indirect, and cumulative impacts of oil and gas leasing, exploration and development in the area of the June 2018 Expressions of Interest in its analysis of impacts to bull trout and redband trout must be analyzed in the Four Rivers FEIS in order to inform BLM's decision about which lands in the Four Rivers planning area will be open to oil and gas leasing. Without considering these impacts, BLM is deciding blindly and violating NEPA.

Western Watersheds Project

Scott Lake

Issue Excerpt Text: The Final EIS underestimates the impacts of oil and gas development in the Four Rivers planning area because the Final EIS and its revised Reasonably Foreseeable Oil and Gas Development scenario ignore demonstrated industry interest in the eastern portion of the planning area. Two BLM employees signed off on the FEIS's revised reasonably foreseeable oil and gas scenario in August 2016 (Final EIS at T-5), but in June 2018, BLM received 43 Expressions of Interest for the Four Rivers RMP area via its National Fluids Lease Sale System (NFLSS) database.¹ It is clear in the Final EIS that BLM has failed to consider this demonstration of industry interest and has not analyzed the impacts of oil and gas exploration or development resulting from oil and gas leasing in the area.

Summary:

The BLM's Reasonable Foreseeable Development (RFD) Scenario does not consider all reasonably foreseeable possibilities and underestimates the potential future oil and gas development in the eastern portion of the planning area. The FRFO PRMP/FEIS (BLM 2020a) failed to consider impacts from potential oil and gas development in the June 2018 Expressions of Interest on bull trout and redband trout.

Response:

Washington Office Instruction Memorandum 2004-089 provides agency policy direction regarding the level of detail and type of information included in an RFD:

The RFD is based on a review of geological factors that control the potential for oil and gas resource occurrence and past and present technological factors that control the type and level of oil and gas activity. The RFD also considers petroleum engineering principles and practices and economics associated with discovering and producing oil and gas. The RFD projection can range from speculative estimates in unexplored frontier areas to estimates with higher levels of confidence in maturely developed producing areas.

Because the potential for oil and gas occurrence and development is rarely the same from one planning area to the next, the level of detail and the type of information included in an RFD is determined on a case-by-case basis. This is usually based on the location and size of the study area and whether or not the RFD is addressing a known development proposal or specific management request" (Washington Office Instruction Memorandum 2004-089, Attachment 1, p. 1-3).

In the RFD, the BLM made an appropriate assumption about the overall magnitude of development that could occur based on known oil and gas resources and current technologies and economic trends. However, it is not possible to estimate specific locations, times, and the pattern of oil and gas

development when writing the FRFO PRMP/FEIS. Making assumptions regarding these factors would be speculative and not contribute to a meaningful NEPA analysis.

The RFD is not intended to define the specific numbers and locations of wells and pads needed to develop oil and gas resources. The BLM recognizes that there will be a greater degree of predictive uncertainty associated with estimates of new discoveries and emerging plays.

The RDF Scenario (FRFO PRMP/FEIS, Appendix T) does address the 2018 Expression of Interest area as mentioned by the protestant and states there is no oil and gas potential due to the area being composed of granitic rock (i.e., Idaho Batholith) with a lack of source rock. Additionally, the area noted by the protestant is located on land managed by the U.S Department of Agriculture Forest Service, Boise National Forest. Per BLM Memorandum of Understanding WO-300-2006-07, p. 2, “BLM issues and administers oil and gas leases on NFS lands only after the Forest Service’s authorizes leasing for specific lands,” and

The Forest Service must authorize the BLM to offer specific lands for lease before the BLM can issue the leases on those lands. Once a Federal lease is issued on NFS lands, the Forest Service has the full responsibility and authority to approve and regulate all surface-disturbing activities associated with oil and gas exploration and development though analysis and approval of the Surface Use Plan of Operations (SUPO) component of an APD (BLM 2006, p. 3).

The RFD for the FRFO PRMP/FEIS estimates oil and gas activity at an appropriate level of detail. Accordingly, this protest is denied.

NEPA – Impact Analysis – Socioeconomics

WildLands Defense

Katie Fite

Issue Excerpt Text: We Protest the failure of BLM to provide candid and adequate economic analysis, including accounting for all the detrimental impacts on the economy of the RMP’s proposed oil/gas, increased and high levels of grazing disturbance and other environmentally disastrous actions, as laid out in FEIS Table 2.1, and the self-serving nearly substanceless analysis found at FEIS 4.1 to 4.21.

