

**Screening Form**  
**Low-Effect Incidental Take Permit Determination and**  
**National Environmental Policy Act (NEPA)**  
**Environmental Action Statement**

**August 2022**

**I. HCP Information**

**A. HCP Name:** Gunnison Rising Annexation Low-effect HCP

**B. Affected Species:** Gunnison sage-grouse (*Centrocercus minimus*)

**C. HCP Size (in stream miles and/or acres):** 28,478 acres

**D. Brief Project Description (including minimization and mitigation plans):**

The Gunnison Rising Annexation Low-effect Habitat Conservation Plan (HCP) describes proposed residential and commercial development (Covered Activities) as well as measures to avoid, minimize, and mitigate effects of the development to Gunnison sage-grouse (GUSG). The City of Gunnison (City) is applying for an Incidental Take Permit (Permit) associated with the HCP. The City annexed the Gunnison Rising development area into the City in 2009. The City anticipates that full build-out of the development may take up to 64 years, but the initial Permit duration is 20 years. This Permit duration was chosen to provide enough time to evaluate if the development will impact GUSG in the Incidental Take Permit Area (Permit Area) but also determine if the HCP's conservation measures will achieve the biological goals within the requested Permit duration. If all of the proposed development has not been constructed before the Permit expires or there are ongoing actions related to the HCP, the City may apply to renew the Permit.

The Gunnison Rising HCP Plan Area (Plan Area) is 28,478 acres and includes: the Permit Area (a development area and disturbance zone where take of GUSG will occur), a "No Take Area" (where development will also occur but no take of GUSG is anticipated), a mitigation area immediately north of the North Parcel development area, a mitigation area east of the development area, and an Open Space Buffer south of the South Parcel development area. The Permit Area is the area on which "take" (as defined under the Endangered Species Act of 1973, as amended) of GUSG is anticipated to occur. It is anticipated that 290 acres of GUSG habitat will be developed, and an additional 307 acres will be affected by the action for a total Permit Area of 597 acres. The full development area includes the 290 acres of development in GUSG habitat (within the Permit Area) but also includes an additional 347 acres where GUSG habitat does not occur and is regarded

as the “No Take Area” (thus there is a total of 637 acres proposed to be developed). Proposed mitigation and minimization measures, as described further below, include the 420-acre North Parcel Mitigation Area, the 26,956-acre Cabin-Alder Allotment where grazing was relinquished for mitigation, the 465-acre South Parcel Open Space Buffer, reduction of disturbance from construction and recreation via seasonal restrictions, and the creation and distribution of educational materials and signage to reduce impacts to GUSG.

Highway 50 bisects the Plan Area creating North and South Parcels. Together, the North Parcel Mitigation Area, Gunnison Rising North and South Parcel development area, and the South Parcel Open Space Buffer form the Western Plan Area. The Cabin-Alder Allotment is the Eastern Plan Area and is a mitigation area only. The west side of the Western Plan Area is adjacent to Western Colorado University (WCU), town parks, and Gunnison County Airport. The east side of the Western Plan Area is adjacent to Gunnison Cemetery and Tomichi Heights Village (a residential area). The southeast corner of the Western Plan Area is adjacent to industrial use areas. The Western Plan Area is bordered on the north, northeast, and south by U.S. Bureau of Land Management (BLM) land. The Western Plan Area includes the Contour and Cemetery Trails, which are existing user-made trails that will remain. The Signal Peak Trail System will connect to the Contour and Cemetery Trails and was authorized by BLM in 2018 via a Decision Record following an environmental assessment (U.S. Bureau of Land Management 2018). The Rasta Gulch trail extends north from the Contour Trail at the most northerly part of the Gunnison Rising development and proceeds through the western part of the North Parcel Mitigation Area and is part of the Signal Peak Trail System (see Figure 8 in the HCP). The Rasta Gulch trail is also a user-made trail that’s been in existence for several years. The Signal Peak Trail System also extends into the Eastern Plan Area in the western part of the Cabin Creek side of the Cabin-Alder Allotment (see Figures 8 and 9 in the HCP). Portions of GUSG habitat in the Western Plan Area have been degraded or eliminated due to the highway, surrounding development, utility lines, and irrigation ditches. In addition to the surrounding disturbances, hayfields comprise and are a primary reason the No Take Area was established, since GUSG only utilize hayfields near their edges with sagebrush habitat.

