

Delivered via email to: blm_wo_plan2@blm.gov

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1849 C Street N.W., Room 5665
Washington, D.C. 20240

Re: Planning 2.0

These comments are submitted on behalf of Sportsmen for Responsible Energy Development; its partners National Wildlife Federation (NWF), the Theodore Roosevelt Conservation Partnership and Trout Unlimited; and NWF state affiliates, the Arizona Wildlife Federation, the Colorado Wildlife Federation, the Idaho Wildlife Federation, the Nevada Wildlife Federation, the New Mexico Wildlife Federation, and the Wyoming Wildlife Federation.

We understand the Bureau of Land Management (BLM) is reviewing the way it develops and updates its Resource Management Plans (RMPs) and that BLM is considering changes to both its planning regulations and its planning guidance. We appreciate this opportunity to share our initial input on what the agency has termed "Planning 2.0."

We too are concerned that the current procedures for amending and updating RMPs are time-consuming and burdensome for both the agency and the public. Because of the difficulty of revising RMPs, the documents often do not reflect changing conditions on the ground and fail to incorporate better data and science as they become available. We also find that the boundaries of the primary planning units are often arbitrary and fail to provide adequate opportunities to address resource issues, particularly fish and wildlife issues, at appropriate scales.

We do not believe that BLM must undertake a significant overhaul of its existing planning regulations to address these concerns. More attention should be directed at planning guidance found in BLM handbooks. BLM's planning regulations found at 43 C.F.R. §§ 1601-1610 already provide considerable flexibility for the agency to achieve BLM's stated goals for Planning 2.0 which are to:

- Conduct effective planning across landscapes at multiple scales and clearly define the boundaries for different types of decisions;
- Create a dynamic and durable planning process that is responsive to change, making it more efficient to keep plans current through amendments; and
- Create an efficient planning process that reduces the amount of time it takes to complete RMPs.

For example, in October 2012, the Secretary of the Interior signed the Record of Decision finalizing a program to facilitate development of solar energy on public lands in six southwestern

states and amending relevant land use plans. The Western Solar Plan provides a blueprint for utility-scale solar energy permitting in Arizona, California, Colorado, Nevada, New Mexico and Utah by establishing solar energy zones (SEZs) with access to existing or planned transmission, incentives for development within those zones, and a process through which to consider additional zones and solar projects. The Western Solar Plan established an initial set of 17 Solar Energy Zones, totaling about 285,000 acres of public land, that serve as priority areas for commercial-scale solar development, with the potential for additional zones through ongoing and future regional planning processes.

In June of this year, BLM completed its first Master Leasing and Development Plan (MLP) for the Beaver Rim within the Lander Field Office of Wyoming. Moreover, the Moab Field Office has initiated an MLP through an RMP amendment process, not a full RMP revision. MLPs are an important tool for examining the potential impacts of energy development across a landscape to better determine the number and order of leases that should be issued as well as any restrictions on how oil and gas resources should be developed to ensure conservation of other values on the public lands, including fish and wildlife, before specific drilling projects are proposed.

MLPs and SEZs demonstrate that BLM has the capability and flexibility under its current regulations to plan both within its existing Field Offices and across multiple Field Offices using both RMP revisions and amendments. We urge BLM to use this flexibility to plan at appropriate scales to address ecosystem conservation concerns. For example, wildlife migration and corridors may require BLM to plan across Field Office and state boundaries and in conjunction with other federal land management agencies such as the Forest Service. In fact, we believe that BLM cannot meet commitments in current RMPs without addressing landscape connectivity and permeability even though these attributes are not explicitly listed as goals or objectives. The need for connectivity is implicit and required to meet goals/objectives such as “healthy” or “self-sustaining” wildlife populations.

We urge BLM to adopt new guidance that would provide appropriate criteria under which State Directors and Field Offices would be required to prepare planning documents that address habitat and connectivity across and within Field Office and state boundaries.

BLM’s current planning regulations provide that RMPs should include “intervals and standards for monitoring and evaluating the plan to determine the effectiveness of the plan and the need for amendment or revision.”¹ The regulations also require Field Managers to prepare an “analysis of the management situation” which includes an assessment of the “ability of the resource area to

¹ 43 C.F.R. §1610.4-9 Monitoring and evaluation.