Summary:

The FRFO PRMP/FEIS failed to adequately analyze the economic impacts resulting from oil and gas development and increased levels of grazing.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the FRFO PRMP/FEIS.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (i.e., impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, § 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative, rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions.

Because the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions (e.g., the BLM is not approving an Application for Permit to Drill to start drilling), the scope of the analysis was conducted at a regional, programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

The analysis of socioeconomics for the FRFO PRMP/FEIS (§ 4.20, pp. 100–104) provides both qualitative and quantitative analyses of the Proposed Plan and Alternatives A through D on the conditions of the entire area of all counties that occur partially or wholly within the Four Rivers Planning Area. The value of non-market and market goods and services was evaluated under each of the alternatives. As noted on p. 100 of the FRFO PRMP/FEIS, impacts associated with closure of grazing allotments were reported as decreased economic output, labor income, and number of jobs due to a loss of grazing AUMs. All impacts from actions were measured relative to activity levels in Alternative A, the No Action Alternative. Impacts of management actions were measured and reported in dollars where possible. The indirect and induced impacts of a management action were assessed using an input-output model called Impact Analysis for Planning (IMPLAN) Pro Software and Data that mimics the economic links between different sectors of the counties' economies.

The adverse impacts to non-market ecosystem goods and services from improper livestock grazing is discussed on p. 102 of the FRFO PRMP/FEIS. Socioeconomic impacts from mineral resources management activities are discussed on pp. 102–103 of the FRFO PRMP/FEIS. The BLM will conduct subsequent project specific NEPA analyses for projects proposed for implementation under the FRFO PRMP. The subsequent NEPA analyses for project-specific actions will tier to the land-use planning analysis and evaluate project impacts at the appropriate site-specific level (40 CFR 1502.20 and 1508.28).

The BLM complied with NEPA's requirement to analyze the environmental consequences to socioeconomics in the FRFO PRMP/FEIS. Accordingly, this protest is denied.

NEPA – Impact Analysis – Vegetation

WildLands Defense

Katie Fite

Issue Excerpt Text: We Protest that BLM failed to provide detailed mapping and analysis to identify large acreages for native plant and biodiversity restoration. Restoration and buffering lands from climate change stress must be the basis of Land Use Plan in 2019 for the Four Rivers FO. Please provide a full baseline of all areas where native vegetation is still the predominant plant cover. Such crucial data and analysis that should form the foundation for land use planning is missing from the EIS.

Western Watersheds Project

Scott Lake

Issue Excerpt Text: The Final EIS utterly fails to consider this extensive body of research or the likely impacts discussed above. Nor do any of the action alternatives in the EIS take a precautionary approach to treatments and so-called “restoration” projects. Rather, BLM simply assumes, without supporting data, that such treatments will be effective. However, an agency violates NEPA when it ignores or dismisses credible evidence of adverse impacts. See, e.g., *National Audubon Soc’y v. Department of Navy*, 422 F.3d 174, 187-94 (4th Cir. 2005) (faulting agency for inadequate

investigation, “cursory review of relevant scientific studies,” and “sweeping negative evidence under the rug”). We therefore protest BLM’s failure to take a “hard look” and the direct, indirect, and cumulative impacts of fuels and vegetation treatments.

Summary:

The FRFO PRMP/FEIS (BLM 2020a) fails to adequately analyze impacts to vegetation and does not provide detailed mapping to identify large acreages for native plant and biodiversity restoration. The FRFO PRMP/FEIS does not identify areas where native vegetation is the predominant land cover and does not use the best available information, including research on the effectiveness of vegetation treatments.

Response:

The NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the FRFO PRMP/FEIS.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (i.e., impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

Land use planning-level decisions are broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative, rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions. The BLM takes a “hard look” when the NEPA document contains a “reasonably thorough” discussion of an action’s environmental consequences, and the agency can make an informed decision about whether there are any significant environmental impacts.

The effects analysis must demonstrate that the BLM took a “hard look” at the impacts of the action (BLM NEPA Handbook, H-1790-1, 6.8.1.2, *Analyzing Effects*). The CEQ regulations specify that the environmental information made available to public officials and citizens before decisions are made must be of “high quality” (40 CFR 1500.1(b)).