Gunnison Valley Properties (GVP) currently owns most of the proposed 637-acre development area but will likely sell it to other developers or individuals rather than developing the entire property themselves. WCU and their foundation own four small parcels of the development area adjacent to the existing University grounds. Another small parcel is owned by a private landowner. All land within the development area was annexed into the City. The City, rather than GVP, is applying for the permit, since the City controls issuance of building permits by any developers or individuals. The 347-acre No Take Area is Phase I of the development. Phase II is the remaining 290 acres of proposed development (see Figures 4 and 5 in the HCP).

Out of the 1,522-acre Western Plan Area the HCP includes 1,358 acres of land considered occupied critical habitat for the GUSG, including all of the 637-acre development area. A 160-acre area under conservation easement managed by CPW and 4 acres of the WCU-

managed mitigation acres were excluded from GUSG critical habitat due to their existing management (79 FR 69312). All 26,956 acres of the Eastern Plan Area is occupied critical habitat.

Take of GUSG is anticipated to occur by habitat destruction and disturbance on a total of 491 acres on the North Parcel (just north of the No Take Area). Habitat within the specific area of development (Phase II) is 290 acres of low quality, Tier II habitat, to moderate quality Tier I habitat (see the HCP for habitat quality definitions). This area is sage-steppe habitat classified as a mix of breeding, summer/fall, and winter habitat. GUSG are anticipated to be taken via disturbance ("harm" as defined in the ESA) within 1,000 feet of the proposed development (201 acres) on the North Parcel but, even within that zone, disturbance should taper off further away from development. The habitat within this area consists of breeding, summer/fall, and winter habitat in poorer quality Tier II habitat to moderate to high quality Tier I habitat. No GUSG have been documented in the 1,000-foot disturbance buffer area on the North Parcel, but it is in-between an area where a female GUSG and her brood were sighted on the southern edge of Phase II in 2007 and an area to the north on the North Parcel Mitigation Area with documented GUSG use and is, therefore, likely used on occasion by GUSG. The South Parcel contains 106 acres within the 1,000-foot disturbance zone and consists of summer/fall habitat currently classified as Tier II habitat. However, this classification should perhaps change to moderate Tier I habitat since GUSG and their broods have been sighted in this area in the summer on occasion (Dan Brauch, CPW, pers. comm. 2019). No leks occur within the Permit Area. In total, take is anticipated to occur on 597 acres, which constitutes the full Permit Area.

Included in the project description and adjacent to the northern boundary of the development area is a mitigation parcel. The 420-acre North Parcel Mitigation Area was donated to WCU by GVP with the intent to remain open space, to serve as protection for occupied GUSG habitat, to serve as a buffer between Gunnison Rising development and GUSG habitat further north, and to provide non-intrusive environmental education.

Additionally, 356 Animal Unit Months (AUMs) of cattle were removed from the 14,725-acre Cabin Creek Allotment, which was combined with the Alder Creek Allotment to form the 26,956-acre Cabin-Alder Allotment (U.S. Bureau of Land Management 2011; see Figure 9 in the HCP). The BLM stated that they have no plans to "re-issue" Bratton's (GVP's) permit and that removal of the AUMs resolved a utilization issue on the allotment (Tara de Valois, BLM pers. comm. 2020). Prior to the relinquishment of the Bratton's lease, the 356 AUMs accounted for 15% of the AUMs allowed on the Cabin-Alder Allotment (U.S. Bureau of Land Management 2011). The AUM reduction provides the BLM and other permittees with flexibility to help meet allotment-specific objectives, including GUSG habitat objectives. The intent of the 15 percent AUM reduction was to ensure that the vegetation (upland and riparian grasses and forbs) would not be over-utilized. The value of not over utilizing these communities is to: 1) retain sufficient "stubble" height on grasses and forbs in upland and riparian areas to hide GUSG nests and small chicks, 2) maintain the health and diversity of grasses and forbs so that they are not replaced with other species (sagebrush, other shrubs, or noxious weeds)

