

**From:** [jmclain@blm.gov](mailto:jmclain@blm.gov) on behalf of [Gateway West Trans Line, BLM WY](#)  
**To:** [blm@gwcomment.com](mailto:blm@gwcomment.com)  
**Subject:** Fwd: Gateway West FEIS  
**Date:** Monday, June 17, 2013 7:04:53 AM  
**Attachments:** [AHW FEIS comments.docx](#)

---

----- Forwarded message -----

**From:** **Lesley Wischmann, AHW** <[lesleywisch@wyoming.com](mailto:lesleywisch@wyoming.com)>  
**Date:** Thu, Jun 13, 2013 at 5:59 PM  
**Subject:** Gateway West FEIS  
**To:** [Gateway\\_West\\_WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov)

Attached you will find our comments on the FEIS. In addition, I will put a hard copy in the mail.

Thank you.

--

Lesley Wischmann  
Alliance for Historic Wyoming  
712 South Second Street  
Laramie, WY 82070  
[lesleywisch@wyoming.com](mailto:lesleywisch@wyoming.com)  
[www.historicwyoming.org](http://www.historicwyoming.org)



## Protecting Wyoming's Historic Places

*Barbara Dobos (Casper, WY) • Lesley Wischmann (Laramie, WY) • Mary Humstone (Fort Collins, CO) • Dave Vlcek (Pinedale, WY)  
Trish Ullery-Whitaker (Kaycee, WY) • Edre Maier (Sheridan, WY) • Chamois Andersen (Laramie, WY) • Chuck Carrig (Casper, WY)*

PO Box 51201 | Casper, WY 82605 | 307.333.3508 | [ExecDirector@historicwyoming.org](mailto:ExecDirector@historicwyoming.org) | [www.historicwyoming.org](http://www.historicwyoming.org)

Lesley Wischmann, Founding Director  
712 South 2<sup>nd</sup> Street  
Laramie, WY 82070  
[lesleywisch@wyoming.com](mailto:lesleywisch@wyoming.com)  
307-742-5499  
13 June 2013

Bureau of Land Management  
Gateway West Project  
P.O. Box 20879  
Cheyenne, WY 82003

Re: Final EIS

The Alliance for Historic Wyoming (AHW) would like to thank you for your consideration of the following comments regarding the Gateway West project. As concurring parties, we will continue to consult under Section 106 of the National Historic Preservation Act for this project but we also continue to have some specific concerns regarding the extent and quality of the analysis presented in the NEPA-mandated Final Environmental Impact Statement (FEIS).

Our most significant concerns revolve around the insufficiency of your analysis of cultural resources, as defined by the National Environmental Policy Act, and the extent of impacts this project will have on those same resources. For too long, the BLM has assumed that the mandates of the National Historic Preservation Act, including its Section 106 consultation process and all the analyses, documentation and consultations that usually entails, will be sufficient to address any and all impacts to cultural resources, as mandated by NEPA. While that may be true for a great majority of projects, it does not work in the face of a project the size of Gateway West. These huge, mega-projects demand strict application of the NEPA mandates as regards cultural resources. Simply relying on the Section 106 process and NHPA is insufficient.

Section 3.3 of the FEIS recognizes the important difference in the analysis required by these two laws:

Cultural resources include all landscapes, buildings, sites, districts, structures, or objects that have been created by or associated with humans and are considered to have historical or cultural value. Historic properties are defined at 36 CFR Part 800.16(l)(1) as “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the

P.O. Box 51201, Casper, WY 82605 E-mail: [Executive Director@HistoricWyoming.org](mailto:Executive Director@HistoricWyoming.org)

The Alliance for Historic Wyoming is a 501(c)(3) nonprofit organization

Executive Director: Carly-Ann Anderson Board of Directors: Chamois Andersen ⊕ Barbara Dobos ⊕ Chuck Carrig ⊕ Mary Humstone ⊕ Edre Maier ⊕ Trish Ullery-Whitaker ⊕ Dave Vlcek ⊕ Lesley Wischmann

Interior.” Historic properties include properties of “traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.” For non-historic properties, BLM Manual 8100.03.F (BLM 2004a) states that “[c]**ultural resources need not be determined eligible for the National Register of Historic Places (as in the National Historic Preservation Act) to receive consideration under the National Environmental Policy Act.**” [emphasis added]

Under NEPA, then, it is simply not sufficient to evaluate only those properties eligible for the National Register. NEPA requires the BLM to examine potential impacts to all “cultural resources” which the FEIS, at 3.3.1.3, defines as “encompass[ing] archaeological, traditional, and built environment resources, including but not necessarily limited to buildings, structures, objects, districts, and sites.” Quite correctly, this definition includes no reference to National Register eligibility, as required under NHPA. However, this is the last point in the FEIS where we can confidently say that the BLM has recognized this critical difference. From this point forward, it appears that your entire analysis is predicated on the research done for the programmatic agreement under NHPA. In other words, the rest of your analysis appears to rely on data that dealt only with properties subject to NHPA, i.e., eligible for listing on the National Register of Historic Places. With no evidence that you considered all “cultural resources,” as required by NEPA, your analysis is self-evidently incomplete.

Moreover, the sloppy application of language in the FEIS on this complicated but important issue makes it even more difficult to be sure of what you have – and what you have not – analyzed. For instance, on page 3.3-3, you use the following language:

This procedure allows for the recognition and disclosure of impacts on known cultural resources, as well as a comparison of alternatives, based on a method that endeavors to assess those alternatives with a uniform and consistent approach.

The procedure being referenced is the information developed for the programmatic agreement under Section 106. The above-quoted sentence would be correct if it read: “This procedure allows for the recognition and disclosures of impacts on known **historic properties**” but, in its current language, it is simply inaccurate. The analysis conducted for the PA tells us nothing definitive about all cultural resources, as defined by NEPA. You do say that these two phases of research under Section 106 were “designed to be completed with the intent of informing the NEPA analysis.” [pg 3.3-3] But that assurance is all we get. Nowhere in the list of properties and analysis is one that is identified as not being eligible for the National Register but included due to the mandates of NEPA. We are left with a very uncomfortable assurance that the analysis, meant to “inform” the NEPA process was somehow fully adequate but we have no real evidence to support this general assumption. Since the consultants that are routinely hired to do these Class III inventories for the Section 106 process are used to considering only NRHP-eligible sites, we are far from sanguine when asked to believe they changed that pattern on the non-existent evidence of such in this document.

When you add to that what appears to be rather loose and inconsistent use of language in this document, our level of concern is heightened. Again on 3.3-42, we find language that we cannot confidently interpret:

P.O. Box 51201, Casper, WY 82605 E-mail: Executive Director@HistoricWyoming.org

The Alliance for Historic Wyoming is a 501(c)(3) nonprofit organization

Executive Director: Carly-Ann Anderson Board of Directors: Chamois Andersen ⊕ Barbara Dobos ⊕ Chuck Carrig ⊕ Mary Humstone ⊕ Edre Maier ⊕ Trish Ullery-Whitaker ⊕ Dave Vlcek ⊕ Lesley Wischmann

Historic Sites – This category comprises the remaining resource types that do not share a related socioeconomic theme. These resource types include inscriptions, military sites, and urban and rural sites:

“Historic site,” of course, has a specific meaning under the National Historic Preservation Act. But is that how it is being applied here? We aren’t sure. And then, on 3.3-52, we find:

**Homesteads, Ranches, and Sheepherding Camps**

These cultural resources represent important parts of Wyoming’s economic history. Cattle ranching started first in the area as early as the 1850s when Captain William Sublette and Jim Bridger began to supply cattle to emigrants and freighters at nearby military forts (Massey 1992b).

When this says “cultural resources,” are you applying the NEPA definition? By this point in the analysis, we really don’t know. We understand as well as anyone how difficult and confusing the terms are when it comes to NEPA and NHPA and how frustrating it can be that what means x in NEPA means y in NHPA. But that makes it all the more important to make sure the language is used precisely and consistently.

This entire section of the FEIS detailing the resources along the project route is a wonderful summary, with nice capsule histories for each, but because of a lack of strict attention to language, it is confusing at best as to whether they are being discussed under Section 106 of NHPA or under NEPA. A full, complete and unambiguous NEPA analysis of “cultural resources” as defined by 40 CFR §1508.8. Without being assured that this analysis had occurred, the BLM has failed and commenters on the FEIS, including AHW, are incapable of responding to your section on “Impacts Common to All Alternatives” with any confidence.

We have an additional concern with the analysis conducted. Nowhere in this document did we find any evidence that the project area has been evaluated to determine whether there might be any historic or cultural landscapes within the very extensive APE. These NRHP-eligible landscapes are very distinct from trail viewsheds, historic districts and Traditional Cultural Properties, all of which we do find have been considered within the FEIS. But we believe this document is deficient in not addressing the possibility of either NRHP-eligible landscapes or culturally significant landscapes that may not be NRHP eligible but which must be considered as a cultural resource under NEPA. Landscape analysis has become ever more important in the last few years and, especially with a project of this size, we must have a full analysis of potentially significant landscapes identified and any potential impacts analyzed.

We do very much appreciate that you have expanded your socio-economic analysis to include an expanded analysis of the potential effects of this project on tourism. [3.4.15] We believe that your finding that tourism is a major component of the economy throughout the state, but most especially in Carbon County, justifies our concerns about this project, especially when considered in combination with all of the other development occurring in southern Wyoming along the I-80 corridor. We were especially interested to note that the 2012 report by Strategic Marketing and Research, Inc., found that, in 2011, 26 percent of

P.O. Box 51201, Casper, WY 82605 E-mail: Executive Director@HistoricWyoming.org

The Alliance for Historic Wyoming is a 501(c)(3) nonprofit organization

Executive Director: Carly-Ann Anderson Board of Directors: Chamois Andersen ⊕ Barbara Dobos ⊕ Chuck Carrig ⊕ Mary Humstone ⊕ Edre Maier ⊕ Trish Ullery-Whitaker ⊕ Dave Vlcek ⊕ Lesley Wischmann

those visiting the state included a historic site in their travels. This is an especially significant finding, considering that the same study found that only 4% came to the state specifically to visit a historic site. This proves the peripatetic and synchronistic quality of heritage tourism. Obviously, these visitors saw a site that interested them and stopped to enjoy it. From other studies, we know that this is the kind of behavior that often results in visitors spending more time – and thus, more money – in our state. AHW continues to worry that if visitors begin to perceive of an area as simply an industrialized zone – as the I-80 corridor is rapidly becoming, thanks to the cumulative effects of all these large projects – they will not look for that serendipitous discovery and Wyoming will lose out on a large chunk of tourist dollars that could have been had. Moreover, this decision by tourists to pass by a state or region can have a devastating impact on small, historic attractions such as local museums and if those institutions fail, there will most definitely be a ripple effect as the “human capital” is diminished.

Finally, we were interested in reading the following in 3-4-17 on Natural Amenities and Quality of Life:

Natural amenities and local quality of life have been recognized as important factors contributing to the economic prospects of rural communities in the American West (Rudzitis and Johnson 2000; Hill et al. 2009). While natural amenities do not directly generate income in the same sense as oil and gas exploration or a tourism lodge, they can influence household and business location decisions and act to attract and retain residents and businesses that are not otherwise constrained with respect to their location.

We believe that “natural amenities” in this context is very likely a close synonym of “cultural resources” under NEPA. This, then, provides additional support for the importance of conducting a full analysis of “cultural resources” as defined by NEPA, over and above the analysis mandated under Section 106 of NHPA.

Thank you again for your consideration of these comments. We look forward to working with the BLM and the other consulting and concurring parties in crafting a solid mitigation plan under Section 106 for the Gateway West project.

Sincerely,

Lesley Wischmann  
Founding Director

2013 JUN 18 AM 10:00

PO Box 51201 | Casper, WY 82605 | 307.333.3508 | ExecDirector@historicwyoming.org | www.historicwyoming.org



RECEIVED  
DCI-PLM  
CHEYENNE WYOMING

Lesley Wischmann, Founding Director

712 South 2<sup>nd</sup> Street

Laramie, WY 82070

lesleywisch@wyoming.com

307-742-5499

13 June 2013

Bureau of Land Management  
Gateway West Project  
P.O. Box 20879  
Cheyenne, WY 82003

Re: Final EIS

The Alliance for Historic Wyoming (AHW) would like to thank you for your consideration of the following comments regarding the Gateway West project. As concurring parties, we will continue to consult under Section 106 of the National Historic Preservation Act for this project but we also continue to have some specific concerns regarding the extent and quality of the analysis presented in the NEPA-mandated Final Environmental Impact Statement (FEIS).

