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Organization: Campbell County, Board of Commissioners

Title: Chairman

Comments: Dear Supervisor Bacon:

On behalf of the Board of Commissioners of the Tri County Coalition, which includes Campbell, Converse, and Weston Counties, please find attached a comment letter regarding the Thunder Basin National Grasslands 2020 Plan Amendment Draft Environmental Impact Statement (DEIS) Comments dated October of 2019.

Regards,

Tri County Coalition

Board of Commissioners

On behalf of the Board of Commissioners of the Tri County Coalition, which includes Campbell, Converse, and Weston Counties (Counties), we would like to thank you for allowing us the opportunity to provide comments on the above referenced document. Management of the Thunder Basin National Grasslands (TBNG) has been a historically contentious issue and this plan amendment has a significant impact on the socio-economic viability of our counties and its residents. Management of the TBNG needs to be refocused to achieve a more balanced playing field and minimize conflict between stakeholders and this DEIS moves in that direction.

The Counties have been engaged in the entire planning process with the Forest Service (FS) and will remain committed to continuing to work within the process as a cooperating agency and a participant in the TBNG Stakeholder Collaborative Group to find solutions and implement on-the-ground treatment and restoration projects that will control prairie dog densities, focus on short grass prairie stature for vegetation, allow livestock permittees to fully utilize grazing allotments, while prioritizing the protection of private property.

The Counties are providing the following comments to be considered by the FS as we move toward development of the preferred alternative and the Final Environmental Impact Statement (FEIS) in the plan amendment process. It is insinuated that any comments submitted herein specific to the DEIS document would also apply to the appropriate sections in Appendix A- Proposed Plan Components in Table and Text Format and Appendix B - Proposed Approaches to Prairie Dog Management.

GENERAL COMMENTS

[bull] County Land Use Plans-As a part of our county's custom and culture, the protection of private property rights is the cornerstone of our local natural resource plans. We must promote being a good neighbor with our landowners and prevent undue degradation from occurring. As consistent with our county plans, federal land management agencies must provide for sufficient livestock forage where grazing allotments exist and a balance must be achieved with competing wildlife habitat. The FS must demonstrate that they considered local county natural resource plans and are consistent with local plans to the greatest extent allowed by law and that analysis must be included in the FEIS.

Furthermore, pursuant to the National Environmental Policy Act (NEPA) and the National Forest Management Act (NFMA), the Forest Service must coordinate with local governments when preparing land use plans-a requirement which includes addressing inconsistencies between Forest Service plans and local government plans.

NEPA's implementing regulations require that a federal agency "cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements." 40 C.F.R. [sect] 1506.2. Federal agencies must also discuss any inconsistencies between a proposed action and State and local plans and include in an EIS a description of the extent to which the agency would harmonize its proposed action with the local law or plan. *Id.* NEPA implementing regulations provide the following language:

"To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law." *Id.* [sect] 1506.2(d); see also 40 C.F.R. [sect] 1505.16(c).

The National Forest Management Act (NFMA) requires the Forest Service to "develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other Federal agencies." 16 U.S.C. [sect] 1604(a) (emphasis added). The 2012 Planning Rule emphasizes this requirement:

"The responsible official shall coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments." 36 C.F.R. [sect] 219.4(b)(1).

The 2012 Planning Rule also provides that the responsible official shall review the planning and land use policies of federally recognized Indian Tribes, Alaska Native corporations, other Federal agencies, and State and local governments, were relevant to the plan area." 36 C.F.R. [sect] 219.4(b)(2). While the Forest Service is not required to comply with these plans, a final EIS must contain results of this review, including consideration of objectives, the compatibility and interrelated impacts of Forest Service plan and local government policies, opportunities to contribute to common objectives and ways to reduce conflicts between a Forest Service plan and local policies. 36 C.F.R. [sect] 219.4(b)(2).

Additionally, the FS must recognize and honor valid existing rights and pre-existing rights in the TBNG Plan Amendment including, but not limited to, private property rights, grazing rights and mineral rights. These are the foundation of the economic engines that support our counties and protecting their historic interest ensures our long-term viability.

Finally, federal law requires the FS to administer the national grasslands for the purposes for which they were acquired. When the federal government acquires land for a particular public purpose, only Congress has the power to change that purpose or dispose of the acquired land. Thus, federal agencies must manage and administer acquired lands according to the purpose for which the federal government acquired them, unless

Congress has authorized otherwise. Due to the fact that grazing was a primary purpose for acquiring the Thunder Basin National Grassland, grazing must be preserved in the Land Use Plan.