The proposed plan shall establish intervals and standards, as appropriate, for monitoring and evaluation of the plan. Such intervals and standards shall be based on the sensitivity of the resource to the decisions involved and shall provide for evaluation to determine whether mitigation measures are satisfactory, whether there has been significant change in the related plans of other Federal agencies, State or local governments, or Indian tribes, or whether there is new data of significance to the plan. The Field Manager shall be responsible for monitoring and evaluating the plan in accordance with the established intervals and standards and at other times as appropriate to determine whether there is sufficient cause to warrant amendment or revision of the plan.

respond to identified issues.”² Unfortunately, BLM’s standard practice has been to prepare these analyses only in conjunction with the preparation of major RMP revisions. So these analyses have tended to be static documents that are not continuously updated as new information becomes available. As such, they are not effective tools for supporting dynamic plans that are responsive to change. However, it is agency practice and guidance rather than the regulations that has rendered this result.

We urge BLM, as part of Planning 2.0, to develop better, more effective monitoring and inventory practices as well as guidance regarding the need to update and re-assess the “management situation” more frequently.³

In describing the impetus behind Planning 2.0, Joe Stout, BLM's Decision Support, Planning, and National Environmental Policy Act Division Chief told the Oil and Gas Journal on June 17th: "We want to plan more efficiently." He went on to say that "RMPs now take an average of 8 years to complete, and that's too long." We agree. Part of the explanation for why the current revisions are taking so long is that the underlying RMPs are so old. Many have not been updated in over 30 years. If the agency were to implement more robust mechanisms for monitoring current conditions and updating its plans through amendments to reflect better information regarding resources and best available science on management, its planning documents would not require time-consuming major overhauls and they would better serve both the agency and the public by including a more current reflection of whether resource objectives are or can be met under the existing management framework.

Finally, we urge BLM to include in its planning handbook additional guidance on the ability of its planners to identify “land areas for limited, restricted or exclusive use and designation,” including [but not limited to] Areas of Critical Environmental Concern (ACECs), Backcountry Conservation Areas (BCAs), and wildlife migration corridors, for example, should be included in land areas eligible for such designations. Sportsmen and women currently are working with BLM and other stakeholders to conserve intact backcountry areas in five western states. We have, however, encountered some resistance in BLM’s State and Field Offices to the notion of setting aside areas for hunting and fishing and other outdoor recreation. We believe the current regulations clearly authorize planners to make such designations and to define the kinds of activities that will be permitted within these areas. Moreover, we feel that both BLM and the public would benefit from specific guidance relative to management of backcountry lands that are not suitable for Wilderness designation, but that retain significant hunting, angling and backcountry recreation values.

² 43 C.F.R. §1610.4-4 Analysis of the management situation.

The Field Manager, in collaboration with any cooperating agencies, will analyze the inventory data and other information available to determine the ability of the resource area to respond to identified issues and opportunities. The analysis of the management situation shall provide, consistent with multiple use principles, the basis for formulating reasonable alternatives, including the types of resources for development or protection.

³ For example, pursuant to the most recent revision of its planning rules, the Forest Service has concluded that it intends to use a “continual assessment, planning and monitoring process that provides a feedback loop that allows the Forest Service to adapt to changing conditions and to improve plans based on new information and monitoring.”

Sportsmen and women are also working to secure special recognition for the Path of the Pronghorn in Wyoming. We encourage BLM to include additional guidance on conservation of migration corridors and other important fish and wildlife habitats.

INTRODUCTION

History of Federal Land Use Planning

Congress created the Bureau of Land Management in 1946 out of the ashes of the General Land Office (established in 1812) and the Grazing Service (established in 1934). BLM now administers more public land – over 245 million surface acres – than any other federal agency. Most of this land is located in the 12 Western states, including Alaska. BLM also manages 700 million acres of sub-surface mineral estate throughout the nation.

Formal BLM planning began in the wake of the 1964 Classification and Multiple Use Act, which required preparation of what were called “management framework plans” (MFPs). The National Environmental Policy Act (NEPA), enacted in 1970, imposed new planning obligations on the agency. However, BLM prepared no systematic, detailed land use plans until after 1976, when Congress passed the Federal Land Policy and Management Act (FLPMA), requiring preparation of RMPs with extensive requirements for public participation. In FLPMA, Congress designed planning as the centerpiece of BLM land management. Planning is a central focus of FLPMA, a statute in which Congress declared it was national policy to retain federal ownership of public lands and requiring any disposition of federal land to be “a result of the land use planning procedure[s].” FLPMA also directed BLM to manage lands “in accordance with” its land use plans. BLM regulations require the “future management authorizations and actions [to] . . . conform to the approved plan.” FLPMA also required public participation to be a central element of the FLPMA land planning process.