Our most significant concerns revolve around the insufficiency of your analysis of cultural resources, as defined by the National Environmental Policy Act, and the extent of impacts this project will have on those same resources. For too long, the BLM has assumed that the mandates of the National Historic Preservation Act, including its Section 106 consultation process and all the analyses, documentation and consultations that usually entails, will be sufficient to address any and all impacts to cultural resources, as mandated by NEPA. While that may be true for a great majority of projects, it does not work in the face of a project the size of Gateway West. These huge, mega-projects demand strict application of the NEPA mandates as regards cultural resources. Simply relying on the Section 106 process and NHPA is insufficient.

Section 3.3 of the FEIS recognizes the important difference in the analysis required by these two laws:

Cultural resources include all landscapes, buildings, sites, districts, structures, or objects that have been created by or associated with humans and are considered to have historical or cultural value. Historic properties are defined at 36 CFR Part 800.16(l)(1) as "any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the

P.O. Box 51201, Casper, WY 82605 E-mail: Executive Director@HistoricWyoming.org

The Alliance for Historic Wyoming is a 501(c)(3) nonprofit organization

Executive Director: Carly-Ann Anderson Board of Directors: Chamois Andersen ⊕ Barbara Dobos ⊕ Chuck Carrig ⊕ Mary Humstone ⊕ Edre Maier ⊕ Trish Ullery-Whitaker ⊕ Dave Vlcek ⊕ Lesley Wischmann

Interior.” Historic properties include properties of “traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.” For non-historic properties, BLM Manual 8100.03.F (BLM 2004a) states that “[c]ultural resources need not be determined eligible for the National Register of Historic Places (as in the National Historic Preservation Act) to receive consideration under the National Environmental Policy Act.” [emphasis added]

Under NEPA, then, it is simply not sufficient to evaluate only those properties eligible for the National Register. NEPA requires the BLM to examine potential impacts to all “cultural resources” which the FEIS, at 3.3.1.3, defines as “encompass[ing] archaeological, traditional, and built environment resources, including but not necessarily limited to buildings, structures, objects, districts, and sites.” Quite correctly, this definition includes no reference to National Register eligibility, as required under NHPA. However, this is the last point in the FEIS where we can confidently say that the BLM has recognized this critical difference. From this point forward, it appears that your entire analysis is predicated on the research done for the programmatic agreement under NHPA. In other words, the rest of your analysis appears to rely on data that dealt only with properties subject to NHPA, i.e., eligible for listing on the National Register of Historic Places. With no evidence that you considered all “cultural resources,” as required by NEPA, your analysis is self-evidently incomplete.

Moreover, the sloppy application of language in the FEIS on this complicated but important issue makes it even more difficult to be sure of what you have – and what you have not – analyzed. For instance, on page 3.3-3, you use the following language:

This procedure allows for the recognition and disclosure of impacts on known cultural resources, as well as a comparison of alternatives, based on a method that endeavors to assess those alternatives with a uniform and consistent approach.

The procedure being referenced is the information developed for the programmatic agreement under Section 106. The above-quoted sentence would be correct if it read: “This procedure allows for the recognition and disclosures of impacts on known **historic properties**” but, in its current language, it is simply inaccurate. The analysis conducted for the PA tells us nothing definitive about all cultural resources, as defined by NEPA. You do say that these two phases of research under Section 106 were “designed to be completed with the intent of informing the NEPA analysis.” [pg 3.3-3] But that assurance is all we get. Nowhere in the list of properties and analysis is one that is identified as not being eligible for the National Register but included due to the mandates of NEPA. We are left with a very uncomfortable assurance that the analysis, meant to “inform” the NEPA process was somehow fully adequate but we have no real evidence to support this general assumption. Since the consultants that are routinely hired to do these Class III inventories for the Section 106 process are used to considering only NRHP-eligible sites, we are far from sanguine when asked to believe they changed that pattern on the non-existent evidence of such in this document.

ENTERED  
100838

When you add to that what appears to be rather loose and inconsistent use of language in this document, our level of concern is heightened. Again on 3.3-42, we find language that we cannot confidently interpret:

Historic Sites – This category comprises the remaining resource types that do not share a related socioeconomic theme. These resource types include inscriptions, military sites, and urban and rural sites:

“Historic site,” of course, has a specific meaning under the National Historic Preservation Act. But is that how it is being applied here? We aren’t sure. And then, on 3.3-52, we find:

Homesteads, Ranches, and Sheepherding Camps

These cultural resources represent important parts of Wyoming’s economic history. Cattle ranching started first in the area as early as the 1850s when Captain William Sublette and Jim Bridger began to supply cattle to emigrants and freighters at nearby military forts (Massey 1992b).

When this says “cultural resources,” are you applying the NEPA definition? By this point in the analysis, we really don’t know. We understand as well as anyone how difficult and confusing the terms are when it comes to NEPA and NHPA and how frustrating it can be that what means x in NEPA means y in NHPA. But that makes it all the more important to make sure the language is used precisely and consistently.

This entire section of the FEIS detailing the resources along the project route is a wonderful summary, with nice capsule histories for each, but because of a lack of strict attention to language, it is confusing at best as to whether they are being discussed under Section 106 of NHPA or under NEPA. A full, complete and unambiguous NEPA analysis of “cultural resources” as defined by 40 CFR §1508.8. Without being assured that this analysis had occurred, the BLM has failed and commenters on the FEIS, including AHW, are incapable of responding to your section on “Impacts Common to All Alternatives” with any confidence.

We have an additional concern with the analysis conducted. Nowhere in this document did we find any evidence that the project area has been evaluated to determine whether there might be any historic or cultural landscapes within the very extensive APE. These NRHP-eligible landscapes are very distinct from trail viewsheds, historic districts and Traditional Cultural Properties, all of which we do find have been considered within the FEIS. But we believe this document is deficient in not addressing the possibility of either NRHP-eligible landscapes or culturally significant landscapes that may not be NRHP eligible but which must be considered as a cultural resource under NEPA. Landscape analysis has become ever more important in the last few years and, especially with a project of this size, we must have a full analysis of potentially significant landscapes identified and any potential impacts analyzed.

We do very much appreciate that you have expanded your socio-economic analysis to include an expanded analysis of the potential effects of this project on tourism. [3.4.15] We believe that your finding that tourism is a major component of the economy throughout the state, but most especially in Carbon County, justifies our concerns about this project,

P.O. Box 51201, Casper, WY 82605 E-mail: Executive Director@HistoricWyoming.org

The Alliance for Historic Wyoming is a 501(c)(3) nonprofit organization

Executive Director: Carly-Ann Anderson Board of Directors: Chamois Andersen ⊕ Barbara Dobos ⊕ Chuck Carrig ⊕ Mary Humstone ⊕ Edre Maier ⊕ Trish Ullery-Whitaker ⊕ Dave Vlcek ⊕ Lesley Wischmann

3/4

especially when considered in combination with all of the other development occurring in southern Wyoming along the I-80 corridor. We were especially interested to note that the 2012 report by Strategic Marketing and Research, Inc., found that, in 2011, 26 percent of those visiting the state included a historic site in their travels. This is an especially significant finding, considering that the same study found that only 4% came to the state specifically to visit a historic site. This proves the peripatetic and synchronistic quality of heritage tourism. Obviously, these visitors saw a site that interested them and stopped to enjoy it. From other studies, we know that this is the kind of behavior that often results in visitors spending more time – and thus, more money – in our state. AHW continues to worry that if visitors begin to perceive of an area as simply an industrialized zone – as the I-80 corridor is rapidly becoming, thanks to the cumulative effects of all these large projects – they will not look for that serendipitous discovery and Wyoming will lose out on a large chunk of tourist dollars that could have been had. Moreover, this decision by tourists to pass by a state or region can have a devastating impact on small, historic attractions such as local museums and if those institutions fail, there will most definitely be a ripple effect as the “human capital” is diminished.

Finally, we were interested in reading the following in 3-4-17 on Natural Amenities and Quality of Life:

Natural amenities and local quality of life have been recognized as important factors contributing to the economic prospects of rural communities in the American West (Rudzitis and Johnson 2000; Hill et al. 2009). While natural amenities do not directly generate income in the same sense as oil and gas exploration or a tourism lodge, they can influence household and business location decisions and act to attract and retain residents and businesses that are not otherwise constrained with respect to their location.

We believe that “natural amenities” in this context is very likely a close synonym of “cultural resources” under NEPA. This, then, provides additional support for the importance of conducting a full analysis of “cultural resources” as defined by NEPA, over and above the analysis mandated under Section 106 of NHPA.

Thank you again for your consideration of these comments. We look forward to working with the BLM and the other consulting and concurring parties in crafting a solid mitigation plan under Section 106 for the Gateway West project.

Sincerely,



Lesley Wischmann  
Founding Director

**From:** [info@gatewaywesteis.com](mailto:info@gatewaywesteis.com)  
**To:** [Gateway BLM](#)  
**Subject:** A final EIS comment from gatewaywesteis.com  
**Date:** Friday, June 28, 2013 10:47:03 AM

---

A final EIS comment from gatewaywesteis.com.

Name:

Danielle Murray

Organization:

Conservation Lands Foundation

Mailing Address:

330 E. 8th Street

Mailing Address 2:

City:

Durango

State:

CO

Zip:

81301

Daytime Phone:

E-mail:

danielle@conservationlands.org

Confidential:

False

EIS Chapter:

Section Number:

Page Number:

Comment:

These comments were also submitted by e-mail. Thanks

June 28, 2013

Gateway West FEIS Comments  
BLM, Gateway West Project  
P.O. Box 20879  
Cheyenne, WY 82003

Thank you for the opportunity to comment on the Final Environmental Impact Statement (FEIS) for the

Gateway West Transmission Line in Wyoming and Idaho. The Conservation Lands Foundation is the only organization solely dedicated to protecting, preserving and expanding the Bureau of Land Management's (BLM) National Conservation Lands (National Landscape Conservation System). Since 2007, the Foundation has invested in and built local organizations, referred to as the Friends Grassroots Network, to be good stewards of and strong advocates for the National Conservation Lands. Currently, there are over 40 "Friends" groups across the nation that care deeply about protecting their local lands and they work collectively to promote and defend the system as a whole.

As supporters of the National Conservation Lands, the Foundation and the "Friends" are primarily concerned with the siting of the Gateway West Transmission Line through the Morley Nelson Snake River Birds of Prey National Conservation Area (Birds of Prey NCA). Protected by Congress in 1993, the Birds of Prey NCA provides habitat for the largest concentration of nesting birds of prey in North America, and perhaps in the world. More than 800 pairs of falcons, eagles, hawks and owls gather each spring to mate and raise their young. The Birds of Prey NCA is extraordinarily unique and distinctive and deserves the highest degree of protection. BLM must avoid siting new transmission lines through the Birds of Prey NCA.

In addition, the Foundation is concerned with the siting of a transmission line through greater sage-grouse habitat. Currently, the U.S. Fish and Wildlife Service has found the greater sage-grouse warrants protection under the Endangered Species Act. Allowing development of a large transmission line through this landscape could result in harmful and potentially irreversible impacts to important greater sage-grouse and should be avoided at all cost.

The Conservation Lands Foundation previously submitted a letter outlining our concerns with the proposed Gateway West Transmission Line. This letter is cited throughout our comments and is attached.

Sincerely,

Brian O'Donnell  
Executive Director  
Conservation Lands Foundation  
160 E. 8th Street, Suite 2  
Durango, CO 81301  
970-247-0807x11

Comments on FEIS for Gateway West Transmission Line

I. Segment 8 and Segment 9 are NOT Proven Compatible with Legislation Establishing the Morley Nelson Snake River Birds of Prey National Conservation Area AND the BLM's policy directives for management of the National Conservation Lands

The BLM's Preferred Alternatives for Segment 8 and Segment 9 cross through portions of the Morley Nelson Snake River Birds of Prey National Conservation Area (Birds of Prey NCA). The Birds of Prey NCA is a unit of the National Conservation Lands (National Landscape Conservation System) which was established "in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations." (National Landscape Conservation System Act, 16 U.S.C. § 7202(a) (2009)). Secretarial Order 3308 further expounded on these conservation standards by stating, "BLM shall ensure that the components of the [National Conservation Lands] are managed to protect the values for which they were designated, including, where appropriate, prohibiting uses that are in conflict with those values."