that do not provide the cover/chick food/insect habitat GUSG need, and 3) maintain sufficient vegetation along riparian corridors to stabilize streambanks/catch sediment to prevent erosion and loss of wet meadow habitat important to GUSG (U.S. Bureau of Land Management 2011; Tara De Valois, BLM, pers. comm. 2021). Management for increased grass and forbs will benefit GUSG nesting and brood rearing around the active leks on the Cabin-Alder Allotment.

In addition to the mitigation lands described above, the HCP includes several avoidance and minimization measures.

1. No construction activity will be permitted from sunset to 9:00 AM from March 15th to May 15th of each year (and will be described in each certificate of inclusion (see HCP Appendix B)).
2. All pets will be on a leash from March 15th to May 15th. Additionally, it will be strongly encouraged (through the certificates of inclusion and signs) that pets are leashed from May 15th to June 30th.
3. Educational signs will be placed at access points around the North Parcel Mitigation Area to inform Gunnison Rising residents and other public hikers and bikers using the Contour and Cemetery Ditch trails about GUSG and disturbance minimization measures (e.g., pets on leash March 15th to June 30th).
4. The sale of 465 acres below appraised value was used to create the South Parcel Open Space Buffer. A little over half of the acreage was sold to the U.S. Bureau of Reclamation (249 acres) and was subsequently conveyed to CPW for the Tomichi Creek State Wildlife Area (SWA) established in 2011 (see HCP sections 5.2 and 8 for funding description). CPW purchased the remaining 216 acres, also below appraised value. CPW manages the SWA for fishing access, waterfowl hunting, and wildlife viewing as well as for wildlife habitat and one of CPW's species of concern is the GUSG. Seasonal restrictions on the SWA provide minimization of impacts to GUSG which currently benefit from the habitat on the SWA/South Parcel Open Space Buffer.

The goals of this HCP are to 1) maintain higher quality and more productive GUSG habitat within the Gunnison Basin Population and 2) minimize impacts from development on GUSG. Objectives include:

1a: The City of Gunnison will utilize the Gunnison Rising Annexation Area as part of the future buildout and expansion of the community to alleviate development pressures outside the city limits on GUSG habitat over the next 64-year potential life of this project.

1b: GVP will create open space buffers adjacent to the City of Gunnison that avoid, minimize, and mitigate the development of Gunnison Rising to help maintain GUSG habitat outside the City limits. The creation of open space buffers to the north (420 acres) and the south (465 acres) of the City boundary have been put in place to help reduce impacts to the Tomichi Village and Chance Gulch Lek Areas and offset the consequences of the development.

2a: Through the City building permit process, developers and individuals will receive

educational materials related to the City's Permit Area boundary and the need to implement seasonal construction guidelines during the breeding season (March 15 to May 15) in order to help lessen the impacts to GUSG on surrounding habitat.

2b: The City will partner with WCU, BLM, CPW, and Gunnison County on recreation management within adjacent City boundaries through signage and education efforts so that those impacts will be minimal to GUSG.

Monitoring of GUSG use will occur for five years via pellet count transects to determine if GUSG are using the Permit Area after development has begun. An annual review of lek counts in the nearby area will also help determine if the Gunnison Rising development is having an impact on use of the leks. Furthermore, if CPW or BLM conduct radio-telemetry studies on adjacent lands, that information may also be useful in determining GUSG use within the Permit and Plan Area. The City will submit annual reports to the Service documenting minimization measure implementation and results of biological monitoring.

