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*The Wyoming Department of Agriculture is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.*

January 18, 2018

Mr. John Shivik  
National Sage-grouse Coordinator  
United States Forest Service  
Intermountain Region  
324 25<sup>th</sup> Street  
Ogden, UT 84401

Dear Mr. Shivik,

Following are the Wyoming Department of Agriculture (WDA) comments in response to United States Forest Service's (FS) November 21 Notice of Intent seeking input on the greater sage-grouse (GRSG) plan amendments (Plan) of 2015.

Our comments are specific to our mission: dedication to the promotion and enhancement of Wyoming's agriculture, natural resources, and quality of life. As the proposed project could affect our industry, citizens, and natural resources it is important that you continue to inform us of proposed actions and decisions and continue to provide the opportunity to communicate pertinent issues and concerns.

The WDA has identified several issues with the 2015 Plan and subsequent Record of Decision (ROD). Inconsistent application of the Plan and additional GRSG regulations applied to livestock grazing could impact livestock grazing permittees and Wyoming's livestock industry. We would also urge the FS to seek consistency with Wyoming Executive Order 2015-4 (EO) and promote consistency across FS Regions in Wyoming, as appropriate. We ask the FS consider the following specific comments:

**Unresolved issues from 2016 "errata"**

Following the signing of the Plan in 2015, we developed a list of "errata" items for the FS to address. It is our understanding the errata was completed by the FS but never signed. Some of the issues from the errata were minor, while others warrant greater response. We recommend the FS review comments previously provided by WDA regarding the issue.

**Mapping Errors**

After the Plan became final in 2015, implementation revealed a number of errors with the FS mapping of allotments and designated sage-grouse habitat. We have reviewed the FS's list of allotments and found numerous inconsistencies with the analysis. These inconsistencies can lead to field personnel improperly applying GRSG guidelines to allotments. We recommend the FS review the allotments listed as providing GRSG habitat in Wyoming and determine whether or not they were correctly included.

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### Footnotes

Numerous footnotes are inaccurately cited, do not exist, or have been excluded from one Record of Decision (ROD) to another (e.g., Great Basin vs. Rocky Mountains) or from the draft version WDA reviewed to the final ROD. Many of the footnotes provide crucial direction for field personnel and must be included. The FS should review all footnotes in the documents and ensure they are properly cited and applied.

### Tables 1 and 2

WDA does not support the use of range-wide vegetation averages to establish singular guidelines for livestock grazing (e.g., Connelly's Guidelines used as rules, etc.). Given the vast ecological differences across FS Regions 2 and 4 in Wyoming, there is no defensible way to establish a single number to manage for in sage-grouse habitat (e.g., "7 inches"). Recent work by the FS in Wyoming has revealed large variations in interpretation of the tables, monitoring protocols, and which table to use. We are also concerned by the lack of recognition of Footnote 6 on table 2 which states: "*Due to variability of annual precipitation and forage production 7" stubble height may not be possible every year, even in the absence of livestock grazing.*" and finer points within the tables such as: "*ecological site potential*" (GRSG-LG-DC-037-Guideline), "*assuming current vegetation has the ability to achieve these heights*" (table 2), and "*Grass heights only apply in breeding and nesting habitat with ≥10% sagebrush cover...*" (table 2, footnote 2). If ecological realities are overlooked in favor of a single number, or technicians improperly place a monitoring site, the impacts to grazing permittees could be extremely adverse.

To add further confusion and complexity to this issue, GRSG-LG-DC-036-Desired Condition states "*...livestock grazing is managed to maintain or move towards desired habitat conditions (table 1)*" which appears to be in conflict with GRSG-LG-DC-037-Guideline (037) which states "*Grazing guidelines in table 2 should be applied in each of the seasonal habitats...*"; 037 also states "*If values in table 2 cannot be achieved...adjust grazing management to move towards desired habitat conditions in table 1 consistent with ecological site potential.*" While we fully recognize the difference between a Desired Condition and a Guideline we have yet to receive clear interpretation on how the tables interface or when each is applied. Additionally, dates for seasonal habitats within the tables do not match across the Rocky Mountain regions. The FS should develop clear and concise guidance regarding use of the tables and memorialize when, how, and where habitat attributes are monitored via amendment or administrative change to the Plan.