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions, the scope of the analysis was conducted at a regional, programmatic level. The analysis focuses on the direct, indirect, and cumulative impacts that could potentially result from on-the-ground changes. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

As discussed in Section 3.4 of the FRFO PRMP/FEIS, the Four Rivers Planning Area was grouped into several broad vegetation communities to describe conditions and analysis. This level of detail is appropriate for the decisions considered at the programmatic level. Dominant native species within each vegetation community are listed on pp. 42 and 43 of the FRFO PRMP/FEIS. Although not specifically discussed, the objectives, goals, and management actions of the PRMP are in response to and direct the BLM to address the effects of climate change when implementing public land management activities (FRFO PRMP/FEIS at p. Z-4). MA-VG-03 directs the BLM to

Implement vegetation rehabilitation or manipulation projects (not limited to chemical, mechanical, biological, and/or seeding treatments) to maintain or enhance the desired vegetation community

structure consistent with ecological site potential unless projects are designed to achieve fuels management objectives (FRFO PRMP/FEIS p. 12).

The BLM will develop vegetation treatments and restoration efforts during plan implementation to meet the plan objectives. Specific vegetation treatments will be determined during the implementation-level planning and NEPA-compliance processes, which requires additional, site-specific analysis and public review. Vegetation objective OB-VG-05 (p. 12 of the FRFO PRMP/FEIS) states that desired plant community objectives will be established for upland and riparian areas for the planning area through individual site-specific activity and implementation planning and as updated ecological site inventory data become available. All activity and implementation plans would incorporate desired plant community objectives. Adverse impacts that could result from vegetative restoration actions are throughout the discussion of environmental consequences for the FRFO PRMP/FEIS, including the following sections: Section 3.20 (*Social and Economic Conditions*, pp. 59–60); Section 4.2 (*Tribal Interests and Cultural Resource Management*, pp. 72 and 73); Section 4.3 (*Paleontological Resources*, pp. 73 and 74); Section 4.4 (*Vegetation Resources*, pp. 74 and 75); Section 4.5 (*Special Status Species*, pp. 75–78); Section 4.6 (*Fish and Wildlife*, p. 82); and, Section 4.13 (*Livestock Grazing*, p. 92).

The BLM complied with NEPA’s requirement to analyze the environmental consequences on vegetation in the FRFO PRMP/FEIS from vegetation treatments and vegetative restoration actions. Accordingly, this protest is denied.

NEPA – Impact Analysis – Wildlife

WildLands Defense

Katie Fite

Issue Excerpt Text: Actions, specific methods, habitat and population protection parameters, etc. must be clearly defined, and a hard look taken at the combined effects of threats that a species/watershed/resource faces. We Protest the FEIS’s failure to provide this. A proper baseline of the existing habitat quality and quantity for important in the FO lands and surrounding local and regional area and sensitive species population levels is not provided in the EIS. There is no data and analysis of changes in species habitat (quality and quantity) and population changes since the Cascade RMP, and the variety of threats, and increase in threat intensity since the Cascade RMP is not considered.

WildLands Defense

Katie Fite

Issue Excerpt Text: We Protest the FEIS failure to provide this. BLM must provide up to date information on all occupied acres of habitat for all sensitive and important species at the time of the Cascade RMP vs. present - to the best of its ability. This is necessary to establish a proper baseline for the condition and extent of “resources” of concern at the time of the RMP so that any future changes under the RMP can be assessed.

WildLands Defense

Katie Fite

Issue Excerpt Text: We Protest the failure to thoroughly inventory map and identify all the big game habitats, and all sensitive species habitats, and provide detailed analysis of concrete habitat restoration needs location, acreage and specific reveg/restoration needs Then, incorporate the restoration actions to be accomplished within specific time frames to recover habitats burned in fires and/or choked with weeds from abusive grazing practices and levels, and other environmentally protective actions, into the RMP in a SEIS.

Summary:

The FRFO PRMP/FEIS (BLM 2020a) fails to take a “hard look” as required by NEPA by not defining the specific methods, habitat, population protection, and threats to species. The FRFO PRMP/FEIS does not provide an adequate baseline of existing habitat quality and quantity necessary to adequately analyze impacts to sensitive species and fails to map all big game and sensitive species habitats.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the FRFO PRMP/FEIS.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (i.e., impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

Land use planning-level decisions are broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative, rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions.

