



Wyoming Association of Conservation Districts
517 E. 19th Street - Cheyenne, WY 82001 - Phone: 307-632-5716 - Fax: 307-638-4099
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October 1, 2019

Mr. Chris French
Objection Reviewing Officer
United States Forest Service
UNITED STATES DEPARTMENT OF AGRICULTURE
1400 Independence Ave., SW,
EMC-PEEARS, Mailstop 1104
Washington, DC 20250
<https://cara.ecosystem-management.org/Public/CommentInput?project=52904>

RE: Objection regarding the Greater Sage-grouse Draft Record of Decision and Land Management Plan Amendment for National Forest Service Land in Wyoming – Request to Participate as an Interested Person

Dear Mr. French:

On behalf of the Wyoming Association of Conservation Districts (WACD), I am writing to request the opportunity to participate in meetings related to objections to the United States Forest Service's (the "Service") Greater Sage-grouse Draft Record of Decision (DROD) and Final Environmental Impact Statement (FEIS) for the Land Management Plan Amendments (LMPA) regarding National Forest System Lands in Wyoming (the "Draft ROD"). WACD has been actively engaged in the Service's Sage-grouse plan amendment process as a cooperating agency and we do not object to the Draft ROD as proposed but wish to remain involved to support the proposed action, understand objections and to stay apprised of potential changes to the decision.

As per the Service's September 2019 Sage-grouse Bulletin #13, any cooperating agency that participated in the National Environmental Policy Act ("NEPA") process for the Draft ROD has "automatic standing as Interested Persons, but they must contact the Forest Service to request the status." Based on this guidance and through this correspondence, WACD is formally requesting interested person status in all meetings addressing objections to the Draft ROD.

However, the Service indicates in the Draft ROD itself that interested persons "must have previously submitted substantive formal comments related to the objection issues," are required to "identify the specific issues they have interest in discussing" in their request and "will be able to participate in discussions related to issues on the agenda that they have listed." It is unclear whether these requirements and limitations apply to cooperating agencies, or if cooperating agencies are entitled to attend all meetings and discuss all issues regardless of previous comments or topics listed.

In the event the Service is adopting policy language in the Draft ROD, WACD indicates here that it has submitted substantive formal comments, which are attached to this letter, and requests the opportunity to participate in discussions on the following issues:

CONSERVATION – DEVELOPMENT – SELF-GOVERNMENT

- a. Alignment with the State of Wyoming Sage-grouse Core Area Protection Executive Order;
- b. The elimination of sagebrush focal areas in lieu of the State of Wyoming's Core Area Protection Strategy;
- c. The adjustment of habitat management area maps to be consistent with Wyoming's current core area maps;
- d. Mitigation requirements, including the removal of the "net conservation gain" requirement;
- e. The use of compensatory mitigation and consistency with the Wyoming Revised Greater Sage-grouse Compensatory Mitigation Framework;
- f. Desired conditions related to seasonal habitat;
- g. Grazing guidelines;
- h. Recognition and protection of private property rights including split estate situations;
- i. Adaptive management;
- j. Invasive plants and species; and
- k. The Draft ROD's use of plan components and optional plan content.

While WACD supports the Draft ROD as proposed and the efforts the Service has made to better align with the agency's Greater Sage-grouse Land Use Management Plans and the State of Wyoming's Sage-grouse Core Area Protection Executive Order, we reserve the right to participate in subsequent litigation as plaintiff if the Service alters its proposed decision in a way objectionable to WACD, or as intervenor supporting the Service's final decision.

We appreciate the opportunity to participate in the process and we look forward to continuing to work with the Service, other cooperating agencies and objectors to reach a Final ROD. Should you have questions or require additional information, please do not hesitate me at (307) 632-5716 (bobbie.frank@conservewy.com).

