

From: [Deibert, Pat](#)
To: [Matt Kales](#)
Cc: [Theresa Rabot](#); [Michael Fris](#); [Mary Grim](#); [Michael Thabault](#); [Nicole Alt](#)
Subject: Re: GRSG: Urgent action; please read; product due today.
Date: Monday, October 20, 2014 1:17:07 PM
Attachments: [20140930_DRAFT_FWS_GrSG_Outstanding_federal_planning_issues_pd.docx](#)

Matt -

I have no huge heartburn with this memo, but did add one editorial suggestion. Do with it what you wish.

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On Mon, Oct 20, 2014 at 10:36 AM, Matt Kales <matt_kales@fws.gov> wrote:

Folks,

As some of you know, we have direction from leadership to complete the “resolution” memo, i.e., our list of outstanding concerns with the federal planning process that is a follow up to our 3/15/14 draft memo (the “marker” memo), **by COB today (10/20)**. Attached is the current draft we prepared in conjunction with Dan and Noreen’s recent related meeting with BLM leadership. While there is a great deal in play that could affect the content of this version, we don’t have anything firmer from our federal partners then when we drafted this version so we are treating this as current.

Please review again and let us know immediately, or your R/DRDs, have any critical concerns. We are hopeful everyone can sign off quickly on this since we discussed in detail the content of this memo previously, but we want to make sure we have a corporate embrace of this version before we provide it to SOL, who is standing by to conduct a rapid review this afternoon so we need any feedback before then. Thanks in advance, and please let us know if you have any immediate questions.

Matt

Matt Kales

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October 1, 2014

DRAFT MEMORANDUM

FROM: Noreen Walsh, Regional Director, Fish and Wildlife Service, Mountain-Prairie Region

TO: Greater Sage-Grouse National Policy Team Members

Subject: Resolution of Federal Sage-Grouse Conservation Planning Issues

Note to reviewers: as of this writing, (1600 MDT on 9.30.14), the following issues remain unresolved, unless otherwise indicated.

On March 14, 2014, I shared with you a draft memo containing the US Fish and Wildlife Service's (Service) outstanding concerns at the time about the federal land management plans that the Bureau of Land Management (BLM) and the US Forest Service (Forest Service) are developing to ensure conservation of greater sage-grouse (sage-grouse) on the approximately 64% of the species' range administered by BLM and Forest Service.

In the subsequent seven months, our three agencies have worked together to address the concerns we articulated in the draft memo and to advance the goal of sage-grouse conservation. The Service recognizes the tremendous investment BLM and Forest Service have made in the planning process and believes that investment has led to significant improvement in the draft federal plans.

Those significant improvements include resolution of two key items in my March 14, 2014 memorandum: disturbance caps and fire and invasive species issues. Specifically, in that memo the Service indicated limiting future disturbances in sage-grouse habitat is essential for conservation. The National Policy Team (NPT) guidance our agencies developed earlier this year establishes a consistent approach to limiting disturbance as a result of federal land use decisions. We note, however, that while the NPT guidance for disturbance caps addresses this issue at the planning stage of the process, further and timely information about how BLM and Forest Service intend to calculate and apply disturbance caps across the range will lend greater certainty of implementation to this effort.

Similarly, the Service supports the completion of the Fire and Invasives Assessment Team step-down assessments currently underway and applauds the land management agencies in moving swiftly in this regard. We recommend these assessments be quickly developed into implementation plans and the identified actions pursued to provide further certainty of implementation for efforts to address this major threat to sage-grouse and its habitat.

While we have made progress, we also believe a need and an opportunity still exist to ensure the final plans contain the measures necessary to conserve sage-grouse into the future. We have observed that in some instances the Administrative Draft Proposed Plans (ADPP) contain measures that depart from the National Policy Team (NPT) guidance our agencies developed earlier this year. The NPT guidance was

intended to promote decisions that reduce threats to greater sage-grouse, to make certain the final plans are clear and cohesive, and to produce a compelling, range-wide narrative about sage-grouse conservation on the federal estate. While we understand and appreciate the need for flexibility, the more final decisions you make to preserve flexibility, the less the Service will have certainty about how the final federal plans constitute an adequate regulatory mechanism that will be effective in removing or reducing threats to ensure long-term viability for the species.

This memo highlights issues we still believe are outstanding or that we recommend BLM and Forest Service consider further before making final decisions on land use allocations or other key planning commitments that affect the long-term conservation of sage-grouse across its range.

