

Explanation of changes resulting from BLM State Office Briefing

In this document, I will explain why Colorado State Office (COSO) asked for certain changes to be made to the Draft alternatives. Below are the issues raised by NWCOS during the October meeting. However, some of these issues seem to me to be old issues, not tinkered with by COSO. I will not give detailed discussion of these issues.

Vanessa:

- * Sage grouse
- * Prairie dogs
- * Bald eagle nesting
- * 500 ft to 1/4 mile on perennial water sources

T. Wright:

- * Livestock section not equal treatment
- * Habitat and wildlife too prescriptive
- * See rest of ag sector list

Reed:

- * Consideration of phased leasing/development

Issue 1: Sage Grouse

There were three minor changes made to the sage grouse section. The first two changes were a few sentences added to better explain our decisions in Alternatives C and D. We added one phrase, "For the purpose of preventing disturbing up to 75% of nesting birds, from March 1-June 30," in order to show that we are changing the stipulation because we have a different objective for that alternative. Then we added the phrase, "All surface disturbing activities would avoid only nesting and early brood-rearing habitat within the 4-mile radius of the lek during this time period" to clear up the misconception that the whole 4-mile radius would be Controlled Surface Use (CSU) when this is not the case. Finally, we added a list of recommended Best Management Practices to benefit sage grouse habitat. Overall, the program leads and State Director were satisfied with our sage grouse strategy.

Issue 2: White-tailed Prairie Dogs

This issue arose from a comment about the old WTPD language. The June draft said, "Active white-tailed prairie dog colonies are avoidance areas for surface disturbing activities only within black-footed ferret reintroduction area." This language was questioned, so I went back into our RMP Amendments to try to find it. I couldn't so I changed the language to what I did find in the Black-Footed Ferret Amendment, which simply said: "No surface-disturbing activities will be allowed that may significantly alter the prairie dog complex making it unsuitable for reintroduction of the black-footed ferret." This language is actually meant to protect BFF, not WTPD. Therefore, LSFO biologists wanted to draft a stipulation to protect WTPD habitat for the prairie dogs themselves, not for BFF. Tim, Desa and Mike drafted the stipulation you see on

page 15-16 of the Final alternatives. Some last-minute changes were made after the version you have:

Surface disturbing activities that are larger than 1 acre will not be permitted in active prairie dog towns less than 10 acres in size. These activities will be relocated to the edge of the active prairie dog town. Surface disturbing activities smaller than 1 acre or within towns that are larger than 10 acres will not be permitted between April 1 and June 15 in order to protect prairie dog pups.

Exception Criteria: If a company has a well pad in place but for what ever reason is not able to complete the well prior to April 1, this timing restriction would be granted an exception. Other exceptions may be considered on a case by case basis following Appendix X guidelines.

Tim provided the following explanation of this stip:

This prairie dog stipulation was developed by the Little Snake Field Office wildlife staff. Size limitations and seasonal limitations were based on known biology of white-tailed prairie dogs, which includes the parturition period of white-tailed prairie dogs and the typical burrow density of white-tailed prairie dog colonies.

A prairie dog colony covering an area larger than 10 acres would not be at risk of eradication if a typical well pad were developed within its boundaries. We recognize that some individual prairie dogs would be entrapped resulting in mortality however, the overall colony would be able to adapt to this disturbance and would not be in jeopardy. Prairie dog colonies less than ten acres would not be able to overcome a disturbance that would result from a typical gas well pad and eradication of the colony is a high potential.

The timing component of this stipulation is intended to protect prairie dog pups during a time period were they are not mobile and capable of avoiding construction activities. If a company has a well pad in place but for what ever reason is not able to complete the well prior to April 1, this timing restriction would be granted an exception. The intent of this timing restriction is to ensure new born pups are not entrapped and killed. If the well pad is in place before the prairie dog pups are born, they are not at risk of entrapment from earth moving equipment.

We took into consideration the standard terms and conditions which allows the BLM to move projects up to 200 meters (approximately 650 feet). In most instances, a well pad could be moved out of a ten acre prairie dog town using the 200 meter rule. This stipulation in part allows the industry bidding on a lease to have an understanding of what to expect when developing a lease that contains prairie dog habitat.