Sincerely,



Bobbie K. Frank
Executive Directors

CC: The Honorable Governor Mark Gordon
United States Senator Mike Enzi
United States Senator John Barrasso
United States Congresswoman Liz Cheney
WACD Board of Directors
Wyoming Conservation Districts
National Association of Conservation Districts

Attachment



Wyoming Association of Conservation Districts
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August 15, 2018

Mr. John Shivik
Forest Service Intermountain Region
UNITED STATES DEPARTMENT OF AGRICULTURE
Federal Building
324 25th Street
Ogden, Utah 84401
Email: comments-intermtn-regional-office@fs.fed.us

RE: Supplemental Notice of Intent to Prepare an Environmental Impact Statement (EIS) and Amend Land Use Plan's (LMP) regarding Greater Sage-Grouse (GRSG) Conservation (Federal Register Volume 83, Number 119, Page 28608, dated June 20, 2018)

Dear Mr. Shivik:

The Wyoming Association of Conservation Districts (WACD) appreciates the opportunity to comment on the above referenced notice to amend Wyoming's Land Use Plans regarding Greater Sage-Grouse Conservation. The WACD represents Wyoming's 34 local conservation districts, which are political subdivisions of state government.

The Conservation Districts are statutorily charged with natural resource conservation, including water, soil, range and wildlife habitat. Further, the districts have the responsibility to work with private land owners to conserve their natural resources for economic stability and sustainability. §§ 11-16-101 *et. seq.*

The Conservation Districts play an integral role in the implementation of Sage-Grouse conservation through project implementation, rangeland health assessments, research on impacts to grouse as well as many other affiliated conservation efforts.

WACD provides the following comments for consideration by the Forest Service (FS):

General

- State of Wyoming Comments -- WACD endorses, and incorporates by reference, comments submitted by Wyoming Governor Matt Mead and specifically the Wyoming Department of Agriculture (WDA).
- Support Wyoming EO -- WACD strongly supports the Wyoming Executive Order 2015-4 and the FS effort to align their Land Management Plan's (LMPs) to be consistent with the EO to the greatest extent possible. Through the Sage Grouse Implementation Team (SGIT), the EO was developed by a cross section of stakeholders representing a multi-jurisdictional, cross-governmental and citizen-inclusive collaborative working group, of which WACD members participated. The framework that was established as a result of this effort was supported by the Fish and Wildlife Service as a regulatory mechanism that would in fact

protect long-term viability of sage grouse habitat and therefore, sage grouse populations. WACD generally supports the proposed action with additional modifications that are addressed in our comments below.

- Adaptive Management -- With regard to adaptive management, WACD recommends that the LMPs be revised to be consistent with the EO. The EO incorporates an approach that considers current conditions, impacts, restoration, monitoring and trends. Overlapping adaptive management processes only leads to confusion and inefficient implementation. This process must be streamlined between the federal agencies and policies should defer to states to the greatest extent possible.

In addition, the FS should add language to be more consistent with the BLM Greater Sage-Grouse Conservation DEIS Management Alignment Alternative that says “The Adaptive Management Working Group would define a process to review and reverse adaptive management actions once the identified causal factor is resolved (e.g. returning to previous management once objectives of interim management strategy have been met.) Adding language that is consistent with the State EO and between federal agencies will assist in minimizing confusion.

- Appendices – WACD is significantly concerned that no mention is made with regard to revising appendices to the current LMPS with the exception of Appendix B and XX. If changes made to the main body of the LMPs are not made to corresponding appendices, inconsistencies will exist which will not only cause confusion but will also leave the FS legally vulnerable. At the very least, the FS should add a sentence to the LMP amendments stating that “in the case of inconsistency between text in the LMP amendment and the original LMP appendices, the LMP amendment text shall take precedence.” However, the best course of action is to ensure that changes made to the main body of the Wyoming Sage-Grouse LMPs are also applied to the corresponding appendices.

In addition, WACD supports the FS decision to change the identification of Table 1 to Appendix XX as it provides the agency with additional flexibility to administer changes, in a timely manner, to remain consistent with the Wyoming EO.