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions (e.g., the BLM is not approving an Application for Permit to Drill to start drilling), the scope of the analysis was conducted at a regional, programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

The Analysis of the Management Situation (AMS) (BLM 2008a) and Chapter 3, *Affected Environment*, of the FRFO PRMP/FEIS, provide the baseline information for the wildlife species in the planning area. The AMS includes a comprehensive review of the baseline conditions, such as the profile for the resource, indicators (i.e., factors that describe the wildlife condition, such as wildlife population levels and habitat quality, as indicators of species condition, p.79 of the AMS), current conditions (i.e., location and/or extent of wildlife, see Maps 3-1 to 3-3 in the FEIS and pp. 81–82 in the AMS), trends (i.e., degree and direction of change in wildlife whether toward or away from desired condition, pp. 84–86 of the AMS), forecasts (i.e., predicted changes in the conditions given current management, pp. 86–87 of the AMS), and any key features noted in the planning area (e.g., specific areas important for wildlife species, see p. 87 of the AMS). The AMS also provides a determination of what management strategies may need to be updated (see Sections 2.17, *Fish and Wildlife*, pp. 70–78, of the AMS). The FRFO PRMP/FEIS relies on the most current list of special status species (Appendix K of the FRFO PRMP/FEIS); future changes, both additions and deletions, would be incorporated through plan maintenance and modification of management strategies as appropriate (FRFO PRMP/FEIS, Section 3.5.1, p. 44). A description of known special status species occurrences and the extent of suitable habitats with the Four Rivers Planning Area is provided in Sections 3.5.1 (*Special Status Animals*) and Section 3.5.2 (*Special Status Plants*) of the FRFO PRMP/FEIS for each listed species.

The BLM complied with NEPA’s requirement to analyze the environmental consequences/impacts to wildlife and special status species in the FRFO PRMP/FEIS by presenting the analysis in Sections

4.5, *Special Status Species*, and 4.6, *Fish and Wildlife*, and impacts on wildlife habitat as described in Section 4.4, *Vegetation Resources*. For the purposes of analysis in the FRFO PRMP/FEIS, the wildlife analysis included big game, other game species (e.g., game birds), some small mammals, and other wildlife that are not designated as sensitive. The environmental consequences section for fish and wildlife (Section 4.6) focused primarily on big game species; additional analysis for special status animal species is provided in Section 4.5.1 (pp. 75–77).

Potential impacts are described in terms of the direction, extent, and duration of the effect. The descriptions are based on the comparing the baseline information on the resource/use with the degree of change due to alternative management actions and use several assumptions that set guidelines and reasonable projections that could occur within the planning area. The analysis includes indicators that are factors that describe the resource condition, change, and determine trends over time. Additionally the analysis describes the nature and type of effect on the resource/use; effects are described using “adverse” or “beneficial” to help the reader and decision-maker “understand the multiple-use tradeoffs associated with each alternative” (FRFO PRMP/FEIS p. 70). As noted in the FRFO PRMP/FEIS (p. 78), due to wildlife’s dependence on the habitat provided by the broad vegetation communities, the impacts to wildlife in general can be inferred from the effects on the big game species described. Presence or availability of these vegetation communities indicate potential available habitat data for these species in the Four Rivers Planning Area. Additionally, management action MA-FW-03 requires coordination with the Idaho Department of Fish and Game to identify and map habitats and corridors of big game species. BLM will consider these areas to reduce impacts to big game species during site-specific project implementation and travel management planning (FRFO PRMP/FEIS, p. 16). Accordingly, this protest is denied.

NEPA – Range of Alternatives

WildLands Defense

Katie Fite

Issue Excerpt Text: We Protest that there is no real range of alternatives for lands available vs. not available for grazing, and BLM has not taken a hard look at the highly beneficial effects of removing grazing to native biota and public use and enjoyment of these values.

Western Watersheds Project

Scott Lake

Issue Excerpt Text: all alternatives would open substantially the same amount of public land to livestock grazing, logging, and off-road vehicle use. Alternatives A, C, and D would open the entire field office-783,160 acres-to livestock grazing, while Alternative B would open 660,860 acres, largely by retaining ACEC and Wilderness Study Area (WSA) designations that restrict or preclude grazing. Id. at 28 & maps. Annual timber harvest goals and acreage vary from 1.3 million board feet (MMBF) and 430 acres under Alternative B and 1.7 MMBF and 500 acres under Alternative A. And under all alternatives, the vast majority of lands within the field office would be open to “limited” OHV use (737,660-750,290 acres), with comparatively insignificant areas classified as “open” or “closed. Id. at 34-35. In fact, no action alternative closes more that 5% of the field office to OHV use. See *Oregon Natural Desert Ass’n v. Bureau of Land Management*, 531 F.3d 1114 (2008) (invalidating EIS on similar grounds). The alternatives appear to vary primarily in terms of lands available for energy and mineral development-even though these uses have not been prevalent across the field office to date and, as discussed above, BLM has not considered all reasonably foreseeable development scenarios. Similarly, the main differences between Alternative B and the others seems to stem almost entirely from Alternative B retaining ACECs, Research Natural Areas, and Wilderness Study Areas, while the other alternatives do not. Without considering energy, minerals, or special designations, the four action alternatives appear to differ only superficially, if at all. The Final EIS is