Legal Status of Federal Land Use Plans

The benefits of planning as a prerequisite to public land decision-making are many. The planning process attracts public attention when the focus of land management is on the resources an area possesses, not on the merits of a particular project.

Congress embraced this vision of the benefits of public land planning in 1976 when it passed both the National Forest Management Act (NFMA) and FLPMA. Effective federal land use planning, however, has been an elusive goal. It suffered a serious legal blow in 2004, when a unanimous Supreme Court ruled in *Norton v. Southern Utah Wilderness Alliance (SUWA)* that a plan provision stating that BLM “will” monitor off-road vehicle (ORV) use was not a legally binding commitment. Environmentalists sued under section 706(1) of the Administrative Procedure Act (APA) to “compel agency action unlawfully withheld or unreasonably delayed,” arguing that BLM’s failure to control or even monitor ORV use within wilderness study areas (WSAs) in Utah violated both FLPMA and NEPA. Although the Tenth Circuit agreed that FLPMA required BLM to take action to preserve the wilderness characteristics of WSAs and

manage the lands consistent with applicable land management plans, and that NEPA required the agency to take a “hard look” at whether it needed to supplement its environmental impact statement (EIS) on the land management plan to account for a substantial increase in ORV use, the Supreme Court disagreed. The Supreme Court held that while FLPMA required BLM to manage WSAs in a manner not to impair wilderness characteristics, the agency possessed wide discretion to decide how to comply with this statutory directive, and thus BLM need not ban ORV use in the areas. Further, the Court ruled that although BLM may not act in a manner inconsistent with a land use plan, a plan’s provisions are not usually judicially enforceable because land use plans only guide, not generally prescribe, actions. The Court also decided that even though BLM’s decision to approve a land use plan may require NEPA analysis, once approved there is no further “major Federal action” involved in a land use plan requiring EIS supplementation.

The *SUWA* decision echoed a conclusion the Supreme Court reached in the context of national forest plans six years earlier. In 1998, in *Ohio Forestry Association v. Sierra Club*, the Court ruled that environmentalists could not challenge the forest plan for the Wayne National Forest because federal land plans are generally not ripe for review. Both *Ohio Forestry* and *SUWA* placed significant roadblocks in the path of challenges to planning decisions, virtually eliminating the public’s ability to challenge agency land management decisions on a programmatic level.

This is just one example of a far more general problem — if we need to adaptively manage lands and resources in order to be able to adjust to new conditions and new understanding, we have no choice but to give managers some discretion. The documented history of putting conservation well behind extractive uses, however, makes it difficult for hunters, anglers and other conservationists to feel comfortable about that, and it is hard to create effective accountability and oversight measures for a necessarily discretionary regime.

To that end, any adaptive management tools need safeguards to prevent misuse and accommodating inappropriate development. Adaptive management capabilities should be designed in a way to allow BLM managers to better achieve planning goals and objectives that already have been defined through a robust planning process, such as an MLP. Adaptive management through an abbreviated amendment process should not be allowed if that amendment would allow activities that conflict with the stated goals and objectives of a particular area, such as to increase oil and gas drilling activities within an area that is being managed primarily for wildlife habitat.

NEW GUIDANCE IN REVISED PLANNING HANDBOOK

We believe that current regulations provide BLM with considerable flexibility to address concerns about both the scale of its planning documents and the ability of those documents to adapt to changing conditions. Achievement of those important goals could be significantly enhanced by inclusion in planning guidance materials clarifying the authority and responsibility of State Directors and Field Offices.

1. Planning Scale and Connectivity

As noted above, we believe the current regulations provide BLM with adequate authority to draft planning documents at various scales.⁴ We urge BLM to adopt guidance meant to ensure that its planning documents choose landscapes that are appropriate to address threats to habitat connectivity.

As habitat loss and fragmentation threaten biodiversity on large geographic scales, creating and maintaining connectivity of wildlife populations is an increasingly common conservation objective. In a study recently published in *Conservation Biology*, authors Lacher and Wilkerson used 50 State Wildlife Action Plans (SWAPs) [<http://teaming.com/state-wildlife-action-plans-swaps/>] to evaluate how the U.S., as a whole, addresses connectivity via wildlife linkages intended for larger terrestrial wildlife. The authors also used the SWAPs as guidance in developing a short list of best practices for wildlife linkage planning. Because SWAPs share a common federally-mandated framework, they function as a valuable national data set for evaluating and comparing conservation efforts.