[bull] Funding - The success of this plan amendment is dependent on funding sufficient enough to apply timely controls and treatments in prioritization areas. There is grave concern that the Forest Service will be unable to commit to the funding necessary to control prairie dogs both now and into the future. We must exercise fill of our options to secure funding to control prairie dog densities, implement treatments and initiate restoration projects. The Counties will continue to provide funding support where feasible but funding opportunities must be pursued by all stakeholders.

Furthermore, the FS must utilize the Good Neighbor Authority Agreements that have been put into place through the Wyoming Game and Fish Department and the Wyoming Department of Agriculture and make use of them to

the maximum extent possible. As you are aware, the Weed and Pest Districts can only use funds for treatments applied to private property. To apply controls and treatments to FS lands, the FS can either apply themselves or utilize an approved contractor but FS funds may or may not be available when needed for timely implementation. The Good Neighbor Authority allows funds from the FS and other sources to be used to assist in treatment and restoration application and must be utilized to a greater extent in order to fully

meet the objectives of this plan amendment.

[bull] Greater Sage-grouse -- The FS should include a more robust analysis in the preferred alternative FEIS regarding the impacts to Greater Sage-grouse and provide management guidance as to how they will manage for competing resources between Sage-grouse Priority Habitat and prairie dog encroachment.

MODIFIED PROPOSED ALTERNATIVE COMMENTS

[bull] Overall Comment - The Counties appreciate the work that has gone into this DEIS. To be clear, the Counties will continue to promote a preferred alternative that is pragmatic, effective and can be realistically implemented by the FS. Management concepts that cannot be practically administered will put the agency and the stakeholders in a position that fails to meet management goals. Therefore, the Counties generally support the Modified Proposed Alternative (Alternative 2) in the DEIS with modification as outlined below, along with the inclusion of some concepts from the Grassland Wide Alternative (Alternative 3). Specifically, we would encourage the FS to consider the following amendments:

o Chapter 2, Page 29-31, Management Area 3.63 and the Cheyenne River Zoological Special Interest Area

The boundary identified in the Modified Proposed Action as MA 3.67 should be reassessed and possibly expanded. While we do not have specific recommendations at this time, the Counties believe that with a boundary adjustment beyond the proposed 35,000 acres, it could create more flexibility for grazing allottees within MA 3.67 and allow for a more practical management approach in meeting objectives. Any boundary adjustments must be thoughtful and account for prairie dog habitat areas that can realistically be managed and prioritized for treatment by the FS.

o Chapter 2. Page 32, Prairie Dog Colony Acre Targets and Distribution

The prairie dog habitat targets identified within MA 3.67 in the Modified Proposed Alternative should remain at a 7,500 acre minimum and a 10,000 acre maximum. This sufficiently allows for adequate management of prairie dogs while meeting requirements for persistence and viability of the mountain plover and associated species.

o Chapter 2. Page 32. Boundary Management Zones

The Counties continue to fully support the 1-mile buffer around residences and structures for the health and safety of residents. In addition, we support the establishment of the $\frac{1}{4}$ mile boundary management zone around private and state lands within MA 3.67 as a priority for the FS to apply treatment and control measures to prevent prairie dog encroachment. The Counties also support the temporary $\frac{3}{4}$ mile extension when encroachment is warranted to further protect private property and for the safety of our residents.

The Counties also support the condition that states "For control on National Forest System lands to proceed within a boundary management zone, the landowner or lessee will need to engage in concurrent control on adjacent private or state lands." However, in unique situations where multiple landowners or absentee landowners exist in adjacent private lands and a landowner refuses to apply controls or treatment on private lands, the FS should find it sufficient to prioritize treatment if the majority of landowners or lessees in the area are engaging in concurrent control on adjacent private lands.

o Chapter 2. Page 33. Density Control

Density control continues to be a critical component for managing the unwanted expansion of prairie dog populations within MA 3.67 and maintaining target objectives. Density control must continue to be utilized to achieve management objectives below 7,500 acres and lethal control must be allowed to realistically manage targets between 7,500 acres to 10,000 acres.

