



April 14, 2014

Colorado State Director
Bureau of Land Management
2850 Youngfield St.
Lakewood, CO 80215

Via FAX to 303-239-3799

**RE: PROTEST OF CERTAIN PARCELS TO BE OFFERED AT
BLM'S JUNE 2014 COMPETITIVE OIL & GAS LEASE SALE**

Dear State Director:

In accordance with 43 C.F.R. §§ 4.450-2 and 3120.1-3, WildEarth Guardians and Rocky Mountain Wild protest certain parcels being offered at the Bureau of Land Management's (BLM) June 2014 Colorado competitive oil and gas lease sale.

The parcels under protest are serial numbered 76457, 76459, 76459, 76461, 76471, 76476, and 76462 with Parcel IDs of 6768, 6770, 6772, 6773, 6816, 6837, 6773, and 6778. This protest is based on concerns over leasing lands within key sage grouse habitats, particularly Preliminary General Habitat designated by Colorado Parks and Wildlife Department, linkage/connectivity areas between Priority Habitats, and in one case, identified sage grouse winter range. The Preliminary General Habitat parcels are likely to be included in the BLM's RMP amendment process under the Northwest Colorado Sage-Grouse RMP Amendment Draft EIS ("NW Colorado DEIS"). Given that these plan revision processes are underway, BLM should defer these parcels so that it does not foreclose on alternatives that could be considered in these pending NEPA processes.

We appreciate the fact that the BLM has begun to implement the Interior leasing reforms. We are pleased to have had the opportunity to comment on the EA prior to the lease sale. However, some of our concerns remain insufficiently addressed by the NEPA documents thus far, and so we are protesting certain parcels to be offered at the June 2014 lease auction. We also appreciate that BLM has elected to defer in full or in part parcels 6801 and 6825 (serial numbers 76468 and 76469), situated in sage grouse Preliminary Priority Habitats, are a credit to the BLM's effort to move toward balance.

I. THE PARTIES

WildEarth Guardians (Guardians) is a non-profit conservation group with thousands of members in Colorado and other states. Guardians is dedicated to protecting wildlife, wild rivers, and wild places throughout the American West. Guardians has a particular interest in the conservation of greater sage grouse, and has a Sagebrush Sea Campaign dedicated to the protection and recovery of this bird and other species inhabiting sagebrush steppe ecosystems. Members of Guardians utilize land and water resources within and near these areas for hiking, camping, recreational, scientific study, photography, and aesthetic uses. Guardians and its members are actively involved in BLM oil and gas activities in this region and participate in National Environmental Policy Act (NEPA) stages of BLM oil and gas leasing and projects by submitting comments. Guardians has a long record of advocating for preventing the impacts of oil and gas development from destroying lands and wildlife in Colorado and throughout the West. As a consequence, Guardians and its members would be adversely affected by the sale of the lease parcels being protested here and they have an interest in this matter.

Rocky Mountain Wild is dedicated to conserving and recovering native and naturally functioning ecosystems in the Greater Southern Rockies and Plains. Its members value the clean water, fresh air, healthy communities, sources of food and medicine, and recreational opportunities provided by native biological diversity. RMW passionately believes that all species and their natural communities have the right to exist and thrive. Rocky Mountain Wild uses the best available science to forward its mission through participation in policy, administrative processes, legal action, public outreach and organizing, and education.

II. THE ISSUES

AT RISK: WILDLIFE, OPEN SPACES, AND CLEAN AIR AND WATER

Oil and gas activities on the public lands at issue herein are quickly escalating. BLM is approving record numbers of large oil and gas development projects across the West. The lands at issue here are mostly federal lands managed by BLM. Many of these lands provide critical habitat for a number of species, ranging from sage grouse, to mule deer, to severely imperiled species, such as fish species in the Green/Colorado River Basin and Platte River Basin, and sage grouse on the sagebrush country. Many of the BLM lands at issue serve as quiet, serene places of natural beauty and solitude, and as such, they provide excellent recreational opportunities for hiking, birding, wildlife viewing, hunting, fishing, backpacking, and enjoyment of open spaces.

The explosion of oil and gas development on these lands threatens all of the above resources, for which BLM has a mandatory duty to protect for “multiple use.” Oil and gas development has and will lead to fragmented habitat and surface disturbances through well pad construction, oil and gas well rigs, increased vehicular traffic, miles of roads, pipelines and power lines, and noise from generators and compressor stations. All of these associated activities serve to disrupt habitat, destroy nesting and brooding grounds, and disturb wildlife.