The Birds of Prey NCA was established for the "protection, maintenance, and enhancement of raptor populations and habitats" and "the natural and environmental resources and values associated therewith, and of the scientific cultural, and educational resources and values." (16 U.S.C § 460iii-3(b)(7)). The Birds of Prey NCA contains the greatest concentration of nesting raptors in North America. About 700 raptor pairs, representing 16 species, nest in the Birds of Prey NCA each spring, including golden eagles, burrowing owls, and the greatest density of prairie falcons in the world. The Birds of Prey NCA is a unique habitat for birds of prey because the cliffs of the Snake River Canyon provide ideal nesting sites, while the adjacent upland plateau supports unusually large populations of

small mammal prey species.

In the Birds of Prey NCA, BLM must prioritize protection, maintenance, and enhancement of raptor populations and habitat and natural, environmental, scientific, cultural, educational resources and values over other uses in the NCA. The FEIS states that the BLM "determines compatibility of those uses with the purposes for which the [NCA] was established." (FEIS at 3-17.20). Therefore, the BLM must show how the siting, construction and maintenance of a transmission line protects, maintains or enhances: 1) raptor populations and habitat; and 2) natural, environmental, scientific, cultural and educational resources and values.

The Gateway West transmission line will be constructed by using steel lattice towers between 145-180 feet tall. The FEIS states that,

"To construct towers, vehicular access will be required to each structure...New access roads will be constructed and existing roads widened as needed to provide a 14-foot-wide travel way. With few exceptions, construction access roads become roads needed for operations. The installation of transmission structures requires preparation of each site where a structure will be installed, including vegetation removal and grading to obtain a relatively flat surface for the operation of the large cranes used to install structures." After holes are dug and concrete piers installed "the structures are brought in either by truck or by helicopter. After the structures are assembled and in place, the conductors and the overhead ground wires will be strung from tower to tower. This is generally accomplished using a helicopter." (FEIS, Appendix B at 3.3.1.3- 3.3.2.1)

Disturbance (including visual disturbance and noise) caused by construction workers, construction vehicles and/or equipment, as well as post-construction maintenance work, will negatively affect raptor species and ravens. Disturbance during the nesting season can cause nest abandonment or nest failure in raptor species. Raptors can be especially sensitive to this type of disturbance during courtship, just before the egg laying period. Disturbance during the incubation period and early brooding period can scare adults from nests. In addition, the siting, construction and maintenance of transmission lines is highly impactful to not only raptors themselves, but to their prey and prey habitat. The FEIS states that construction of the towers themselves would have a direct and negative effect on wildlife habitat. "A direct impact on wildlife habitat would be removal of vegetation for roads, pads for transmission towers, transmission line safety, and ancillary facilities..." (FEIS at 3.10-20)

The construction of transmission lines will also cause habitat fragmentation. Fragmentation will occur through the clearing of vegetation for the rights-of-way and access roads during construction and will continue for the life of the project. Habitat fragmentation has effects on plants and animal species, fire regime, vegetation structure, wildlife habitat and the overall health of an ecosystem.

Taking into account the aforementioned impacts and disturbances, the FEIS has failed to show how the siting, construction and maintenance of transmission lines is compatible with the protection, maintenance and enhancement of raptors and raptor habitat and natural, environmental, scientific, cultural and educational resources and values. We believe that siting of a transmission line through the NCA is incompatible with the establishing legislation.

The FEIS justifies choosing Segment 8 and 9 by concluding that these segments generally avoid the Birds of Prey NCA and "it is likely" that BLM can satisfy the enhancement requirements of the NCA legislation. (FEIS at 2-48, 2-47). There is no further analysis in the FEIS demonstrating compatibility or enhancement. Since the siting, construction and maintenance of a transmission line in an NCA has not been proven compatible with the establishing legislation, BLM must find alternative routes for Segment 8 and 9.

The Conservation Lands Foundation requests that BLM develop alternative routes for Segment 8 and 9 that avoid the Birds of Prey NCA.

## II. The FEIS fails to apply BLM's own policy for siting a transmission line within a National Conservation Area

In 2012, the BLM released Policy Manual 6220, which set specific guidance for BLM concerning the granting of new rights of ways through units of the National Conservation Lands. In fact, it creates a

presumption that BLM will not approve new rights-of-ways in National Monuments and National Conservation Areas. The manual states:

To the greatest extent possible, subject to applicable law, the BLM should through land use planning and project-level processes and decisions, avoid designating or authorizing use of transportation or utility corridors within Monuments and NCAs. To that end, and consistent with applicable law, when developing or revising land use plans for Monuments and NCAs, the BLM will consider:

- a. designating the Monument or NCA as an exclusion or avoidance area;
- b. not designating any new transportation or utility corridors within the Monument or NCA if the BLM determines that the corridor would be incompatible with the designating authority or the purposes for which the Monument or NCA was designated;
- c. relocating any existing designated transportation and utility corridors outside the Monument or NCA; (BLM Manual 6220).

BLM Manual 6220 was released on July 13, 2012, nine months prior to the release of the FEIS. Yet, the FEIS and BLMs preferred alternatives for Segment 8 and 9, which cross through portions of the Birds of Prey NCA, fail to meet the standards set out in Manual 6220. In fact, the FEIS does not even reference the recent rights-of-way manuals or how the Preferred Alternatives meet the requirements set within.

The Conservation Lands Foundation requests that the BLM apply its own policy and the appropriate standards for siting segment 8 and 9 of the Gateway Transmission Line.

### III. Effects to Sage-Grouse

The U.S. Fish and Wildlife Service has found the greater sage-grouse warrants protection under the Endangered Species Act. BLM's Instruction Memorandum (IM) 2012-043 "provides interim conservation policies and procedures to the [BLM] field officials to be applied to ongoing and proposed authorizations and activities that affect the Greater Sage-Grouse and its habitat." Development of transmission lines could result in harmful, and potentially irreversible impacts to sage-grouse.

The Conservation Lands Foundation strongly supports the position and recommendations made by the Idaho Conservation League in a letter dated May 28, 2013. We have included the relevant text below:

We are particularly concerned about impacts to sage-grouse and ask that the BLM craft any amendments to avoid, minimize and mitigate impacts. Sage-grouse were recently determined to warrant full protections under the Endangered Species Act but were precluded by higher priorities. One of the top threats to sage-grouse are infrastructure projects:

Disturbance to important seasonal habitats: Human activity and noise associated with machinery or heavy equipment in proximity to occupied leks or other important seasonal habitats may disturb sage-grouse.

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-125

The Conservation Plan also recommends developing off-site mitigation for unavoidable impacts:

Off-site mitigation should be employed to offset unavoidable alteration and losses of sage-grouse habitat. Off-site mitigation should focus on acquiring, restoring, or improving habitat within or adjacent to occupied habitats and ideally should be designed to complement local sage-grouse conservation priorities.

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

With regard to activities with the potential to disturb sage-grouse, the Conservation Plan offers this recommendation:

Apply seasonal-use restrictions (see Human Disturbance Section 4.3.5) on activities associated with the exploration, operations, and maintenance of mines, gravel pits, or landfills, including those associated with supporting infrastructure.

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

The BLM should consult closely with the Idaho Department of Fish and Game and the Local Sage-grouse Working Group to determine appropriate measures to avoid, minimize and mitigate impacts.

The BLM, when considering mitigation requirements for adverse sage-grouse effects, needs to consider both the appropriate spatial scale for considering effects of proposed management activities on sage-grouse and their habitat as well as the adverse impacts of invasive exotic plant species, and the increased threat of wildfire.

Regarding the spatial scale of proposed management activity effects on sage-grouse and habitat, the BLM should recognize that sage-grouse can require movements of tens of miles between required habitats. Thus, a significant challenge in managing and conserving sage-grouse populations is the fact that they depend upon different types of habitat for each stage of their annual cycle (Connelly et al. 2009), and upon the ability to move between the different habitats throughout the year. Each seasonal habitat must provide the necessary protection from predators, required food resources, and thermal needs for the specific stage of the annual cycle. Breeding-related events and season habitat needs are described below:

- 1) Late brood-rearing period in July through September. Late brood-rearing is focused in wetter areas, especially riparian and spring-associated meadows closely associated with nearby sagebrush.
- 2) Movement to winter habitat.
- 3) Occupation of winter habitat from November through February. The primary requirement of winter habitat is sagebrush exposure above the snow, and is generally characterized by dense sagebrush, often including areas of wind-swept ridges.
- 4) Lekking, which may begin as early as late February, and may extend into May. Lekking requires open expanses of sagebrush within a large area of sagebrush cover. Lek persistence has been affected by disturbance activities within 3.1, 11.2, and 33.5 mile radii (Swenson et al. 1987, Johnson et al. 2009, Knick and Hanser 2009).
- 5) Female movement to nesting sites and nesting between March and June. Nesting females commonly move 3-5 miles or farther from the lekking site. Females select areas with more sagebrush canopy than is generally available in the surrounding landscape (Holloran et al 2005, Hagen et al. 2007)
- 6) Hatching and early brood-rearing in May and June. Females continue to use relatively dense stands of sagebrush for earliest brood-rearing habitat if native forbs and insects are available. When vegetation desiccates, females and broods move to wetter areas in search of the native forbs and insects required by chicks.

Knick and Hansen (2009) analyzed factors in lek persistence of over 5,000 leks. They used three radii to test for landscape disturbance effects on lek persistence – radii of 3.1 miles, 11.2 miles, and 33.5 miles. Previous studies had shown behavioral effects on sage-grouse related to sagebrush disturbance at the 33.5 mile radius (Swenson et al. 1987, Leonard et al. 2000). Knick and Hansen's study showed adverse effects on lek persistence from wildfire at the 33.5 mile radius.

Avoiding and minimizing human footprint at a 3.1 mile radius from leks is an important first step in protecting sage-grouse populations, but sage-grouse could be engaged in nesting and brood-rearing, in addition to lekking, for much of the planned construction activity period. Recent studies have shown that only 64% of nesting sites occur within 3.1 miles of leks, but 80% of nests are found within five miles, and 20% of nests occur at distances greater than five miles from leks. Nest success is also greater the farther a nest occurs from a lek, indicating a disproportionate potential importance of these more important nests for population recruitment. Aldridge and Boyce (2007) and Doherty et al. (2010) identify a buffer of 6.2 miles to protect important nesting and brood-rearing habitats.

Given the considerations of year-round habitat use and known impacts of human activity on sage-grouse populations, additional mitigation efforts will be needed for disturbance to sagebrush near lekking areas; disturbance and loss of sagebrush and native forbs used for early brood-rearing; and disturbance and impacts to hydrologic function of wet areas used for early to late brood-rearing. A conservative estimate for the nesting and brood rearing area affected will include buffers with radii of 6.2 miles around known leks. Mitigation specifics could be based on a mitigation template recently created for the Lesser Prairie Chicken, a ground-nesting species facing similar threats (Horton et al. 2010).



**From:** [jnclain@blm.gov](mailto:jnclain@blm.gov) on behalf of [Gateway West Trans Line, BLM WY](#)  
**To:** [blm@gwcomment.com](mailto:blm@gwcomment.com)  
**Subject:** Fwd: FEIS Comments- Conservation Lands Foundation  
**Date:** Monday, July 01, 2013 10:22:54 AM  
**Attachments:** [Gateway West Comments- CLF 6.28.13.pdf](#)

---

----- Forwarded message -----

From: **Danielle Murray** <[Danielle@conservationlands.org](mailto:Danielle@conservationlands.org)>  
Date: Fri, Jun 28, 2013 at 11:46 AM  
Subject: FEIS Comments- Conservation Lands Foundation  
To: "[Gateway West WYMail@blm.gov](mailto:Gateway West WYMail@blm.gov)" <[Gateway West WYMail@blm.gov](mailto:Gateway West WYMail@blm.gov)>

Attached you will find the Conservation Lands Foundations comments on the Gateway West FEIS.

Please let me know if you have any questions.

Danielle Murray

Policy Director

Conservation Lands Foundation

970-247-0807 x12

DUPLICATE

June 28, 2013

Gateway West FEIS Comments  
BLM, Gateway West Project  
P.O. Box 20879  
Cheyenne, WY 82003

Thank you for the opportunity to comment on the Final Environmental Impact Statement (FEIS) for the Gateway West Transmission Line in Wyoming and Idaho. The Conservation Lands Foundation is the only organization solely dedicated to protecting, preserving and expanding the Bureau of Land Management's (BLM) National Conservation Lands (National Landscape Conservation System). Since 2007, the Foundation has invested in and built local organizations, referred to as the Friends Grassroots Network, to be good stewards of and strong advocates for the National Conservation Lands. Currently, there are over 40 "Friends" groups across the nation that care deeply about protecting their local lands and they work collectively to promote and defend the system as a whole.

