Advocates for the West, American Bird Conservancy, Center for Biological Diversity, Defenders of Wildlife, Prairie Hills Audubon Society, Western Watersheds Project, WildEarth Guardians

October 3, 2025

VIA ePLANNING PORTAL

Re: Comments on BLM Changes to Proposed Resource Management Plan Amendments for Idaho, Montana/Dakotas, Nevada/California, Utah, and Wyoming, 90 Fed. Reg. 42,607 (Sept. 3, 2025)

Dear Bureau of Land Management:

Thank you for the opportunity to submit these comments on the significant changes the Bureau of Land Management (BLM) has made to its Greater Sage-Grouse Rangewide Planning Proposed Resource Management Plan Amendments (RMPAs). *See* 90 Fed. Reg. 42,607 (Sept. 3, 2025) (hereinafter "2025 Proposed Changes"). Our organizations and members are deeply invested in the survival of greater sage-grouse and in safeguarding the public lands they inhabit. We have participated extensively in this most recent sage-grouse planning process, including by submitting June 12, 2024 comments on the Draft RMPA and DEIS (hereinafter "DEIS Comments") and a December 16, 2024 protest (hereinafter "Protest"), which we incorporate here by reference.

As explained below, these latest changes to BLM's proposed sage-grouse plans are both scientifically and legally unjustified, and will compromise the survival and recovery of greater sage-grouse rangewide.

I. BLM Has Not Provided a Rational Explanation for These Significant Changes

A. Adaptive Management Changes

The 2024 Proposed RMPA/FEIS proposed a much needed, rangewide, science-based, consistent adaptive management framework. BLM is now abandoning that approach for inferior, uncertain, and piecemeal adaptive management frameworks driven by state policy, or in some cases no adaptive management framework at all. BLM has failed to provide a rational explanation for this significant change. A properly designed adaptive management program is essential to the federal sage-grouse conservation strategy, and was a central component of the U.S. Fish and Wildlife Service's decision not to list the species under the Endangered Species Act

(ESA). *See, e.g.*, 80 Fed. Reg. 59,858, 59,881 (Oct. 2, 2015) (noting that "[a]daptive management will help ensure that sage-grouse conservation measures in the Federal Plans are effective, and if they are not effective, that corrective actions will be implemented" and deeming the adaptive management protocol of the 2015 plans a "critical" and "key element" of the sage-grouse conservation strategies); *see also* DEIS at 2-120 ("Adaptive management was identified by the U.S. Fish and Wildlife Service (FWS) as a key component of BLM land use plans . . . help ensure that implementation of allocative decisions and limitations on disturbance are effective at conserving sage grouse and their habitats . . . Like monitoring, adaptive management is a key element of complex long-term conservation strategies."). Accordingly, we urge BLM to retain the adaptive management approach proposed in the 2024 FEIS, with the refinements proposed in our prior comments. *See* DEIS Comments at 66-70.

BLM previously proposed using the Targeted Annual Warning System (TAWS). TAWS is a rangewide monitoring and evaluative system for greater sage-grouse that was published in 2021 by the US Geological Survey expressly to improve our ability to discern population changes, including those likely resulting from land use changes (as opposed to natural population cycles or regional climate effects).[1] TAWS represented a significant advancement in greater sage-grouse management, as acknowledged by many sage-grouse scientists in a June 3, 2024 joint letter to BLM. TAWS utilizes a system of neighborhood clusters and climate clusters that are biologically derived, grouping leks based on connectivity, habitat, and movement and represent the best available science.[2] The purpose of developing this model was to detect local declines before they become irreversible. The TAWs system is also essential to help assess the efficacy of sage-grouse conservation measures including the state mitigation credit systems. Importantly, the FEIS explicitly recognized that "Larger biological units mask local declines. By using smaller, hierarchically nested population clusters, managers can detect downward trends before they become rangewide losses." FEIS at 3-124–126; Appendix G.

The FEIS TAWS established soft triggers (two consecutive years of decline in a neighborhood cluster) and hard triggers (two of three or three of four years of decline), as well as habitat loss thresholds (e.g., 5% annual sagebrush loss or <65% suitable cover). When a threshold is met, BLM must conduct a causal factor analysis (CFA) and apply interim adaptive management responses, including possible restrictions on new activities to prevent further decline. This framework was designed to provide consistent, rangewide protection across all BLM-

[1] *See* Coates et al., USGS, *Range-wide Greater Sage-Grouse Hierarchical Monitoring Framework: Implications for Defining Population Boundaries, Trend Estimation, and a Targeted Annual Warning System*, Open-File Report 2020–1154 (2021); Coates et al., A targeted annual warning system developed for the greater sage-grouse based on hierarchical population monitoring. Ecological Indicators, 156, 111107 (2023), https://doi.org/10.1016/j.ecolind.2023.111107.

[2] *See* https://www.usgs.gov/centers/fort-collins-science-center/science/hierarchical-units-greater-sage-grouse-populations

administered sage-grouse habitat, ensuring that localized habitat losses or population declines could not be overlooked.

In response to state protests, the BLM has proposed changes that will abandon the TAWS framework, with the exception of Oregon and Colorado, and instead defer to state-level monitoring and adaptive management approaches. Although BLM improperly withheld any discussion of what states have such adaptive management approaches, or what they require, it appears that Wyoming and Idaho are the only states that currently have an adaptive management framework. For the remaining states, it also appears the BLM will abandon any adaptive management framework until a state framework is adopted. *See, e.g.*, 2025 Proposed Changes at 4-5 (requiring use of HPMF's TAWS population thresholds and deactivation criteria only to the extent they are "consistent with State adaptive management processes"). We request clarification on that point.

Wyoming's Adaptive Management Framework

Specifically, the 2025 proposed change would adopt Wyoming's adaptive management framework model described in Wyoming EO 2019-3.[3] This model is an inadequate habitat monitoring framework on three key measures:

1. **Large, coarse scale units of analysis will mask localized problems:** Wyoming EO 2019-3 relies on Core Population Areas or larger population units. This scale is much broader than the USGS recommended Neighborhood Clusters used by the TAWs system because large units mask localized problems until it may be too late for corrective action.
2. **Longer time frame before action.** Wyoming's adaptive management framework requires a longer time frame of declines sustained across years. Hard triggers are when there is a ≥ 60% decline in 2 of 3 metrics in a year; or ≥ 40% decline in any of the 3 metrics for a minimum of 3 consecutive years in a 5 year range of analysis.. Soft triggers are less clear, with the EO stating annual departure from normal trends, with population metrics based on a five-year running average. This means that any action comes only after steep multi-year losses. In contrast, the BLM's TAWs framework looks at year-to-year declines 2 consecutive years for a "watch" or soft trigger; 2 of 3 or 3 of 4 for a "warning" or hard trigger).
3. **Steeper declines before action may be required.** Wyoming EO 2019-3 requires very steep declines before thresholds are tripped (hard triggers require a ≥ 60% drop in 2 of 3 metrics in one year ; or ≥ 40% decline sustained 3 years over a 5 year range of analysis). Wyoming's system tolerates considerable losses before triggering action. And even with these losses, additional restrictions may not be required. That makes Wyoming's system

[3] Wyo. Exec. Order No. 2019-3, *Greater Sage-Grouse Core Area Protection* (August 21, 2019), https://wyoleg.gov/InterimCommittee/2019/09-201908288-08SageGrouseEO8.21.19.pdf.

significantly less protective in terms of early intervention. In contrast, BLM TAWs system is sensitive to relatively modest but consistent declines, catching early downward trends. TAWS soft trigger or "warning" calls for a 2 consecutive year, negative rate of population change at the neighborhood cluster that shows a population decline that is either different or more rapid than that of the associated climate cluster. TAWs hard trigger or "warning" is when there is a 2 out of 3 or 3 out of 4 consecutive year negative rate of population change at the neighborhood cluster that is either different or more rapid than those of the associated climate cluster.

Idaho's Adaptive Management Framework

Idaho also has an adaptive management framework.[4] The problems with BLM using Idaho's management framework include:

1. **Large, coarse scale units of analysis will mask localized problems:** Like Wyoming, Idaho's framework relies on large units that can mask localized programs. Idaho's plan relies on Biological Significant Units (BSUs), as the basis for monitoring and trigger evaluation. BLM explicitly moved away from BSUs to Neighborhood Clusters (NCs) within the Hierarchical Population Monitoring Framework (HPMF) because BSUs are *too coarse* and masked localized population declines. A localized population crash might not show up if other parts of the BSU are stable.[5]
2. **Steep declines before action may be required.** Idaho's soft trigger calls for 10 percent decline in the current 3-year average of total maximum number of males counted, compared to the 2011 maximum male baseline, or 10% loss of key habitat in a BSU compared to the 2011 baseline. Hard triggers result from a 20% decline in the 3-year running average of the maximum count of males on leks within a Biologically Significant Unit (BSU), compared to the 2011 baseline, and a 20% decline in key habitat in a BSU compared to the 2011 baseline. These triggers allow steep declines in population and habitat before triggers are tripped. Using 3-year averages can mask steeper declines in populations during that 3-year period.