The content analysis revealed an unexpectedly low relative emphasis on wildlife connectivity for the majority of plans. This finding contrasts with the fact that 50 SWAPs listed habitat fragmentation as a leading threat, that all plans examined had at least one wide-ranging terrestrial species of conservation concern and that maintaining wildlife connectivity is a well-recognized, global conservation objective. Despite the lack of emphasis on wildlife linkages, the authors were able to use eleven exemplary plans, published literature and interview responses to develop a series of recommended best practices for planning and management:

- collect ecologically meaningful background data on factors such as species distributions, wildlife movement barriers, and migration pathways and also maintain standards for archival records;
- be as specific as possible when detailing goal objectives and define frequently used language such as “corridor;”
- establish community-wide partnerships and foster collaboration among planning groups;
- outline plans for continued monitoring and adaptive management;
- account for climate change impacts on movement, availability of food, and changes in habitat quality; and
- incorporate sociopolitical/economic information that may influence implementation of conservation objectives.

The authors believe that integration of the above best practices will lead to increased success in plan implementation as well as increased cooperation between organizations with shared wildlife linkage goals. We encourage BLM to adopt guidance that would set forth best practices to ensure

⁴ 43 C.F.R. §1610.1(b) provides that a “resource management plan shall be prepared and maintained on a resource or field office area basis, unless the State Director authorizes a more appropriate area.”

that wildlife connectivity is adequately addressed in its RMPs and other planning documents and that plans address corridors and linkages across administrative boundaries to ensure consistency of goals and practices.

Section II B of BLM's Land Use Planning Handbook separates types of planning decisions into two categories: 1) Desired Outcomes and 2) Allowable Uses and Management Actions. One way to scale-up planning documents would be to plan at an eco-regional scale for Desired Outcomes and make broad-scale land use allocations. BLM could then scale down to smaller landscapes, such as Field Offices or basins or riparian areas, to address more specifically Allowable Uses and Management Actions.

General Land Use Allocations, such as lands generally suitable for oil and gas leasing, lands with wilderness characteristics, timber harvest lands, grazing lands would be made at an eco-regional scale. Suitability determinations for special designations, such as for Wild and Scenic Rivers and ACECs, Backcountry Conservation Areas, migration corridors would also be made at an eco-regional scale. However, decisions regarding more specific management actions and direction regarding Allowable Uses would be determined at smaller scales.

For example, an eco-regional plan might determine that the South Park area of Colorado is generally suitable for oil and gas development and also establish a Desired Outcome to maintain deer numbers at or above state wildlife agency objectives. Tiered to this eco-regional plan, BLM could then prepare an MLP to determine exactly where and how lands will be leased and developed within the South Park landscape in order to meet Desired Outcomes for mule deer. Through adaptive monitoring and improved utilization of analysis of the management situation documents (*see discussion below*), BLM and the public would be better able to determine how Management Actions and decisions affecting Allowable Uses regarding oil and gas leasing and development in the MLP are impacting deer. If decisions regarding Allowable Uses and/or Management Actions need to be revised and updated, that would be accomplished through a targeted amendment process that only addresses a specific purpose and need for change identified through plan monitoring.

Under this framework, a Field Office level decision affecting an Allowable Use or Management Action would tier to and be consistent with an eco-regional plan, so it would not be made in a vacuum and Allowable Uses would have consistency across administrative boundaries. However, the key to scalable, adaptive planning rests on a transparent, robust and enforceable monitoring process that has the confidence of the public.

2. Monitoring and Assessment of Current Management Situation

Adaptive management provides a framework for decision-making in the face of uncertainty about human actions and ecological responses as well as changing conditions. This framework includes an iterative decision-making process that involves an initial assessment of conditions, a decision and monitoring for results. As information is received through the monitoring process, understanding and management decisions are updated by what is learned. Therefore, inventory and monitoring information is necessary for both the initial assessment and for the iterative management decisions inherent in adaptive management.

For example, the Forest Service has proposed new “directives” or guidance for monitoring under its new planning rules. Those directives would require the responsible official to develop a monitoring program, with public participation, and include it as a component of the forest plan. “Monitoring information should enable the responsible official to determine if a change in plan components or other plan content that guide management of resources on the plan area may be needed.”⁵ The development of the plan monitoring program must be coordinated with the regional forester and responsible officials for two or more administrative units may jointly develop their plan monitoring programs. A biennial evaluation of new information gathered through the plan monitoring program must be prepared and a written report made publicly available.