As supporters of the National Conservation Lands, the Foundation and the "Friends" are primarily concerned with the siting of the Gateway West Transmission Line through the Morley Nelson Snake River Birds of Prey National Conservation Area (Birds of Prey NCA). Protected by Congress in 1993, the Birds of Prey NCA provides habitat for the largest concentration of nesting birds of prey in North America, and perhaps in the world. More than 800 pairs of falcons, eagles, hawks and owls gather each spring to mate and raise their young. The Birds of Prey NCA is extraordinarily unique and distinctive and deserves the highest degree of protection. BLM must avoid siting new transmission lines through the Birds of Prey NCA.

In addition, the Foundation is concerned with the siting of a transmission line through greater sage-grouse habitat. Currently, the U.S. Fish and Wildlife Service has found the greater sage-grouse warrants protection under the Endangered Species Act. Allowing development of a large transmission line through this landscape could result in harmful and potentially irreversible impacts to important greater sage-grouse and should be avoided at all cost.

The Conservation Lands Foundation previously submitted a letter outlining our concerns with the proposed Gateway West Transmission Line. This letter is cited throughout our comments and is attached.

Sincerely,

Brian O'Donnell  
Executive Director  
Conservation Lands Foundation  
160 E. 8<sup>th</sup> Street, Suite 2  
Durango, CO 81301  
970-247-0807x11

## Comments on FEIS for Gateway West Transmission Line

### I. Segment 8 and Segment 9 are NOT Proven Compatible with Legislation Establishing the Morley Nelson Snake River Birds of Prey National Conservation Area AND the BLM's policy directives for management of the National Conservation Lands

The BLM's Preferred Alternatives for Segment 8 and Segment 9 cross through portions of the Morley Nelson Snake River Birds of Prey National Conservation Area (Birds of Prey NCA). The Birds of Prey NCA is a unit of the National Conservation Lands (National Landscape Conservation System) which was established "in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations." (National Landscape Conservation System Act, 16 U.S.C. § 7202(a) (2009)). Secretarial Order 3308 further expounded on these conservation standards by stating, "BLM shall ensure that the components of the [National Conservation Lands] are managed to protect the values for which they were designated, including, where appropriate, prohibiting uses that are in conflict with those values."

The Birds of Prey NCA was established for the "protection, maintenance, and enhancement of raptor populations and habitats" and "the natural and environmental resources and values associated therewith, and of the scientific cultural, and educational resources and values." (16 U.S.C § 460iii-3(b)(7)). The Birds of Prey NCA contains the greatest concentration of nesting raptors in North America. About 700 raptor pairs, representing 16 species, nest in the Birds of Prey NCA each spring, including golden eagles, burrowing owls, and the greatest density of prairie falcons in the world. The Birds of Prey NCA is a unique habitat for birds of prey because the cliffs of the Snake River Canyon provide ideal nesting sites, while the adjacent upland plateau supports unusually large populations of small mammal prey species.

In the Birds of Prey NCA, BLM must prioritize protection, maintenance, and enhancement of raptor populations and habitat and natural, environmental, scientific, cultural, educational resources and values over other uses in the NCA. The FEIS states that the BLM "determines compatibility of those uses with the purposes for which the [NCA] was established." (FEIS at 3-17.20). Therefore, the BLM must show how the siting, construction and maintenance of a transmission line protects, maintains or enhances: 1) raptor populations and habitat; and 2) natural, environmental, scientific, cultural and educational resources and values.

The Gateway West transmission line will be constructed by using steel lattice towers between 145-180 feet tall. The FEIS states that,

"To construct towers, vehicular access will be required to each structure...New access roads will be constructed and existing roads widened as needed to provide a 14-foot-wide travel way. With few exceptions, construction access roads become roads needed for operations. The installation of transmission structures requires preparation of each site where a structure will be installed, including vegetation removal and grading to obtain a relatively flat surface for the operation of the large cranes used to install structures." After holes are dug and concrete piers installed "the structures are brought in either by truck or by helicopter. After the structures are

assembled and in place, the conductors and the overhead ground wires will be strung from tower to tower. This is generally accomplished using a helicopter.” (FEIS, Appendix B at 3.3.1.3- 3.3.2.1)

Disturbance (including visual disturbance and noise) caused by construction workers, construction vehicles and/or equipment, as well as post-construction maintenance work, will negatively affect raptor species and ravens. Disturbance during the nesting season can cause nest abandonment or nest failure in raptor species. Raptors can be especially sensitive to this type of disturbance during courtship, just before the egg laying period. Disturbance during the incubation period and early brooding period can scare adults from nests. In addition, the siting, construction and maintenance of transmission lines is highly impactful to not only raptors themselves, but to their prey and prey habitat. The FEIS states that construction of the towers themselves would have a direct and negative effect on wildlife habitat. “A direct impact on wildlife habitat would be removal of vegetation for roads, pads for transmission towers, transmission line safety, and ancillary facilities...” (FEIS at 3.10-20)

The construction of transmission lines will also cause habitat fragmentation. Fragmentation will occur through the clearing of vegetation for the rights-of-way and access roads during construction and will continue for the life of the project. Habitat fragmentation has effects on plants and animal species, fire regime, vegetation structure, wildlife habitat and the overall health of an ecosystem.

Taking into account the aforementioned impacts and disturbances, the FEIS has failed to show how the siting, construction and maintenance of transmission lines is compatible with the protection, maintenance and enhancement of raptors and raptor habitat and natural, environmental, scientific, cultural and educational resources and values. We believe that siting of a transmission line through the NCA is incompatible with the establishing legislation.

The FEIS justifies choosing Segment 8 and 9 by concluding that these segments generally avoid the Birds of Prey NCA and “it is likely” that BLM can satisfy the enhancement requirements of the NCA legislation. (FEIS at 2-48, 2-47). There is no further analysis in the FEIS demonstrating compatibility or enhancement. Since the siting, construction and maintenance of a transmission line in an NCA has not been proven compatible with the establishing legislation, BLM must find alternative routes for Segment 8 and 9.

***The Conservation Lands Foundation requests that BLM develop alternative routes for Segment 8 and 9 that avoid the Birds of Prey NCA.***

## II. The FEIS fails to apply BLM’s own policy for siting a transmission line within a National Conservation Area

In 2012, the BLM released Policy Manual 6220, which set specific guidance for BLM concerning the granting of new rights of ways through units of the National Conservation Lands. In fact, it creates a presumption that BLM will not approve new rights-of-ways in National Monuments and National Conservation Areas. The manual states:

To the greatest extent possible, subject to applicable law, the BLM should through land use planning and project-level processes and decisions, avoid designating or authorizing use of transportation or utility corridors within Monuments and NCAs. To that end, and consistent with applicable law, when developing or revising land use plans for Monuments and NCAs, the BLM will consider:

- a. designating the Monument or NCA as an exclusion or avoidance area;
- b. not designating any new transportation or utility corridors within the Monument or NCA if the BLM determines that the corridor would be incompatible with the designating authority or the purposes for which the Monument or NCA was designated;
- c. relocating any existing designated transportation and utility corridors outside the Monument or NCA; (BLM Manual 6220).

BLM Manual 6220 was released on July 13, 2012, nine months prior to the release of the FEIS. Yet, the FEIS and BLMs preferred alternatives for Segment 8 and 9, which cross through portions of the Birds of Prey NCA, fail to meet the standards set out in Manual 6220. *In fact, the FEIS does not even reference the recent rights-of-way manuals or how the Preferred Alternatives meet the requirements set within.*

*The Conservation Lands Foundation requests that the BLM apply its own policy and the appropriate standards for siting segment 8 and 9 of the Gateway Transmission Line.*

### III. Effects to Safe-Grouse

The U.S. Fish and Wildlife Service has found the greater sage-grouse warrants protection under the Endangered Species Act. BLM's Instruction Memorandum (IM) 2012-043 "provides interim conservation policies and procedures to the [BLM] field officials to be applied to ongoing and proposed authorizations and activities that affect the Greater Sage-Grouse and its habitat." Development of transmission lines could result in harmful, and potentially irreversible impacts to sage-grouse.

The Conservation Lands Foundation strongly supports the position and recommendations made by the Idaho Conservation League in a letter dated May 28, 2013. We have included the relevant text below:

We are particularly concerned about impacts to sage-grouse and ask that the BLM craft any amendments to avoid, minimize and mitigate impacts. Sage-grouse were recently determined to warrant full protections under the Endangered Species Act but were precluded by higher priorities. One of the top threats to sage-grouse are infrastructure projects:

**Disturbance to important seasonal habitats:** Human activity and noise associated with machinery or heavy equipment in proximity to occupied leks or other important seasonal habitats may disturb sage-grouse.

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-125

The Conservation Plan also recommends developing off-site mitigation for unavoidable impacts:

*Off-site mitigation should be employed to offset unavoidable alteration and losses of sage-grouse habitat. Off-site mitigation should focus on acquiring, restoring, or improving habitat within or adjacent to occupied habitats and ideally should be designed to complement local sage-grouse conservation priorities.*

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

With regard to activities with the potential to disturb sage-grouse, the Conservation Plan offers this recommendation:

*Apply seasonal-use restrictions (see Human Disturbance Section 4.3.5) on activities associated with the exploration, operations, and maintenance of mines, gravel pits, or landfills, including those associated with supporting infrastructure.*

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

The BLM should consult closely with the Idaho Department of Fish and Game and the Local Sage-grouse Working Group to determine appropriate measures to avoid, minimize and mitigate impacts.

The BLM, when considering mitigation requirements for adverse sage-grouse effects, needs to consider both the appropriate spatial scale for considering effects of proposed management activities on sage-grouse and their habitat as well as the adverse impacts of invasive exotic plant species, and the increased threat of wildfire.

Regarding the spatial scale of proposed management activity effects on sage-grouse and habitat, the BLM should recognize that sage-grouse can require movements of tens of miles between required habitats. Thus, a significant challenge in managing and conserving sage-grouse populations is the fact that they depend upon different types of habitat for each stage of their annual cycle (Connelly et al. 2009), and upon the ability to move between the different habitats throughout the year. Each seasonal habitat must provide the necessary protection from predators, required food resources, and thermal needs for the specific stage of the annual cycle. Breeding-related events and season habitat needs are described below:

- 1) Late brood-rearing period in July through September. Late brood-rearing is focused in wetter areas, especially riparian and spring-associated meadows closely associated with nearby sagebrush.
- 2) Movement to winter habitat.
- 3) Occupation of winter habitat from November through February. The primary requirement of winter habitat is sagebrush exposure above the snow, and is generally characterized by dense sagebrush, often including areas of wind-swept ridges.
- 4) Lekking, which may begin as early as late February, and may extend into May. Lekking requires open expanses of sagebrush within a large area of sagebrush cover. Lek persistence has been affected by disturbance activities within 3.1, 11.2, and 33.5 mile radii (Swenson et al. 1987, Johnson et al. 2009, Knick and Hanser 2009).

- 5) Female movement to nesting sites and nesting between March and June. Nesting females commonly move 3-5 miles or farther from the lekking site. Females select areas with more sagebrush canopy than is generally available in the surrounding landscape (Holloran et al 2005, Hagen et al. 2007)
- 6) Hatching and early brood-rearing in May and June. Females continue to use relatively dense stands of sagebrush for earliest brood-rearing habitat if native forbs and insects are available. When vegetation desiccates, females and broods move to wetter areas in search of the native forbs and insects required by chicks.

Knick and Hansen (2009) analyzed factors in lek persistence of over 5,000 leks. They used three radii to test for landscape disturbance effects on lek persistence – radii of 3.1 miles, 11.2 miles, and 33.5 miles. Previous studies had shown behavioral effects on sage-grouse related to sagebrush disturbance at the 33.5 mile radius (Swenson et al. 1987, Leonard et al. 2000). Knick and Hansen's study showed adverse effects on lek persistence from wildfire at the 33.5 mile radius.