Nevada/California, Utah, Montana and the Dakotas

Nevada, California, Utah, Montana, and the Dakotas do not appear to have state-specific adaptive management frameworks with defined soft and hard triggers for population and/or habitat loss. Rather, the states rely on permitting or thresholds such as disturbance caps, qualitative standards or habitat objectives.

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[4] Policy For Greater Sage-Grouse Management in Idaho. https://gov.idaho.gov/wp-content/uploads/2022/03/Attachment1_2021IdahoPlan-FINAL.pdf

[5] 2024 DEIS/FEIS, Adaptive Management section, pp. 4-52 to 4-5

- **Montana's MSGOT program** relies on scientifically unsupported high disturbance caps (5% in Core Areas) and compensatory mitigation, and provides no population-based soft or hard triggers.
- **Nevada/California** maintained disturbance caps but also removed quantitative grass height standards, and the 2025 changes opened General Habitat to major rights-of-way. Critically, Nevada/California's framework does not include any population triggers.
- **Utah** applies a high, scientifically unsupported disturbance cap of 5% disturbance cap in Sage-Grouse Management Areas, but the 2025 changes re-drew BLM Habitat Management Area boundaries to exclude habitat outside state polygons, leaving occupied areas without protection. Critically, Utah's framework does not include any population triggers.

Abandoning TAWS Will Result in Patchwork Adaptive Management

Abandoning the uniform, rangewide TAWs framework and adopting inconsistent and inadequate state adaptive management frameworks will create a patchwork where monitoring, thresholds, and critical responses differ by state. Aligning with inadequate state plans comes at the expense of providing consistent rangewide protections for greater sage-grouse which is the foundation to managing sage-grouse recovery and preventing further declines. *See* 2024 FEIS at 1-4 (noting that the purpose and need for this management effort includes "provid[ing] for consistent and effective rangewide conservation" for sage-grouse) (emphasis added).

The loss of the TAWS system will result in an inability to evaluate population trends and institute adaptive management actions consistently across the range including across state lines. For example, telemetry and lek surveys show seasonal movement and dispersal across the Upper Snake River Plain (Idaho) and into the Wyoming Range and Star Valley.[6] Cross-boundary populations, movement and dispersal underscore the critical need for rangewide consistency in management including monitoring, thresholds and protections.

BLM's basis for abandoning the federal adaptive management framework is not grounded in a rational explanation. Instead, the 2025 Proposed Changes rely on state assertions that only they have authority over wildlife, on state preferences for using state-run data and models, and on state resistance to adhering to federal plans for management of federal lands. 2025 Proposed Changes at 1. These explanations do not pass muster. In *Kleppe v. New Mexico*, 426 U.S. 529, 536

[6] *See* Coates et al., USGS, *Range-wide Greater Sage-Grouse Hierarchical Monitoring Framework: Implications for Defining Population Boundaries, Trend Estimation, and a Targeted Annual Warning System*, Open-File Report 2020–1154 (2021); *see also* 80 Fed. Reg. 59,858, 59,881 (Oct. 2, 2015) (noting that "[a]daptive management will help ensure that sage-grouse conservation measures in the Federal Plans are effective, and if they are not effective, that corrective actions will be implemented" and deeming the adaptive management protocol of the 2015 plans a "critical" and "key element" of the sage-grouse conservation strategies).

(1976), the Supreme Court confirmed that Congress's "complete power" over public lands "necessarily includes the power to regulate and protect the wildlife living there." *Id.* at 541. Accordingly, a desire to recognize "state authority" over wildlife is not a reasoned basis for these changes. Furthermore, BLM previously explained that the adaptive management framework proposed in the 2024 FEIS was not exclusive of state input, but rather staked out "opportunities for state wildlife agencies to provide their information separately and to work with the BLM on concerns not identified by TAWS or other resources." FEIS at 22-11. BLM confirmed that "State input is an important component of the TAWS model and adaptive management," and that BLM would work with State wildlife agencies to interpret and address population status and potential anomalies. FEIS at 22-12. Because BLM already committed to using the adaptive management input and data of state wildlife agencies alongside the federal protocol, the "desire to use models maintained and controlled by state wildlife agencies," 2025 Proposed Changes, is also not a rational basis.

Paradoxically, BLM also claims that abandoning a consistent approach to adaptive management in favor of state-by-state protocol was necessary to "improve consistent rangewide adaptive management." *Id.* The desire to improve "consistent rangewide adaptive management" is not a rational basis for these proposed changes, as they only *undermine* that goal.

BLM has also failed to grapple with the factual basis and rationales the 2024 FEIS gave for a uniform approach to adaptive management, rather than inconsistent state-by-state protocol. For example, the FEIS explained that "previous adaptive management systems varied by state and resulted in inconsistent, and in some cases subjective and erroneous results," resulting in state wildlife agencies requesting a more "objective and quantifiable method across the range of GRSG." FEIS at 22-12. The consistent approach was necessary, BLM explained, to meet the objective of this planning effort "to provide for consistent conservation across state lines" and "decisions that accord with range-wide GRSG conservation goals." BLM also concluded that TAWs reflects the "best available and most recent science, " FEIS at 22-12, and that "TAWS provides a consistent, objective and quantitative tool that allows comparisons across political boundaries." FEIS at 22-12, 22-119 to -120. In adopting the Oregon and Colorado Records of Decision, BLM also found that "[t]o accurately assess any anomalies or thresholds being met, and any necessary responses, monitoring of habitat and population trend should be conducted at the same scale." Greater Sage-Grouse Rangewide Planning 2025 Record of Decision and Approved Resource Management Plan Amendment for Oregon at 2-20. BLM has failed to address these findings that underlied the prior approach or reconcile them with its 2025 Proposed Changes.

Furthermore, BLM has violated its obligation under 43 C.F.R. § 6103.2(c) and (d) to "use high-quality inventory, assessment, and monitoring information, including

standardized quantitative monitoring data, remote sensing maps, and geospatial analyses, to inform decision making across program areas, including" land use planning, as well as "Standardized field protocols and indicators to allow data comparisons through space and time in support of multiple management decisions." As explained above, deferring to state adaptive management programs will result in state-by-state differences in habitat and population monitoring, metrics, protocols, and indicators, violating 43 C.F.R. § 6103.2. These state-by-state differences will also make effective rangewide management of this species challenging at best.

B. Elimination of Grass Height Standard

Numerical standards for grass height are arbitrarily proposed to be deleted for the Idaho and Nevada/California ARMPAs, to be replaced by the terms "suitable nesting cover" and "suitable nest cover," respectively. Changes to Proposed RMPAs at 22, 23. This is a violation of the Administrative Procedures Act. While this proposed change is framed as "based on the best available science" and supported by Conway et al. (2025), neither the best available science nor Conway et al. support this change. According to USFWS (2010),

> Livestock management and domestic grazing can seriously degrade sage-grouse habitat. Grazing can adversely impact nesting and brood-rearing habitat by decreasing vegetation concealment from predators. Grazing also has been shown to compact soils, decrease herbaceous abundance, increase erosion, and increase the probability of invasion of exotic plant species. Once plant communities have an invasive annual grass understory dominance, successful restoration or rehabilitation techniques are largely unproven and experimental (Pyke, in press, p. 25). Massive systems of fencing constructed to manage domestic livestock cause direct mortality to sage-grouse in addition to degrading and fragmenting habitats. Livestock management also can involve water developments that can degrade important brood-rearing habitat and or facilitate the spread of WNv [West Nile virus].

75 Fed. Reg. 13942. Based on the science that has emerged since greater sage-grouse were found warranted for ESA listing in 2010, these conclusions remain scientifically valid and should remain unchanged to protect suitable nesting habitat conditions within sage-grouse Priority Habitats.

None of the referenced studies remove management parameters related to grass height, but the Utah plan simply requires, "Provide overhead and lateral concealment from predators. Defer to local data whenever possible to help determine proper height." Appendix E. Instead, the best available science, and indeed, the preponderance of evidence, has established that at least 7 inches (18 cm)

of residual stubble height needs to be provided in nesting and brood-rearing habitats throughout their season of use.