o Chapter 2. Page 33. Density Control - " ... then satellite colonies could be identified outside management area 3.67 ... "

While the intent of establishing satellite colonies to offset population targets outside of MA 3.67 seemed logical, it is now clear that management of satellite colonies is wrought with challenges that make its application cumbersome, uncertain and controversial as it could eventually put restrictions on grazing permittees and landowners outside of MA 3.67 that are currently unforeseen. Therefore, the Counties support removing satellite colonies from consideration as a management strategy and recommend that the FS incorporate some components in the Grassland Wide Alternative that is outlined below in these comments. If the satellite colony strategy is eliminated in the preferred alternative as a management tool, Appendix B should be modified to reflect this change.

o Chapter 2. Page 33. Approved Rodenticides - "The use of anticoagulants rodenticides and fumigants would be prohibited."

There may be situations where anticoagulants are the only necessary treatment available to effectively manage the problem. For example, "feeder" colonies may exist outside of boundary management zones that continue to persist after consistent treatment is applied and it is determined that the appropriate management action is to eliminate the colony. In some cases, isolated use of anticoagulants may be the best and most cost-effective approach to controlling the unwanted expansion of prairie dogs.

The FS must not obligate future FS supervisors from utilizing control treatments such as Rozol and Kaput. As conditions change over time and new policies and directives are issued by new administrations, each FS supervisor should have the decision-making space to issue their own guidance regarding the use and implementation of effective control methods such as anticoagulants, fumigants, or any other lethal control methods available.

The option to allow for limited use of anticoagulant rodenticides and fumigants must be included in the FS FEIS preferred alternative and any use of these control methods must conform to the label restrictions. Additionally, language from the Grassland Wide Alternative allows "fumigants and anticoagulant rodenticides could be used only in boundary management zones and only after three consecutive applications of zinc phosphide." The Counties would contend that three consecutive applications of zinc phosphide is unnecessary, ineffective and should be reconsidered as fewer applications may demonstrate that other more effective methods for treatments may be the most practical and cost-effective. The FS must allow for flexibility in management to adequately and effectively govern the situation.

o Chapter 2, Page 33, Recreational Shooting - "Recreational prairie dog shooting would be prohibited from February 1 to August 15 in management area 3.67, including in the boundary management zone."

The Counties contend that the recreational prairie dog shooting timing prohibition is an arbitrary restriction, unsupported by scientific data and should be removed. Recreational shooting has a greater economic value than as a control tool to manage prairie dog densities. Placing a 6.5 month ban on shooting activity during a time of prairie dog reproduction is not logical. The implementation of a recreational shooting timing restriction does not

significantly impact population swings but may in fact exacerbate the prairie dog population problem by protecting them during reproductive timeframes. This requirement is contrary to the treatment and control objectives of this plan without any clear data to support its implementation and should be deleted from this document.

- o Chapter 2, Page 33, Drought Plan - "During drought, to mitigate colony expansion, the total acreage of colonies in management area 3.67 and satellite colonies could be managed toward a temporary alternative target of 7,500 acres."

The Counties continue to support more aggressive management and control treatments during drought situations to control the excessive expansion of prairie dog populations. However, as explained above, satellite colonies should be eliminated as a management strategy in the preferred alternative.

- o Chapter 2, Page 34, Management Strategy and Collaborative Stakeholder Group

The Counties continue to support the elimination of the 2015 Black-tailed Prairie Dog Conservation Assessment and Management Strategy referred to in this document.

The Counties also fully support the continuation of a stakeholder collaborative group both in the interim while the plan amendment is being conducted and beyond the Record of Decision being issued. It is critical that all stakeholders have a forum to participate and remain engaged with the agency in the current and future decision-making process. Continued coordination will be a measure of overall, long-term success. In addition, the Counties believe it is critical to have a third-party convener as this allows the process to have more flexibility and to move forward in a timely manner. A third-party convener can also assist with ensuring an organizational structure that will continue beyond the Record of Decision.

It is appropriate for the FS to include plan components relevant to working with a collaborative stakeholder group in Appendix B. While the FS must make every effort to include the stakeholder collaborative group for input regarding recommendations for monitoring, mapping, treatment and restoration priorities; it is recognized that the FS has the ultimate decision-making authority on federal lands to manage and comply with the planning components in the Record of Decision.