Avoiding and minimizing human footprint at a 3.1 mile radius from leks is an important first step in protecting sage-grouse populations, but sage-grouse could be engaged in nesting and brood-rearing, in addition to lekking, for much of the planned construction activity period. Recent studies have shown that only 64% of nesting sites occur within 3.1 miles of leks, but 80% of nests are found within five miles, and 20% of nests occur at distances greater than five miles from leks. Nest success is also greater the farther a nest occurs from a lek, indicating a disproportionate potential importance of these more important nests for population recruitment. Aldridge and Boyce (2007) and Doherty et al. (2010) identify a buffer of 6.2 miles to protect important nesting and brood-rearing habitats.

Given the considerations of year-round habitat use and known impacts of human activity on sage-grouse populations, additional mitigation efforts will be needed for disturbance to sagebrush near lekking areas; disturbance and loss of sagebrush and native forbs used for early brood-rearing; and disturbance and impacts to hydrologic function of wet areas used for early to late brood-rearing. A conservative estimate for the nesting and brood rearing area affected will include buffers with radii of 6.2 miles around known leks. Mitigation specifics could be based on a mitigation template recently created for the Lesser Prairie Chicken, a ground-nesting species facing similar threats (Horton et al. 2010).

October 12, 2012

**Via electronic mail and U.S. mail**

Walt George, Project Manager  
 Gateway West Transmission Project EIS  
 Bureau of Land Management  
 P.O. Box 20879  
 Cheyenne, Wyoming 82003

**Re: Challenges related to Potential Gateway West Transmission Line Routes in and near the Morley Nelson Snake River Birds of Prey National Conservation Area and Preliminary Priority Habitat for Greater Sage-grouse**

Dear Mr. George:

The undersigned organizations are writing to highlight our concerns with the potential impacts of the current alternative routes, including the preferred alternative, for the Gateway West Transmission Line in Idaho.

Routing the Gateway West Transmission Line in southwest Idaho requires BLM to balance several conflicting policies and interests. Our organizations have been engaged in this process and at this point, due to the significant conflicts with the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA) and Preliminary Priority Habitat for Greater Sage-grouse (PPH), we believe that a further discussion of how to design an acceptable alternative is needed – and would like to engage in such discussions with the Bureau of Land Management (BLM). We believe that these discussions can help lead BLM to a decision that best addresses the many values and interests at stake.

Conflict with National Conservation Area

A number of the potential transmission line routes (notably routes 9, 9D, 9Ea and 9F) would cross portions of the Morley Nelson Snake River Birds of Prey NCA, a unit of the National Landscape Conservation System (Conservation Lands). The National Landscape Conservation System was established “in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations.” National Landscape Conservation System Act, 16 U.S.C. § 7202(a) (2009).

Secretarial Order 3308 speaks to the management of the Conservation Lands, stating that “BLM shall ensure that the components of the NLCS are managed to protect the values for which they were designated, including, where appropriate, prohibiting uses that are in conflict with those values.” The 15-Year Strategy for the Conservation Lands reinforces this by stating the “conservation, protection, and restoration of the NLCS values is the highest priority in NLCS planning and management, consistent with the designating legislation or presidential proclamation.” Conservation Lands Strategy at 8.

As conservation of natural and cultural resources is the principal mandate for BLM management of the Conservation Lands, the agency must diligently protect these areas from damage from new infrastructure projects, including transmission lines. Recent BLM policy guidance specifically addresses the management of BLM-managed national monuments and NCAs and creates a presumption that BLM will not approve new rights-of-ways (ROW) in these areas. Specifically the manual provides:

5. To the greatest extent possible, subject to applicable law, the BLM should through land use planning and project-level processes and decisions, avoid designating or authorizing use of transportation or utility corridors within NLCS units.

To that end, and consistent with applicable law, when developing or revising land use plans addressing NLCS units, the BLM will consider:

- a. designating the NLCS unit as an exclusion or avoidance area;
- b. not designating any new transportation or utility corridors within the NLCS unit if the BLM determines that the corridor would be incompatible with the designating authority or the purposes for which the NLCS unit was designated; and
- c. relocating any existing designated transportation and utility corridors outside the NLCS unit.

BLM Manual 6100, § 1.6J(5).

The law establishing the Snake River Birds of Prey NCA includes specific provisions addressing allowable uses of the NCA. The key provision directs the BLM to identify “levels, types, timing, and terms and conditions for the allowable nonmilitary uses of lands within the conservation area that will be compatible with the **protection, maintenance, and enhancement** of raptor populations and habitats and the other purposes for which the conservation area is established.” 16 U.S.C. § 460iii-3(b)(7) (emphasis added). These “other purposes” include “the natural and environmental resources and values associated therewith, and of the scientific, cultural, and educational resources and values of the public lands in the conservation area.” 16 U.S.C. § 460iii-2(a)(2). Thus, only those proposed actions that would “protect, maintain, and enhance” the purposes of the NCA are permissible.

Transmission line development causes serious impacts, including direct damage to wildlands, wildlife habitat and cultural resources; interference with scenic vistas; habitat fragmentation; and others. Consequently, transmission lines are generally incompatible with management of the Conservation Lands absent a specific showing of how such a project would “protect, maintain, and enhance” the raptors, raptor habitat and the other purposes for which the NCA was designated. The BLM has not provided analyses that demonstrate this standard has been met for the Gateway West line.

### Conflict with Greater Sage-grouse Habitat

BLM's alternative route 9E would pass through identified Preliminary Priority Habitat (PPH) for the greater sage-grouse. Currently, the U.S. Fish and Wildlife Service has found the greater sage-grouse warrants protection under the Endangered Species Act and has committed to a final listing decision in 2015; BLM is in the process of rangewide planning to design conservation measures and regulatory mechanisms that would avoid listing. BLM's Instruction Memorandum (IM) 2012-043 "provides interim conservation policies and procedures to the Bureau of Land Management (BLM) field officials to be applied to ongoing and proposed authorizations and activities that affect the Greater Sage-Grouse (*Centrocercus urophasianus*) and its habitat."

PPH, as identified in BLM's Greater Sage-Grouse Interim Management Policies and Procedures, IM 2012-043 (12/27/2011), "comprises areas that have been identified as having the highest conservation value to maintaining sustainable Greater Sage-Grouse populations" that "have been identified by the BLM in coordination with respective state wildlife agencies." For pending projects in PPH (including those for which a Draft EIS has been issued and would likely have more than minor adverse effects on sage-grouse), the IM provides that the agency must:

- Ensure that **reasonable alternatives** for siting the ROW outside of the PPH or within a BLM-designated utility corridor are considered and analyzed in the NEPA document.
- Identify technically feasible best management practices, conditions, etc. (e.g., siting, burying powerlines) that may be implemented in order to **eliminate or minimize impacts**. (emphasis added)

IM 2012-043 requires additional procedures for pending right-of-way applications that would affect more than one linear mile of sage grouse habitat. Segment 9E would have nearly fifty times that level of impact. These procedures include a high-level interagency review process for any right-of-way project that would fail to "cumulatively maintain or enhance sage-grouse habitat."

The sage-grouse habitat that will be affected by proposed project routes has been acknowledged by both BLM and the State of Idaho<sup>1</sup> as important for protection. Allowing development of a large transmission line through this landscape could result in harmful, and potentially irreversible impacts to important greater sage-grouse habitat, both by damaging sage-grouse habitat through the construction and maintenance of power lines and by providing "perches" for raptors and other birds of prey to more easily prey on sage-grouse.

The U.S. Fish and Wildlife Service has found that transmission lines have a range of adverse impacts on sage grouse and their habitats. 75 Fed. Reg. 13909, 13928-29 (March 23, 2010). The Service's 12-month finding on sage grouse noted the many transmission line proposals pending in the western states and explained "If these lines cross sage grouse habitats, sage grouse will likely be negatively affected." *Id.* at 13929. More recently, the BLM's Sage-grouse National Technical Team reached the same conclusion and recommended that the BLM "[m]ake priority

---

<sup>1</sup> The Idaho Governor's Sage-grouse Task Force has also identified the habitat at risk from the Gateway West lines as part of the Important Habitat Zone, in which a ROW could only be established if it "cannot reasonably be achieved, technically or economically, outside of this management zone."

sage-grouse habitat areas exclusion areas for new [right-of-way] permits” with narrow exceptions. Id.

Consequently, transmission lines should be avoided in PPH, and the BLM has not made the requisite findings or considered measures to avoid or offset damage to the habitat that would be affected by this project.

Although newly developed Alternative 9Ea would not cross directly into PPH, it would run immediately adjacent to PPH and would affect sage grouse within PPH. If this route receives further consideration, BLM must disclose these impacts and consider mitigation measures, including offsite mitigation.

#### Need for a creative solution

We appreciate the difficulty of the agency’s position in finding a viable alternative. In light of the serious concerns raised by the routes discussed above, we believe there is a need to evaluate creative solutions that meet the BLM’s policies and mandates for the Morley Nelson Snake River Birds of Prey NCA and greater sage-grouse habitat. Due to the multiple resource conflicts with proposed routes, especially those in Segment 9, a variety of options should be considered, such as possibly limiting the proposal to one transmission line through this segment (instead of two parallel lines), which could ultimately result in a workable solution.

We would very much like to meet with you to discuss potential solutions for this project at your earliest convenience, either in Idaho or Washington, DC. Please contact Nada Culver of The Wilderness Society so that we can identify workable times. Thank you for your attention to this important matter.

Sincerely,

#### **The Wilderness Society**

Nada Culver, Director, BLM Action Center  
1660 Wynkoop, #850  
Denver, CO 80202  
303-650-5818 Ext. 117  
[Nada\\_culver@tws.org](mailto:Nada_culver@tws.org)

Brad Brooks, Deputy Regional Director  
950 West Bannock Street, Suite 605  
Boise, ID 83702

#### **Idaho Conservation League**

John Robison, Public Lands Director  
P.O. Box 844  
Boise ID 83701

**The Nature Conservancy in Idaho**

William S. Whelan, Director of Government Relations  
950 West Bannock, Suite 210  
Boise, ID 83702

**Conservation Lands Foundation**

Brian O'Donnell, Executive Director  
160 E 12th Street, Suite 2  
Durango, CO 81301

cc: Steve Ellis, Idaho State Director  
Carl Rountree, Director, National Landscape Conservation System

DUPLICATE

June 28, 2013

Gateway West FEIS Comments  
BLM, Gateway West Project  
P.O. Box 20879  
Cheyenne, WY 82003

Thank you for the opportunity to comment on the Final Environmental Impact Statement (FEIS) for the Gateway West Transmission Line in Wyoming and Idaho. The Conservation Lands Foundation is the only organization solely dedicated to protecting, preserving and expanding the Bureau of Land Management's (BLM) National Conservation Lands (National Landscape Conservation System). Since 2007, the Foundation has invested in and built local organizations, referred to as the Friends Grassroots Network, to be good stewards of and strong advocates for the National Conservation Lands. Currently, there are over 40 "Friends" groups across the nation that care deeply about protecting their local lands and they work collectively to promote and defend the system as a whole.

As supporters of the National Conservation Lands, the Foundation and the "Friends" are primarily concerned with the siting of the Gateway West Transmission Line through the Morley Nelson Snake River Birds of Prey National Conservation Area (Birds of Prey NCA). Protected by Congress in 1993, the Birds of Prey NCA provides habitat for the largest concentration of nesting birds of prey in North America, and perhaps in the world. More than 800 pairs of falcons, eagles, hawks and owls gather each spring to mate and raise their young. The Birds of Prey NCA is extraordinarily unique and distinctive and deserves the highest degree of protection. BLM must avoid siting new transmission lines through the Birds of Prey NCA.

In addition, the Foundation is concerned with the siting of a transmission line through greater sage-grouse habitat. Currently, the U.S. Fish and Wildlife Service has found the greater sage-grouse warrants protection under the Endangered Species Act. Allowing development of a large transmission line through this landscape could result in harmful and potentially irreversible impacts to important greater sage-grouse and should be avoided at all cost.

The Conservation Lands Foundation previously submitted a letter outlining our concerns with the proposed Gateway West Transmission Line. This letter is cited throughout our comments and is attached.

Sincerely,

Brian O'Donnell  
Executive Director  
Conservation Lands Foundation  
160 E. 8<sup>th</sup> Street, Suite 2  
Durango, CO 81301  
970-247-0807x11

## Comments on FEIS for Gateway West Transmission Line

### I. Segment 8 and Segment 9 are NOT Proven Compatible with Legislation Establishing the Morley Nelson Snake River Birds of Prey National Conservation Area AND the BLM's policy directives for management of the National Conservation Lands

The BLM's Preferred Alternatives for Segment 8 and Segment 9 cross through portions of the Morley Nelson Snake River Birds of Prey National Conservation Area (Birds of Prey NCA). The Birds of Prey NCA is a unit of the National Conservation Lands (National Landscape Conservation System) which was established "in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations." (National Landscape Conservation System Act, 16 U.S.C. § 7202(a) (2009)). Secretarial Order 3308 further expounded on these conservation standards by stating, "BLM shall ensure that the components of the [National Conservation Lands] are managed to protect the values for which they were designated, including, where appropriate, prohibiting uses that are in conflict with those values."