These activities can significantly impact elk, mule deer, pronghorn antelope, and sage grouse, as well as many other species that live there. Many of these lands serve as critical breeding and nesting habitat near sage grouse leks. Many rare species find some of their last secure refuges on these lands.

Protestors realize, of course, that a lease itself does not necessarily create immediate disturbances, but as BLM well knows, if a lease is not subject to a “No Surface Occupancy” (NSO) stipulation, the lessee receives contractually-enforceable surface use rights. 43 C.F.R. § 3101.1-2. In other words, once a lease is sold, the cat is out of the bag, putting sensitive resources which have yet to be properly considered through site-specific NEPA analysis at risk of significant and potentially unacceptable harm. Because it represents an irretrievable and irreversible commitment of resources, the leasing stage is extremely critical. We are deeply concerned that the BLM has characterized the act of mineral leasing as little more than a paper transaction when, in reality, it is an important, legally consequential event that commits lands to a particular use.

III. BLM NEEDS TO DEFER CERTAIN PARCELS WITH KEY SAGE GROUSE HABITAT OR AT MINIMUM ATTACH MORE PROTECTIVE STIPULATIONS

We protest Parcels 6768, 6770, 6772, 6773, 6816, 6837, 6773, and 6778, which are at least partially in a sage grouse Preliminary General Habitat (and one of which is ion identified sage grouse wintering habitat) and appear to be slated for leasing. To the extent that no part of these leases slated to be auctioned fall within identified sage grouse habitats because Priority or General Habitat portions have been deferred, we withdraw our Protest of parcels meeting these criteria. In Preliminary General Habitat, the Northwest Colorado Sage-Grouse Plan Amendment DEIS preferred alternative would apply Timing Limitation Stipulations within 4 miles of active leks, and a No Surface Occupancy provision within 0.6 mile of leks. NW Colorado DEIS at 161. Leasing these lands on the eve of plan revision decisions would remove the potential for these lands to remain unleased, and would instead commit the agency to some form of oil and gas development on these lands for a ten-year period.

This decision ignores the biological realities that oil and gas impacts outside sage grouse suitable habitat can have a negative impact on sage grouse inside suitable habitat, if wells and roads are sited close enough to the edge of the suitable habitat. The acknowledged inadequacy of sage grouse conservation measures in current BLM RMPs by the U.S. Fish and Wildlife Service in its 2010 “warranted, but precluded” rule on the greater sage grouse, and the major problems with the NEPA analyses for sage grouse for these plans in particular (failure to examine a range of reasonable alternatives on sage grouse conservation, failure to take a hard look at the efficacy of proposed sage grouse conservation measures in light of current available science) places BLM in a legally problematic position.¹ Simply put, with either a sage grouse Plan Amendment or Resource Management Plan revision underway in every Field Office involved in this lease sale to address the deficiencies in the current Plans, the BLM should defer all leasing in Preliminary General Habitats until the completion of the RMP Amendment process, under which BLM will

¹ BLM has commented voluminosly on the deficiencies of these RMPs during the EIS processes, and as we are already on record, we will not repeat these problems here but rather incorporate our comments on the RMP EISs by reference into this lease protest.

determine whether and under what conditions oil and gas leasing will occur (if at all) inside these habitats.

As the BLM is currently undertaking a series of Sage Grouse Plan Amendments for the Field Offices covered by this Lease Protest, and the issuance of these leases absent the measures recommended in the NW Colorado DEIS could foreclose on options for greater protection of sage grouse habitats within the plan amendments and/or revisions, the leases included in this Protest should at minimum be deferred pending completion of the planning processes.

According to BLM's 2001 National Greater Sage-Grouse Planning Strategy,² "the BLM needs to incorporate explicit objectives and adequate conservation measures into RMPs within the next 3 years." The BLM has yet to accomplish this goal, and indeed the Kremmling, Grand Junction, and White River RMPs, not revised in more than a decade (and in one case, 30 years), fail to meet this objective. As a result in significant part of the lack of adequate conservation measures in BLM Resource Management Plans, the U.S. Fish and Wildlife Service has listed the greater sage grouse as "Warranted but Precluded" under the Endangered Species Act, with a listing decision due in 2015. In an effort to emplace adequate conservation measures, the BLM is currently revising its Resource Management Plans throughout the range of the greater sage grouse to address deficiencies in BLM sage grouse conservation measures. Provisions proposed in the NW Colorado DEIS preferred alternative for All Designated Habitat have not been attached as stipulations to any of the leases to be offered at auction. Leases should pass through this screen of recommendations before being offered, in order to prevent the BLM from foreclosing on management options available to the agency under the Sage Grouse Plan Amendment process.