To summarize, there are 597 acres where incidental take of GUSG is anticipated to occur. As an offset to that impact, mitigation in the form of a 15% AUM reduction will benefit GUSG on 26,956 acres and conservation of an open-space area to the north of the proposed development results in the 420-acre North Parcel Mitigation Area. Although take via harm could occur in some of the 1,000-foot disturbance zone in the 420-acre North Parcel Mitigation Area, as one moves further away from the development it is likely habitat in that zone will still provide usable habitat for GUSG. The North Parcel Mitigation Area provides a little more quality habitat than the Phase II development area, as calculated through Gunnison County's Habitat Prioritization Tool (Gunnison County 2018; see sections 6.1 and 6.5 of the HCP for further explanation). Out of the 290 acres of the Phase II development area, 23 percent of it is lower quality Tier II habitat and 77 percent is higher quality Tier I habitat versus the 420-acre North Parcel Mitigation Area that only has 12 percent Tier II habitat and 88 percent Tier I habitat. Additionally, the North Parcel Mitigation Area provides an open space buffer from development to GUSG further north and east.

Minimization measures are included in the HCP to restrict daily and seasonal building out of the most critical time of year for GUSG and to restrict human and pet activity on the North Parcel Mitigation Area. Creation of the South Parcel Open Space Buffer/Tomichi Creek SWA avoided development impacts, created a buffer for GUSG further south, and management by CPW minimizes impacts of human activity while also currently providing habitat benefits to GUSG.

## **II. Does the HCP fit the following Department of Interior and Fish and Wildlife Service categorical-exclusion criteria?**

- A. Are the effects of the HCP minor or negligible on federally listed, proposed, or candidate species and their habitats covered under the HCP?** Yes, the effects of the HCP are minor or negligible on federally listed species (GUSG) covered under

the HCP as described below.

- The amount of GUSG take anticipated from the covered activities is minor compared to the average estimated Gunnison Basin GUSG population. There are 4 GUSG anticipated to be taken in total over the life of the project. The 1995-2018 mean GUSG population in the Gunnison Basin is 3,650. The 1996-2018 mean GUSG population rangewide is 4496. Therefore, the take equates to only 0.11 percent of the mean Gunnison Basin GUSG population and only 0.09 percent of the mean rangewide GUSG population.
- The amount of critical habitat affected by the proposed development (1,030 acres) is also minor compared to the amount of designated critical habitat throughout the Gunnison Basin and throughout the range of the GUSG. There are 500,909 acres of occupied critical habitat (subtracting exclusions) in the Gunnison Basin (Table 1, 79 FR 69312); thus, within the Gunnison Basin, there is 0.21 percent of occupied critical habitat that will be affected. If the unoccupied habitat in the Gunnison Basin (119,707 acres) is included that totals 620,616 acres which equates to 0.17 percent. Occupied habitat rangewide is 784,611 acres, which equates to 0.13 percent of occupied habitat rangewide. There is 1,429,551 acres of occupied and unoccupied critical habitat rangewide so there is only 0.07 percent of total designated critical habitat impacted by Gunnison Rising.
- Lastly, there is a greater percentage of moderate to high quality (Tier I) habitat in the North Parcel Mitigation Area versus the Phase II development area. There are no other listed, proposed, or candidate species covered under the HCP. We also conclude that there is no take of other listed species in the permit or plan area.
- The mitigation and minimization measures summarized above offset impacts to the GUSG.

- B. Are the effects of the HCP minor or negligible on all other components of the human environment, including environmental values and environmental resources (e.g. air quality, geology and soils, water quality and quantity, socio-economic, cultural resources, recreation, visual resources, environmental justice, etc.), after implementation of the minimization and mitigation measures?** Yes, the effects of the HCP are all minor or negligible on the human environment including environmental values and resources. The proposed area of development is adjacent to the existing City of Gunnison. The proximity to existing development may reduce vehicle exhaust and impacts to air quality compared to dispersed development in the basin. Additionally, the proposed development would allow for placement of solar panels and facilities which would reduce carbon emissions if utilized. There is no known special geology or soil characteristics in the proposed development area. Water use will occur but will not be greater than existing use on irrigated hayfields. Sewer pipes would be constructed and tied into the existing wastewater treatment plant to maintain water quality. Additionally, wetland setbacks of 100 feet will be maintained to retain wetland and water quality. Gunnison suffers from housing shortage and high housing costs (Rees et al. 2016). Gunnison Rising will provide more housing to address housing needs, thus there will

likely be minor beneficial effects to socio-economic conditions.