therefore inconsistent with NEPA’s requirement that BLM consider “every reasonable alternative” in an EIS. *Citizens for a Better Henderson*, 768 F.2d at 1057. BLM appears to have engaged in a “result-biased” decisionmaking process whereby it decided to offer a certain amount of lands for extractive or otherwise degrading uses, and examined only alternatives that conformed with these narrow objectives. See *Citizens for Env’tl. Quality v. United States*, 731 F. Supp. 970, 990 (D. Colo. 1989) (invalidating a Forest Service Land and Resource Management Plan ((LRMP) on similar grounds).

Summary:

The BLM failed to consider a reasonable range of alternatives for the FRFO PRMP/FEIS (BLM 2020a) because a no-grazing or reduced-grazing alternative was not considered. The range of alternatives for the FRFO PRMP/FEIS is too narrow because the four action alternatives are too similar and allow approximately the same amount of public land to livestock grazing, logging, and off-road vehicle use.

Response:

The BLM is required to include a discussion of a range of reasonable alternatives to the proposed action, alternatives which are technically and economically feasible and which meet the purpose and need (42 U.S.C 4332(2)(C); 40 CFR § 1502.14; 40 CFR 1508.9(b); 43 CFR § 46.420(b)). If the BLM considers alternatives during the EIS process, but does not to analyze them in detail, the BLM must identify those alternatives and briefly explain why they were eliminated from detailed analysis (40 CFR 1502.14). The phrase “range of alternatives” includes all reasonable alternatives, which must be rigorously explored and objectively evaluated, as well as those other alternatives, which are eliminated from detailed study with a brief discussion of the reasons for eliminating them (BLM Handbook H-1790-1, § 6.6.1, quoting Question 1a, CEQ, Forty Most Asked Questions Concerning CEQ’s NEPA Regulations, March 23, 1981); see also 40 CFR Section 1502.14.

No specific or minimum number of alternatives is required (43 CFR § 46.310(b); 43 CFR § 46.415(b); *Native Ecosystems Council v. Forest Service*, 428 F.3d pp. 1233, 1246 (9th Cir. 2005); Biodiversity Conservation Alliance, et al., 183 Interior Board of Land Appeals [IBLA] pp. 97, 124 (2013)). A “rule of reason” standard guides the range of alternatives and does not require the BLM to include or evaluate every conceivable possible alternative (*Dep’t of Transp. v. Public Citizen*, 541 U.S. pp. 752, 767 (2004); *Vermont Yankee Corp. v. NRDC, Inc.*, 435 U.S. pp. 519, 551 (1978); *Pac. Coast Fed’n of Fishermen’s Ass’ns. v. Blank*, 693 F.3d pp. 1,084, 1,099 (9th Cir. 2012); *Headwaters, Inc. v. BLM*, 914 F.2d 1174, 1181 (9th Cir. 1990); *Southern Utah Wilderness Alliance*, 182 IBLA pp. 377, 390–391 (2012)).

The BLM must analyze a reasonable range of alternatives, but not every possible alternative, to a proposed action

in determining the alternatives to be considered, the emphasis is on what is “reasonable” rather than on whether the proponent or applicant likes or is itself capable of implementing an alternative.

“Reasonable alternatives” include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant (BLM NEPA Handbook, H-1790-1, at 50 (citing Question 2a, CEQ, Forty Most Asked Questions Concerning CEQ’s NEPA Regulations, March 23, 1981); see also 40 C.F.R. § 1502.14).