Greater sage grouse have been declining rangewide over the past 50 years, including in northwest Colorado. These declines are attributable at least in part to habitat loss due to mining and energy development and associated roads, and to habitat fragmentation due to roads and well fields. Oil and gas development poses perhaps the greatest threat to sage grouse viability in the region. The area within 2 to 3 miles of a sage-grouse lek is crucial to both the breeding activities and nesting success of local sage-grouse populations. In a study near Pinedale, sage grouse from disturbed leks where gas development occurred within 3 km of the lek site showed lower nesting rates (and hence lower reproduction), traveled farther to nest, and selected greater shrub cover than grouse from undisturbed leks.³ According to this study, impacts of oil and gas development to sage-grouse include (1) direct habitat loss from new construction, (2) increased human activity and pumping noise causing displacement, (3) increased legal and illegal harvest, (4) direct mortality associated with reserve pits, and (5) lowered water tables resulting in herbaceous vegetation loss. These impacts have not been thoroughly evaluated with full NEPA analysis. The significant impacts of fluid mineral development on sage grouse and their habitats are cataloged in the NW Colorado DEIS; auctioning the protested leases under a FONSI, in the absence of a valid Environmental Impact Statement and given the abundance of significant new

² Online at

http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/im_attachments/2012_Par.9299.File.dat/IM%202012-044%20Att%202.pdf.

³ Lyon, A.G. 2000. The potential effects of natural gas development on sage-grouse (*Centrocercus urophasianus*) near Pinedale, Wyoming. M.S. Thesis, Univ. of Wyoming, 121 pp.

information and changed circumstances since the last EIS that governs oil and gas leasing, constitutes a violation of NEPA.

Because leks sites are used traditionally year after year and represent selection for optimal breeding and nesting habitat, it is crucially important to protect the area surrounding lek sites from impacts. In his University of Wyoming dissertation on the impacts of oil and gas development on sage grouse, Matt Holloran stated, “current development stipulations are inadequate to maintain greater sage-grouse breeding populations in natural gas fields.”⁴ The area within 2 or 3 miles of a sage-grouse lek is crucial to both the breeding activities and nesting success of local sage-grouse populations. Dr. Clait Braun, the world’s most eminent expert on sage-grouse, has recommended NSO buffers of 3 miles from lek sites, based on the uncertainty of protecting sage-grouse nesting habitat with smaller buffers.⁵ Thus, the prohibition of surface disturbance within 3 miles of a sage-grouse lek is the absolute minimum starting point for sage-grouse conservation.

Other important findings on the negative impacts of oil and gas operations on sage-grouse and their implications for the species are contained in three studies recently accepted for publication.⁶ Sage-grouse mitigation measures have been demonstrated to be ineffective at maintaining this species at pre-development levels in the face of oil and gas development by Holloran (2005) and Naugle et al. (2006). Naugle found an 85% decline of sage-grouse populations in the Powder River Basin of northeastern Wyoming since the onset of coalbed methane development there. BLM has repeatedly failed to provide any analysis, through field experiments or literature reviews, examining the effectiveness of the standard quarter-mile buffers where disturbance would be “avoided.” There is substantial new information in recent studies to warrant supplemental NEPA analysis of the impacts of oil and gas development to sage-grouse.

It is incumbent upon BLM to consider the most recent scientific evidence regarding the status of this species and to develop mitigation measures which will ensure the species is not moved toward listing under the Endangered Species Act. It is clear from the scientific evidence that the current protections are inadequate and are contributing to the further decline of the bird’s populations. This information constitutes significant new information that requires amendment of the Resource Management Plans before additional oil and gas leasing can move forward. Importantly, the White River Resource Management plan (including several parcels under protest here) is under revision, while the existing White River RMP last underwent NEPA analysis with a Final EIS (“FEIS”) in 1996, with no amendments addressing oil and gas impacts

⁴ M. Holloran. Dec. 2005. Greater Sage-Grouse Population Response to Natural Gas Field Development in Western Wyoming, PhD Dissertation, Univ. of Wyoming, at 57.