### Consistency with Wyoming Executive Order 2015-4

Wyoming Executive Order 2015-4 (EO) identifies de minimis activities (EO Attachment C) as activities "*considered to have negligible or no impacts to Greater sage-grouse*" (EO pg. 4). The EO recognizes "*Grazing operations that utilize recognized management approaches (allotment management plans, Natural Resource Conservation Service grazing plans, prescribed grazing plans, etc.)*" as proper and therefore de minimis. (EO Attachment C, pg. 2). The WDA strongly opposes placing additional regulations on livestock grazing management as it was not identified as a primary threat for listing GRSG by the USFWS (2010 Status Determination; Decision; 75 Federal Register 13910, 13974).

- Core Areas Version 3/Version 4 – FS should seek consistency with EO 2015-4, including updating the Plan to reflect changes in Core Areas (Priority Habitat Management Areas in the Plan) from Version 3 to Version 4 of the EO. This is highly important on Thunder Basin National Grasslands and must be in place in order for livestock producers to appropriately plan and understand how the Plan may impact their operation.

- **“Priority-Core”/ “Priority-Connectivity”/ “Sagebrush Focal Areas”** – During the planning process, the FS designated Priority-Core, Priority-Connectivity and Sagebrush Focal Areas along with Priority Habitat Management Areas (PHMA). WDA strongly opposed this at the time and still does. Wyoming has a collaborative and comprehensive method for delineating important habitat for sage-grouse (Core Areas) and the establishment of subsets to Core Areas (or PHMA) has not only created confusion and inconsistent interpretation of the ROD but circumvents an established process. The FS should remove these designations and seek consistency with Wyoming EO 2015-4 Core Areas.

#### **Guidelines for Livestock Grazing/Permit Modifications**

In conjunction with issues surrounding tables 1 and 2, there are a number of details contained with the Guidelines for Livestock Grazing which need to be addressed.

- **GRSG-LG-GL-037-Guideline** – *“Grazing guidelines in table 2 should be applied in each of the seasonal habitats in table 2. If values in table 2 cannot be achieved based upon site-specific analysis using Ecological Site Descriptions, long-term ecological site potential analysis, or other similar analysis, adjust grazing management to move towards desired habitat conditions in table 1 consistent with ecological site potential. Do not use drought and degraded habitat condition to adjust values. Grazing guidelines in table 2 would not apply to isolated parcels of National Forest System lands that have less than 200 acres of greater sage-grouse habitat.”*
  - As mentioned above, we have multiple concerns with this Guideline. Apart from the issues noted above, we are concerned the determination of *“site potential”* will become highly subjective and may lead to incorrect assumptions regarding what does or does not need to change with relation to livestock grazing management. If permits are modified in order to *“move towards desired habitat conditions in table 1”* we fail to understand the need for table 2. We are also concerned table 2 may be incorrectly applied to any allotment within GRSG habitat regardless of turn-out date and overlap with seasonal habitat usage by GRSG. Lastly, we have experienced multiple interpretations of *“isolated parcel”* and how this relates to the qualifier of *“less than 200 acres of greater sage-grouse habitat.”* This is especially important on allotments where potential habitat is far from other habitats but the allotment itself is larger than 200 acres and GRSG may or may not have access to the area. For example, high mountain meadows could be considered habitat due to the vegetative characteristics contained within them but trees and topography severely limit GRSG ability to reach these areas, therefore isolating these habitats. We have also reviewed different interpretations of *“less than 200 acres of greater sage-grouse habitat”* where an allotment may not be *“isolated”* but does not contain greater than 200 acres of habitat. We suggest the FS clarify the intent of this Guideline with regard to usage of tables and application of *“isolated parcel”* and *“less than 200 acres”* statements.
- **GRSG-LG-GL-038-Guideline** – *“On the Thunder Basin National Grassland, if 90% or more of the allotment falls within nesting or brood rearing habitat, 25% of the allotment would be exempted from the breeding/nesting residual perennial grass height guidelines in table 2.”*
  - We do not support a blanket prescription of table 2. The FS must adjust for local realities before applying the tables. Additionally, this Guideline should apply to all FS allotments, not Thunder Basin alone.