When there are potentially a very large number of alternatives, the BLM may only analyze a reasonable number to cover the full spectrum of alternatives. What consists of a reasonable range depends on the nature of the proposal and the facts of the case (BLM Handbook H-1790-1, § 6.6.1, quoting Question 1b, CEQ, Forty Most Asked Questions Concerning CEQ’s NEPA Regulations,

March 23, 1981). The BLM developed a reasonable range of alternatives that meet the purpose and need of the FRFO PRMP/FEIS and that address resource issues identified during the scoping period on accordance with NEPA. Because the range of alternatives depends on the nature and objectives of the proposed action and the facts of the case, the range of reasonable alternatives considered will be limited by such factors. In this instance, the BLM considered all issues related to the proposed action that were identified during scoping and created a range of reasonable alternatives responsive to those issues. The BLM also considered alternatives presented by the public during public review and comment periods (e.g., the No Grazing Alternative described in § 2.7, *Alternatives Considered but Not Analyzed in Detail*) and, where specific design components were consistent with the purpose and need for the project and were not already a part of an alternative being analyzed, included in the design of at least one alternative the measures requested or different measures resulting in the same outcome.

The FRFO PRMP/FEIS analyzed four alternatives, which are described in Chapter 2 (see FRFO PRMP/FEIS pp. 6 and 8). The alternatives analyzed in the FRFO PRMP/FEIS cover the full spectrum by varying in: 1) degrees of protection for each resource and use; 2) approaches to management for each resource and use; 3) mixes of allowable, conditional, and prohibited uses in various geographic areas; and 4) levels and methods for restoration. As noted on p. 7 of the FRFO PRMP/FEIS (§ 2.6, *Alternatives Considered but not Analyzed in Detail*), a no grazing alternative would not meet the purpose and need of the planning effort. FLPMA requires that public lands be managed on a multiple use and sustained yield basis (§§ 302(a) and 102(7)) and includes livestock grazing as a principal or major use of public land. While multiple use does not require all land be used for livestock grazing, complete removal of it from public land within the Four Rivers Planning Area is not consistent with FLPMA. Such an alternative would also be inconsistent with the intent of the Taylor Grazing Act, which directs BLM to “provide for livestock use of its lands; adequately safeguard grazing privileges; provide for the orderly use, improvement, and development of the range; and stabilize the livestock industry depending upon the public range.” Portions of the Four Rivers Planning Area are suitable for livestock grazing and have been used for that purpose for many years.

During the scoping period, planning issues that reflected fundamental problems to be addressed in the RMP and alternative development were identified (FRFO PRMP/FEIS pp. ES-1 and ES-2). These issues are reflected in three overarching themes regarding BLM-administered lands within the FRFO and formed the basis for the alternatives:

- Management of the Scattered BLM-administered Lands Base
- Balancing Increasing Public Demand with Conservation of Fragile Resources
- Balancing Resource Use (including energy development) with other uses of BLM-administered Lands

The FRFO PRMP/FEIS notes on p. ES-2 that the FRFO Draft RMP/EIS developed four alternatives to address the planning issues listed above. Management changes would be most apparent in recreation management, fuels management, and minerals management. The FRFO Draft RMP/ EIS presented the specific details of alternatives relating to resources and resource uses in Table 2.1 (BLM 2019). In response to public and cooperating agency comments on the FRFO Draft RMP/EIS, the FRFO PRMP/FEIS incorporates clarifications to the proposed management actions and analysis in the vegetation, special status species, fish and wildlife, aquatic resources, wild horses, fire ecology and fuels management, visual resources, forestry and woodland management, livestock grazing, travel and transportation management, lands and realty, mineral resources, hazardous materials and public safety, and special designations (p. 7, FRFO PRMP/FEIS).

The BLM considered a reasonable range of alternatives in the FRFO PRMP/FEIS in full compliance with NEPA. Accordingly, your protest is denied.

NEPA – Water Resources, Riparian Areas, and Wetlands

Western Watersheds Project

Scott Lake

Issue Excerpt Text: The Final EIS and proposed RMP fail to take a “hard look” at impacts to riparian areas, wetlands and water quality. BLM’s assessment of riparian and aquatic conditions and impacts is based almost entirely on the “proper functioning condition” monitoring protocol. See Final EIS at 81- 82. BLM assumes throughout its analysis that Proper Functioning Condition ((PFC) ratings represent an adequate proxy for riparian and in-stream habitat quality. However, PFC is a measure of minimal hydrological function, and is thus wholly inadequate for managing and protecting fish and wildlife habitat. BLM has specifically explained in describing the function of a PFC that it is not intended to evaluate fish habitat.