⁵ C. Braun. May 2006. A Blueprint for Sage-grouse Conservation and Recovery. Grouse, Inc. This study is available online at <http://www.voiceforthewild.org/SageGrouseStudies/Braunblueprint2006.pdf>.

⁶ Doherty, K.E., D.E. Naugle, B.L. Walker, and J.M. Graham. 2008. Greater sage-grouse winter habitat selection and energy development. *Journal of Wildlife Management* 72:187-195.

Walker, B.L., D.E. Naugle, and K.E. Doherty. 2007. Greater sage-grouse population response to energy development and habitat loss. *Journal of Wildlife Management* 71(8):2644-2654.

Walker, B.L., D.E. Naugle, K.E. Doherty, and T.E. Cornish. 2007. West Nile virus and greater sage-grouse: estimating infection rate in a wild bird population. *Avian Diseases* 51:In Press.

on sage grouse in any of the subsequent amendments. This means that essentially all of the available science on the impacts of oil and gas exploration, drilling, and production on greater sage grouse have not been considered in a NEPA process underpinning oil and gas leasing for this field office. Similar situations exist for the Grand Junction RMP (FEIS published in 1985) and Kremmling RMP (Draft Plan/EIS published in 1983). Since these NEPA analyses, the greater sage grouse has become a Candidate Species under the Endangered Species act through a “warranted, but precluded” finding. According to this finding, “The inadequacy of regulatory mechanisms to conserve the greater sage-grouse and its habitat was identified as a significant threat in the FWS finding on the petition to list the greater sage-grouse as a threatened or endangered species.” Litigation (in which WildEarth Guardians was the lead plaintiff) has subsequently resulted in a court-decreed final rule to be issued on the species in September 2015. These acts also constitute significant new information which BLM must consider in a NEPA analysis prior to leasing important sage grouse habitats. Also since these antiquated plans had their NEPA analyses, the BLM has initiated the Northwest Colorado Greater Sage-Grouse Plan Amendment NEPA process.

BLM policy suggests that leases should not issue oil and gas leases in important grouse habitats during the pendency of the sage grouse plan amendment process. According to BLM IM 2012-043,

The 2010 U.S. Fish and Wildlife Service (FWS) findings on petitions to list the Greater Sage-Grouse (petition decision) (75 FR 13910 – 14014; 03/23/2010) identified habitat conversion and fragmentation from wildfire, invasive plants, energy and infrastructure development, urbanization, and agricultural conversion as the primary threats to the species throughout its range. Through this IM, the BLM is providing interim conservation policies and procedures across multiple programs, in order of threat magnitude, while the BLM considers amendments or revisions to LUPs. Maintaining and restoring high quality habitat for the Greater Sage-Grouse is consistent with the BLM multiple-use and sustained-yield management direction of the Federal Land Policy and Management Act. Policy/Action: As summarized in the BLM’s National Strategy, emphasis for protecting and managing Greater Sage-Grouse habitat incorporates the following principles:

- 1) Protection of unfragmented habitats;
- 2) Minimization of habitat loss and fragmentation; and
- 3) Management of habitats to maintain, enhance, or restore conditions that meet Greater Sage-Grouse life history needs.

Preliminary General Habitats are among these habitats needed to maintain, enhance, or restore conditions that meet grouse life history needs, and in particular, lands within 4 miles of active leks and lands identified as wintering habitats (which occur on several of the parcels in question) are explicitly recognized as such habitats. The directive to identify and manage for Preliminary General Habitat in the forthcoming RMP revisions is specifically called for in BLM IM 2012-044.

Studies have shown that the majority of hens nest within 3 miles of a lek, and that a 5.3-mile buffer would encompass almost all nesting birds in some cases (Doherty et al. 2010).⁷ The minimum scientifically supportable metric for NSO buffers would be 2 miles from the lek to protect breeding birds (after Holloran 2005, finding impacts from post-drilling production extend 1.9 miles from the wellsite) with an additional Timing Limitation Stipulation going out 3 miles from a lek,⁴ with the understanding that the impacts of drilling and production activity would extend into the NSO buffer area from wells arrayed along its edge.