[bull] COMMENTS REGARDING GRASSLAND WIDE ALTERNATIVE

The Counties would recommend that the FS consider combining the following grassland wide components with the proposed alternative as modified in the comments above to form a FS preferred alternative in the FEIS. The Counties would request that the FS consider and adopt in the preferred alternative the following planning components outside MA 3.67:

- o Chapter 3. Page 35. Boundary Management Zones

Control of prairie dogs within 1 mile of residences would continue to be the highest priority for treatment, and all lethal and nonlethal control tools would be available. Boundary Management Zones would not be designated around private or state lands outside of MA 3.67; however, lethal control would be allowed at any time to control unwanted expansion and encroachment of prairie dogs.

- o Chapter 3. Page 38. Approved Rodenticides

As stated above, there may be situations where "feeder" colonies exist that continue to persist after consistent treatment is applied and the proper management action would be to eliminate the colony. In some cases, isolated use of anticoagulants may be the best and most cost-effective approach to controlling the unwanted expansion of prairie dogs.

The option to allow for limited use of anticoagulant rodenticides and fumigants must be included in the FS FEIS preferred alternative and any use of these control methods must conform to the label restrictions.

o Chapter 3. Page 38. Recreational Shooting

There would be no restrictions on recreational shooting of prairie dogs.

o Chapter 3. Page 38. Drought Plan

The Counties continue to support the more aggressive management and control treatments during drought situations to control the excessive expansion of prairie dog populations and mitigate toward the lower end of the target range {{10,000 acres) across the Thunder Basin National Grasslands.

o Chapter 3. Page 39. Density control

Density control including lethal control would be allowed anywhere and at any time outside of MA 3.67 to manage unwanted expansion beyond allowable limits. The Counties support the requirement that pretreatment data would be collected where density control occurs and monitoring data would be collected for a minimum of two years after treatment.

[bull] ADDITIONAL COMMENTS

o Chapter 1, Page 9, Black-Footed Ferret Reintroduction on the Thunder Basin Nation Grassland

The Counties strongly support the recommendation to remove references regarding the Black-footed Ferret as a priority species under the current 2001 TBNG Land Use Plan and its amendments. It is also appropriate that any future consideration of a reintroduction of the Black-footed Ferret must follow the Wyoming Game and Fish Department management plan, which requires stakeholder support and guides conservation and management of the species in the state.

o Chapter 2, Page 33, Thresholds for Rodenticide Use - "When the acreage of colonies within management area 3.67 is less than 7,500 acres, lethal control tools would not be used except in the following situations: Use in boundary management zones."

The FS should also include density control as a bullet point in this section.

o Chapter 3. Page 63. Second Paragraph - "Prairie dog colonies area mapped and monitored on an annual basis by Thunder Basin National Grassland staff and with agreements with partner agencies and organizations."

It is imperative that consistent and annual monitoring and mapping of prairie dog colonies continues as it enables the FS to identify priorities and apply the most appropriate treatments. It is expected that all information would continue to be shared with the Thunder Basin Working Group and that the stakeholders have a forum to participate and remain engaged with the agency in the current and future decision-making process. All parties will need to be committed to contributing the funding necessary to achieve the goal of conducting annual monitoring and mapping efforts but the FS needs to provide assurances that funding will be allocated on an annual basis specifically for mapping and monitoring efforts.

The FS has made great strides in developing a proposed action to allow for controls to be available for use in all situations, to eliminate single species management approaches, to eliminate unrealistic management objectives through previously approved NEPA documents, to refocus desired conditions to short stature vegetation that

provides for multiple use, to recognize and defer to state Wyoming Game and Fish Department policies, and to prioritize the protection of private and state lands; however, there are still areas to improve in creating a preferred alternative for the FEIS.

We now have an opportunity to amend the Land Use Plan to allow for an array of tools to balance the management of this historically tenuous situation. If the Counties can play a greater role in mobilizing on-the-ground treatments or resolving issues and finding solutions, we stand ready to do so and will work with the FS and all stakeholders to achieve that goal.

Again, we thank you for your leadership and the opportunity to continue to work with you and your staff throughout this process. We are committed to remaining engaged in the process as cooperating agencies and as working group members. Please do not hesitate to contact us to discuss any of these issues in further detail or if the Counties can assist in any other way.

This Document may be executed in several counterparts and all so executed shall constitute one complete document, even though all the parties are not signatories to the original or the same counterpart. members.

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