Nevada and California and Idaho adopt this inadequacy in the proposed changes of Table 4-1, by footnoting to Coates et al 2017a[7] and Dahlgren et al 2019[8] to assert that adequate nesting cover varies by site. *See* 2025 Proposed Changes at 22-23. Dahlgren's research was specific to Utah and reflected grass heights in breeding habitat that weren't then correlated with optimizing nest success. Dahlgren, et al. 2019 largely evaluated areas that were grazed by livestock, not at the site potential for grass height, skewing the results by failing to compare grass height with a "control" in the study, or seeing what the threshold might be for successful brood-rearing. Looking at a range of nest and brood-rearing habitat conditions is not the same as evaluating optimizing for the survival of sage-grouse, and the current plan to adopt Dahlgren et al.'s premise fails.

According to Gregg et al. (1994: 165), "Land management practices that decrease tall grass and medium height shrub cover at potential nest sites may be detrimental to sage-grouse populations because of increased nest predation. Grazing of tall grasses to <18 cm would decrease their value for nest concealment. Management activities should allow for maintenance of tall, residual grasses or, where necessary, restoration of grass cover within these stands." Hagen et al. (2007) analyzed all scientific datasets up to that time and concluded that the 7-inch threshold was the threshold below which significant impacts to sage-grouse occurred (see also Herman-Brunson et al. 2009). In the Bi-State population of greater sage-grouse, Brussee et al. (2023) found that sage-grouse in xeric (dry) sites selected taller grass heights and had significantly greater nest survival with increasing grass height. Hagen et al. (2007:47) conducted a meta-analysis of 24 sage-grouse/habitat studies, and found "low levels of variation in effect sizes across studies and regions." In effect, the 7-inch grass height rule applies consistently across the range of the greater sage-grouse; one size really *does* fit all, according to the science. According to Taylor et al. (2010:4),

> The effects of grazing management on sage-grouse have been little studied, but correlation between grass height and nest success suggest that grazing may be one of the few tools available to managers to enhance sage-grouse populations. Our analyses predict that already healthy populations may benefit from moderate changes in grazing practices. For instance, a 2 in increase in grass height could result in a 10% increase in nest

[7] The "changes" document does not include a list of references cited and thus it is impossible to determine which Coates et al 2017 paper this footnote cites to.
[8] Dahlgren, D., et al. (2019). Sage-grouse Breeding and Late Brood-Rearing Habitat Guidelines in Utah. Wildlife Society Bulletin 1-14.

success, which translates to an 8% increase in population growth rate.

The exception to this 7-inch rule is found in the mixed-grass prairies of the Dakotas, where sparser cover from sagebrush and greater potential for tall grass have led to a recognition that a 26-cm (10.2 in) stubble height standard is warranted (Kaczor 2008, Kaczor et al. 2011). Foster et al. (2014) concluded that livestock grazing could be compatible with maintaining sage-grouse populations, but notably stubble heights they observed averaged more than 7 inches (18 cm) during all three years of their study, and averaged more than 10.2 inches (25.9 cm) in two of the three years of the study. Similarly, Smith et al. (2017) was unable to establish a benefit of rotational grazing systems in Montana, unsurprising in a study where grass heights uniformly averaged 18 cm or more throughout the study. Where grass heights are greater than 18 cm, sage-grouse have their habitat needs met, and areas where livestock grazing is already managed to provide 18 cm grass height under both grazed and ungrazed conditions are unlikely to show significant differences in nest success.

The 18-centimeter (7-inch) grass height standard for sage-grouse is a consistent threshold across the range, and studies testing grass height effects across the range of the greater sage-grouse have not yielded different critical thresholds from this figure. Connelly et al. (2000) reviewed the science of that time and recommended an 18-cm residual stubble height standard. Stiver et al. (2015) recommended 18 cm grass height for all breeding and nesting habitats, and explicitly stated that this and other established measures should not be altered unless scientific evidence definitively indicates that the 7-inch threshold is inappropriate. This remains the best available science.

While Smith et al. (2018a) hypothesized that researcher methods of measuring grass height at failed nests earlier in the year than successful nests, rather than grass height, was responsible for observed significant differences in sage-grouse nest success, this was an assertion that was unsupported by the published data tested by this study. Smith et al.'s hypothesis was supported for two unpublished datasets, but rejected for the one published dataset tested (the Doherty et al. 2014 dataset), which continued to show a significant decrease in nest success at grass heights shorter than 7 inches after correcting for differences in date of grass height measurement. Gibson et al. (2016a) reviewed a number of sage-grouse grass height/nest success studies regarding whether actual hatch date versus predicted hatch date were the factor explaining the significantly lower sage-grouse nest success at grass heights lower than 7 inches, and found (importantly) that multiple studies measuring grass height at the predicted hatch date (supposed by Smith et al. 2018a to be the correct measurement date to avoid bias) for grazed and ungrazed plots alike (e.g., Gregg et al. 1994, Sveum 1998) showed significant effects of grasses shorter than 7 inches on nest success. A different Gibson et al. 2016 paper (Gibson

et al. 2016b) found that females selected for areas with taller residual grasses or live grasses, "which suggests that females also selected areas with greater vertical cover from grasses near nests." Although residual grasses did not provide an appreciable benefit to reproductive success, the study did not reach that conclusion regarding live grasses (Gibson et al. 2016b). Indeed, the local scale habitat selection was correlated with reproductive success, meaning that the immediate vegetation communities and structures do make a difference to the bird. Notably, the study did not compare grass heights throughout the season, just within 3 days of predicted or actual date of hatch, and nor did it discuss what the average live grass height was. *Ibid.*

Doherty et al. (2014) found a similar relationship between grass height and nest success in northeast Wyoming and south-central Montana and prescribed a recommended grass height. The significance of the Doherty et al. (2014) study was explicitly tested by Smith et al. (2018), who confirmed that grass height continued to have a significant effect on nest success for this Wyoming study after correction factors were applied to the data.

The proposed changes to grass height requirements rely heavily on the unpublished Conway et al. (2025) and the likelihood of future journal publications arising from this paper. While this study might justly be criticized as an unpublished report funded in part by livestock industry lobby groups – specifically the Public Lands Council and the Idaho Cattle Foundation/Association – its findings are consistent with the compelling need to prevent overgrazing by domestic livestock. Conway et al. (2025:51) "found no evidence that cattle grazing (at the levels in the allotments we studied) adversely affected most demographic traits of sage-grouse." Importantly, average levels of grass height in the allotments in the study for both grazed and ungrazed pastures were significantly higher than the 7-inch threshold previously specified in the sage-grouse ARMPAs (Conway et al. 2025: 25, Figure 11). This is consistent with earlier studies showing that grass heights greater than 7 inches provide sage-grouse with adequate hiding cover, while grass heights less than 7 inches are correlated with lower nest and bird survival rates.

In addition, in Conway et al.'s (2025) finding that grazed and ungrazed pastures were substantially similar as sage-grouse habitat (within the parameters of the study), forage utilization in the grazed pastures was less than 30% in the grazed areas. Indeed, Conway et al. (2025:51) stated, "An important caveat regarding all of our results is that they are only relevant to grazing at levels included in our study (our pastures were grazed <30% utilization in the allotments as measured by our field methods)." This is consistent with the findings of range scientists that 25 to 30% forage utilization is the appropriate limit for livestock grazing in order to maintain perennial grasses in the arid West (Galt et al. 2000, Holechek et al. 2010). It is essential to maintain perennial bunchgrasses in sage-grouse habitats to prevent cheatgrass invasions, which result in large-scale fires that wipe out

sagebrush (complete literature review in Molvar et al. 2024), a required habitat element for sage-grouse population persistence. BLM must therefore consider among the alternatives the addition of a standard to limit livestock forage utilization to 30% of annual forage production in all designated sage-grouse habitats.

In short, Conway et al.'s results do not support BLM's 2025 Proposed Changes due to the following factors: (1) The grazing regime that is the basis of the Conway et al. hypothesis testing is not representative of agency-permitted grazing in this region; (2) the forage utilizations in the Conway et al. study (averaging 18%, and uniformly less than 30%) are not similar to those required (no requirements with grass height removal) by present or amended ARMPAs; and (3) the grass heights experienced in the grazed portions of the study tend to be greater than the 7" threshold that is required in most ARMPAs intended for revision (and therefore cannot possibly address whether the 7" standard is necessary or not).

C. Making GHMA "Open" to Rights of Way in Nevada/California

The 2025 Proposed Changes would substantially weaken protections for GHMA in Nevada by designating these areas "open" to "major" rights-of-way for large infrastructure projects like transmission lines and oil pipelines. This represents a significant departure from both the 2015 and 2019 plans, both of which classify GHMA as "avoidance" areas for major rights-of-way, and "exclusion" areas for utility-scale solar projects. This change undermines the purpose of GHMA by increasing the likelihood that habitat-fragmenting infrastructure and energy projects will be located within sage-grouse habitats.