Most of the protested leases contain no lease stipulations to protect important sage grouse habitats. Under the preferred alternative of the NW Colorado DEIS, within All Designated Habitat, surface disturbing activity and surface occupancy are allowed just six tenths (0.6) of a mile from “occupied or undetermined” leks (NW Colorado DEIS at 161), a far cry from the science-based 3-mile buffer recommended by field biologists. But even this provision is not applied to most of the protested leases. We understand that males use shrubs <1 km (0.6 mi) from a lek for foraging, loafing, and shelter.⁸ BLM policies have in the past erroneously use this as a basis for a 0.6-mile No Surface Occupancy buffer around leks. However, there is no science to indicate that preventing wells within 0.6 mile of a lek will eliminate significant negative population impacts on sage grouse. In fact, the 1.9-mile buffer is the minimum amount found to be needed to avoid negative impacts to breeding grouse by Holloran (2005), and indeed, to protect the nesting hens that site their nests within 5 miles of a lek, an even larger buffer may be needed. BLM has too great an abundance of data to the contrary to continue with scientifically unsound stipulations as used in IM WY-2010-012 and the current Notice of Competitive Oil and Gas Lease Sale. This is especially clear in light of the U.S. Fish and Wildlife Service’s recent finding that listing the greater sage-grouse as endangered or threatened under the Endangered Species Act is warranted, but precluded by other priorities. If the BLM and other federal agencies intend to keep the sage-grouse from accelerating beyond other listing priorities, more protective measures, in adherence with the scientific recommendations of Holloran, Braun, and others, must be undertaken now. In the interim, deferral of leasing is the appropriate course of action.

BLM has the scientific information needed to recognize that any use of these parcels will result in further population declines, propelling the sage-grouse ahead of other “priorities” on the ESA “candidate list.” Again, it is in all interested parties favor (conservation groups, potential lessees, BLM and other federal agencies) for BLM to determine specific “modifications” prior to issuing leases, such as NSO restrictions. If the BLM fails to do so through site-specific environmental review before the APD stage, the agency will violate the “jeopardy” prohibition in the Endangered Species Act and will not adhere to the Department of Interior’s announced leasing reforms.

⁷ Doherty, K. E., D. E. Naugle, and B. L. Walker. 2010. Greater Sage-Grouse nesting habitat: the importance of managing at multiple scales. *Journal of Wildlife Management* 74:1544–1553.

⁸ Rothenmaier, D. 1979. Sage-grouse reproductive ecology: breeding season movements, strutting ground attendance and site characteristics, and nesting. M.S. Thesis, Univ. Wyoming, Laramie; Autenrieth, R.E. 1981. Sage-grouse management in Idaho. *Id. Dept. Fish and Game Wildl. Bull.* 9.; Emmons, S. R. and C. E. Braun. 1984. Lek attendance of male sage-grouse. *J. Wildl. Manage.* 48:1023-1028.

We remain concerned that the leasing of the parcels in question will result in significant impacts to greater sage grouse should the BLM adopt its Preferred Alternative for the Northwest Colorado Sage-Grouse RMP Amendment EIS, rendering the decision to issue the leases in question under a Finding of No Significant Impact (FONSI) a violation of NEPA. Regarding the impacts of oil and gas development on sage grouse, BLM itself states,

the implications have remained consistent, that is: oil and gas development activity and its infrastructure exert influences on sage-grouse behavior and demographics at distances up to 4 miles, prompting declines in lek persistence and male attendance, yearling and adult hen survival, and nest initiation rates and eliciting strong avoidance response in yearling age classes, nesting/brooding hens, and wintering birds.

White River June 2014 Lease EA Version 2 at 48. These constitute significant impacts, for which BLM has never completed an EIS underlying oil and gas leasing. Regarding timing limitations to protect sage grouse habitats, BLM states

Traditionally applied timing limitation stipulations would be the primary device used to reduce development-related influences on sage-grouse on these remaining lesser and more peripheral sage-grouse habitats. Although the use of traditional stipulations have been criticized by some authors, recent research demonstrates or acknowledges (Holloran 2005, Holloran et al. 2010, Wyoming Wildlife Consultants 2009, Blickley et al. 2012) that those measures formerly adopted and espoused by the BLM, State Wildlife Agencies, and FWS (i.e., TL stipulations addressed below) are capable of reducing impacts associated with avoidance, but based on current understandings and by themselves, not to the degree necessary to stem progressive declines in populations subjected to pervasive or prolonged development activity.