A cultural resource inventory has been completely conducted for Phase I of the development (Cooper et al. 2020). Phase I will occur in the 347-acre No Take Area where the hayfields are currently located on either side of Highway 50. Three cultural or historic resources found in Phase I were determined to not be eligible for inclusion in the National Register of Historic Places. Though not eligible, one of the historic sites, which is a segment of an abandoned railroad that has already exhibited some degradation, will not be impacted by the development. Phase II occurs to the north of Phase I but is not expected to be developed for several years or even a couple decades. Prior to development of Phase II the City will ensure that an additional cultural resource inventory will occur, and consultation will again occur with History Colorado and Tribes. The City will ensure that separate cultural resource inventories will occur if modifications are made to Phase I or Phase II.

Impacts to recreational use of the area are negligible. Short, single-track trails for recreational hiking or biking are proposed from the development to the existing Contour trail on the North Parcel Mitigation Area and only one trail, already approved by BLM, will cross the northeast part of the North Parcel Mitigation Area. However, seasonal restrictions on trail use will be enforced to reduce impacts to GUSG during the critical breeding and early brood-rearing time period. Recreational use for fishing, waterfowl hunting, and wildlife viewing on the South Parcel Open Space Buffer/Tomichi Creek SWA occur with seasonal restrictions currently protecting GUSG.

Housing and commercial development will occur on either side of Highway 50 which is low in the Gunnison Valley and next to the existing City of Gunnison. Consequently, scenic views of mountains and vistas around Gunnison will not be impacted and visual impacts from the proposed development are, therefore, expected to be minor or negligible.

- C. Would the incremental impacts of this HCP, considered together with the impacts of other past, present, and reasonably foreseeable future actions (regardless of what agency or person undertakes such other actions) *not* result, over time, in a cumulative effect to the human environment (the natural and physical environment) which would be considered significant?** Yes, the incremental impacts of development described in the Gunnison Rising HCP would not result in significant cumulative effects to the human environment. The City recognized that human population growth would occur around Gunnison and selected the Gunnison Rising development area to annex into the City to minimize affects to the environment. The location of the Gunnison Rising development reduces the need for houses, roads, utility lines, and other development farther away from Gunnison, which would create more disturbance to the land and possibly increase soil, water, and air pollution.

**II. Do any of the exceptions to categorical exclusions (extraordinary circumstances) listed in 43 CFR 46.215 apply to this HCP? Would implementation of the HCP:**

- A. Have significant impacts on public health or safety?** No. The development described under the HCP is not expected to have significant impacts to public health and safety. The conservation program of the HCP would have no impact to public health or safety as mitigation/open space areas are and/or will be maintained as open-space and managed for natural habitats. Gunnison Rising-planned trails within the Plan Area also would not have significant impacts to public health or safety.
- B. Have significant impacts on such natural resources and unique geographic characteristics as: historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990) or floodplains (Executive Order 11988); national monuments; migratory birds, eagles, or other ecologically significant or critical resources?** No. There are no known unique geographic characteristics in the Western Plan Area where development will occur. No significant impacts are expected on any cultural or historic resources. A cultural and historic resources survey was conducted in 2007, an updated report was prepared for Phase I of the development in 2020, another survey of the Phase II area will be conducted prior to development in Phase II, and a survey of trails connecting Phase II to the Contour Trail on the North Parcel Mitigation Area will be conducted at the same time as the Phase II resurvey. A Programmatic Agreement between the Service, the Colorado State Historic Preservation Office, the City, and GVP detailing avoidance and minimization measures to cultural and historic resources was signed in March 2021 (U.S. Fish and Wildlife Service 2021). Furthermore, two Native American Tribes have responded that they know of no cultural resources that will be adversely affected.