- Boundary Consistencies -- The PHMA boundary map being utilized by the FS is inconsistent with the Wyoming Core Area Map. Through the land use planning process, the FS added new areas to PHMA within the State of Wyoming that are neither consistent with the Wyoming Core Area Map nor supported by valid science. In order to alleviate confusion and to provide the best science-based protection for GRSG, WACD recommends the FS revise its PHMA boundaries to be consistent with those in the Version 4 Wyoming Core Area Map. We further recommend this be done through a maintenance action or the equivalent under the FS regulations, much the same as was recently completed by the Bureau of Land Management (BLM) to adopt Version 4 of the Wyoming Core Area Map into its Wyoming GRSG plan amendments.
- Grazing and Table 2 – WACD supports the FS decision to remove Table 2 in the Greater Sage-Grouse (GRSG) LMP amendment. Simply put, Table 2 was not included in the 2015 WY LMP Draft Environmental Impact Statement and the public did not receive adequate notice and opportunity to comment on or participate in the GRSG LMP Amendment/Revision process that culminated in the 2015 WY USFS Record of Decision for the LMP Amendment; therefore, eliminating Table 2 was the appropriate course of action by the FS.
- Private Property Rights -- WACD remains concerned that the consequences of federal stipulations, mitigation and policy directives continue to impact private property rights specifically where split estate lands exist.

In the Wyoming EO on page 4, item 4, it outlines that “...activities on private lands are not subject to state or federal agency review or approval. Only those activities which state agencies are required by state or federal law to review or approve are subject to review for consistency...The additional habitat included

within the Core Population Area boundaries is adequate to accommodate continuation of existing land uses and landowner activities. Existing land uses and landowner activities deemed to have negligible or no impacts to Greater Sage-grouse are exempt from review for consistency under this Executive Order...”

The FS needs to include similar language that they will respect and support the protection of private property rights to the maximum extent allowed by law, regulations, policies, etc.

- Sagebrush Focal Areas – WACD supports the Department of Agriculture and Department of the Interior’s decision to eliminate sagebrush focal areas (SFA) from the LMPs as these areas were proposed for mineral withdrawal under the 2015 GRSG LMPs. The move to eliminate SFAs is consistent with the Department of the Interior’s decision to cancel the proposed withdrawal on October 11, 2017.

GRSG-GRSGH-DC-002-Desired Condition, page 2, Proposed Action

WACD supports proposed language submitted by the State of Wyoming.

GRSG-GRSGH-DC-002-Desired Condition, page 2, Proposed Action (footnote), page 2

WACD supports proposed language submitted by the State of Wyoming.

GRSG—TDDD-ST-015-Standard, page 6, Proposed Action – Compensatory Mitigation

With regard to compensatory mitigation requirements, WACD supports the Wyoming EO wherein compensatory mitigation is only required in core areas (identified by FS as Priority Habitat Management Areas (PHMAs)) and only if specific core area (PHMA) thresholds are exceeded. We further support the idea of consistent application of compensatory mitigation ratios as outlined in the EO’s Compensatory Mitigation Framework. In order for the LMPs to be consistent with the EO in these areas, the LMPs need to be changed to eliminate all compensatory mitigation requirements outside of core areas (identified by FS as General Habitat Management Areas (GHMAs)) and to only require compensatory mitigation in core areas (PHMAs) when specific thresholds are exceeded.

In addition, WACD supports the removal of the net conservation gain standard from all management actions across all LMPs and the FS intent to follow the Wyoming EO regarding the Revised Greater Sage-Grouse Compensatory Mitigation Framework.

GRSG-TDDD-ST-XX-Standard, page 6, Proposed Action – Compensatory Mitigation Framework

WACD supports the added language under this standard as it should be consistent with the Revised Greater Sage-Grouse Compensatory Mitigation Framework.

GRSG-TDDD-GL-XX-Guideline, page 6, Proposed Action – Designated Corridors and Rights-of-Way

WACD supports the added language under this guideline as it should be consistent with the Wyoming EO.