White River June 2014 Lease EA Version 2 at 49. The NW Colorado DEIS further expands on this analysis, stating, “With known weaknesses in the efficacy of traditional stipulations, it is likely that some GRSG populations (defined by MZ) and GRSG habitat may be substantially influenced by fluid minerals development.” NW Colorado DEIS at 517. These also constitute significant impacts. However, even these timing limitations of limited effectiveness have only been applied to one of the protested parcels. The absence of timing limitations essentially concedes that significant impacts would occur, necessitating a full-scale EIS to support leasing in these areas. In addition, activities allowed even when timing stipulations are applied could result in significant impacts on sage grouse:

Residual maintenance and production activities that are normally exempt from timing limitations can be sufficient to elicit strong avoidance of roadside habitat and generate vehicle noise that interferes with grouse communication (e.g., during lekking).

White River June 2014 Lease EA Version 2 at 49.

The Competitive Lease Sale Notice applies a Timing Limitation Stipulation and 0.6-mile NSO lek buffer to only one of the parcels in question preventing drilling and construction (but not production-related activities). Additional restrictions to protect sage grouse can be added as Conditions of Approval following completion of the RMP amendment process. However, if the leases are sold, and the RMP Amendments prescribe no future leasing, there will be no mechanism for BLM to recall the leases from the leaseholder(s). This would undermine the agency's ability to implement Alternative C, which would close Core Areas to future leasing (Northwest Colorado Sage-Grouse RMP Amendment DEIS at 161) under the Northwest Colorado Sage Grouse RMP Amendment should this alternative be adopted for implementation. In order to maintain its range of options, BLM should exclude the parcels protested on sage grouse grounds for this reason alone.

The Preferred Alternative in the Northwest Colorado Sage-Grouse RMP Plan Amendment EIS is Alternative D, which leaves sage grouse Preliminary General Habitats open to future leasing (Northwest Colorado Sage-Grouse RMP Amendment DEIS at 161) and prescribes a suite of conservation measures that may be inadequate to prevent significant impacts to breeding, nesting, brood-rearing, and/or wintering sage grouse using Preliminary General Habitats. If this alternative were to be adopted and its conservation measures applied in addition to the timing limitation stipulation that currently applies to one of the leases in question, significant impacts would result to greater sage grouse under certain types of development allowed under the combined stipulations and Conditions of Approval.

Holloran (2005) determined that roads sited within 0.7 miles of a lek, and main haul roads sited within 1.9 miles of a lek, result in significant negative impacts on sage grouse lek populations.⁹ According to BLM's own analysis, road networks and associated vehicle traffic "appear to adversely influence affected populations, including declines in lek attendance and avoidance of high traffic areas." NW Colorado DEIS at 517, citations omitted. Under the Preferred Alternative of the Northwest Colorado Sage-Grouse RMP Amendment DEIS, constructing such roads would be allowed. NW Colorado DEIS at 144. This means that such roads, constructed to serve oil and gas facilities on leases sold pursuant to this EA, could be located in areas that result in significant impacts to breeding sage grouse.

Knick et al. (2013) found that 99% of the active sage grouse leks in the western half of the species' range were surrounded by lands with 3% surface disturbance per square mile or less.¹⁰ The Preferred Alternative of the NW Colorado DEIS would allow 5% surface disturbance in Preliminary Priority Habitat, but places no disturbance limit on the leases in question, as they are in Preliminary General Habitat. NW Colorado DEIS at 144, 161. This would result in significant impacts on breeding and nesting habitat, leading to abandonment of leks and extirpation of lek populations.

⁹ Holloran, M. J. 2005. Greater sage-grouse (*Centrocercus urophasianus*) population response to natural gas field development in western Wyoming. PhD Dissertation. University of Wyoming. Laramie, Wyoming.

¹⁰ Knick, S.T., S.E. Hanser, and K.L. Preston. 2013. Modeling ecological minimum requirements for distribution of greater sage-grouse leks – Implications for population connectivity across their western range, USA. *Ecology and Evolution* 3: 1539-1551.