Western Watersheds Project

Scott Lake

Issue Excerpt Text: The Final EIS and proposed RMP also replace the current RMP’s Inland Native Fish Strategy (INFISH) with a new framework—the Aquatic Resource Management Strategy (ARMS). However, unlike INFISH, the ARMS contains no specific management direction or quantifiable habitat standards, and the Final EIS fails to analyze the environmental impacts of this significant change in management...the ARMS contains no stream- or watershed-specific management direction. Rather, it describes the process by which BLM will designate Riparian Habitat Conservation Areas (RHCAs). It is unclear, however, how specific RHCAs will be managed, or even at what stage in the planning process they will be designated. The net result is that the public is unable to determine from the Draft Environmental Impact Statement (DEIS) how specific stream reaches and fish species will be managed and impacted. This falls well short of NEPA’s “hard look” mandate.

Summary:

The FRFO PRMP/FEIS (BLM 2020a) failed to take a “hard look” as required by NEPA in the impacts analysis for riparian areas, wetlands, and water quality by relying on the BLM’s proper functioning condition methods and changing from the INFISH framework to the ARMS. The impact analysis for riparian areas, wetlands, and streams is inadequate because the FRFO PRMP/FEIS does not contain stream or watershed-specific management actions. BLM also failed to provide management and impacts analysis for specific stream reaches and fish species.

Response:

The BLM must make a comprehensive consideration of a proposed action, to evaluate different courses of action (take a “hard look” at the environmental consequences) (*Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976), n. 21; *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989)). The agency may not rely on incorrect assumptions or data when analyzing effects (*Native Ecosystems Council v. U.S. Forest Service*, 418 F.3d 953, 964 (9th Cir. 2005)). The BLM takes a “hard look” when the NEPA document contains a “reasonably thorough” discussion of an action’s environmental consequences, and the agency can make an informed decision about whether there are any significant environmental impacts (*Nat’l Parks and Conservation Ass’n. v. BLM*, 606 F.3d 1058, 1072 (9th Cir. 2010) (citing *State of California v. Block*, 690 F.3d 753, 761 (9th Cir. 1982)); *Biodiversity Conservation Alliance, et al.*, 171 IBLA 218, 226 (2007)) (internal citations omitted). The effects analysis must demonstrate that the BLM took a “hard look” at the impacts of the action (BLM NEPA Handbook, H-1790-1, 6.8.1.2, *Analyzing Effects*). The CEQ regulations specify that the environmental information made available to public officials and citizens before decisions are made must be of “high quality” (40 CFR 1500.1(b)).

A “hard look” is a reasoned analysis containing quantitative or detailed qualitative information. (BLM NEPA Handbook, H-1790-1, 6.8.1.2, *Analyzing Effects*). The BLM must use information of high quality and scientific integrity in its NEPA analysis, including information provided as part of the public involvement (40 CFR 1500.1(b) and 1502.24). The NEPA documents are to be analytic, rather than encyclopedic (40 CFR 1500.4(b) and 1502.2(a)). The NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)).

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the FRFO PRMP/FEIS.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (i.e., impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, § 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions.

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions (e.g., the BLM is not approving an Application for Permit to Drill to start drilling), the scope of the analysis was conducted at a regional, programmatic level. The FRFO PRMP/FEIS analysis of riparian areas, wetlands, and water quality identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

Appendix F (*Aquatic Resources*) of the FRFO PRMP/FEIS notes that because the Proper Functioning Condition (PFC) assessment compares each stream to its own potential, it is universally applicable to all by the most highly modified perennial and intermittent streams. Over the past 20 years, nearly all perennial streams and wetlands in the Four Rivers Planning Area have been assessed for PFC at least once (p. F-4 of the FRFO PRMP/FEIS). The majority of perennial flow regime streams were assessed on-site using protocols in either Technical Reference (TR)-1737 (1996) or the most recent TR 1737-15 (2015). Streams and wetlands in remote or difficult to access areas, or in areas where a Standards and Guidelines Assessment has not been completed, were sometimes rated for PFC employing guidance found in *Using Aerial Photographs to Assess Proper Functioning Condition of Riparian-Wetland Areas* TR-1737-12 (1996) (p. F-4 of the FRFO PRMP/FEIS). The FRFO PRMP/FEIS analysis relies on PFC data, and Multiple Indicator Monitoring (MIM) of Stream Channels and Streamside Vegetation using protocols outlined in TR 1737-23 (2011). Although these are broader assessments related to habitat and riparian conditions, water quality assessments and potential fish habitat suitability can be correlated to these protocols.