GRSG-GRSGH-GL-XX-Guideline, page 11, Proposed Action – Early Detection and Rapid Response

WACD supports the addition of this language to broaden the context of Early Detection and Rapid Response strategies for invasive species management and prioritize treatments. Furthermore, the FS should coordinate treatment and implementation strategies with the effected counties, conservation districts and weed and pest districts prior to implementing these treatments.

GRSG-LG-GL-037- Guideline, page 13, Proposed Action – Habitat Assessment Framework

WACD supports proposed language submitted by the State of Wyoming. We encourage the FS to utilize the State of Wyoming's livestock grazing management guidelines and regulations to determine appropriate desired conditions at sites capable of producing GRSG habitat. Furthermore, the FS should work with state agencies, local governments and grazing permittees during the process when determining specific grazing guidelines.

GRSG-LG-GL-038-Guideline, page 13, Proposed Action – Thunder Basin National Grassland Allotments

WACD supports deletion of this guideline in the proposed action.

GRSG-LG-GL-039-Guideline, page 13, Proposed Action – Grazing Permits Waived Without Preference

WACD supports deletion of this guideline in the proposed action.

GRSG-FM-GL-053-061-Guidelines; GRSG-RT-ST-073-074-075-077-Standards and GRSG-M-FML-ST-084 Standard, Current 2015 LRMP Directive Alternative -- Sagebrush Focal Areas

To remain consistent with the document, WACD recommends that the FS delete sagebrush focal areas language from the Current 2015 LRMP Direction Alternative.

GRSG-M-CM-GL-095-Guideline, page 26, Proposed Action -- Suitability Criteria

WACD believes this standard should be deleted in its entirety as the regulations cited go far beyond the scope of this effort and are inconsistent with the Wyoming EO.

GRSG-M-CM-GL-095-Guideline, page 26, Proposed Action – Coal Leases

WACD supports the deletion of this guideline under the proposed action.

In conclusion, WACD believes the steps taken by the FS to align with the Wyoming Executive Order is critical to successful species and habitat management. Coordinating and combining resources between the state, local governments and federal agencies ensures the success of long-term approaches that benefit all parties affected by the Greater Sage-Grouse and conservation management.

Thank you again for the opportunity to provide comments on this critical land management issue. A tremendous amount of time and effort has been expended both in the development of Wyoming EO as well as implementation of the on-the-ground conservation efforts in Wyoming, which demonstrates our commitment to the conservation of the Sage-Grouse and its habitat.

Sincerely,



Bobbie K. Frank
Executive Director

CC: WACD Board of Directors
Conservation Districts
National Association of Conservation Districts



Wyoming Association of Conservation Districts
517 E. 19th Street - Cheyenne, WY 82001 - Phone: 307-632-5716 - Fax: 307-638-4099
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January 3, 2019

Via: <https://cara.ecosystem-management.org/Public/CommentInput?project=52904>

Mr. John Shivik
Forest Service Intermountain Region
UNITED STATES DEPARTMENT OF AGRICULTURE
Federal Building
324 25th Street
Ogden, Utah 84401
Email: comments-intermtn-regional-office@fs.fed.us

RE: Notice of Availability of the Draft Greater Sage-grouse Proposed Land Management Plan Amendments (LMPA) and Draft Environmental Impact Statement (DEIS) for the Intermountain and Rocky Mountain Region (Volume 83, Page 50331-50332, Document Number 2018-21619, dated October 5, 2018)

Dear Mr. Shivik:

The Wyoming Association of Conservation Districts (WACD) appreciates the opportunity to comment on the above referenced document to amend Wyoming's Land Management Plans (LMP) regarding Greater Sage-grouse Conservation. The WACD represents Wyoming's 34 local conservation districts, which are political subdivisions of state government.

The Conservation Districts are statutorily charged with natural resource conservation, including water, soil, range and wildlife habitat. Further, the districts have the responsibility to work with private land owners to conserve their natural resources for economic stability and sustainability. §§ 11-16-101 *et. seq.*

The Conservation Districts play an integral role in the implementation of Sage-grouse conservation through project implementation, rangeland health assessments, research on impacts to grouse as well as many other affiliated conservation efforts.