The Birds of Prey NCA was established for the "protection, maintenance, and enhancement of raptor populations and habitats" and "the natural and environmental resources and values associated therewith, and of the scientific cultural, and educational resources and values." (16 U.S.C § 460iii-3(b)(7)). The Birds of Prey NCA contains the greatest concentration of nesting raptors in North America. About 700 raptor pairs, representing 16 species, nest in the Birds of Prey NCA each spring, including golden eagles, burrowing owls, and the greatest density of prairie falcons in the world. The Birds of Prey NCA is a unique habitat for birds of prey because the cliffs of the Snake River Canyon provide ideal nesting sites, while the adjacent upland plateau supports unusually large populations of small mammal prey species.

In the Birds of Prey NCA, BLM must prioritize protection, maintenance, and enhancement of raptor populations and habitat and natural, environmental, scientific, cultural, educational resources and values over other uses in the NCA. The FEIS states that the BLM "determines compatibility of those uses with the purposes for which the [NCA] was established." (FEIS at 3-17.20). Therefore, the BLM must show how the siting, construction and maintenance of a transmission line protects, maintains or enhances: 1) raptor populations and habitat; and 2) natural, environmental, scientific, cultural and educational resources and values.

The Gateway West transmission line will be constructed by using steel lattice towers between 145-180 feet tall. The FEIS states that,

"To construct towers, vehicular access will be required to each structure...New access roads will be constructed and existing roads widened as needed to provide a 14-foot-wide travel way. With few exceptions, construction access roads become roads needed for operations. The installation of transmission structures requires preparation of each site where a structure will be installed, including vegetation removal and grading to obtain a relatively flat surface for the operation of the large cranes used to install structures." After holes are dug and concrete piers installed "the structures are brought in either by truck or by helicopter. After the structures are

assembled and in place, the conductors and the overhead ground wires will be strung from tower to tower. This is generally accomplished using a helicopter.” (FEIS, Appendix B at 3.3.1.3- 3.3.2.1)

Disturbance (including visual disturbance and noise) caused by construction workers, construction vehicles and/or equipment, as well as post-construction maintenance work, will negatively affect raptor species and ravens. Disturbance during the nesting season can cause nest abandonment or nest failure in raptor species. Raptors can be especially sensitive to this type of disturbance during courtship, just before the egg laying period. Disturbance during the incubation period and early brooding period can scare adults from nests. In addition, the siting, construction and maintenance of transmission lines is highly impactful to not only raptors themselves, but to their prey and prey habitat. The FEIS states that construction of the towers themselves would have a direct and negative effect on wildlife habitat. “A direct impact on wildlife habitat would be removal of vegetation for roads, pads for transmission towers, transmission line safety, and ancillary facilities...” (FEIS at 3.10-20)

The construction of transmission lines will also cause habitat fragmentation. Fragmentation will occur through the clearing of vegetation for the rights-of-way and access roads during construction and will continue for the life of the project. Habitat fragmentation has effects on plants and animal species, fire regime, vegetation structure, wildlife habitat and the overall health of an ecosystem.

Taking into account the aforementioned impacts and disturbances, the FEIS has failed to show how the siting, construction and maintenance of transmission lines is compatible with the protection, maintenance and enhancement of raptors and raptor habitat and natural, environmental, scientific, cultural and educational resources and values. We believe that siting of a transmission line through the NCA is incompatible with the establishing legislation.

The FEIS justifies choosing Segment 8 and 9 by concluding that these segments generally avoid the Birds of Prey NCA and “it is likely” that BLM can satisfy the enhancement requirements of the NCA legislation. (FEIS at 2-48, 2-47). There is no further analysis in the FEIS demonstrating compatibility or enhancement. Since the siting, construction and maintenance of a transmission line in an NCA has not been proven compatible with the establishing legislation, BLM must find alternative routes for Segment 8 and 9.

***The Conservation Lands Foundation requests that BLM develop alternative routes for Segment 8 and 9 that avoid the Birds of Prey NCA.***

## II. The FEIS fails to apply BLM’s own policy for siting a transmission line within a National Conservation Area

In 2012, the BLM released Policy Manual 6220, which set specific guidance for BLM concerning the granting of new rights of ways through units of the National Conservation Lands. In fact, it creates a presumption that BLM will not approve new rights-of-ways in National Monuments and National Conservation Areas. The manual states:

To the greatest extent possible, subject to applicable law, the BLM should through land use planning and project-level processes and decisions, avoid designating or authorizing use of transportation or utility corridors within Monuments and NCAs. To that end, and consistent with applicable law, when developing or revising land use plans for Monuments and NCAs, the BLM will consider:

- a. designating the Monument or NCA as an exclusion or avoidance area;
- b. not designating any new transportation or utility corridors within the Monument or NCA if the BLM determines that the corridor would be incompatible with the designating authority or the purposes for which the Monument or NCA was designated;
- c. relocating any existing designated transportation and utility corridors outside the Monument or NCA; (BLM Manual 6220).

BLM Manual 6220 was released on July 13, 2012, nine months prior to the release of the FEIS. Yet, the FEIS and BLMs preferred alternatives for Segment 8 and 9, which cross through portions of the Birds of Prey NCA, fail to meet the standards set out in Manual 6220. *In fact, the FEIS does not even reference the recent rights-of-way manuals or how the Preferred Alternatives meet the requirements set within.*

*The Conservation Lands Foundation requests that the BLM apply its own policy and the appropriate standards for siting segment 8 and 9 of the Gateway Transmission Line.*

### III. Effects to Safe-Grouse

The U.S. Fish and Wildlife Service has found the greater sage-grouse warrants protection under the Endangered Species Act. BLM's Instruction Memorandum (IM) 2012-043 "provides interim conservation policies and procedures to the [BLM] field officials to be applied to ongoing and proposed authorizations and activities that affect the Greater Sage-Grouse and its habitat." Development of transmission lines could result in harmful, and potentially irreversible impacts to sage-grouse.

The Conservation Lands Foundation strongly supports the position and recommendations made by the Idaho Conservation League in a letter dated May 28, 2013. We have included the relevant text below:

We are particularly concerned about impacts to sage-grouse and ask that the BLM craft any amendments to avoid, minimize and mitigate impacts. Sage-grouse were recently determined to warrant full protections under the Endangered Species Act but were precluded by higher priorities. One of the top threats to sage-grouse are infrastructure projects:

**Disturbance to important seasonal habitats:** Human activity and noise associated with machinery or heavy equipment in proximity to occupied leks or other important seasonal habitats may disturb sage-grouse.

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-125

The Conservation Plan also recommends developing off-site mitigation for unavoidable impacts:

*Off-site mitigation should be employed to offset unavoidable alteration and losses of sage-grouse habitat. Off-site mitigation should focus on acquiring, restoring, or improving habitat within or adjacent to occupied habitats and ideally should be designed to complement local sage-grouse conservation priorities.*

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

With regard to activities with the potential to disturb sage-grouse, the Conservation Plan offers this recommendation:

*Apply seasonal-use restrictions (see Human Disturbance Section 4.3.5) on activities associated with the exploration, operations, and maintenance of mines, gravel pits, or landfills, including those associated with supporting infrastructure.*

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

The BLM should consult closely with the Idaho Department of Fish and Game and the Local Sage-grouse Working Group to determine appropriate measures to avoid, minimize and mitigate impacts.

The BLM, when considering mitigation requirements for adverse sage-grouse effects, needs to consider both the appropriate spatial scale for considering effects of proposed management activities on sage-grouse and their habitat as well as the adverse impacts of invasive exotic plant species, and the increased threat of wildfire.

Regarding the spatial scale of proposed management activity effects on sage-grouse and habitat, the BLM should recognize that sage-grouse can require movements of tens of miles between required habitats. Thus, a significant challenge in managing and conserving sage-grouse populations is the fact that they depend upon different types of habitat for each stage of their annual cycle (Connelly et al. 2009), and upon the ability to move between the different habitats throughout the year. Each seasonal habitat must provide the necessary protection from predators, required food resources, and thermal needs for the specific stage of the annual cycle. Breeding-related events and season habitat needs are described below:

- 1) Late brood-rearing period in July through September. Late brood-rearing is focused in wetter areas, especially riparian and spring-associated meadows closely associated with nearby sagebrush.
- 2) Movement to winter habitat.
- 3) Occupation of winter habitat from November through February. The primary requirement of winter habitat is sagebrush exposure above the snow, and is generally characterized by dense sagebrush, often including areas of wind-swept ridges.
- 4) Lekking, which may begin as early as late February, and may extend into May. Lekking requires open expanses of sagebrush within a large area of sagebrush cover. Lek persistence has been affected by disturbance activities within 3.1, 11.2, and 33.5 mile radii (Swenson et al. 1987, Johnson et al. 2009, Knick and Hanser 2009).

- 5) Female movement to nesting sites and nesting between March and June. Nesting females commonly move 3-5 miles or farther from the lekking site. Females select areas with more sagebrush canopy than is generally available in the surrounding landscape (Holloran et al 2005, Hagen et al. 2007)
- 6) Hatching and early brood-rearing in May and June. Females continue to use relatively dense stands of sagebrush for earliest brood-rearing habitat if native forbs and insects are available. When vegetation desiccates, females and broods move to wetter areas in search of the native forbs and insects required by chicks.

Knick and Hansen (2009) analyzed factors in lek persistence of over 5,000 leks. They used three radii to test for landscape disturbance effects on lek persistence – radii of 3.1 miles, 11.2 miles, and 33.5 miles. Previous studies had shown behavioral effects on sage-grouse related to sagebrush disturbance at the 33.5 mile radius (Swenson et al. 1987, Leonard et al. 2000). Knick and Hansen's study showed adverse effects on lek persistence from wildfire at the 33.5 mile radius.

Avoiding and minimizing human footprint at a 3.1 mile radius from leks is an important first step in protecting sage-grouse populations, but sage-grouse could be engaged in nesting and brood-rearing, in addition to lekking, for much of the planned construction activity period. Recent studies have shown that only 64% of nesting sites occur within 3.1 miles of leks, but 80% of nests are found within five miles, and 20% of nests occur at distances greater than five miles from leks. Nest success is also greater the farther a nest occurs from a lek, indicating a disproportionate potential importance of these more important nests for population recruitment. Aldridge and Boyce (2007) and Doherty et al. (2010) identify a buffer of 6.2 miles to protect important nesting and brood-rearing habitats.

Given the considerations of year-round habitat use and known impacts of human activity on sage-grouse populations, additional mitigation efforts will be needed for disturbance to sagebrush near lekking areas; disturbance and loss of sagebrush and native forbs used for early brood-rearing; and disturbance and impacts to hydrologic function of wet areas used for early to late brood-rearing. A conservative estimate for the nesting and brood rearing area affected will include buffers with radii of 6.2 miles around known leks. Mitigation specifics could be based on a mitigation template recently created for the Lesser Prairie Chicken, a ground-nesting species facing similar threats (Horton et al. 2010).

October 12, 2012

**Via electronic mail and U.S. mail**

Walt George, Project Manager  
Gateway West Transmission Project EIS  
Bureau of Land Management  
P.O. Box 20879  
Cheyenne, Wyoming 82003

**Re: Challenges related to Potential Gateway West Transmission Line Routes in and near the Morley Nelson Snake River Birds of Prey National Conservation Area and Preliminary Priority Habitat for Greater Sage-grouse**

Dear Mr. George:

The undersigned organizations are writing to highlight our concerns with the potential impacts of the current alternative routes, including the preferred alternative, for the Gateway West Transmission Line in Idaho.

Routing the Gateway West Transmission Line in southwest Idaho requires BLM to balance several conflicting policies and interests. Our organizations have been engaged in this process and at this point, due to the significant conflicts with the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA) and Preliminary Priority Habitat for Greater Sage-grouse (PPH), we believe that a further discussion of how to design an acceptable alternative is needed – and would like to engage in such discussions with the Bureau of Land Management (BLM). We believe that these discussions can help lead BLM to a decision that best addresses the many values and interests at stake.