Holloran (2005), Walker et al. (2007), and Tack (2009) all found that well densities greater than 1 wellsite per square mile section result in significant impacts to sage grouse lek populations.¹¹ The NW Colorado DEIS Preferred Alternative limits wellpad density to one wellpad per square mile in Preliminary Priority Habitats using Colorado Management Zones (“CMZs”) that radically expand the square-mile area across which the average is calculated beyond the proposed project area (NW Colorado DEIS at 161) in contravention of the recommendations of the BLM’s own experts in the National Technical Team report (NTT 2011)¹², which prescribed calculating wellpad density per square-mile section only. This latter approach avoids wellpad densities exceeding 1 per square mile in certain parts of a Core Area if the larger CMZ area is largely undeveloped, an outcome that results in significant impacts to sage grouse populations sited inside and near the oil and gas development. Copeland et al. (2013) underscored the inadequacy of this approach in the context of the State of Wyoming Core Area strategy (a variant of which is to be implemented under Alternative D of the NW Colorado DEIS) by concluding that sage grouse populations are predicted to significantly decline both statewide and inside Core Areas with the implementation of these conservation measures.¹³ Given that Preliminary General Habitats lack even this level of protection against density of surface disturbance in the NW Colorado DEIS preferred alternative, significant impacts are assured.

As noted earlier in these comments, Holloran (2005) found that the presence of a producing wellsite within 1.9 mile of a sage grouse lek results in significant negative effects on lek populations. No lek buffers are applied as lease stipulations under this EA, and the Preferred Alternative of the NW Colorado DEIS would prohibit surface-disturbing activities (such as wellsites) within 0.6 mile of leks in All Designated Habitat, but would allow them to be permitted outside this buffer. NW Colorado DEIS at 161. Thus, if the Preferred Alternative is adopted the location of oil or gas wells as close a 0.7 mile from active lek sites would be permitted, likely resulting in significant impacts to the sage grouse populations using these leks. For the foregoing reasons, the development of the lease parcels in question pursuant to applied stipulations plus Conditions of Approval that may be applied under the Sage-Grouse RMP Amendment would still likely result in significant impacts to sage grouse in the areas affected. The issuance of these leases under a FONSI is therefore illegal under NEPA. At minimum, these parcels must be deferred pending completion of the Northwest Colorado Sage-Grouse RMP Amendment.

¹¹ Holloran, M. J. 2005. Greater sage-grouse (*Centrocercus urophasianus*) population response to natural gas field development in western Wyoming. PhD Dissertation. University of Wyoming. Laramie, Wyoming; Walker, B.L., D.E. Naugle, and K.E. Doherty. 2007. Greater sage-grouse population response to energy development and habitat loss. *Journal of Wildlife Management* 71(8):2644-2654; Tack, J.D. 2009. Sage-grouse and the human footprint: Implications for conservation of small and declining populations. M.S. Thesis, Univ. of Montana, 96 pp.

¹² Sage-grouse National Technical Team. 2011. A Report on National Greater Sage-grouse Conservation Measures. Available at www.blm.gov/pgdata/etc/medialib/blm/co/programs/wildlife/Par.73607.File.dat/GrSG%20Tech%20Team%20Report.pdf.

¹³ Copeland, H.E., A. Pocewicz, D.E. Naugle, T. Griffiths, D. Keinath, J. Evans, and J. Platt. 2013. Measuring the effectiveness of conservation: A novel framework to quantify benefits of sage-grouse conservation policy and easements in Wyoming. *PlosONE* 8: e67261. 14 pp.

Under the Preferred Alternative, exceptions, modifications, and waivers would continue to be considered to any and all sage grouse conservation measures applied to minerals management in both core and general habitat. NW Colorado DEIS at 519. This means that even if such conservation measures were adequate to prevent significant impacts, there is no guarantee that they will be applied on the ground when the time comes for lessees to develop leases sold at this lease auction. For the foregoing reasons, the development of the lease parcels in question pursuant to applied stipulations plus Conditions of Approval that may be applied under the Sage-Grouse RMP Amendment would still likely result in significant impacts to sage grouse in the areas affected. The issuance of these leases under a FONSI is therefore illegal under NEPA. At minimum, these parcels must be deferred pending completion of the Northwest Colorado Sage-Grouse RMP Amendment.

In 2004, BLM published its National Sage-Grouse Habitat Conservation Strategy (“Strategy”).¹⁴ According to this policy,

“The Federal Land Policy and Management Act (1976) (FLPMA) provides the basic authority for BLM’s multiple use management of all resources on the public lands. One of the BLM’s many responsibilities under FLPMA is to manage public lands for the benefit of wildlife species and the ecosystems upon which they depend. ... Consistency and coordination in identifying and addressing threats to sage-grouse and sagebrush habitat in context of the multitude of programs that BLM manages is required. Addressing these threats throughout the range of the sage-grouse is critical to achieving the mandate of FLPMA and threat reduction, mitigation, and elimination to sage-grouse and sagebrush habitats.”