There are no special land designations that will be affected. Sole or principal drinking water aquifers will not be impacted. Gunnison County does not have any prime farmlands due to its high elevation and short growing season. There will also not be any significant impact to any migratory birds, eagles, or other natural resources mentioned above. Bald or golden eagles may occasionally forage or rest on the lands proposed to be developed but there are no known nest or roost sites on the land. The applicant has incorporated several timing, buffer, and other disturbance minimization measures into the HCP to protect migratory birds (and eagles, if needed). Furthermore, though some migratory birds may use the hayfields proposed to be developed, the South Parcel Open Space Buffer/Tomichi Creek SWA has hayfields and native wet meadow habitat that will benefit species that prefer grassland type habitat for as long as CPW maintains that habitat. Similarly, impacts to migratory birds that utilize sage-steppe habitat will be offset from conservation of the North Parcel Mitigation Area, enhancement of the Eastern Plan Area from fewer cattle grazing, and current management of the southern edge of the South Parcel Open Space Buffer.

- C. Have highly controversial environmental effects (defined at 43 CFR 46.30), or involve unresolved conflicts concerning alternative uses of available resources [see NEPA section 102(2)(E)]?** No. The City's annexation process lasted from 2007 to 2009 and there were public meetings during that time. Also, as early as 2007 the proposed development was being discussed in the Gunnison Basin Sage-grouse



Strategic Committee that was also open to the public. Around 2009, there was some public controversy but since then, as it became more apparent to the public that the City of Gunnison was in need of additional housing, there has been little to no expression of concern about the project (John Scott, Scott Resource Management Specialist, pers. comm., 2020). There were also three PUD process meetings from December 2019 to February 2020 that were open to the public, but no controversy. Additionally, there has been public, State, Federal, and County support to place the development where proposed in the HCP.

- D. Have highly uncertain and potentially significant environmental effects, or involve unique or unknown environmental risks?** No, any environmental effects should be known and standard for development adjacent to existing development.
- E. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?** No, the only precedent the development under the HCP should set is that growth close the City is better than farther away. Future development actions within the City would require independent review.
- F. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects?** No. As stated above, the only action with a direct relationship to the HCP actions are the hiking or biking trails that run through the Plan and Permit Areas. These trails already connect to the approved and existing Signal Peak trails on BLM land. Due to the existing conditions, improvements by BLM, and seasonal restrictions, the trails do not constitute a significant cumulative effect to the environment.
- G. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places?** No. There are no cultural resources or historic properties eligible for listing on the National Register of Historic Places in Phase I of the development. A cultural resource inventory will be conducted prior to Phase II and any cultural resources or historic sites eligible for the National Register of Historic Places will be avoided or otherwise mitigated. Furthermore, if there are modifications to plans for Phase I or Phase II, additional cultural resource inventories will be conducted, and the resources avoided or otherwise mitigated. A Programmatic Agreement between the Service, the Colorado State Historic Preservation Office, the City of Gunnison, and GVP detailing avoidance and minimization measures to cultural and historic resources was signed in March 2021 (U.S. Fish and Wildlife Service 2021).
- H. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?** No. See II.A above for covered species impacts to

GUSG. The endangered bonytail (*Gila elegans*), Colorado pikeminnow (*Ptychocheilus lucius*), razorback sucker (*Xyrauchen texanus*), and threatened humpback chub (*Gila cypha*) (fishes) and their downstream critical habitat will be affected by water depletions as a result of development associated with the HCP. However, the water depletions will fit under the umbrella of the Gunnison River Programmatic Biological Opinion (U.S. Fish and Wildlife Service 2009), which has been determined to not likely jeopardize the fishes and to not likely result in destruction or adverse modification of their critical habitat. Furthermore, water depletions proposed to be used by the Gunnison Rising development will not be greater than irrigation-related depletions already used on the land; water use will simply be converted from agricultural to municipal. Consequently, Gunnison Rising-related depletion effects to the fishes can be considered as a minor effect under NEPA. No other listed, proposed, or candidate species or their habitats will be affected by the proposed development.