Conflict with National Conservation Area

A number of the potential transmission line routes (notably routes 9, 9D, 9Ea and 9F) would cross portions of the Morley Nelson Snake River Birds of Prey NCA, a unit of the National Landscape Conservation System (Conservation Lands). The National Landscape Conservation System was established “in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations.” National Landscape Conservation System Act, 16 U.S.C. § 7202(a) (2009).

Secretarial Order 3308 speaks to the management of the Conservation Lands, stating that “BLM shall ensure that the components of the NLCS are managed to protect the values for which they were designated, including, where appropriate, prohibiting uses that are in conflict with those values.” The 15-Year Strategy for the Conservation Lands reinforces this by stating the “conservation, protection, and restoration of the NLCS values is the highest priority in NLCS planning and management, consistent with the designating legislation or presidential proclamation.” Conservation Lands Strategy at 8.

As conservation of natural and cultural resources is the principal mandate for BLM management of the Conservation Lands, the agency must diligently protect these areas from damage from new infrastructure projects, including transmission lines. Recent BLM policy guidance specifically addresses the management of BLM-managed national monuments and NCAs and creates a presumption that BLM will not approve new rights-of-ways (ROW) in these areas. Specifically the manual provides:

5. To the greatest extent possible, subject to applicable law, the BLM should through land use planning and project-level processes and decisions, avoid designating or authorizing use of transportation or utility corridors within NLCS units.

To that end, and consistent with applicable law, when developing or revising land use plans addressing NLCS units, the BLM will consider:

- a. designating the NLCS unit as an exclusion or avoidance area;
- b. not designating any new transportation or utility corridors within the NLCS unit if the BLM determines that the corridor would be incompatible with the designating authority or the purposes for which the NLCS unit was designated; and
- c. relocating any existing designated transportation and utility corridors outside the NLCS unit.

BLM Manual 6100, § 1.6J(5).

The law establishing the Snake River Birds of Prey NCA includes specific provisions addressing allowable uses of the NCA. The key provision directs the BLM to identify “levels, types, timing, and terms and conditions for the allowable nonmilitary uses of lands within the conservation area that will be compatible with the **protection, maintenance, and enhancement** of raptor populations and habitats and the other purposes for which the conservation area is established.” 16 U.S.C. § 460iii-3(b)(7) (emphasis added). These “other purposes” include “the natural and environmental resources and values associated therewith, and of the scientific, cultural, and educational resources and values of the public lands in the conservation area.” 16 U.S.C. § 460iii-2(a)(2). Thus, only those proposed actions that would “protect, maintain, and enhance” the purposes of the NCA are permissible.

Transmission line development causes serious impacts, including direct damage to wildlands, wildlife habitat and cultural resources; interference with scenic vistas; habitat fragmentation; and others. Consequently, transmission lines are generally incompatible with management of the Conservation Lands absent a specific showing of how such a project would “protect, maintain, and enhance” the raptors, raptor habitat and the other purposes for which the NCA was designated. The BLM has not provided analyses that demonstrate this standard has been met for the Gateway West line.

### Conflict with Greater Sage-grouse Habitat

BLM's alternative route 9E would pass through identified Preliminary Priority Habitat (PPH) for the greater sage-grouse. Currently, the U.S. Fish and Wildlife Service has found the greater sage-grouse warrants protection under the Endangered Species Act and has committed to a final listing decision in 2015; BLM is in the process of rangewide planning to design conservation measures and regulatory mechanisms that would avoid listing. BLM's Instruction Memorandum (IM) 2012-043 "provides interim conservation policies and procedures to the Bureau of Land Management (BLM) field officials to be applied to ongoing and proposed authorizations and activities that affect the Greater Sage-Grouse (*Centrocercus urophasianus*) and its habitat."

PPH, as identified in BLM's Greater Sage-Grouse Interim Management Policies and Procedures, IM 2012-043 (12/27/2011), "comprises areas that have been identified as having the highest conservation value to maintaining sustainable Greater Sage-Grouse populations" that "have been identified by the BLM in coordination with respective state wildlife agencies." For pending projects in PPH (including those for which a Draft EIS has been issued and would likely have more than minor adverse effects on sage-grouse), the IM provides that the agency must:

- Ensure that **reasonable alternatives** for siting the ROW outside of the PPH or within a BLM-designated utility corridor are considered and analyzed in the NEPA document.
- Identify technically feasible best management practices, conditions, etc. (e.g., siting, burying powerlines) that may be implemented in order to **eliminate or minimize impacts**. (emphasis added)

IM 2012-043 requires additional procedures for pending right-of-way applications that would affect more than one linear mile of sage grouse habitat. Segment 9E would have nearly fifty times that level of impact. These procedures include a high-level interagency review process for any right-of-way project that would fail to "cumulatively maintain or enhance sage-grouse habitat."

The sage-grouse habitat that will be affected by proposed project routes has been acknowledged by both BLM and the State of Idaho<sup>1</sup> as important for protection. Allowing development of a large transmission line through this landscape could result in harmful, and potentially irreversible impacts to important greater sage-grouse habitat, both by damaging sage-grouse habitat through the construction and maintenance of power lines and by providing "perches" for raptors and other birds of prey to more easily prey on sage-grouse.

The U.S. Fish and Wildlife Service has found that transmission lines have a range of adverse impacts on sage grouse and their habitats. 75 Fed. Reg. 13909, 13928-29 (March 23, 2010). The Service's 12-month finding on sage grouse noted the many transmission line proposals pending in the western states and explained "If these lines cross sage grouse habitats, sage grouse will likely be negatively affected." *Id.* at 13929. More recently, the BLM's Sage-grouse National Technical Team reached the same conclusion and recommended that the BLM "[m]ake priority

---

<sup>1</sup> The Idaho Governor's Sage-grouse Task Force has also identified the habitat at risk from the Gateway West lines as part of the Important Habitat Zone, in which a ROW could only be established if it "cannot reasonably be achieved, technically or economically, outside of this management zone."

sage-grouse habitat areas exclusion areas for new [right-of-way] permits” with narrow exceptions. Id.

Consequently, transmission lines should be avoided in PPH, and the BLM has not made the requisite findings or considered measures to avoid or offset damage to the habitat that would be affected by this project.

Although newly developed Alternative 9Ea would not cross directly into PPH, it would run immediately adjacent to PPH and would affect sage grouse within PPH. If this route receives further consideration, BLM must disclose these impacts and consider mitigation measures, including offsite mitigation.

Need for a creative solution

We appreciate the difficulty of the agency’s position in finding a viable alternative. In light of the serious concerns raised by the routes discussed above, we believe there is a need to evaluate creative solutions that meet the BLM’s policies and mandates for the Morley Nelson Snake River Birds of Prey NCA and greater sage-grouse habitat. Due to the multiple resource conflicts with proposed routes, especially those in Segment 9, a variety of options should be considered, such as possibly limiting the proposal to one transmission line through this segment (instead of two parallel lines), which could ultimately result in a workable solution.

We would very much like to meet with you to discuss potential solutions for this project at your earliest convenience, either in Idaho or Washington, DC. Please contact Nada Culver of The Wilderness Society so that we can identify workable times. Thank you for your attention to this important matter.

Sincerely,

**The Wilderness Society**

Nada Culver, Director, BLM Action Center  
1660 Wynkoop, #850  
Denver, CO 80202  
303-650-5818 Ext. 117  
[Nada\\_culver@tws.org](mailto:Nada_culver@tws.org)

Brad Brooks, Deputy Regional Director  
950 West Bannock Street, Suite 605  
Boise, ID 83702

**Idaho Conservation League**

John Robison, Public Lands Director  
P.O. Box 844  
Boise ID 83701

**The Nature Conservancy in Idaho**

William S. Whelan, Director of Government Relations  
950 West Bannock, Suite 210  
Boise, ID 83702

**Conservation Lands Foundation**

Brian O'Donnell, Executive Director  
160 E 12th Street, Suite 2  
Durango, CO 81301

cc: Steve Ellis, Idaho State Director  
Carl Rountree, Director, National Landscape Conservation System

duplicate

**From:** [info@gatewaywesteis.com](mailto:info@gatewaywesteis.com)  
**To:** [Gateway BLM](#)  
**Subject:** A final EIS comment from gatewaywesteis.com  
**Date:** Thursday, June 27, 2013 7:31:42 AM

---

A final EIS comment from gatewaywesteis.com.

Name:

Chris Colson

Organization:

Ducks Unlimited

Mailing Address:

2533 North 26th Street

Mailing Address 2:

City:

Boise

State:

ID

Zip:

83702

Daytime Phone:

208-608-2441

E-mail:

ccolson@ducks.org

Confidential:

False

EIS Chapter:

Section Number:

Page Number:

Comment:

June 27, 2013

SUBJECT: Ducks Unlimited's formal public comment to the Gateway Transmission Line Project Final Environmental Impact Statement

To whom it may concern:

Ducks Unlimited, Inc (DU) is a private, 501(c) 3 non-profit organization that conserves, restores, and manages wetlands and associated habitats for North America's waterfowl, other wildlife, and people. Since its incorporation in 1937, DU has conserved over 11 million acres of habitat in the United States,

Canada, and Mexico.

For over six decades Ducks Unlimited has maintained a singleness of purpose to conserve and restore wetland habitats. Our efforts benefit waterfowl and much more because of our landscape approach to habitat conservation. We work across political, geographic and ecological boundaries to achieve our mission.

Ducks Unlimited has more than 6,000 members in Idaho. DU is expressly interested in the potential impacts the Gateway West Transmission Line Project (Project) will impose upon Idaho wetlands and migrating waterfowl. This letter represents DU's formal public comments specific to the Project's impacts within the state of Idaho.

Idaho has lost approximately 76% of its historical wetlands and recent studies have demonstrated that wetland loss is accelerating nationwide. While no annual standard surveys are conducted in Idaho, migratory waterfowl populations nationwide remain significantly lower than historic levels. Currently there are several species of waterfowl that remain below population goals established by the North American Waterfowl Management Plan. Degradation and loss of habitat are generally regarded as the cause for reduced populations. Idaho is a critically important spring migration stopover for migrating waterfowl and songbirds.

DU is generally opposed to any of the proposed routes and alternatives that are located within major valley floodplains and wetland features and prefer those that are situated in upland habitats. The EIS does not place adequate consideration to non-regulated natural resources. Wetland habitats have been evaluated from a regulatory standpoint, and as a vegetation community. However, federal and state laws do not recognize imperiled and/or rare habitat communities unless occupied by federally protected or recognized plants or animals that are associated with those respective habitats. DU argues that wetland habitats need to be considered as a limited and imperiled natural resource in the state of Idaho beyond the "no net loss" regulatory standard. And, from a regulatory standpoint, we expect the Bureau of Land Management (BLM) and Idaho Power Company (IPC) to honor Clean Water Act guidance that directs permittees to make all reasonable efforts to avoid and/or minimize wetland impacts.

In addition to the direct impact of the disturbance footprint, transmission lines pose additional indirect impacts to migratory waterfowl by providing advantageous hunting perches for predatory raptors and disrupting typically free low elevation fly areas above wetland habitats.

The Project also has the potential to impact three current DU wetland restoration projects. The three projects are on the Bruneau River Ranch in Owyhee County, Six S Ranch in Cassia County, and Spring Cove Ranch in Gooding County. Collectively, the three projects have private, state, and federal restoration funding totaling nearly \$1,000,000. Project partners include private individuals and foundations, Southern Idaho Land Trust, Idaho Fish and Game, Idaho Department of Environmental Quality, Natural Resources Conservation Service, and the U.S. Fish and Wildlife Service. DU is strongly opposed to direct impacts to these properties as substantial public funding has been invested to the restoration of wetland habitats on these properties totaling more than 500 acres.

- The Bruneau River Ranch is located directly south of IPC's Turner Ranch. DU is concerned and frustrated that IPC and the BLM have proposed a route that impacts a neighbor of an IPC property as opposed to maintaining their project impacts on their existing properties. The Bruneau River Ranch is currently enrolled in the Natural Resources Conservation Service's Wetland Reserve Program and a conservation easement on the ranch is expected to close before the end of the year.
- Spring Cove Ranch already has an existing IPC right-of-way on the property. The landowner is concerned that contesting the existing siting of the proposed line may only result in realignment onto a neighbor's property. DU proposes consideration of an alternative north of the existing proposed route out of the Clover Creek valley on BLM-owned upland lands.
- Concerning the Six S Ranch, DU met with IPC engineers on behalf of the ranch owners to discuss realignment of the proposed routes through the ranch. The owners are willing to have the line cross the property, but they are opposed to the existing location. Realignment was proposed and generally accepted by IPC with the exception of any necessary micrositing. The realignment agreed upon by IPC is presented in. DU is opposed to the current location of the route and supports the realignment presented in.