Unfortunately, few BLM Field Offices have complete biological inventories of species. Additionally, BLM has no cohesive, systematic program for monitoring change over time in the distribution of species and communities. Moreover, monitoring commitments in RMPs, activity plans and project approvals are often jettisoned to budget cuts and other constraints on agency resources. As part of Planning 2.0, BLM should set forth standards for monitoring programs to be included in all planning documents, including past, current and future trends measured relative to desired resource conditions. These standards should include guidance ensuring that failure to conduct requisite monitoring, analysis and inventory activities will have enforceable consequences for the agency, including authorization of both ongoing and future projects.⁶

3. Enforcement and Accountability

In Planning 2.0, BLM must address the tension between desires for management flexibility and demands for management accountability. Although not all land use plan terms are unenforceable after *SUWA*, the decision has imposed significant limits on the public’s ability to judicially challenge planning decisions. For example, the government has successfully argued that under *SUWA* monitoring, analysis and inventory requirements in land use plans are unenforceable. Yet, as discussed above, these actions are essential to building out strategic planning documents that are responsive to adapting conditions. Without some mechanism for public oversight and agency accountability, public acceptance of flexible planning documents that lodge enormous discretion in Field Managers to “adapt” to changing conditions and/or ignore new information will remain strained.

In *Western Watersheds Project v. Bennett*, a federal district judge in Idaho rejected BLM’s argument that land use plan provisions were unenforceable under *SUWA*. Plaintiffs argued that BLM violated FLMA’s requirement that the agency manage lands consistent with land plans by approving increased grazing without first monitoring for sensitive species in the Jarbidge Resource Area in southern Idaho, even though the land use plan stated that grazing “would not

⁵ Proposed FS1909.12, Version—02/14/2013 available at http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5409877.pdf.

⁶ Rapid Ecological Assessments and the Assessment, Inventory and Monitoring Strategy (AIM) represent a recognition by BLM that it needs systems in place to ensure its decisions are better informed. The agency’s planning guidance should incorporate and require the use of such tools.

be authorized unless monitoring studies indicate that the basic soil, vegetation and wildlife resources are being protected and additional forage is available.” The court distinguished *SUWA* as limited to the context of an agency’s failure to act, and therefore inapplicable in the context of a challenge to an agency action inconsistent with an approved land use plan.⁷ Pursuant to the decision in *Western Watershed Project*, BLM can improve enforceability of monitoring commitments and, therefore, public acceptance of adaptive management responses by ensuring that activities can only be authorized if supported by adequate monitoring data and best available science.

BLM should also ensure that its planning documents represent binding commitments to the public. In *Soda Mountain Wilderness Council v. Norton*, another California district judge rejected BLM’s argument that *SUWA* precluded a claim under FLPMA, distinguishing *SUWA* on several grounds. The court noted that, unlike *SUWA*, the challenge involved a final agency action: BLM’s decision to amend a land use plan. In addition, the court also concluded that BLM had made a binding commitment to engage in a specified process before consolidating or disposing of public lands. Plaintiffs argued, and the court agreed, that language in the record of decision for the land use plan stating that it “represents BLM’s commitment to these public desires and constitutes a compact with the public” indicated the type of “binding commitment” the Supreme Court stated was necessary to make a land use plan enforceable on its terms.

4. Program Specific Guidance

Fluid Minerals Leasing Decisions

Oil and gas leasing is one area that deserves special consideration within an adaptive planning framework. As oil and gas extraction technologies shift, potential areas of development interest to industry also shift. Moreover, studies addressing the impacts associated with oil and gas development on fish and wildlife populations continue to broaden our base of knowledge regarding the potential impacts of drilling as well as the efficacy of mitigation measures. The dynamic nature of these oil and gas issues necessitates planning guidance that still ensures some level of consistency for both land managers and the public.

⁷ The 2012 forest planning rules require that "responsible official shall use the best available scientific information to inform the planning process," describing this as "the most accurate, reliable, and relevant" information available during the assessment process. They also require that a monitoring program be included in the forest plan, and provides a more detailed listing of the conditions it must assess:

- Watershed conditions;
- Ecological conditions, including both terrestrial and aquatic;
- Focal species;
- Ecological conditions required to recover listed species and maintain viable populations of species of conservation concern;
- Visitor use and satisfaction;
- Conditions related to climate change;
- Progress toward meeting plan objectives, including multiple uses; and
- Effect of management systems related to productivity of land.