Strategy at 4. Among other commitments, this policy binds the BLM to “use the best available science and other relevant information to develop conservation efforts for sage-grouse and sagebrush habitats.” Strategy at 7. This best available science includes all studies footnoted herein.

The Strategy also required BLM to complete an Ecoregional Assessment for the Wyoming Basins Ecoregion. *Id.* at 11. This Wyoming Basins Ecoregional Assessment publication (“WBEA”)¹⁵ was completed in 2011, and all lease parcels in this EA fall entirely within the Wyoming Basins Ecoregion. In order for the BLM to meet its obligation to “use the best available science” including publications specifically mandated under the Strategy, it must have considered this document and its recommendations in this NEPA analysis. The BLM did not do this. This study included a complete land cover mapping exercise including analysis of human footprint, which would have been useful to include in the Affected Environment section of the EA. Chapter 5 of this publication (WBEA at 112) specifically addresses sage grouse avoidance

¹⁴ Available online at http://www.blm.gov/pgdata/etc/medialib/blm/wo/Planning_and_Renewable_Resources/fish_wildlife_and.Par.9151.File.dat/Sage-Grouse_Strategy.pdf; site last visited 3/13/13.

¹⁵ Available online at http://sagemap.wr.usgs.gov/Docs/WBEA/wbea_book_15mb.pdf; site last visited 1/24/14.

of oil and gas developments and other permitted facilities. This analysis found that sage grouse density was negatively correlated with major highways, powerlines, and the presence of oil and gas wells. WBEA at 124. These researchers pointed out, “Any drilling <6.5 km [approximately 4 miles] from a sage-grouse lek could have indirect (noise disturbance) or direct (mortality) negative effects on sage-grouse populations.” WBEA at 131. Thus, the WBEA further underscores the likelihood of significant impacts resulting from the sale of these parcels.

In IBLA 2006-184 and IBLA 2006-208, the Interior Board of Land Appeals granted Stays of oil and gas lease issuance in cases where significant new information on Canada lynx had arisen subsequent to a 1993 Forest Service oil and gas leasing NEPA process, and that this triggered a NEPA deficiency because potentially significant impact to lynx had not been considered. The Colorado BLM proposal to issue leases in sage grouse Preliminary General Habitat repeats this NEPA violation in the context of impacts to greater sage grouse.

We are further concerned that the leasing of these parcels violates BLM’s Sensitive Species Manual with regard to prescribing inadequate sage grouse conservation measures that contribute to the need to list the species under the Endangered Species Act. As an implementation of Resource Management Plans that fail to apply adequate conservation measures and have contributed (and continue to contribute) to the likelihood and need to list the greater sage grouse as threatened or endangered, the decision to lease these parcels violates the agency’s Sensitive Species Manual.

V. CONCLUSION AND REQUEST FOR RELIEF

For the foregoing reasons, WildEarth Guardians and Rocky Mountain Wild request that the protested parcels not be offered for sale at the June 2014 competitive oil and gas lease sale. Sage grouse Preliminary General Habitat and wintering range parcels need to be deferred pending completion of the RMP amendment/revision process. If BLM declines to withdraw the protested wilderness parcels, then we request that at the minimum, *adequate* protective stipulations be placed on the leases before the lease sale in order to provide protection for wildlife, air quality, water quality, and other special resources.

Respectfully submitted,



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Attachments

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3. Copeland, H.E., A. Pocewicz, D.E. Naugle, T. Griffiths, D. Keinath, J. Evans, and J. Platt. 2013. Measuring the effectiveness of conservation: A novel framework to quantify benefits of sage-grouse conservation policy and easements in Wyoming. *PlosONE* 8: e67261. 14 pp
4. Knick, S.T., S.E. Hanser, and K.L. Preston. 2013. Modeling ecological minimum requirements for distribution of greater sage-grouse leks – Implications for population connectivity across their western range, USA. *Ecology and Evolution* 3: 1539-1551.
5. Doherty, K.E., D.E. Naugle, B.L. Walker, and J.M. Graham. 2008. Greater sage-grouse winter habitat selection and energy development. *Journal of Wildlife Management* 72:187-195.