WACD provides the following comments for consideration by the Forest Service (FS):

General

- State of Wyoming Comments – WACD worked closely with the State of Wyoming and the Wyoming Department of Agriculture (WDA) throughout the DEIS public comment period process to address issues of concern with the Forest Service, many of which were captured through the comments submitted by the State of Wyoming. Therefore, to reduce redundancy WACD endorses, and incorporates by reference, comments submitted by Wyoming Governor Matt Mead, with specific attention toward Chapter 2, Table 2-9 – Wyoming – Comparison of Alternatives.
- Support Wyoming EO -- WACD strongly supports the Wyoming Executive Order 2015-4 (EO) “Greater Sage-Grouse Core Area Protection” and the FS effort to align their LMPs to be consistent with the EO to the greatest extent possible. Through the Sage Grouse Implementation Team (SGIT), the EO was developed by a cross section of stakeholders representing a multi-jurisdictional, cross-governmental and citizen-inclusive collaborative working group, of which WACD members participated. The framework that was established as a result of this effort was supported by the Fish and Wildlife Service as a regulatory mechanism that would in fact protect long-term viability of Sage-grouse habitat and therefore, Sage-grouse populations. WACD generally supports the proposed action with additional modifications that are addressed in our comments below.
- Private Property Rights -- WACD remains concerned that the consequences of federal stipulations, mitigation and policy directives continue to impact private property rights.

In the Wyoming EO on page 4, item 4, it outlines that “...activities on private lands are not subject to state or federal agency review or approval. Only those activities which state agencies are required by state or federal law to review or approve are subject to review for consistency...The additional habitat included within the Core Population Area boundaries is adequate to accommodate continuation of existing land uses and landowner activities. Existing land uses and landowner activities deemed to have negligible or no impacts to Greater Sage-grouse are exempt from review for consistency under this Executive Order...”

The FS needs to include similar language that they will respect and support the protection of private property rights to the maximum extent allowed by law, regulations, policies, etc.

- 1.4 Proposed Action, page 1-4 & 1-5 – WACD supports the FS proposed action items 1-11 listed under 1.4 along with the following comments:
 1. Sagebrush Focal Areas (SFA) – WACD supports the FS decision to eliminate SFAs from the LMPs as that is consistent with the Department of the Interior’s decision to cancel the proposed withdrawal on October 11, 2017.
 5. Habitat Management Areas (HMA) – WACD supports the FS decision to align its HMAs with the State of Wyoming EO with the most current and up to date core area maps. Furthermore, WACD supports this action being considered as a Management Approach (GRSG-GEN-MA-012) as this promotes a more flexible

management method to provide consistency of GRSG habitat protection state wide as boundaries are modified to reflect changing conditions.

6. Livestock Management Guidelines or Table 2 -- WACD supports the FS decision to remove Table 2 in the Greater Sage-Grouse (GRSG) LMP amendment. WACD supports additional recommendations provided by the State of Wyoming in their specific comments. Habitat Framework Assessments, rangeland monitoring information, site capability, and Ecological Site Descriptions should all be used when determining habitat and desired conditions.

In addition, we continue to support the utilization of the State of Wyoming's livestock grazing management guidelines and regulations to determine appropriate desired conditions at sites capable of producing GRSG habitat. The FS must work with state agencies, local governments and grazing permittees during the process when determining specific grazing guidelines.