But it is not clear whether these provisions of the plans will be enforceable or whether there will be any consequences for the agency if it fails to comply with these provisions of its new forest plans.

The irretrievable commitment that a lease may represent makes it critical that BLM go beyond the analysis that has historically been contemplated in its RMPs and take a more focused look at likely development scenarios and the mitigation levels necessary to achieve Desired Outcomes for all resources and programs. By scaling-down fluid minerals planning, BLM, industry and the public have the opportunity to envision, propose and analyze appropriate development scenarios prior to leasing, allowing BLM to develop effective lease terms that provide the agency with the latitude to restrict development within development scenarios analyzed and approved at the planning stage.

The following are recommendations to help facilitate a more consistent, adaptive and integrated framework for planning and management of fluid mineral resources.

- As applicable, planning and implementation decisions for oil and gas leasing should incorporate Instruction Memorandum No. 2010-117, Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Review, including section I. Land Use Planning – Adequacy, Consistency, and Adaptive Management .
- In Appendix C, the Planning Handbook states “A plan-level decision to open the lands to leasing represents BLM’s determination...that it is appropriate to allow development of the parcel consistent with the terms of the lease, laws, regulations, and orders, and subject to reasonable conditions of approval.” In many cases oil and gas leasing decisions are best made at a more focused scale than what has typically accompanied RMPs. It is our experience that, in many cases, plan-level decisions are not sufficient to support a determination that “it is appropriate to allow development of the parcel;” indeed the MLP concept was introduced to address the need for oil and gas planning at a finer scale. For this reason, the fluid minerals guidance found in Appendix C would benefit from a revision to the effect that a plan-level decision may be sufficient to determine that development is appropriate. However for lands meeting criteria for an MLP, a more site-specific analysis and decision is required prior to making lands available for leasing.
- MLPs should be the rule, not the exception. This can, in part, be enabled through general oil and gas suitability determinations made at broad scale in an eco-regional plan which then directs that finer scale planning documents will include final decisions to open (or close) particular lands to leasing, as well as site-specific resource use levels and leasing restrictions. In this way, focused leasing decisions – such as those made through an MLP – can be a “bridge” between land use plan decisions and implementation decisions.
- MLP suitability criteria should be broadened to expand the development and application of MLPs across more landscapes. MLP guidance currently found in Chapter V of the Planning for Fluid Mineral Resources handbook includes four criteria under which an MLP must be prepared. Two of these criteria would benefit from revision. Bullet number one states, “A substantial portion of the area to be analyzed in the MLP is not currently leased.” This criterion should be expanded to include non-producing leases. In most cases, non-producing leases will be retired and the lands will return to a “not currently leased” status, thereby making an MLP applicable for future leasing. Additionally, bullet number three

states “The oil and gas industry has expressed a specific interest in leasing, and there is a moderate or high potential for oil and gas confirmed by the discovery of oil and gas in the general area.” This should be revised to simply state: “The oil and gas industry has expressed a specific interest in leasing.” If industry expresses an interest in leasing, it can only be assumed that there is an interest in exploration and production – these activities need to be guided by an MLP regardless of potential or existing production. Revising these two criteria would greatly enhance the applicability and utility of MLPs.