- I. Violate a Federal law, or a State, local, or tribal law, or a requirement imposed for the protection of the environment.** No, there is no violation of other laws or environmental requirements.
- J. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).** No. Gunnison suffers from housing shortage and high housing costs (Rees et al. 2016). Gunnison Rising will provide more housing to help address housing needs. One of the planned zones is proposed to hold multi-family residences at 5-12 residences per acre and will likely be lower cost. Consequently, there will not be disproportionately high and adverse effects on low income or minority populations and there could be a beneficial effect.
- K. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).** No, the Plan Area is not known to contain Indian sacred sites by any tribes. The Southern Ute Indian Tribe stated that they identified cultural and religious resources of significance in the Plan Area; however, they did not view the proposed development as having an adverse effect to those cultural resources (Southern Ute Indian Tribe 2020). Furthermore, the Comanche Nation of Oklahoma said they know of “no properties” of significance to them in the Plan Area (Comanche Nation 2020).

- L. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).** No. The City's Annual Weed Management plan focuses on eradication, containment, and suppression of noxious weed species and restoration of desirable plant communities in treatment areas with the purpose of limiting impacts to native vegetation within the City. The City has an extensive Undesirable Plant Management Section 5.50 within their Municipal Code (City of Gunnison 2019). These City practices are in conjunction with management practices used by the County and in accordance with the Federal Noxious Weed Control Act and Executive Order 13112, as well as the Colorado Noxious Weed Act. If there is an increase in invasive species or new invasive species are identified; weeds will be sprayed or otherwise treated with best management practices to remove them from the City-owned development area. As the Permittee, the City will be responsible for collaborating with the developer(s) and other necessary parties in the event weeds invade the development area on land within the City boundary. WCU and CPW (State of Colorado) will be responsible for weeds occurring on their respective lands within the North Parcel Mitigation Area and South Parcel Open Space Buffer. If weeds spread between the landownerships (City, WCU, CPW) the involved entities will collaborate on weed control efforts. The City and collaborators will be responsible for determining best management practices and conducting weed control efforts. The BLM is responsible for managing weeds on BLM lands (Kathy Brodhead, BLM, pers. comm. 2021), and would, therefore, address weeds on the BLM Cabin-Alder Allotment/Eastern Plan Area (and other surrounding BLM lands) as a matter of course.

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### **Personal Communications**

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- de Valois, Tara. 2020. U.S. Department of Interior Bureau of Land Management. Email titled “Gunnison Rising” regarding Bratton BLM grazing permit relinquishment (8.31.2020; 9:08 AM) via John Scott (8.31.2020; 9:26 AM).
- de Valois, Tara. 2021. U.S. Department of Interior Bureau of Land Management. Email titled “AUMs removed on Cabin Crk/Alder Crk Allotment” (7.6.2021; 6:34 PM).
- Scott, John. 2020. Scott Resource Management Specialist. Verbal communication regarding question of any controversy over the Gunnison Rising development (5.28.20).

### **III. ENVIRONMENTAL ACTION STATEMENT**

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following record.

Based on the information and analysis above, I determine that the proposed Incidental Take Permit for the Gunnison Rising Annexation Low-effect HCP qualifies for a categorical exclusion, as defined in 40 CFR 1508.4 and in the U.S. Fish and Wildlife Service *Habitat Conservation Planning Handbook*. Furthermore, no extraordinary circumstances identified in 43 CFR 46.215 exist for the Gunnison Rising Annexation Low-effect HCP. Therefore, the Service's permit action for the Gunnison Rising Annexation Low-effect HCP is categorically excluded from further NEPA review and documentation, as provided by 40 CFR 1507.3; 43 CFR 46.205; 43 CFR 46.215; 516 DM 3; 516 DM 8.5; and 550 FW 3.3C. A more extensive NEPA process is unwarranted, and no further NEPA documentation will be made. Responses to public comments are attached as Appendix A below.