Management action MA-AR-02 (p. 17 of the FRFO PRMP/FEIS) prescribes management of streams and springs that are not achieving PFC in order to achieve or make progress towards achieving PFC in the following order, listed by priority:

1. Fish-bearing streams with special status species (e.g., redband and bull trout)
2. 303(d) listed streams

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3. Fish-bearing streams
 4. Streams with perennial flows
 5. Springs and associated wetland complexes ≥ 0.5 -acres
 6. Naturally occurring ponds/lakes

Additionally, Appendix F of the FRFO PRMP/FEIS (p. F-10) contains management actions designed to protect aquatic/fish habitats and water quality and lists Standard Operating Procedures applicable to the proposed plan.

Regarding the protestant's contention that the ARMS would replace the INFISH framework, the BLM responded to this issue in Appendix Z of the FRFO PRMP/FEIS noting that "BLM-managed lands occur within a mix of ownerships and the management direction provides for achieving habitat objectives within the framework of mixed ownerships" (p. Z-7). Further, the discussion of Bull Trout critical habitat in the BA explains that the ARMS "is consistent with the Inland Native Fish Strategy (INFISH) (USDA, 1995, entire) in bull trout occupied watersheds" (p. 53), in that the ARMS "consolidates the guidance and programmatic direction for watershed and sub-watershed riparian and aquatic conservation and restoration within the project area (Appendix 4.4 [also Appendix F of the PRMP/FEIS]). Further the ARMS conforms to the implementation guidance for the Aquatic and Riparian Habitat component of the Interior Columbia Basin Strategy and Aquatic Framework (USFS et al., 2008, entire). The ARMS was created to support the goals, objectives, and management actions identified in the RMP for Water Resources, Riparian Areas and Wetlands, Fish, and Special Status Species" (p. 53). Additionally, the FRFO PRMP/FEIS analyzed impacts related to the Special Status Species Plants in the context of both INFISH and ARMS. As noted in the effects discussion under the *Acres Avoided or Excluded from Surface-Disturbing Activities near EOs* indicator, "Buffering streams according to INFISH guidance and ARMS (Appendix F), would reduce impacts associated with surface-disturbing activities. Erosion and increased sedimentation as a result of surface-disturbing activities outside the buffers could have impacts on SSPs and their habitats in localized areas. Wetland-associated SSPs such as Cusick's camas, shining flat sedge, stalk-leaved monkeyflower, Indian Valley sedge, Douglas' clover, and Bacigalupi's dowingia, and their habitats, would experience fewer disruptive impacts from the establishment of riparian buffers" (p. 77).

Potential impacts are described in terms of the direction, extent, and duration of the effect. The descriptions are based on the comparing the baseline information on the resource/use with the degree of change due to alternative management actions and use several assumptions that set guidelines and reasonable projections that could occur within the planning area. The analysis includes indicators that are factors that describe the resource condition, change, and determine trends over time. Additionally, the analysis describes the nature and type of effect on the resource/use; effects are described using "adverse" or "beneficial" to help the reader and decision maker "understand the multiple-use tradeoffs associated with each alternative" (FRFO PRMP/FEIS p. 70). This method is seen in Section 4.6 (*Fish and Wildlife*) of the FRFO PRMP/FEIS where there is a discussion of impacts for acres of disturbance within floodplains and streambeds (FRFO PRMP/FEIS p. 78). Table 4.4.2 of the FRFO Draft RMP/EIS (p. 94) estimates acres of permitted disturbance (e.g., new rights-of-way, new rock and mineral extraction, new roads and trails, commercial logging/firewood extraction, etc.) by alternative. Effects of the Proposed Plan are similar to those described for Alternative D in the FRFO Draft RMP/EIS. Impacts on riparian and wetland areas in the planning area are described in several sections of the FRFO PRMP/FEIS, including Section 4.5, *Special Status Species*, on pp. 76–77 and Section 4.6, *Fish and Wildlife*, on pp. 79–80. Further, Section 4.7, *Aquatic Resources*, provides impact analysis of riparian, wetlands, and water quality (FRFO PRMP/FEIS pp. 81–82).

The BLM complied with NEPA's requirement to analyze the environmental riparian areas, wetlands, water quality, and fish habitat in the FRFO PRMP/FEIS. Accordingly, the protest is denied.

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