The following are issues the Service has identified as **essential** to a successful outcome for the planning process:

Mineral development: The Service recommends fluid mineral closures and locatable mineral withdrawals in some highly important, high density sage-grouse “strongholds” within Priority Areas for Conservation (PAC), as identified in the Service’s 2013 Conservation Objectives Team Final Report (COT Report) and, potentially, in some areas where highly vulnerable sage-grouse populations or other key habitats such as movement corridors are located. We look forward to working with you to identify those areas in greater detail.

Resolution of mapping issues: In Nevada and Utah, areas identified by BLM as “priority areas” do not align with PACs as identified in the COT Report. We recommend BLM reconcile this disparity so the Service can accurately determine whether the final federal plans adequately protect the PACs.

Resolving the potential threat caused by coal mining: The degree to which coal mining poses a threat to sage-grouse habitat should be analyzed and addressed in the final plans. Coal mining was not explicitly included in the NPT guidance and we are uncertain whether this threat has been addressed. We recommend BLM identify and explain the status of coal as a threat to sage-grouse on BLM lands, and make determinations of unsuitable in these areas. Without the benefit of additional land management agency analysis that would suggest otherwise, we recommend that sage-grouse habitat in PACs be determined unsuitable for coal.

Existing oil and gas leases in PACs: We recommend that existing leases and other valid existing rights in PACs should be managed to reduce impacts to the maximum extent practicable when those rights are exercised. We recommend three approaches to help achieve this:

- a) A commitment to condition existing fluid mineral leases at the Application for Permit to Drill stage, with Conditions of Approval to minimize impacts from fluid mineral development on sage-grouse and their habitat.
- b) A commitment to exercise available discretion to not offer expiring leases in important sage-grouse habitat to new leasing, and to include other policy options that can be developed now, at the planning stage, and exercised during implementation to encourage existing leases to be

relinquished (e.g., through buy-outs, exchanges, or provision of incentives to develop elsewhere.)

- c) A requirement that the mitigation standard for exercising these rights in PACs is “net conservation gain.”

Existing oil and gas leases in general habitat: We recommend that the land management agencies thoroughly analyze the extent of existing leases in general habitat and predict the degree to which those leases will be developed, in order to determine whether future leasing should or should not occur in general habitat already leased to a high degree. Currently, the requirement for no surface occupancy or closure in priority habitat will provide some level of protection against future development impacts in priority habitat; however, general habitat areas may be at risk of erosion without such an analysis.

Ensuring a clear, scientific rationale for land use allocations that change at administrative boundaries: The Service recommends both agencies make every effort to eliminate or minimize any differences in land use allocation decisions for a given population or priority area for conservation (PAC) that crosses an administrative boundary. Where such differences occur, the differences should be articulated by clear, science-based rationale in the final plans and showcase how end outcomes would be similar despite different approaches. While we understand the desire for flexibility, minimizing the amount of and need for these types of explanations will aid our analysis of the certainty that threats are addressed. It will also help the public understand a cohesive approach for management of each population and the species as a whole on the federal estate.

In addition to the above essential issues, we have identified several other **significant issues** we recommend you consider as you work to finalize your plans:

High voltage transmission and major pipeline rights-of-ways (ROWs): the Service understood the NPT guidance to mean no new corridors would be designated in priority habitat in these revised or amended federal plans. However, BLM has indicated that one or more new transmission corridors will in fact be designated within priority habitat in the Utah plan. We recommend BLM explain its rationale for deviating from the NPT guidance on this item and how it is consistent with sage-grouse conservation goals.

Note: Following recent discussions, we understand that new ROWs will not be proposed within PACs in UT. However, given the uncertainty of the mapping efforts in UT we are still unclear as to how any new ROWs designated in UT will potentially affect sage-grouse.

Similarly, the NPT guidance for this land use allocation indicated “avoidance” for general habitat, but in northwestern Colorado, North and South Dakota, and in Idaho and southwestern Montana, general habitat is “open” for this allocation. Idaho has provided a biological rationale for this departure from the

NPT guidance, but the departure from the guidance in the Rocky Mountain states is based on additional restrictions that have not yet been analyzed completely, and, in the southwestern Montana planning area, we are unclear as to what rationale supports this departure from the guidance. Ensuring consistency with the NPT guidance for this issue for the Rocky Mountain States and southwestern Montana will help conserve the remaining fragmented habitats in these states.

Mining (mineral materials and/or non-energy leasable minerals): Contrary to NPT guidance indicating priority habitat should be “closed” to mining, priority areas in Montana, South Dakota, northwestern Colorado, and Idaho are open to mining in the proposed ADPPs. As the Service understands it, BLM’s rationale for this departure from the NPT guidance in the Rocky Mountain states is based on the potential concern that if the guidance was followed, future development may be shifted to private or state lands, thus impacting better habitat for sage-grouse. The Service has not seen any formal analysis from BLM to substantiate this concern. Moreover, we have a concern that a possible outcome of this strategy is a lack of significant protection on federal and non-federal lands in this area.