According to the 2024 FEIS, the GHMA designation is intended to protect "lands that are, or have the potential to become, occupied seasonal or year-round habitat outside of PHMA." These lands should be "managed to sustain sage-grouse populations." Greater Sage-Grouse Rangewide Planning 2024 Proposed RMP Amendment and Final EIS at 2-21. "The intent of GHMA is to maintain habitat conditions to support [sage-grouse] consistent with the state agency designations of recovery, connectivity, or seasonal habitats." Id.

Allowing these areas to be bisected by large, linear infrastructure projects is antithetical to this purpose, as both the 2015 and 2019 plans recognized. BLM has not explained how its last-minute about-face in designating GHMA as "open" to major rights-of-way is consistent with the protection of "recovery" and "connectivity" habitats, or with "sustain[ing]" sage-grouse populations. Indeed, BLM has failed to offer any adequate explanation for this change. As with the elimination of PHMA with limited exceptions (discussed below), BLM appears to have made this change simply because states argued for it. But in relying solely on this rationale, BLM ignores that the purpose of the sage-grouse plans is to provide an adequate

regulatory mechanism to reverse range-wide population declines and thus avoid ESA listing (see USFWS 2015). BLM fails to explain why the 2025 plans would provide such an adequate regulatory mechanism, in light of the significant change to the standards governing infrastructure development in GHMA. BLM also ignores the ways in which this change in designation will put additional pressure on both PHMA and GHMA areas by encouraging and facilitating related developments within sage-grouse habitats, including solar, wind, and oil and gas.

D. Elimination of PHMA With Limited Exceptions

The 2024 FEIS recognized certain areas within PHMA warranted additional protections given development pressures and climate-driven threats. These areas were designated as "PHMA with limited exceptions" at the time, but the 2025 Proposed Changes would eliminate this designation, weakening habitat safeguards for greater sage-grouse without showing that the science supporting those protections has changed.

BLM's central rationale for its 2025 proposal to eliminate "PHMA with limited exceptions" appears to be that states argued against it. As the agency summarized, "several states found the identification of PHMA with limited exceptions and the additional protections provided for these areas to be unnecessary; potentially inconsistent with state and local plans, policies, or programs (including concern that this would mean three federal management area designations instead of two); and a primary reason the states could not support the Proposed RMP Amendments." 2025 Proposed Changes at 9.

It is unclear whether BLM itself believes this designation to be unnecessary. Importantly, that would be inconsistent with what BLM found in the 2024 FEIS. As the 2024 FEIS explained, "[t]hese additional protections in the Proposed RMP Amendment are designed to provide the necessary protections for GRSG and its habitat in light of anticipated development threats and negative impacts from climate change such as drought." FEIS at ES6.

BLM has not provided any reasoned basis for finding PHMA with limited exceptions to be "unnecessary." In its 2025 Proposed Changes document, BLM failed to confront the original evidence supporting PHMA with limited exceptions: namely, that certain key habitats require stronger safeguards from energy development and climate change. BLM found in the 2024 FEIS that these areas "require additional protection" and that the certainty of protection was "necessary" to conserve "these key areas of GRSG habitat" and achieved the "appropriate balance of public land uses." FEIS at ES-6; *see also id.* at Dear Reader ("These additional protections will provide the necessary conservation measures for GRSG habitat, given anticipated development threats and negative impacts from climate change, while ensuring an appropriate balance of public land uses."). If "limited exceptions" were deemed

necessary to protect greater sage-grouse in the 2024 FEIS, what new scientific basis justifies their removal? By reverting to broader PHMA management without the "limited exceptions" safeguards, protections for the most critical habitats would be diminished at precisely the moment when cumulative impacts and climate stressors are intensifying. BLM has utterly failed to grapple with the substantive conservation basis for the designation, rendering the decision arbitrary and capricious.

The inconsistency-with-state-plans rationale also lacks a reasonable basis. BLM noted state concerns that the designation was "potentially inconsistent" with their plans, but fails to identify any *actual* inconsistency. BLM also rejected the claim of inconsistency in 2024. *See, e.g.*, FEIS at 23-6 (noting that "[t]he additional protections proposed for a subset of PHMA does not conflict with Idaho's three-tiered approach" and not identifying this designation as an inconsistency with respect to any state plan). To the extent there is an inconsistency, BLM has also not reasonably explained why deferring to the state approach is appropriate. On the basis of this same record and after coordination with states, BLM in 2024 determined that any remaining inconsistencies with state plans "cannot be reconciled" with Federal policies, programs, laws, and regulations. BLM Protest Resolution Report at 45. That unexplained inconsistency again renders this change arbitrary and capricious.

E. PHMA and GHMA Boundary Changes in Utah

BLM has also failed to offer a reasoned explanation for its last-minute changes to the habitat management area boundaries in Utah, including huge swaths of GHMA and PHMA that would entirely lose protections. BLM's only explanation for these significant changes is that they "address inconsistencies raised in the Utah Governor's Consistency Review process." 2025 Proposed Changes at 24. That is not a reasoned justification. Again, the Federal Land Policy and Management Act (FLPMA) Section 202(9) and BLM's RMP regulations at 43 CFR 1610.3-2 only require RMPs to be consistent with state resource-related plans to the extent that they are consistent with the purposes, policies, and programs of Federal laws and regulations applicable to public lands. On the basis of this very same record and after coordination with the State of Utah, BLM in 2024 determined that any remaining inconsistencies with the state of Utah's plans "cannot be reconciled" with Federal policies, programs, laws, and regulations. BLM Protest Resolution Report at 45. BLM further explained this determination in the FEIS. FEIS at 3-25. For example, BLM explained that the GHMA habitat not coinciding with Utah habitat designations was being retained due to the presence of "occupied leks, population connectivity across state borders, habitat restoration projects, and other known areas of occurrence (i.e seasonal habitat use)." *Id.* Likewise, it acknowledged that the West Tavaputs PHMA was being retained "due to occupied leks" and ongoing habitat remediation efforts. *Id.* BLM has entirely failed to grapple with these prior

findings or offer a reasoned explanation for its contrary position now. Although some of these areas have fewer birds because they have been hard hit by development, that is only a justification for stronger protections to allow these habitats to recover—not a basis for writing off these habitats entirely.

Although BLM has not clearly disclosed this to the public, it also appears the agency is proposing to eliminate the GHMA-connectivity designation in Utah. The FEIS characterized these lands as "[a]reas within GRSG GHMA habitat that contain an increased level of biological importance because they provide for connectivity between localized areas of PHMA, above that of regular GHMA, based on new science (Row et al. 2018) and telemetry studies." FEIS at 2-22. BLM also explained that "new science (Row et al. 2018) and telemetry" indicate the importance of this habitat for connectivity. FEIS at 3-25; *see also id.* at 3-26. BLM has failed to offer a reasoned justification for disregarding these prior findings and eliminating the GHMA-connectivity designation, particularly where maintaining population connectivity is a key goal of BLM's plans. *See* 2024 FEIS at 2-20.

II. BLM Must Update Its NEPA Analysis to Account for these Changes to the Proposed Plans and Other Changed Circumstances Bearing On Impacts.

BLM may not lawfully rely on its November 2024 EIS to approve its proposed sage-grouse RMP amendments. As explained below, there have been significant changes both to the proposed plans and to facts bearing on their environmental impacts. For both reasons, the November 2024 EIS fails to detail sufficiently the "reasonably foreseeable environmental effects of the proposed agency action." 42 U.S.C. § 4332(2)(C)(i); *see also* 43 C.F.R. § 1610.4-6 (requiring BLM to "estimate and display the physical, biological, economic, and social effects of implementing each alternative considered in detail").Accordingly, to comply with NEPA, BLM must prepare and circulate for public comment a supplemental EIS before approving its proposed RMP amendments.

A. <u>The Changes to the Proposed Action Will Result In Significant Impacts Not Evaluated in the Final EIS.</u>

BLM claims to have "carefully reviewed each of these proposed changes" and determined that they would not "result in significant effects outside the range of effects analyzed in the Proposed RMPA/Final Environmental Impact Statement (EIS)." We respectfully disagree. BLM itself acknowledges that the 2025 Proposed Changes are "significant," and as explained below, they will result in substantial new environmental impacts that BLM has never studied. To the extent any of these proposed changes were components of previously-studied but rejected alternatives, the November 2024 EIS is insufficiently detailed for BLM or a member of the public to discern the cumulative impacts of the proposed plans with these changes superimposed. New analysis is particularly important as these changes affect

important elements of the prior proposed plans and universally *increase* environmental impacts.

1. Impacts of Adaptive Management Changes

The proposed adaptive management changes will have significant adverse environmental consequences that BLM has not properly studied, including for greater sage-grouse and other species that inhabit the same lands. As explained above, the proposed changes to BLM's adaptive management regime will mask localized declines, tolerate larger declines before action may be taken, slow or eliminate management responses to tripped triggers, and make it easier to reverse such management responses before the triggering decline has been reversed. The foreseeable result will be an increase in development and harm to sage-grouse habitat that is already under serious threat.

