

MATTHEW H. MEAD
GOVERNOR



STATE CAPITOL
CHEYENNE, WY 82002

Office of the Governor

June 29, 2015

Mary Jo Rugwell, State Director
Wyoming State Office
Bureau of Land Management
U.S. Department of the Interior
P.O. Box 1828
Cheyenne, WY 82003-1828

Dan Jirón, Regional Forester
Rocky Mountain Region
Forest Service
U.S. Department of Agriculture
740 Simms Street
Golden, CO 80401-4720

Nora Rasure, Regional Forester
Intermountain Region
Forest Service
U.S. Department of Agriculture
324 25th Street
Ogden, UT 84401

RE: Wyoming Greater Sage-grouse Resource Management Plan/Land Resource Management Plan Amendments, Utah Greater Sage-grouse Land Use Amendment, Bighorn Basin Resource Management Plan Revision, Buffalo Resource Management Plan Revision and Final Environment Impact Statements – Protest Pursuant to 43 CFR 1610.5-2

Dear State Director Rugwell, Regional Forester Rasure and Regional Forester Jirón,

I write on the potential impact of recently released documents guiding federal land management in the State of Wyoming. My concerns include proposed Wyoming Greater Sage-grouse Resource Management Plan (RMP)/Land Resource Management Plan (LRMP) Amendments (commonly referred to as “the 9 Plan”), the Utah Greater Sage-grouse Land Use Amendment, the Bighorn Basin (Cody and Worland BLM Field Offices) RMP Revision and the Buffalo RMP Revision (hereafter collectively referred to as Plans). I write because of the adverse effects of these Amendments on Wyoming and its citizens.

The Planning Area incorporates more than 19.8 million acres of public land and more than 29 million acres of federal mineral estate located in every county in Wyoming. These Plans will guide land use decisions for 20 years. This significant planning effort will impact the custom, culture and economic future of the cities, towns and counties in Wyoming. The identified actions will have long-term and significant impact on energy, tourism, recreation and agriculture industries as well as cultural resources, water resources and open spaces.

For more than eight years of the federal planning process, dozens of cooperators have reviewed and commented on thousands of pages of data and information while maintaining the schedule outlined by the Bureau of Land Management (BLM) and the U.S. Forest Service (FS). In addition to the cooperators, there was a high degree of public participation. The participation

reflects the importance of these plans to the lives of people who live, work and visit these areas. The public process for developing land and resource management plans is as important as the final product.

I provided comments on each of these plans – some more than a year ago and in one instance nearly four years ago. There has been sufficient time for the BLM and FS to address my concerns and those of other parties. I am troubled to find that few of my comments were addressed in these Proposed Land and Resource Management Plans. I am attaching a copy of my letters commenting on the following:

- Bighorn Basin Draft Resource Management Plan and Draft Environmental Impact Statement
- Draft Resource Management Plan and Environmental Impact Statement for the Buffalo Field Office Planning Area
- Supplement to the Bighorn Basin Draft Resource Management Plan and Draft Environmental Impact Statement
- Utah Greater Sage-grouse Draft Land Use Plan Amendment and Environmental Impact Statement
- Wyoming Greater Sage-grouse Draft Land Use Plan Amendment and Draft Environmental Impact Statement

Rather than re-articulating each point presented in these letters I request you review them and the concerns identified. I have elected to highlight a few of my concerns here. These highlights are not intended to reflect the total of Wyoming's comments on these documents. I intend to submit a Governor's consistency review in accordance with 43 C.F.R. § 1610.3-2.

In a number of instances the management prescriptions in these Plans are in direct conflict with Executive Orders 2011-5 and 2013-3. The U.S. Fish and Wildlife Service (FWS) has endorsed Wyoming's strategy, stating: "the core area strategy...if implemented by all landowners via regulatory mechanisms, would provide adequate protection for sage-grouse and their habitats in the State." Wyoming and its partners have expended considerable resources to develop an effective, enduring model for Greater Sage-grouse conservation that will be implemented through these Plans. Wyoming's management strategy requires implementation by federal land managers for maximum effectiveness.

As an example, for Priority Habitat Management Areas (PHMAs) the Management Action (MA) #128, 9-Plan, (p. 2-59) establishes that "the BLM will require and ensure mitigation that provides a net conservation gain to the species." Wyoming's strategy is mitigation. If a project conforms to the management prescriptions contained in Executive Order 2011-5 no additional mitigation is required. To rectify this inconsistency, the BLM should add the following language: "...in PHMAs that exceed the threshold of 5% disturbance and an average of 1 facility

per 640 acres, the BLM will require and ensure mitigation that provides a net conservation gain to the species...”