Issue 3: Bald Eagle Nesting

There were no changes made to the Bald Eagle section (Habitat, p. 42 – 45) as a result of COSO briefing besides specifying that consultation would be with FWS.

Issue 4: 500 ft to 1/4 mile on perennial water sources

This is in reference to a change on page 5 of the Habitat table, Water section. The original stipulation read: “Establish no-surface occupancy stipulations from within 500 feet to ¼ mile of perennial water sources, depending on type and use of source, soil type and slope steepness.” This was an issue raised by a COSO program lead, asking why we would protect FROM 500 ft to ¼ mile of a perennial water source and not INSIDE 500 feet. It make little sense that we would allow development within 500 feet of a perennial water source but not allow development up to ¼ out from the river. On the ground, the truth is, we have other stips (including the 200 meter rule) to protect that innermost 500 feet anyway, so the change to this language only made it more clear and packaged it all as one stipulation. The new stipulation reads: Establish no-surface occupancy stipulations up to ¼ mile of perennial water sources, if necessary depending on type and use of source, soil type and slope steepness. Exceptions granted according to Appendix X.”

Issue 5: Livestock section not equal treatment

Let me explain the issue behind the livestock section. There were some serious concerns by COSO program leads and the State Director (SD) staff that the livestock section did not have enough decisions and did not have enough range in the alternatives. They were concerned that the lack of a range would leave us very vulnerable to legal challenges. Several suggestions for improving the section included analyzing a No Grazing Alternative, closing some areas to grazing, increasing and decreasing AUMs allotted for livestock, qualitatively describe changes forage allocations, etc.

John had some issues with many of these proposed solutions. He did not want to analyze a No Grazing Alternative, but instead preferred to cover it in the “Considered by not Analyzed” section of Chapter 2. We told COSO that we had discussed closing any allotments in depth as an ID team and we just did not see the need to close any allotment, or parts of any allotment to livestock grazing. LSFO is almost through a complete cycle of permit renewals, where any livestock related issues are addressed at the activity-level. Therefore, to close any allotment would be arbitrary and capricious. We also really wanted to get away from allocating AUMs in this RMP. This is better left for activity-level planning where we do not tie our hands with specific allocations in the RMP.

John suggested we contact the Solicitor’s Office to get an attorney’s opinion on how vulnerable the livestock grazing alternatives would be to a challenge. The solicitor agreed that this section was very vulnerable to legal challenges because of lack of a range and perceived bias in the Goals and Objectives towards livestock grazing. The solicitor suggested some of the same remedies to the section that the COSO program lead did. The ID Team explained to her why several of these changes were not acceptable to John. We felt the livestock grazing section has relatively few decisions because we have many tools available to us at the activity-level. We added a decision to explain all the things we could do at the implementation level. We also changed the first livestock grazing goal, reverting it back to what it was in the June drafts. However, upon more discussion with Cooperating Agencies, we changed it back again to the original goal, but added “Manage resources, vegetation, and watersheds to sustain a variety of

uses, including livestock grazing.” We also added a few decisions and quite a bit of range by illustrating different livestock grazing strategies in the different alternatives. We placed issues such as range improvement, resolving wildlife and livestock conflicts, Desired Plant Communities, and vegetation treatments, on a spectrum. In alternative B, our actions would focus more on catering towards livestock. In Alternative C, we struck a balance between livestock and other uses. In Alternative D, we emphasized using forage more for wildlife than livestock. This strategy widened the range while not tying our hands or making arbitrary decisions. The COSO and solicitor were satisfied with the final changes.

Although NWCOS and much of the community of NW Colorado largely support livestock grazing on public lands, there are national organizations that watch RMPs very closely for these issues. The bottom line is when it comes down to protecting ourselves from challenges, BLM will make what changes are needed to ensure our protection.

Issue 6: Habitat and wildlife too prescriptive

This is a general concern, not tied to any wildlife stipulations in particular. In general, COSO did not add to the prescriptive nature in the wildlife and Special Status Species sections—they were always this way. Therefore, I will only address this concern generally.