We would also point out that the language used in the guideline(s) does not align with the language used in the footnotes for the table(s) (e.g., “grass height guidelines” vs. “7 inch stubble height”). The FS should clearly articulate what the desired condition is, as “grass height” has a very different meaning than “stubble height” and confusion of the two could lead to negative impacts to grazing permittees.

- **GRSG-LG-GL-039-Guideline** – *“In priority and general habitat management areas and sagebrush focal areas, when grazing permits are waived without preference or obtained through permit cancellation, consider...allotment closure, vacancy status for resource protection, establishment of forage reserve, re-stocking, or livestock conversion as management options to maintain or achieve desired habitat conditions (table 1).”*
  - We do not support any agency action that would reduce livestock grazing based on vague tables or due to other agency action that may or not apply to GRSG (e.g., permit cancellation). Again, this Guideline creates confusion regarding which table to use and lends no assurance to permittees that their operations will not be negatively impacted under the guise of “sage-grouse conservation.” The FS should not create additional stipulations, such as tables 1 and 2, to reduce livestock grazing. FS should use their existing regulations to manage livestock grazing to meet rangeland health objectives, including wildlife habitat. Additionally, GRSG objectives should only apply to PHMA, not all FS lands as this Guideline implies. At a minimum, the FS should change this guideline and make it specific to PHMA; however, we would urge FS to consider complete removal.
- **GRSG-LG-GL-042-Guideline** – *“Collision risk associated with existing fences within 1.2 miles of leks should be minimized through removal or modification...”*
  - The FS has failed to provide any rationale for the 1.2 mile buffer around leks for existing fences or even new fences. This is also inconsistent with Wyoming EO 2015-4. The EO places timing and distance restrictions on new fences (see Attachment C, #12) and allows for maintenance of existing fences (Attachment C, #13). The FS should align this Guideline with the Wyoming EO.
- **GRSG-LG-GL-043-Guideline** – *“In priority habitat management areas and sagebrush focal areas, new permanent livestock facilities, except fences, should not be constructed within 0.6 miles from the perimeter of occupied leks. In general habitat management areas, new permanent livestock facilities should not be constructed within 0.25 miles of occupied leks.”*
  - This Guideline not only conflicts with the Wyoming EO but appears to conflict with Guideline 042 above. The FS should review all Guidelines for consistency with one another and make them consistent with the EO.

In conclusion, WDA recommends the FS make short-term changes (e.g., training, guidance, etc.) to address immediate concerns with livestock grazing management. The FS should promote a pragmatic approach to management of sage-grouse habitat across FS Regions in Wyoming and work closely with permittees to develop realistic management goals for livestock grazing. Given the unique and limited GRSG use of most FS habitat, the FS should focus on using local GRSG data to determine whether or not management is needed and tailor management objectives to the area, rather than rely on broad numbers from across the species range, such as tables 1 and 2. The FS must address the tables and livestock grazing guidelines and provide livestock producers with clear rationale for decisions or changes to current

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management. We also urge the FS to make all efforts to increase consistency with the Wyoming EO. We believe many of the changes can be achieved through administrative action but support amending the plan where this is not possible.

We look forward to working with you in the future. If you have any questions, please contact Chris Wichmann, Manager-Natural Resource and Policy Division.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug Miyamoto". The signature is stylized and cursive.

Doug Miyamoto  
Director

DM/jb

CC: Governor's Policy Office  
Wyoming Board of Agriculture  
Wyoming Association of Conservation Districts  
Wyoming Farm Bureau Federation  
Wyoming County Commissioner's Association

Wyoming Game and Fish Department  
Wyoming State Grazing Board  
Wyoming Stock Growers Association  
Public Lands Council