The State of Wyoming continues to have serious concerns with the Desired Conditions Tables. Throughout the Plans, both agencies include language that implies desired conditions are requirements or will be applied as terms and conditions of permits (e.g., 9 Plan, Chapter 2, Sections 2.6.3, p. 2-14; Buffalo Revision, Chapter 2, Section 2.5.7, p. 81; and Bighorn Basin Revision, Chapter 2, Section 2.3.7, p. 2-33). These requirements, terms and conditions will have substantial social and economic impacts to the State and livestock producers in Wyoming. These provisions also are an example of conflict with Wyoming Executive Order 2013-3. Local variability in ecology, site capability and conditions must be taken into account when developing site specific management.

All tables should recognize variations in ecology, site capability, and stresses. They should also recognize the desired conditions, singly or combined, may not be possible or practical in all situations and that management changes should not be based upon “achievement” of the desired conditions but rather on Hard and Soft Triggers as FEIS defined (See, e.g., 9 Plan, Chapter 2, Section 2.6.3, p. 2-62, Management Action 137).

There are internal inconsistencies. For example, in some of the documents, livestock grazing is referred to as a surface-disturbing activity. For example, “Impacts from surface disturbing activities such as livestock grazing and other mineral development could lead to loss, alteration, and fragmentation of habitat and displacement of special status wildlife.” (9 Plan, Chapter 2, Section 2.13, p. 2-214). The BLM has defined “Surface Disturbance” and “Disruptive Activities” in Information Bulletin (IB) WY-2007-029, Guidance for Use of Standardized Surface Use Definitions, and again in BLM IB WY-2012-019. Livestock grazing or trailing activities should not be considered “surface disturbance” or a “disruptive activity.” The FEIS for the 9 Plan states “Livestock grazing is not considered a surface-disturbing activity” (See, Chapter 4, Section 4.7.2, p. 4-89). This statement should be reflected throughout the Plans, removing inconsistency.

Additionally, the documents refer to livestock grazing as a threat to sage-grouse or sage-grouse habitat. I request that the BLM and FS remove livestock grazing as a threat and replace this with a more accurate notation that improper grazing may pose a threat.

In the 9 Plan (MA # 29a p. 2-25), the BLM establishes a priority for “development of oil and gas and other mineral resources outside of PHMAs.” This priority has been represented to the State as an objective and not as a management action. MA # 29a should be deleted. Further, the BLM and FS should commit to develop any priority in collaboration with applicable state and local governments.

The BLM indicates (9 Plan, MA #67, p. 2-42) that it will “[r]equire unitization when deemed necessary for proper development of an area...” The BLM should delete this management action.

The 9-Plan also (p. 2-46, MA #79) identifies 252,070 acres for locatable mineral withdrawal and another 894,060 acres to be considered for withdrawal subject to risk to Greater Sage-grouse and its habitat from conflicting locatable mineral location and entry. This is an unnecessary action. Wyoming regulates the exploration and development of locatable minerals at both the exploration and extraction phases regardless of who owns the land. Much of the State's regulation of locatable minerals is through the Wyoming Environmental Quality Act and involves the Land Quality and Water Quality Divisions of the Department of Environmental Quality. Regulation of locatable mineral exploration and development activities by the Department of Environmental Quality can include regulation of: exploration by dozing, exploration by drilling, stormwater discharge, mining operations, small mining operations, and limited mining operations. Locatable mineral withdrawal presents minimal threat to Greater Sage-grouse. I request the language reflect that lands in Wyoming remain open to locatable mineral location and entry and subject to state and federal regulation.

Clear direction must be provided for management actions that restrict or prohibit actions. There are numerous inconsistencies between management actions, stipulations, waivers, and appendices. These inconsistencies exist within and between documents. The multiple interpretations that can occur due to inconsistencies will adversely affect Wyoming and decrease certainty for state agencies, industries and citizens that use and enjoy federal lands.

This is an immensely important effort and I remain committed to working with the federal government and other stakeholders in a constructive process that will result in a reasonable course of management of BLM and FS lands in Wyoming for the coming decades.

Sincerely,



Matthew H. Mead
Governor

MHM:md

Encl. 5 letters commenting on Plans

cc: The Honorable Michael B. Enzi, U.S. Senate
The Honorable John Barrasso, U.S. Senate
The Honorable Cynthia Lummis, U.S. House of Representatives
The Honorable Sally Jewell, Secretary of the Interior, U.S. Department of the Interior
The Honorable Tom Vilsack, Secretary of Agriculture, U.S. Department of Agriculture
Neil Kornze, Director, Bureau of Land Management
Thomas L. Tidwell, Chief, U.S. Forest Service