BLM is wrong that the FEIS already studied these impacts. The FEIS does not discuss the adaptive management regimes of Wyoming, Idaho, and other states nor the impacts of adopting them. Neither does the FEIS discuss the other changes BLM has proposed for the adaptive management framework. Accordingly, BLM must study the environmental effects of these proposed changes to comply with NEPA.

2. Impacts of Eliminating Grass Height Standard

BLM also failed to study the environmental impacts of eliminating the grass height standard for the Idaho and Nevada/California ARMPAs, violating NEPA. As the best available science and prior sage-grouse plans recognize, a grass height standard is necessary to ensure adequate cover for successful sage-grouse nesting and brood-rearing—and to limit the adverse impacts of livestock grazing. Because the proposed changes defer decisions to subsequent site specific management, and because site-specific grazing permit analyses are rarely completed in sage-grouse habitat, this proposed change makes it unlikely that the minimum science-based guidelines will be implemented. For example, federal data show that over half of permit renewals do not receive a site-specific environmental analysis.[9] This significant change must be analyzed under NEPA, particularly as grazing is the most widespread use of sage-grouse habitat across its range.

3. Impacts of Making GHMA "Open" to Rights of Way in Nevada/California

Changing GHMAs from "avoidance" to "open" for major rights-of-way in Nevada will adversely impact sage-grouse habitats and populations across the Great Basin by increasing the amount of development permitted in sage-grouse habitat, and

[9] https://storymaps.arcgis.com/stories/45ea3ebe6ef54bd0840bb41e63a79174

impeding the recovery of these areas. BLM has failed to properly study or disclose these impacts under NEPA.

The scientific literature regarding the effects of transmission lines and other tall structures on sage-grouse is robust. Several characteristics make sage-grouse particularly sensitive to development. First, sage-grouse have strong site fidelity to their mating grounds, nesting habitat, and wintering areas (USFWS 2015). Birds may return to disturbed areas even if they can no longer successfully reproduce or survive there, which limits their adaptability to human disturbance (USFWS 2015). Second, sage-grouse tend to self-select habitats that maximize survival and reproductive success, meaning that when birds are forced to relocate, it is often to suboptimal habitat. Third, sage-grouse require connectivity between seasonal habitats, including leks and nearby nesting areas, wetter summer habitats, and lower-elevation wintering areas. When human development—such as roads and transmission lines—cuts across a landscape, it can inhibit birds from accessing required habitats and thus cause "functional" habitat loss.

Transmission-line structures provide hunting perches and nesting substrate for raptors and corvids, often in habitats that are typically devoid of trees or other natural tall structures (Steenhof et al., 1993; Manville, 2005; Howe et al., 2014; O'Neil et al., 2018). Perching on power poles and transmission structures increases a raptor or corvid's range of vision, allowing for greater speed and effectiveness in searching for and acquiring prey, ranging from eggs to chicks to adult ground-nesting birds, especially sage-grouse. Increased abundance of raptors and corvids within occupied sage-grouse habitats may result in predation rates outside the range of natural variation (Remington et al. 2021), and these birds may preferentially seek out transmission structures in areas where natural perches and nesting sites are limited. Transmission structures also provide nesting sites for corvids and raptors in habitats with low vegetation and relatively flat terrain. For example, Blomberg et al. (2010) found that raven abundance increased along the Falcon-Gondor powerline corridor in Nevada both during the construction period, and long-term after powerline construction activities had ceased. In addition, golden eagle (Aquila chrysaetos) predation of sage-grouse increased from 26% to 73% (of the total predation) after a transmission line was constructed within 220 yd of an occupied lek in northeastern Utah (Ellis 1984). Raptors and common ravens have been shown to use transmission lines during the sage-grouse breeding season (Steenhof et al., 1993), and increases in their abundance or hunting activity near transmission lines has been described (Steenhof et al., 1993; Coates et al., 2014a & b; Gibson et al., 2018), which is negatively associated with sage-grouse breeding activities and demographic vital rates such as fecundity, nest success and chick survival (Dinkins et al., 2014).

For example, with the above example of the new transmission line in northeastern Utah (Ellis 1984), the lek was extirpated, and Ellis concluded that the presence of

the transmission line resulted in changes in sage-grouse dispersal patterns and fragmentation of the habitat. In Washington, 95% (19 of 20) of leks ≤4.7 miles from 500 kV transmission lines were found to be unoccupied, while the unoccupied rate for leks >4.7 miles is 59% (22 of 37 leks; Washington Department of Fish and Wildlife 2008, unpublished data). Leks within 0.25 miles of new power lines constructed for coalbed methane development in the Powder River Basin of Wyoming had significantly slower growth rates compared to leks further from these lines, which was presumed to be the result of increased raptor predation (Braun et al. 2002). Lebeau et al. (2019) found that transmission lines had a negative effect on greater sage-grouse habitat selection and survival over 6 years; the effect of transmission lines on habitat function extended 1 km from a transmission line in habitats within 3.1 km of an occupied lek compared to 0.5 km from a transmission line in habitats beyond 3.1 km from occupied leks. Kohl et al. (2019) found that female sage-grouse avoided transmission lines during the nesting and brooding seasons at distances of up to 1.1 and 1.2 km, respectively, and nest and brood success were negatively affected by transmission lines up until 2.4 km and 1.3 km, respectively; nesting success increased as females selected nesting sites farther from transmission lines. Gibson et al. (2018) found that powerlines negatively affected both demographic rates (e.g., nest survival, recruitment, and population growth) and behavior responses (e.g. nest and brood site selection), with the negative effects from powerlines extending as far as 12.5 km. Presumably, based on the presence of transmission lines and the associated increased presence of predators, sage-grouse have been observed to shift habitat use away from these areas (Braun, 1998; Hanser et al.; 2011; Gillan et al., 2013; Dinkins et al., 2014). For example, Dinkins (2014) documented sage-grouse avoidance of powerlines not just during the nesting period but also during early and late brood-rearing. Synthesis of connectivity work in Washington suggests that transmission lines increased resistance to sage-grouse movement, gene flow, and lek activity (Shirk et al., 2015). In summary, utility corridors involving above-ground power lines have been shown to fragment habitat and contribute to increased predation of sage-grouse locally by subsidizing raptors and corvids (Hagen 2011; Salvo 2015; Remington et al., 2021).

Like other infrastructure, sagebrush is removed along ROWs during installation of transmission lines, which results in direct habitat loss and fragmentation. These kind of development activities adversely affect greater sage-grouse populations due to habitat loss, the presence of humans and their equipment, and noise" (Lyon and Anderson 2003; Aldridge 2005; Holloran, 2005; Aldridge and Boyce 2007; Walker et al. 2007; Doherty et al. 2008). The construction and maintenance of transmission lines can also facilitate the spread of nonnative invasive plant species (such as cheatgrass) as equipment travels off-road and in habitats that would not normally be traveled through (Gelbard and Belnap, 2003; Knick et al., 2003; Connelly et al., 2004).

4. Impacts of Eliminating PHMA-With-Limited-Exceptions

BLM also failed to take a hard look at the impacts of eliminating the PHMA-with-limited- exceptions designation. In the FEIS, BLM acknowledged that this designation would "reduce impacts from highly probable resource threats." FEIS, App. 3 at 3-1. We agree, yet BLM has failed to study the impacts of this proposed change.

Evidence shows that BLM staff almost universally grant exemptions requested by industry—even in the face of deleterious effects to greater sage-grouse. For example, a recent GAO study of BLM field offices found that exception requests were granted 90% of the time, and that most field offices did not even properly track or record their decisions on such requests. *See* https://www.gao.gov/products/gao-17-307. Similarly, a 2024 analysis by Western Watersheds Project and Public Employees for Environmental Responsibility (PEER) of documents obtained under the Freedom of Information Act found that "field offices of the Wyoming BLM granted approximately 90% of the 127 industry applications for exemptions from protective stipulations." *See* Conservation Groups Letter to BLM Leaders (March 6, 2023), https://peer.org/wp-content/uploads/2023/03/3_7_23_Letter-BLM-re-GSG-exceptions-3-6-23.pdf. Yet as we previously explained, despite subjecting nearly every key plan element to waivers, exceptions, and modifications, BLM has failed to disclose and analyze the extent to which these are being granted despite harm to sage-grouse. DEIS Comments at 51.