John also has an issue with including the conservation measures from the Statewide Programmatic Biological Opinion (BO) from the Fish & Wildlife Service (FWS) directly in the alternatives. The issue is that these prescriptions are tied to 2005 science, and that our understanding of the needs of T&E species might change over the life of the plan. He agrees with some NWCOS members that it would be nice to reference an evolving body of science (such as a BO) in this RMP and not include each conservation measure in the body of the alternatives. COSO was also intrigued by this possibility, and they are currently trying to think of some ways we could do this. So, count on the BO conservation measures (pages 23 – 45, for all species from BFF to bald eagle) to be in an Appendix in the Draft RMP. However, the decisions in the BO will be analyzed in the EIS.

LSFO is trying to limit prescriptions as much as possible in this RMP. However, our strategy is to show a prescription first, then grant an exception to that prescription if it’s not needed. I discuss this a bit more in my last point about intentions of Appendix X at the end of this document. As a final point, LSFO has very little room to make decisions on this issue. The SD has decided all RMPs will be amended to include these conservation measures developed by FWS. Flexible and adaptive management can be very risky in dealing with T&E species. Therefore, NWCOS should expect to continue to see lots of prescriptions related to T&E species.

Issue 7: See rest of ag sector list

There were 3 pages of “Suggested Changes to Alternative C” from the agriculture/local government sector. From an initial glance, most of these issues were outstanding and not related to COSO changes. Without more specifics about what exactly the concern is, I cannot go into each of the 26 concerns/suggested changes. This is for NWCOS to wrestle with during their community alternative process.

However, there was an overarching concern of the ag/MOCO sector: Appendix X and adaptive management. Although COSO did not make any changes related to Appendix X, I would like to say a few words about what LSFO intended when developing our adaptive strategy. There seemed to be some real misperceptions during the October NWCOS meeting about how this Appendix would work. It is true that our strategy is to first prescribe a stipulation, THEN to remove it after looking at the situation on the ground. Jeff showed the group how his sector would like it handled—to allow for a creative, adaptive solution first, then apply the prescription if needed. (This is why during some meetings I say we are not using “true” adaptive management in this plan, but our strategy does allow for much flexibility). The ID team would like to think that on the ground there is no difference between these two strategies. Jean Stetson brought up an example about a well proposed over the hill from a sage grouse lek. LSFO heartily agrees that the time to work out the specifics is in the field where we can talk about creative solutions, and Appendix X is set up to address this exact situation.

For every permitted activity, including Applications for Permit to Drill (APD), we do an on-site with BLM resource specialists. At this point, we look at all the factors on the ground that would warrant a protection (e.g., is the project proposed within nesting habitat within 4 miles from a lek? What time of the year is it? Would a timing restriction apply?) Our specialists and specialists from the operators would also look at the criteria for granting exceptions to that stipulation (e.g., are there topographical factors that would screen the lek? Are other things an operator could do, on site or off site, which would mitigate the impacts? What is the extent of the proposed project? Are the impacts to a population that is over its carrying capacity?). This is one time for creative solutions to be worked out between the user and the BLM. Forget about which is first when the on-site happens—the prescription or the creative solution. The process and the result would be the same.

BLM and Booz Allen talked about this issue for many hours during our work on the alternatives. I could talk about why we were forced to keep coming back to the strategy of prescription first, except if warranted. However, this document is already quite lengthy, so ask me later and I can go into details. If NWCOS has any ideas on how to make this work, they should include it in their community alternative.

Issue 8: Consideration of phased leasing/development

There was a note in the Vermillion Basin section of the draft alternatives, highlighted in blue, about “considering phased leasing or development.” This was placed in the alternatives matrix only for the purpose of spurring COSO comments on that issue. LSFO already discussed this issue in detail as an ID Team and had many concerns with how this would work. We wrote up a detailed explanation of that discussion to show that we had indeed considered it. You may see this issue addressed in the “Considered by Not Analyzed” section of the Alternatives. COSO and the SD relayed many of the same concerns as our staff did about phased leasing and development. At this point, neither COSO nor LSFO think that phased leasing/development warrants inclusion in the draft alternatives.