Other supporting documents:

Gunnison Rising Annexation Low-effect Habitat Conservation Plan

Signature Approval:

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**Nicole Alt**  
Colorado Ecological Services Supervisor  
U.S. Fish and Wildlife Service  
Lakewood, Colorado

August 8, 2022

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Date

## Appendix A. Response to Public Comment

*Comment 1:* There are several misstatements in the Service's documents with respect to the SWA property acquisition that we would like to bring to your attention. In 2004, the Bureau of Reclamation (BOR) purchased approximately 248 acres from GVP to mitigate for wildlife and angling impacts following construction of Blue Mesa Reservoir under the Colorado River Storage Project Act. In 2009, CPW purchased approximately 216 acres from GVP (GVP and Bradbury parcels) through a competitive Request for Proposal (RFP) process (Colorado Wildlife Habitat Program) for approximately \$1.6 million. These funds were comprised of Wildlife Cash and Habitat Stamp monies. The BOR subsequently donated their purchased parcels to CPW in 2011; in aggregate, the BOR donation and CPW-purchased lands became the Tomichi Creek SWA.

*Response 1:* A comparison of the comment to the text in the draft HCP (in both section 5.2 and section 8 - "Funding") revealed no substantive difference. Nonetheless, statements were added to the HCP to clarify original purchase dates by the U.S. Bureau of Reclamation and CPW per the public comments. Additionally, a statement was added to the HCP section 5.2 that the original U.S. Bureau of Reclamation purchase and conveyance to CPW was for mitigation for Blue Mesa Reservoir under the Colorado River Storage Project Act per original language in the 2011 conveyance document to CPW. Lastly, it was added that CPW used Habitat Stamp and Wildlife Cash monies to purchase a portion of the Tomichi Creek SWA/South Parcel Open Space Buffer.

*Comment 2:* While there are benefits to Gunnison sage-grouse and other wildlife species through CPW management of the [Tomichi Creek] SWA, we want to be clear that CPW is under no current or future obligation to manage the property for Gunnison sage-grouse conservation under the HCP. [However], overall, we are supportive of the HCP and the efforts by the City of Gunnison and GVP to avoid, minimize, and mitigate impacts to wildlife and wildlife habitat in Gunnison County by encouraging growth adjacent to existing urban centers.

*Response 2:* Based on the concern over SWA management, language regarding the Tomichi Creek SWA (aka the South Parcel Open Space Buffer) was moved from section 5.3 - "Measures to Mitigate the Unavoidable Take" to section 5.2 - "Measures to Avoid and Minimize Take". In other words, the SWA was removed from consideration as mitigation but sale of the property by GVP to BOR and CPW, at less than appraised value, as well as current management by CPW are still considered as avoidance and minimization measures. The text in both sections 5.2 and 5.3 as well as throughout the document, where necessary, was edited to account for this change. CPW recognized the benefit of the Tomichi Creek SWA to GUSG in a 2021 online publication titled "The Habitat Stamp at Work" (CPW 2021), a statement of which was added to the HCP. With no currently known plans to change management of the SWA, it is expected that CPW management of the SWA will continue to provide habitat and disturbance minimization benefits to GUSG for a number of years or even throughout the life of the Permit. Lastly, the Service notes the commenter's overall support for the HCP despite the concern over management of the SWA.

*Comment 3:* Commenter stated that he does not support the categorical exclusion for incidental take of the Gunnison sage grouse through habitat loss due to rural development and the sage-grouse should be protected.

*Response 3:* Comment noted. While the commenter mentioned habitat loss, the Service believes impacts associated with that loss, along with the mitigation offset provided, results in minor or insignificant impacts that still fall under the criteria for a categorical exclusion.

*Comment 4:* Two commenters stated that development should take place on already-disturbed areas or areas that do not bring harm to the sage-grouse.

*Response 4:* Comments noted. While we appreciate concern over development of undisturbed habitat, over half of the development footprint is on already-disturbed ground and the other 290-acres, though relatively undisturbed, is adjacent to the City, thus minimizing the potential for additional disturbance and fragmentation in other undisturbed parts of the Gunnison Basin.