7. Invasive Plant Species -- WACD supports the addition of this language to broaden the context of Early Detection and Rapid Response strategies for invasive species management and prioritize treatments. Furthermore, the FS should coordinate treatment and implementation strategies with the effected counties, conservation districts and weed and pest districts prior to application on-the-ground.
8. Adaptive Management -- With regard to adaptive management, WACD supports revisions to the LMPs to be consistent with the EO. Additionally, WACD supports the FS proposal to amend GRSG-GRSGH-ST-005 Standard and to create GRSG-GEN-MA-006 Management Approach, providing that the Adaptive Management Working Group will establish a process to reverse management actions once the factor identified as causing the negative impact on the Sage-grouse is resolved.
10. Compensatory Mitigation -- With regard to compensatory mitigation requirements, WACD supports the Wyoming EO wherein compensatory mitigation is only required in core areas (identified by FS as Priority Habitat Management Areas (PHMAs)) and only if specific core area (PHMA) thresholds are exceeded. We further support the idea of consistent application of compensatory mitigation ratios as outlined in the EO's Compensatory Mitigation Framework. In order for the LMPs to be consistent with the EO in these areas, the LMPs need to be changed to eliminate all compensatory mitigation requirements outside of core areas (identified by FS as General Habitat Management Areas (GHMAs)) and to only require compensatory mitigation in core areas (PHMAs) when specific thresholds are exceeded. We also support the FS proposal to adjust and clarify GRSG-TDDD-MA-024 as a Management Approach as this is the appropriate method for managing situations where compensatory mitigation may be necessary.

WACD also supports the removal of the net conservation gain standard from all management actions across all LMPs and the FSs intent to follow the Wyoming EO regarding the Revised Greater Sage-Grouse Compensatory Mitigation Framework. It is recommended that the FS include a process by which they will consult with the State of Wyoming regarding the need to apply compensatory mitigation.

Finally, WACD encourages the FS to revise language in Table 2-9, Appendix F and Appendix G to clarify that they will rely on, not simply consider, the Wyoming Compensatory Mitigation Framework when determining the nature of required mitigation and will consult with the State of Wyoming.

- 2.3.2 Alternative 2 – Proposed Action, page 2-21, paragraphs 6 – The FS notes that “To be consistent with the planning rule, those plan components of the 2015 Greater Sage-Grouse Plan Amendments that do not meet the definitions for plan components in 36 CFR 219.7(e)(1) were changed to management approaches.”

While WACD generally supports the FS management provision of allowing for management approaches as provided under the 2012 Planning Rule, we would caution the FS that sufficient rationale must be provided as to why any Standard or Guideline was changed to reflect a Management Approach in the planning process. Management Approaches do provide for a level of flexibility that is beneficial when managing changing conditions on the landscape and this method will assist the FS in aligning with the state EO in a timely manner.

- 4.3 Analytical Assumptions, page 4-202, bullet point one – The FS states that “...Budgets are expected to remain flat or decrease in the future...To analyze effects without consideration of expected budgets would be a misrepresentation of expected outcomes.”

WACD remains concerned with the structure of the FS budgeting process. The FS openly admits that with budgets remaining flat or decreasing in the future, there is little faith that the agency will be able to comply with management provisions in their plans. Even if the agency were appropriating a sufficient level of funds to manage their operational programs, “fire borrowing” is most likely to occur every Fiscal Year, leaving the agency with virtually no funding and unable to meet its objectives in the FS plans.

Congress and Department of Agriculture must take the lead in revisiting how their budgeting process is working and develop a system that provides for a more stable funding mechanism to implement and comply with management objectives and program obligations. Without that consistent stream of funding, the agency will continue to struggle in implementing their duties and complying with laws, rules, regulations and policies.

In conclusion, WACD believes the steps taken by the FS to align with the Wyoming Sage-grouse Executive Order is critical to successful species and habitat management. Coordinating and

combining resources between the state, local governments and federal agencies ensures the success of long-term approaches that benefit all parties affected by the Greater Sage-grouse and conservation management.

Thank you again for the opportunity to provide comments on this critical land management issue. A tremendous amount of time and effort has been expended both in the development of Wyoming EO as well as implementation of the on-the-ground conservation efforts in Wyoming, which demonstrates our commitment to the conservation of the Sage-grouse and its habitat.

Sincerely,

A handwritten signature in cursive script that reads "Bobbie K. Frank". The signature is written in dark ink and is positioned above the typed name.

Bobbie K. Frank
Executive Director

CC: WACD Board of Directors
Conservation Districts
National Association of Conservation Districts
Congressional delegation