- Lands with an oil and gas potential rating of “low” or “none” should generally be made unavailable for oil and gas leasing. If the industry expresses interest in a low or no potential area, BLM should consider re-evaluating its assessment of the area’s resource potential based on evidence provided by the leasing proponent. If a preponderance of evidence compels BLM to re-evaluate land use allocations for fluid minerals, leasing should only be considered if a plan amendment and accompanying environmental analysis support upgrading resource potential to “medium” or “high” and a new land use allocation decision, included in an MLP, opens the area to leasing with appropriate and effective restrictions and mitigation measures.
 - In Appendix C, the Planning Handbook states “When applying leasing restrictions, the least restrictive constraint to meet the resource protection objective should be used.” To ensure clear guidance, we suggest that the term “least restrictive” be replaced with “most effective.”
 - Mitigation strategies (including avoidance) should be developed at a landscape level to ensure consistent management across administrative boundaries for similar resource values such as migration corridors, ungulate stopovers, native trout streams and other vital fish and wildlife habitats. Guidance should be provided to ensure that lease stipulation “modification” criteria allow for increasing levels of protection when changing circumstances demonstrate the need for stronger measures to meet resource objectives and Desired Outcomes.
- a) ***Eco-regional land use plan decisions:*** Where appropriate, designate areas open for leasing, closed to leasing, and areas that require more focused planning prior to leasing. In undeveloped areas, such as areas outside of producing fields/units, leasing decisions should generally be made through an MLP in which resource use levels and Allowable Use decisions are made on a more focused level; MLP decisions could be either stand-alone implementation decisions, or as a component of an eco-regional land use plan. In all cases, decisions to open lands for leasing and resource use levels should be compatible with Desired Outcomes for all programs and resources.
- b) ***Tiered planning documents and implementation decisions:*** MLPs, lease parcel reviews, development plans and well permits should be compatible with Desired Outcomes established in eco-regional land use plans across program and resource areas to ensure that oil and gas leasing and development targets do not compromise fish and wildlife resource objectives.

Special Designations

BLM’s planning handbook should include additional guidance on the ability of its planners to identify “land areas for limited, restricted or exclusive use and designation,” including [but not limited to] Areas of Critical Environmental Concern (ACECs) specifically creating room to design special designations to address specific conservation concerns that might not be explicitly addressed in the manual. All such designations should include management objectives and exclusion of incompatible uses. We also suggest the planning handbook include direction on specific fish and wildlife designations, including the following:

1. Backcountry Conservation Areas

A wide range of interests are concerned about the continued loss and degradation of sizeable tracts of BLM public lands that are generally intact and undeveloped, and that provide highly-functioning unfragmented fish and wildlife habitat and dispersed recreation opportunities. Fragmentation of habitat, uncharacteristic wildfires and invasive species argue for development of a new land use planning tool. This new planning tool must recognize and give attention to important wildlife habitat and valued “backcountry” lands, and be applied with a strong restoration emphasis to address modern management challenges.

- a) ***Eco-regional land use plan decisions:*** Designate as BCAs, identifiable areas of public lands that are generally intact, generally undeveloped, contain priority fish and wildlife habitat and provide dispersed outdoor recreation opportunities. Desired Outcomes should focus on conserving, restoring and maintaining the intact and undeveloped character of backcountry lands and high quality habitats.

The following table provides specific examples of the appropriate allocations or management approaches that should be applied in resource management plans when adopting the BCA.

| Resources | BCA Resource Decisions |
|---|--|
| Fish and Wildlife Habitat and Noxious Weeds | Establish objectives for management activities that conserve, restore, maintain and enhance fish and wildlife habitat, control and manage noxious weeds, and restore forests and rangelands. |
| Recreation Opportunity Spectrum (ROS) | The following ROS classes would be available within BCAs: <ul style="list-style-type: none"> • Primitive • Semi-Primitive Non-motorized • Semi-Primitive Motorized |
| Off-Highway Vehicles | Designated as limited or closed. Existing routes would generally be retained, but travel would be limited to existing roads, primitive roads and trails. Seasonal and permanent closures may be enacted for the purposes of resource conservation. |
| Fluid Minerals | Lands would be open to new leasing subject to No Surface Occupancy (NSO) stipulations. |
| Rights of Way | BCAs would be exclusion areas for new linear rights-of-way. |
| Renewable Energy Resources | BCAs would be exclusion areas for renewable energy development, such as wind and solar. |

| | |
|--------------------|--|
| Grazing | The BCA has no effect on authorized rangeland health, standards, capacity (animal unit months - AUMs) or livestock grazing management actions and tools (e.g. fencing and watering). |
| Locatable Minerals | BCA lands are generally not intended to be withdrawn from operation of the general mining laws. Reasonable efforts will be made to reduce and reclaim surface disturbances from exploration and mining activities and prevent the fragmentation of intact habitats within BCAs while allowing for existing rights to be exercised. |

2. Fish and wildlife

Eliminating the arbitrary boundaries that plague BLM’s current planning documents and focusing on ecological resources should enable the agency to better address fish and wildlife needs, including migration corridors, stopover habitats and larger management strategies derived from fish and wildlife conservation agreements that may encompass habitat across several states.