It is clear that eliminating the PHMA-with-limited-exceptions designation will allow greater disturbance to sage-grouse priority habitat. Research has consistently shown that greater sage-grouse are highly sensitive to anthropogenic disturbance, with avoidance behaviors and reduced fitness documented near energy infrastructure, rights-of-way, and associated human activity (Holloran et al., 2010; Blickley et al., 2012; Smith et al., 2016). Removal of "limited exceptions" protections exposes the most sensitive PHMA to precisely those disturbances the 2024 FEIS concluded warranted exclusion.

Industrial-scale solar and wind installations fragment sagebrush landscapes, displace greater sage-grouse from otherwise suitable habitat, and introduce vertical structures that increase predation risk. Tall turbines and transmission lines provide perches for raptors and corvids, which prey on both adult grouse and nests (Coates et al., 2014). Construction and operation of these facilities also create chronic noise and human activity that reduce lek attendance and disrupt breeding (Blickley et al., 2012). Given that sage-grouse demonstrate strong site fidelity to leks and nesting habitats, displacement by renewable energy facilities can result in long-term population declines that are not readily offset by mitigation. Meanwhile, transmission corridors, highways, and pipelines fragment contiguous sagebrush habitat, reducing effective habitat size and increasing edge effects (Knick

& Connelly, 2011). Roads and other corridors also create pathways for invasive annual grasses such as cheatgrass (*Bromus tectorum*), which further degrade sagebrush ecosystems by altering fire regimes and pushing out native grasses and forbs (Reisner et al., 2013). Roads and rights-of-way are associated with decreased lek persistence and reduced nesting success within several kilometers of the disturbance footprint (Wisdom et al., 2011). By eliminating exclusion of major rights-of-way in "limited exceptions" areas, the 2025 Proposed Changes would facilitate precisely the type of habitat fragmentation most strongly correlated with sage-grouse declines.

Furthermore, oil and gas extraction introduces a dense network of well pads, access roads, and associated infrastructure. Numerous studies have documented that greater sage-grouse avoid nesting and lekking sites in proximity to drilling operations, resulting in decreased lek counts and lower reproductive success (Holloran et al., 2010; Naugle et al., 2011). Even where well densities are moderate, noise, traffic, and human activity drive displacement. The FEIS' requirement for NSO allocations in "limited exceptions" areas was designed to prevent such impacts in the most sensitive habitats. Removal of this requirement will once again expose these core areas to disturbance at precisely the moment climate change is compounding population stress through drought-induced habitat loss (Gibson et al., 2017).

The 2024 FEIS emphasized that PHMA with limited exceptions was necessary to account for cumulative stressors and climate change. Increased drought frequency and severity reduce sagebrush productivity and the availability of wet meadow brood-rearing habitats, decreasing forb and insect availability essential to GRSG reproduction, population sustainment over time, and ultimately recovery of the species' population (Gibson et al., 2017).The 2024 FEIS emphasized that PHMA with limited exceptions was necessary to account for cumulative stressors and climate change. There must be certain protection for these habitats to ensure recovery and persistence of the species. BLM has utterly failed to study these impacts of eliminating the PHMA-without-exceptions designation.

5. *Impacts of Utah Habitat Management Area Boundary Adjustments*

BLM has failed to take a hard look at the impacts of the adjustments to habitat management area boundary changes in Utah. It is impossible to determine, on the basis of static PDF maps, how these boundary designations compare to the alternatives analyzed in the FEIS or their geographic scale. However, it does not appear that the FEIS studied an alternative that would adopt these HMA boundaries for Utah. Even if it had, the prior analysis was insufficiently detailed to allow anyone to comprehend the impacts of the proposed alternative with these

HMA boundary adjustments superimposed. Accordingly, BLM must study the impacts of this change under NEPA.

This change is not simply an administrative one. Altering Utah's HMA boundaries has the effect of entirely eliminating protections afforded to large swaths of GHMA habitat and PHMA habitat. For example, BLM would basically write off protections for the portions of the Uintah population area south of Highway 40, including the Deadman's Bench, East Bench, and Book Cliffs area. Among other issues, BLM must consider the possible impacts of this change to habitat and genetic connectivity among Utah's various population units and with other adjacent states, such as Wyoming and Colorado. Sage-grouse habitats outside of designated PHMA is essentially to maintain connectivity between PHMA areas (genetic and habitat), allowing habitat restoration and population expansion opportunities, and maintaining flexibility for managing habitat changes that may result from wildfires, drought, invasive species encroachment, climate change, and other threats. *See* COT Report at 36.

B. New Information or Circumstances Alter the Environmental Impacts of the Proposed Action and Require an Updated EIS

There also exists significant new information relevant to the environmental impacts of the proposed sage-grouse RMP amendments that requires preparation and circulation of a supplemental EIS. The following is a non-exhaustive list of regulatory, policy, scientific, and factual changes that undermine the assumptions and analysis in the November 2024 EIS:

- The One Big Beautiful Bill Act ("OBBBA"), Pub. L. 119–21, alters BLM's discretion to manage oil and gas development in sage-grouse habitat. Specifically, the OBBBA constrains BLM's discretion to defer nominated parcels from quarterly oil and gas lease sales and to subject leases to stipulations or mitigation requirements beyond those already included in the RMP. *See id.* § 501010. This undermines the assumptions and analysis in the November 2024 EIS regarding BLM's ability to "avoid, minimize, and compensate for adverse effects" from oil and gas development in greater sage-grouse habitat. *See, e.g.*, PRMPA/FEIS at 2-110 (assuming that at the development stage, BLM can impose "measures to avoid, minimize, rectify, reduce and/or mitigate potential impacts" beyond those in existing lease stipulations); PRMPA/FEIS at 2-13 (assuming that BLM can defer leases in sage-grouse habitat, where not in conformance with RMP "goals" and "objectives."). Other provisions of the OBBBA–such as the reduction in royalty rates, reinstatement of noncompetitive leasing, and extension of drilling permit terms to four years–will also foreseeably increase the extent of new development in sage-grouse habitat beyond that anticipated in the November 2024 EIS. For both reasons, BLM must also reconsider proposed

NEPA alternatives that would partially or fully close sage-grouse habitat management areas (PHMA and/or GHMA) to new leasing *or* impose more stringent oil and gas lease stipulations, to adequately protect greater sage-grouse from this significant threat.

- Executive Order 14154 "Unleashing American Energy:" This EO promises to accelerate energy and non-fuel and rare earth minerals development on public lands. This Executive Order includes, among other things a directive that all agency heads, "…identify those agency actions that impose an undue burden on the identification, development, or use of domestic energy resources — with particular attention to oil, natural gas, coal, hydropower, biofuels, critical mineral, and nuclear energy resources…". (Section 3)

- Interior Secretary Burgum's Order 3418 "Unleashing American Energy": This Secretarial Order implements President Trump's EO 14154 and directs the removal of impediments imposed on the development and use of energy resources. Specific actions that will affect greater sage-grouse include: withdrawal of the Conservation and Landscape Health Rule (89 Fed. Reg. 40308, withdrawal began Sept. 11, 2025 with the proposed rescission notice at 90 Fed. Reg. 43990); withdrawal of M-37046 and Reinstatement of M-37039, the Bureau of Land Management's authority to address impacts of its land use authorizations through mitigation. Additional actions directed by the order include the review and revision of all finalized resource management plans including: the Proposed Resource Management Plan Amendment and Final Environmental Impact Statement for Greater Sage-Grouse Rangewide Planning (89 Fed. Reg. 903011); the Rock Springs Wyoming RMP; Buffalo Field Office, Wyoming RMP (89 Fed. Reg. 93650), Miles City Field Office, Montana (89 Fed. Reg. 93650). The order also directs reinstatement of leases issued by the BLM that were cancelled between January 20, 2021 and noon on January 21, 2025.

- Existing and foreseeable staffing and budget cuts at the BLM and US Forest Service. Both agencies have already experienced significant staff reductions, which will impair the ability of the BLM to implement and enforce the new or existing plans.

- Reduction in federal funding for voluntary conservation or restoration work that the FEISs assumed would continue. President Trump's initial budget request for FY 2026 includes significant cuts to existing federal conservation programs across the Department of the Interior and Department of Agriculture including programs that impact the BLM and Natural Resources Conservations Service that affects private land conservation operations. Cuts in these programs include conservation and restoration of greater sage-grouse habitat.

- Recent population and habitat data, including adaptive management triggers. As just one example, the 2025 lek surveys suggest that sage-grouse have been extirpated from North Dakota, a point which the 2024 FEIS fails to consider. BLM appears to still be relying on outdated population data, without any attempt to incorporate lek count data from recent years to evaluate population trends. BLM has also failed to consider the extent of new habitat loss from wildfires and other threats in recent years.