In addition, we have been consulting with BLM as the agency is developing a project-specific screen to be used to minimize impacts to sage-grouse from permitted mining activities in these areas. While such a strategy could be successful, we note that if you choose to finalize the plan decisions relying on a project-specific screen, our ability to predict impacts to those populations into the future is much less certain.

In Idaho, the rationale for departing from the NPT guidance is based on a requirement that any proposed project must meet certain criteria, some of which contain subjective terminology (e.g., not practicable; technical and economic feasibility). Again, to increase the certainty of threat reduction that we can ascribe to future decisions, we recommend you either follow the NPT guidance; or, define these terms more clearly in the plan.

Rangeland health/overgrazing threat: We recommend that in the final plans BLM set specific, consistent standards for Land Health Assessments (LHAs); and commit to markedly shorten the timeframe within which LHAs are conducted, regularly modify LHAs necessary to reflect changing ecological conditions at a relevant scale(s), and take timely action when standards are not being met. In addition, we recommend that BLM identify a strategy and timeline for meeting established wild equid management targets. *Note: Following recent NPT meetings and related discussions, we understand that BLM is considering a stronger approach, and we await final language.*

Mitigation: We ask for you to please clarify and resolve the apparent difference between the standard of “no net unmitigated loss” in the draft plans and “net conservation gain” as recommended by the Service, both of which appear at various places in various plans. We think that this apparent difference may be resolved through a revision of the definition of “no net unmitigated loss” or through the adoption of “net conservation gain” as the standard. Further, we are concerned that BLM has not committed to a specific mitigation standard in Rocky Mountain region plans.

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Note: Following recent NPT meetings and related discussions, we believe we may be close to resolving this issue. However, at this time we are awaiting clarifying information from BLM and for the purposes of this draft consider this issue still outstanding.

Adaptive management: We are aware that since our recent interagency meetings to discuss the proposed ADPPs, work has continued regarding how the topic of Adaptive Management will be described in the plans. If situations remain where triggers (hard and soft) for a given population that crosses a state or administrative boundary differ between plans on opposite sides of that boundary, we are interested to understand the rationale for that difference. Specifically, we recommend that the BLM and FS consider that an appropriate trigger should be linked to a species demographic or habitat parameter value that would indicate concern that a population is somehow at risk. For a given population in a given ecological habitat type, it seems that most often these triggers would be the same or very similar. In addition, triggers should result in similar biological results if tripped. Additionally, while we know work is ongoing, at our last meeting it appeared that there are a number of plans where the resulting response from a trigger being tripped appears to be inconsistent with NPT guidance. We recommend that these plans be revised to be consistent with the NPT guidance.

Monitoring: We recommend a uniform and consistent application of habitat monitoring methods at all levels of management (including calculation of the disturbance cap “backstop”). This includes developing internally consistent rules for identifying units of analysis for calculating disturbance and adaptive management triggers.

Pending federal plans in Wyoming: As BLM and Forest Service work to complete the final plans for units in Wyoming, we recommend that we jointly execute a careful review of the feedback provided by commentors on the final Lander plan and Record of Decision, and explore whether any refinements to pending plans in Wyoming are warranted. A thoughtful evaluation of public feedback on the Lander plan could yield information that would inform a decision as to whether there is a need to refine any aspect of the other final plans pending in Wyoming. We understand BLM in Wyoming has been working on such a review and analysis, and we would welcome the opportunity to sit down together with you at a regional or national level to discuss that review.

Remaining Timeline: Recent discussions have indicated that the expected timeframe to complete the planning process and issue the Records of Decision (RODs) may be in question. A significant delay in issuing the RODs (e.g., until summer 2015) will mean that we are unable to analyze in our status review the effect of what will later become the final federal land management plans. Given the extraordinary effort to date and the likely expected valuable conservation impacts of these plans, we do not want to be

In closing, we commend the extraordinary effort BLM and the Forest Service have made to date in planning for sage-grouse conservation on federal lands. The collaborative effort is truly historic and we are proud to have worked with you through this process. As the window for final plan completion narrows, we share these remaining essential and important issues for your consideration, and we commit to continue providing advice and assistance as you evaluate your choices for the final plans and Records

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of Decision. The advice we are providing here is designed to ensure we can ascribe a high degree of certainty of effectiveness of the federal plans as we determine whether the greater sage-grouse is still warranted for listing. The Service remains committed to a successful federal sage-grouse conservation planning process and we remain available to work with you to resolve the issues captured here and to achieve lasting conservation for sage-grouse across its range.