a) *Eco-regional land use plan decisions:*

Ungulate migration corridors and stopover habitat: Designate large ungulate (pronghorn, mule deer, elk, bighorn sheep) migration corridors and stopover habitats for those species that have been identified as having migrations as part of their seasonal use of habitats, as significant for at least one factor such as density, diversity, size, public interest, remnant character or age. Identify Desired Outcomes using BLM strategic plans, state agency strategic plans and other similar sources. Describe desired habitat conditions for migration corridors and stopover habitat based on the best available scientific information, acknowledging the states’ roles in managing fish and wildlife, working in close coordination with state wildlife agencies and drawing on state comprehensive wildlife conservation strategies to meet state agency population objectives for large ungulates. Identify actions and area-wide use restrictions needed to achieve desired conditions that maintain or enhance landscape permeability and habitat quality associated with migration corridors and stopover habitat that aid in meeting overall population and habitat conditions. Identify if additional information is needed to refine or monitor migration corridors and stopover habitats.

Fisheries conservation and recovery: BLM is party to numerous conservation agreements and strategies for the conservation and recovery of native trout species. Many of these agreements, such as that for Colorado River cutthroat trout, are applicable to more than one state and encompass numerous BLM Field Offices. Because individual species of native fish often occupy a broad geographic range, eco-regional plans likewise need to incorporate objectives, goals, strategies and actions detailed in range-wide conservation agreements to which the BLM is a signatory. Eco-regional plans should identify recovery goals, both at a range-wide and geographic management unit scale⁸, as

⁸ For instance, Colorado River cutthroat trout are found in a three-state range (CO, UT, WY), which is divided into eight geographic management units that allow for a finer level of resolution to population descriptions and habitat distribution, as well as related maintenance and restoration work.

well as suitability determinations for Allowable Uses and special designations such as ACECs and BCAs. In addition to native fish, states have designated bodies of water as “Gold Medal,” “Blue Ribbon,” or “Red Ribbon” fisheries. These waters are present in many Field Offices and represent significant recreational fisheries in need consistent management across administrative boundaries. BLM management objectives should be consistent with state objectives for these fisheries and retain watershed health as well as aesthetic values.

b) Tiered planning documents and implementation decisions:

Ungulate migration and stopover habitat: In coordination with state wildlife agencies, identify site-specific actions, such as removal of fencing or other habitat improvement projects to improve forage conditions, needed to manage and protect migration corridors and stopover habitats.

Coldwater fisheries conservation and recovery: Implementation decisions should be coordinated with signatory agencies to achieve common goals for the conservation and recovery of native fish. All BLM actions, including tiered planning documents such as MLPs, should not conflict with conservation agreements, objectives and/or strategies. Implementation decisions must not only conserve existing populations of native fish but also enable recovery objectives to be met, both through management actions, such reintroductions, and restrictions on Allowable Uses, including oil and gas leasing stipulations that apply to both occupied streams and streams suitable for reintroductions.⁹

CONCLUSION

In summary, we encourage BLM to ensure that its overall planning documents cover larger ecoregional landscapes, including across administrative boundaries, to allow for comprehensive and integrated planning for watersheds, wildlife habitat and migration corridors and native fish populations. Broad land use allocations should occur at this level including identifying areas that should be protected from development.

Where BLM determines that resources can be developed, BLM should produce more detailed documents tiered to these higher-level plans to address specific resources, activities and potential authorizations. MLPs are one example of tiered plans that allow a closer examination of both oil and gas development and the need to address specific resource conflicts.

Our knowledge of natural resources is not static. We are constantly learning more about both science and resource management. BLM should incorporate best available science including habitat conservation plans and other relevant science into its planning and decisions at all levels

⁹ One example of BLM decision-making in RMPs and other planning efforts that could benefit from scalable planning documents that are based on ecosystem resources rather than arbitrary boundaries is that of riparian setbacks. Setbacks to conserve fisheries and other water resources often vary from state to state or Field Office to Field Office within the same watershed or along the same streams, changing suddenly at the boundary.

and should ensure a transparent and accountable process for updating existing planning documents with new and better information.

The current regulations provide BLM with considerable flexibility to address concerns about both the scale of its planning documents and the ability of those documents to adapt to changing conditions. It is unnecessary for BLM to undertake a significant, time-consuming overhaul of its existing planning regulations. Instead, more attention should be directed at planning guidance found in BLM handbooks.

We thank you for the opportunity to comment on this effort and look forward to working with BLM to ensure that its planning documents better address the needs of fish and wildlife now and for future generations.

Sincerely,

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