III. The Proposed Plans Improperly and Arbitrarily Delegate Authority to State Agencies

The proposed plans would also unlawfully subdelegate authority to states. The Property Clause of the U.S. Constitution provides that "Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." U.S.Const., Art. IV, § 3, cl. 2. Accordingly, the Supreme Court has long recognized that Congress—not the states—enjoys plenary power over the use of and activities on federal property. In *Kleppe v. New Mexico*, 426 U.S. 529, 536 (1976), the Supreme Court confirmed that Congress's "complete power" over public lands "necessarily includes the power to regulate and protect the wildlife living there." *Id.* at 541. Through FLPMA and other enactments, Congress has delegated this authority to the Secretary of Interior for the public lands at issue in these proposed plans. Accordingly, it is beyond dispute that the BLM has authority for managing wildlife and their habitat on BLM-administered lands.

Equally well settled is the principle that federal agencies "may not subdelegate to outside entities—private or sovereign—absent affirmative evidence of authority to do so." *U.S. Telecom Ass'n v. FCC*, 359 F. 3d 554, 566 (D.C. Cir. 2004). The proposed plans here would delegate authority to states to determine the terms and conditions of adaptive management for federal lands. Specifically, rather than follow its own adaptive management process, BLM has proposed to simply "implement the most recent State adaptive management process." Similarly, the proposed plan appears to give states the power to "deactivate" adaptive management actions on federal land by making a discretionary determination that "[t]he affected population's abundance or growth rate are sufficient for recovery as determined by and with concurrence of State GRSG authorities." Likewise, BLM appears to give states veto power over use of the TAWS system, by suggesting that it will not be used unless "consistent with State adaptive management processes." While FLPMA encourages collaboration with states, tribes, and federal agency partners, it does not permit BLM to subdelegate decisionmaking authority to states in this fashion. Accordingly, BLM must eliminate all plan elements that would delegate decisionmaking authority to the states.

IV. The Proposed Plans Will Result In Unnecessary or Undue Degradation and Permanent Impairment, Violating FLPMA.

BLM has failed to consider or reasonably explain how its proposed plan amendments, including these latest changes, comply with its FLPMA mandates.

FLPMA directs BLM to prevent "unnecessary or undue degradation" of public lands, 43 U.S.C. § 1732(b). Similarly, the agency must manage resources "without permanent impairment of the productivity of the land and the quality of the environment," *id.* § 1701(a)(8). We explained in detail in our Protest why the 2024 Plan failed these statutory mandates (see page 35 *et seq.*). We incorporate those arguments herein as they continue to apply to the Plan as proposed with the amendments. The proposed amendments continue to fail these statutory mandates by authorizing weaker protections that will cause lasting harm to greater sage-grouse habitat and place the species on a trajectory toward extinction.

Specifically, the agency proposes to further weaken already inadequate safeguards. The 2015 plans included important measures like Sagebrush Focal Area designations, stronger lek buffers, and the "net conservation gain" mitigation standard that underpinned the Fish and Wildlife Service's 2015 "not warranted" finding on sage-grouse listing. Those protections have since been dismantled. The 2024 Final EIS eliminated focal areas, weakened disturbance caps and lek buffers, and downgraded mitigation to "no net loss." Now, the 2025 changes go even further—deferring to state-led adaptive management, eliminating "PHMA with limited exceptions," weakening measurable habitat and population adaptive management benchmarks, and opening additional habitat to rights-of-way. Each of these changes erodes the few regulatory mechanisms that remain, increasing the likelihood of continued population declines and habitat loss.

Also, by replacing quantitative, science-based standards with vague and discretionary ones, the plans guarantee degradation. For example, in Idaho and Nevada/California, perennial grass height—an essential metric for nesting success—has been replaced with a qualitative "suitable nesting cover" standard. Without enforceable triggers, BLM will be unable to hold itself or permittees accountable, ensuring further habitat decline. Similarly, shifting adaptive management authority to states strips the plans of consistent rangewide safeguards, leaving habitat protection subject to political pressures and variable state practices rather than the best available science.

Additionally, the agency's elimination of the PHMA-with-limited-exceptions designation is emblematic of its abandonment of meaningful safeguards. This special designation was intended to provide certain protection from energy and right-of-way development in the most sensitive habitats, in recognition of looming threats from development and climate change. Removing this designation—at the

request of governors, not scientists—means the agency is knowingly subjecting the highest-quality sagebrush habitats to increased development pressure, despite data showing that exceptions and waivers are already granted at unsustainable rates (over 90% in a GAO review).

The plans authorize permanent impairment through expanded industrialization of sage-grouse habitat. Opening Nevada GHMA to major rights-of-way expressly accommodates projects like the Greenlink North transmission line. Large-scale infrastructure projects in sagebrush landscapes cause fragmentation that is effectively irreversible on management timescales. BLM has not explained how such development can occur without undermining sage-grouse persistence. Finally, BLM's approach disregards science documenting that sage-grouse are highly sensitive to disturbance. Peer-reviewed research (e.g., Kirol 2020; Knick 2013) demonstrates that populations decline sharply above 1–3% disturbance levels, yet BLM continues to endorse disturbance caps of 3–5% and allows project-level exceedances. Authorizing further waivers, exceptions, and compensatory mitigation in already fragmented landscapes ensures permanent impairment, not conservation.

In short, the proposed amendments will not prevent unnecessary or undue degradation (UUD) or permanent impairment—they enshrine it. By weakening standards, abandoning enforceable safeguards, and deferring to inconsistent state-led processes, BLM is guaranteeing additional, often irreversible, degradation of sage-grouse habitats. These outcomes violate FLPMA's protective mandates, ignore the best available science, and undermine the very purpose of this planning effort. BLM asserts these changes are necessary to align with state plans, respond to protests, and improve "clarity." These explanations are inadequate for multiple reasons. First, consistency with state plans is not a substitute for statutory obligations. FLPMA prohibits BLM from aligning its management plans with state plans where they are inconsistent with federal law, such as BLM's obligation to prevent UUD and permanent impairment. State preferences cannot justify abandoning enforceable standards. Second, there is no substantive analysis of prior provisions. BLM has not explained why PHMA-with-limited-exceptions, quantitative habitat standards, or avoidance of rights-of-way were included in prior proposals—or why those rationales no longer apply. Instead, it eliminates them without a science-based justification.

Finally, BLM fails to evaluate consequences. The agency has not grappled with the fact that its changes directly undermine the regulatory mechanisms that supported the 2015 "not warranted" listing decision. Removing focal areas, downgrading mitigation, and weakening habitat standards cannot be squared with the best available science or with the ESA's requirement that effective regulatory mechanisms be in place to avoid listing.

By ignoring its own prior findings, and substituting political accommodation for science, BLM ensures unnecessary degradation and permanent impairment of sage-grouse habitat.

BLM must instead strengthen and enforce consistent rangewide protections—including enforceable lek buffers, quantitative habitat objectives, lower disturbance caps, and mandatory adaptive management triggers—if it is to meet its legal obligations and prevent the permanent impairment of public lands and sagebrush ecosystems.

V. BLM Has Failed to Prioritize the Designation and Protection of ACECs

BLM must reconsider the designation and protection of sage-grouse ACECs, particularly in light of its elimination of the "PHMA with limited exceptions" habitat class. In the FEIS, BLM nominated and analyzed over eight million acres that it considered significant for the greater sage-grouse as ACECs but failed to propose designating these acres as ACECs. Rather, BLM chose to allocate about half of these acres as a subset of PHMA with enhanced protections ("PHMA with limited exceptions"), because the BLM deemed them particularly important and in need of special protection. FEIS at 2-3 and FEIS appendix 22-4; *see also, e.g.*, Greater Sage-Grouse Rangewide Planning 2025 ROD and ARMPA for Colorado at 1-14 (noting that "BLM identified these areas as PHMA with limited exception rather than designating areas as ACECs" but acknowledging that they "require additional protections"). BLM has now proposed to eliminate this "PHMA with limited exceptions" habitat classification without reconsidering whether these lands must be designated as ACECs, given that they now lack the "special management" BLM deemed necessary for these areas. This violates BLM's duty of reasoned decisionmaking under the APA, as well as BLM's obligations under FLPMA and its implementing regulations to give priority to the designation and protection of ACECs. *See* 43 U.S.C. § 1712(c)(3); 43 C.F.R. § 1610.7-2.

VI. The Bureau Has Only Widened the State-by-State Plan Differences Without Reasonable Justification.

In our 2024 Protest, we explained why state-by-state and plan-by-plan differences in conservation measures are not credibly justified. We incorporate those arguments herein. However the 2025 proposed amendments further exacerbate state-by-state inconsistencies in sage-grouse management, directly undermining the rangewide, science-based approach that was the foundation of the 2015 plans and the Fish and Wildlife Service's 2015 "not warranted" listing decision. Rather than resolving inconsistencies as required by FLPMA, 43 U.S.C. § 1712(c)(9), BLM has entrenched and expanded them, without scientific or legal justification.

First, the agency has effectively ceded management authority to the states. In 2015 and again in the 2024 FEIS, BLM adopted the USGS TAWS and Hierarchical Population Monitoring Framework (HPMF) as uniform, rangewide population triggers. These tools were designed to provide clear, quantitative thresholds for population declines and to ensure consistent, science-based monitoring across the species' range. The 2025 amendments abandon that approach: TAWS/HPMF will now be applied only if states agree they are "consistent" with their own models. Where states object, their population status calls and thresholds override federal science. Wyoming goes further, requiring BLM to directly adopt its 2019 Executive Order framework, while Utah, Idaho, and Montana/Dakotas are given deference to their own disparate state systems that do not adequately protect the species.

Second, the plans weaken habitat protections differently in each state, creating an incoherent patchwork. In Idaho and Nevada/California, BLM has replaced a quantitative perennial grass-height benchmark with a vague "suitable nesting cover" standard, eliminating a measurable habitat requirement that is directly tied to nesting success. Thus resulting in a near certain harm to individuals and a decline to the species population. In Utah, BLM has redrawn habitat management area boundaries to conform to the state's 2019 plan, removing acres of previously protected habitat and leaving critical sage-grouse habitat unprotected. In Nevada, BLM has opened General Habitat Management Areas to major rights-of-way, specifically accommodating harmful projects such as the Greenlink North transmission line, even though comparable changes were not proposed elsewhere. In Wyoming, BLM has enshrined weaker disturbance standards, lek protections, and adaptive management thresholds unique to that state, despite scientific evidence showing they are inadequate. In Montana/Dakotas: Under the 2024 FEIS, TAWS "watch/warning" served as the default trigger for adaptive management. The 2025 amendments, however, make TAWS conditional and subordinate to Montana's own process. Specifically, Montana insisted that adaptive management be tailored to its unique Local Management Habitat Management Areas (LMHMA) and Sagebrush Connectivity Habitat Management Areas (SCHMA), categories not recognized elsewhere. The new plan explicitly defers to Montana FWP assessments and monitoring methods, meaning BLM will only apply TAWS if Montana agrees it aligns with its own process. This state-specific framework reduces consistency, eliminates uniform thresholds, and ensures that protections for Montana sage-grouse will differ from those in neighboring states, even though populations and habitat cross state boundaries. Moreover, the protections for Montana are significantly less protective and will likely result in a severe population decline.

Third, these divergent standards have no basis in science. The best available research—including the NTT and COT reports, as well as more recent peer-reviewed studies—shows that sage-grouse require consistent, rangewide protections: robust lek buffers, disturbance caps of less than 3%, quantitative habitat objectives, and uniform adaptive management triggers. Kirol et al. 2020.

The nation's leading sage-grouse scientists wrote BLM on June 3, 2024 to express this very point, expressing their "concern[] about the inconsistencies in the application of management and the mitigation hierarchy across state boundaries as put forward in the" draft EIS. Yet BLM has chosen to disregard that science and instead allow each state to dictate weaker, often contradictory measures.

Finally, by sacrificing rangewide conservation for political accommodation, BLM has failed to grapple with the scientific or policy rationale underlying its prior adoption of TAWS/HPMF triggers, PHMA-with-limited-exceptions, or quantitative habitat benchmarks. Those provisions were adopted precisely because they offered consistent, enforceable protections. The agency now abandons them without explaining why the science is no longer valid. BLM provides no evidence that deferring to disparate state models will improve sage-grouse outcomes. Instead, it cites political objections by governors. Deference to political pressure does not constitute a reasoned explanation under FLPMA or the APA.

The end result is a patchwork of protections that will allow degradation and fragmentation wherever state political pressure prevails. Greater sage-grouse require connected, functioning habitats across state lines; a fragmented regulatory framework is incompatible with the species' biology. Without uniform, science-based protections, the plans will not conserve the species and will only accelerate its decline.

BLM must restore consistent, rangewide protections by retaining quantitative habitat objectives across all states, mandating use of TAWS/HPMF as uniform population triggers, and rejecting state-by-state carve-outs that allow weaker protections in Wyoming, Utah, Nevada, Idaho, or Montana/Dakotas.

VII. The Bureau Failed to Coordinate or Ensure Consistency With U.S. Forest Service Land Use Planning

BLM is required to ensure its resource management plans and amendments are consistent with the land use plans of other Federal agencies, such as the U.S. Forest Service, "so long as the guidance and resource management plans are also consistent with the purposes, policies and programs of Federal laws and regulations applicable to public lands." 43 C.F.R. § 1610.3-2; *see also id.* § 1610.3-1(d)(1); 43 U.S.C. § 1712(c)(9). We previously explained that BLM has failed to ensure that its proposed RMP amendments are consistent with Forest Service plan provisions for sage-grouse. *See* Protest at 35. These inconsistencies include differences in lek buffers, density and disturbance caps, timing restrictions, compensatory mitigation requirements, allowance of new mineral leasing and sales, allowance of new rights-of-way and energy development, habitat management area boundaries, livestock grazing requirements, adaptive management, and monitoring.

Rather than work toward consistency, the 2025 Proposed Changes here create an even wider gap between the BLM and Forest Service's respective adaptive management plans, habitat management area boundaries, nesting habitat benchmarks (grass height standard), and protections assigned to high-priority habitats. BLM has also failed to explain how the inconsistencies with the Forest Service plans were "addressed and, if possible, resolved" and "why the inconsistencies . . . cannot be remedied." 43 C.F.R. § 1610.3-1(d)(2). The record is also devoid of any reasonable explanation as to why the Forest Service's sage-grouse plans are not "consistent with the purposes, policies and programs of Federal laws and regulations." 43 C.F.R. § 1610.3-1(f).

VIII. BLM Has Further Weakened Its Proposed Plans Without Considering Important Reliance Interests on the 2015 Plans, Including the ESA "Not Warranted" Decision

We previously explained how the BLM's proposal to weaken the 2015 sage-grouse plans without accounting for the reliance USFWS's 2015 "Not Warranted" ESA determination placed on them is arbitrary and capricious. *See* Protest at 42-43. The 2025 Proposed Changes only reinforce that concern, by further weakening or eliminating measures on which the USFWS expressly relied in determining ESA listing was not warranted for the greater sage-grouse.

For example, in its 2015 "Not Warranted" Determination, 80 Fed. Reg. 59,858 (Oct. 2, 2015), USFWS noted that Sagebrush Focal Areas represented habitat "identified in the scientific literature as essential for the persistence of the species" and would be protected by "more restrictive measures" than PHMA. These included measures such as a proposed mineral withdrawal and disturbance prohibitions that were not subject to waiver, exception, or modification. 80 Fed. Reg. at 59,878. Despite eliminating the Sagebrush Focal Area designation and mineral withdrawal proposal, BLM's 2024 proposed alternative recognized that certain priority habitat, including some areas formerly designated as Sagebrush Focal Areas, warranted protection as "PHMA with limited exceptions," which would maintain the certainty of protection previously afforded to Sagebrush Focal Areas. However, BLM is now proposing to eliminate the "PHMA with limited exceptions," thus undermining the USFWS's assumption that certain sage-grouse strongholds would be protected from development without possibility of exceptions, modifications, and waivers.

The USFWS's 2015 "Not Warranted" Determination also assumed that "[a]daptive management will help ensure that sage-grouse conservation measures in the Federal Plans are effective, and if they are not effective, that corrective actions will be implemented." 80 Fed. Reg. at 59,881. Specifically, it relied on the fact that tripping hard and hard triggers would immediately and automatically trigger more restrictive management of the affected populations, such as "immediate cessation of authorizing land use authorizations within the area." *Id.* It deemed the adaptive

management protocol of the 2015 plans a "critical" and "key element" of the sage-grouse conservation strategies. As we explained above, BLM's 2025 Proposed Changes would significantly weaken the 2015 plans' adaptive management program, both by tolerating larger losses before triggering adaptive management responses and by eliminating automatic management responses to such triggers.

BLM's failure to acknowledge this serious reliance interest, or consider how the proposed amendments would affect the sage-grouse's ESA listing status, is arbitrary and capricious.

IX. BLM Must Reinitiate ESA Consultation

BLM must reinitiate ESA consultation with the USFWS concerning protected species when, for example, "new information reveals effects of the action" at issue "that may affect listed species or critical habitat in a manner or to an extent not previously considered" or the "identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the [BiOp] or written concurrence." 50 C.F.R. § 402.16(a)(2)–(3). Because BLM is proposing to modify its plan amendments in a manner that will affect listed species, it must reinitiate consultation with USFWS.

X. Conclusion.

We appreciate your consideration of these comments. Should you have any questions, please do not hesitate to contact us.

Respectfully submitted,

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