Additionally, the landowner of Spring Cove Ranch participates in Idaho Fish and Games 'Access YES!' program. By participating in this program, the landowner allows members of the public to access their property to hunt and fish. For this reason, Spring Cove Ranch serves as a public recreation venue and provides a recreational resource that can be limited to the general public – specifically shallow water fisheries and waterfowl habitat. The landowner at Spring Cove Ranch caters exclusively to youth looking for such recreational opportunities.

Please feel free to contact me directly with any questions or requests for further information. I look forward to our comments being addressed.

Respectfully submitted,

---

Chris Colson  
Regional Biologist  
Ducks Unlimited, Inc.  
2533 North 26th Street  
Boise, Idaho 83702  
208-608-2441  
ccolson@ducks.org

# Final EIS Comment Form

Gateway West Transmission Line Project

Final EIS comment period: April 26, 2013 - June 28, 2013



RECEIVED  
DOT-BLM  
CHEYENNE WYOMING

2013 JUL -1 AM 10:00

BLM

Date: 6-25-13

First Name: PAUL

Last Name: NETTLETON

Organization or Office Name: JOYCE LIVESTOCK CO.

Mailing Address: 14568 JOYCE RCH. RD.

City: MURPHY State: ID Zip: 83650

Daytime Phone: (208) 834-2237

Email: \_\_\_\_\_

Please check here if you wish for your personal information to remain confidential\*

\*If you wish for your contact information to remain confidential, BLM will protect the personal information that you submit to the extent allowed by law. However, the information may be subject to the Freedom of Information Act (U.S.C. etc.). See privacy note on reverse.

Please submit your comments by **June 28, 2013**. Information submitted on this form is being voluntarily provided solely for the purpose of commenting on the Gateway West Transmission Line Project.

Comment:

I AM TOTALLY AND ADAMENTLY OPPOSED TO ALTERNATIVE 9E.  
AS A MEMBER OF THE LOCAL WORKING GROUP OF THE ENDANGERED CANDIDATE  
SPECIES OF THE GREATER SAGE GROUSE, ALT 9-E WILL LIKELY ADVERSELY  
AFFECT SAGE GROUSE POPULATIONS. ITS CLOSE PROXIMITY TO SAGE  
GROUSE LEKS, NESTING, AND BROOD-REARING AREAS, WILL ATTRACT RAPTORS  
AND RAVENS AND WILL LEAD TO GREATER SAGE GROUSE PREDATION. NEST  
FAILURE IS AN IMPORTANT FACTOR IN DECLINING SAGE GROUSE POPULATIONS AND  
BLM'S OWN DATA SHOWS THAT SAGE GROUSE NESTS WITHIN 10 MILES OF  
TRANSMISSION LINES ARE EASILY ACCESSIBLE TO RAVENS WHO PERCH, NEST AND  
ROOST ON THE TOWERS. PERCH DETERRENTS HAVE PROVED UNSUCCESSFUL.  
IT WOULD BE FAR BETTER TO CHOOSE ALT. 9-D AS ORIGINALLY PROPOSED BY THE  
OWYHEE TASK FORCE AND ACCEPTED BY LOCAL BLM AND PROJECT OFFICIALS.

(OVER)

To mail this comment form please send to:

Bureau of Land Management | Gateway West Project | P.O. Box 20879 | Cheyenne, WY 82003

Comments may also be submitted via email to: Gateway\_West\_WYMail@blm.gov or  
online at [www.wy.blm.gov/nepa/cfdocs/gateway\\_west](http://www.wy.blm.gov/nepa/cfdocs/gateway_west)

1/3

continued on back





Name: PAUL NETTLETON

THIS ALTERNATIVE (9-D) WOULD RUN ADJACENT TO AN EXISTING 138 KW TRANSMISSION LINE ALONG AN EXISTING ROAD THROUGH THE SNAKE RIVER BIRDS OF PREY AREA (SRBOP). IT WOULD BE MUCH PREFERABLE TO ATTRACT RAPTORS AND RAVENS TO THE CHEAT GRASS AREAS OF SRBOP WHERE THEY CAN FEED ON PLENTIFUL GROUND SQUIRRELS THAN TO ATTRACT THEM TO THE SHRUB AREAS THAT SERVE AS SAGE GROUSE HABITAT. LEGISLATION ESTABLISHING THE SRBOP DIRECTED BLM MANAGEMENT TO ALLOW FOR "DIVERSE APPROPRIATE USES OF LANDS IN THE AREA TO THE EXTENT CONSISTENT WITH MAINTENANCE AND ENHANCEMENT OF RAPTOR POPULATIONS AND HABITATS. BLM'S OWN DATA SHOWS THAT ALT 9-D AS ORIGINALLY PROPOSED WITH A CROSSING OF SNAKE RIVER JUST UP STREAM FROM SWAN FALLS, WOULD BE COMPATIBLE WITH MAINTAINING AND ENHANCING RAPTORS WHILE HAVING NO EFFECT ON SAGE GROUSE.

I URGE YOU TO ADOPT ALTERNATIVE 9-D AS THE FINAL ROUTE THROUGH THIS AREA.

Privacy Note: Comments, including names and addresses of respondents, will be made available to the public after the close of the official comment period. Please be advised that your entire comment, including your personal identifying information, may be made publicly available at any time. Although you may ask the BLM in your comment to withhold your personal identifying information from the public, we cannot guarantee that we will be able to do so. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

Bureau of Land Management  
Gateway West Project  
PO Box 20879  
Cheyenne, WY 82003

BOISE ID 837

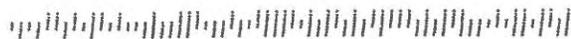
27 JUN 2013 PM 1 T



Bureau of Land Management  
Gateway West Project  
PO Box 20879  
Cheyenne, WY 82003

3/3

82003+7018



---

**From:** jmclain@blm.gov on behalf of Gateway\_West\_Trans\_Line, BLM\_WY  
[blm\_wy\_gateway\_west\_trans\_line@blm.gov]  
**Sent:** Thursday, February 14, 2013 12:49 PM  
**To:** blm@gwcomment.com  
**Subject:** Fwd: Golden Eagle Audubon Society's letter on the Gateway Transmission Lines  
**Attachments:** Gatewayfinalw.docx

----- Forwarded message -----

**From:** Michele Crist <[mrcgoldeneagle@gmail.com](mailto:mrcgoldeneagle@gmail.com)>  
**Date:** Fri, Nov 2, 2012 at 11:02 AM  
**Subject:** Golden Eagle Audubon Society's letter on the Gateway Transmission Lines  
**To:** "George, Walter E" <[wgeorge@blm.gov](mailto:wgeorge@blm.gov)>, BLM\_WY\_Gateway\_West\_Trans\_Line  
<[BLM\\_WY\\_Gateway\\_West\\_Trans\\_Line@blm.gov](mailto:BLM_WY_Gateway_West_Trans_Line@blm.gov)>

Dear Mr. George,

Please consider the attached letter in your decisions for the Gateway Transmission Lines. We are also sending a letter to Secretary Salazar.

Thank you very much,  
Michele Crist

Michele Crist  
President of the Board, Golden Eagle Audubon Society  
PO Box 8261  
Boise, ID 83702  
208-863-1918

November 1<sup>st</sup>, 2012

**Via electronic mail**

Walt George, Project Manager  
Gateway West Transmission Project EIS  
Bureau of Land Management  
P.O. Box 20879  
Cheyenne, Wyoming 82003

**Re: Challenges related to Potential Gateway West Transmission Line Routes in and near the Morley Nelson Snake River Birds of Prey National Conservation Area and Preliminary Priority Habitat for Greater Sage-grouse**

Dear Mr. George:

The Golden Eagle Audubon Society is writing to highlight our concerns with the potential impacts of the current alternative routes, including the preferred alternative, for the Gateway West Transmission Line in Idaho. Our organization, based in Boise, ID, is southwestern Idaho's chapter of The National Audubon Society. We have approximately 2500 members who frequently bird watch in the Morley Nelson Snake River Birds of Prey National Conservation Area; as well as bird watch in the proposed area of Preliminary Priority Habitat for Greater Sage-grouse. Our Board consists of biologists, ecologists, and bird watchers who are deeply concerned about the impacts the proposed transmission lines will have on raptors, if routed through the Morley Nelson Snake River Birds of Prey National Conservation Area, or conversely on Greater Sage-grouse, if routed through the Preliminary Priority Habitat.

Routing the Gateway West Transmission Line in southwest Idaho requires BLM to balance several conflicting policies and interests. Our organization has been engaged in this process and at this point, due to the significant conflicts with the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA) and Preliminary Priority Habitat for Greater Sage-grouse (PPH), we believe that a further discussion of how to design an acceptable alternative is needed – and would like to engage in such discussions with the Bureau of Land Management (BLM). We believe that these discussions can help lead BLM to a decision that best addresses the many values and interests at stake.

## Conflict with National Conservation Area

A number of the potential transmission line routes (notably routes 9, 9D, 9Ea and 9F) would cross portions of the Morley Nelson Snake River Birds of Prey NCA, a unit of the National Landscape Conservation System (Conservation Lands). The National Landscape Conservation System was established “in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations.” National Landscape Conservation System Act, 16 U.S.C. § 7202(a) (2009).

Secretarial Order 3308 speaks to the management of the Conservation Lands, stating that “BLM shall ensure that the components of the NLCS are managed to protect the values for which they were designated, including, where appropriate, prohibiting uses that are in conflict with those values.” The 15-Year Strategy for the Conservation Lands reinforces this by stating the “conservation, protection, and restoration of the NLCS values is the highest priority in NLCS planning and management, consistent with the designating legislation or presidential proclamation.” Conservation Lands Strategy at 8.

As conservation of natural and cultural resources is the principal mandate for BLM management of the Conservation Lands, the agency must diligently protect these areas from damage from new infrastructure projects, including transmission lines. Recent BLM policy guidance specifically addresses the management of BLM-managed national monuments and NCAs and creates a presumption that BLM will not approve new rights-of-ways (ROW) in these areas. Specifically the manual provides:

5. To the greatest extent possible, subject to applicable law, the BLM should through land use planning and project-level processes and decisions, avoid designating or authorizing use of transportation or utility corridors within NLCS units.

To that end, and consistent with applicable law, when developing or revising land use plans addressing NLCS units, the BLM will consider:

- a. designating the NLCS unit as an exclusion or avoidance area;
- b. not designating any new transportation or utility corridors within the NLCS unit if the BLM determines that the corridor would be incompatible with the designating authority or the purposes for which the NLCS unit was designated; and

c. relocating any existing designated transportation and utility corridors outside the NLCS unit.

BLM Manual 6100, § 1.6J(5).

The law establishing the Snake River Birds of Prey NCA includes specific provisions addressing allowable uses of the NCA. The key provision directs the BLM to identify “levels, types, timing, and terms and conditions for the allowable nonmilitary uses of lands within the conservation area that will be compatible with the protection, maintenance, and enhancement of raptor populations and habitats and the other purposes for which the conservation area is established.” 16 U.S.C. § 460iii-3(b)(7) (emphasis added). These “other purposes” include “the natural and environmental resources and values associated therewith, and of the scientific, cultural, and educational resources and values of the public lands in the conservation area.” 16 U.S.C. § 460iii-2(a)(2). Thus, only those proposed actions that would “protect, maintain, and enhance” the purposes of the NCA are permissible.

Transmission line development causes serious impacts, including direct damage to wildlands, wildlife habitat and cultural resources; interference with scenic vistas; habitat fragmentation; and others. Consequently, transmission lines are generally incompatible with management of the Conservation Lands absent a specific showing of how such a project would “protect, maintain, and enhance” the raptors, raptor habitat and the other purposes for which the NCA was designated. The BLM has not provided analyses that demonstrate this standard has been met for the Gateway West line.

Furthermore, transmission lines may become an even larger threat when lines are located close to cliff-nesting sites. Young birds learning to fly and adults engaged in territorial defense and courtship could be far more susceptible to collision, especially at newly constructed lines. As stated on pages 3.10-36-37 of the DEIS, “Edge effects brought about by vegetation removal could lead to a change in plant species composition, potentially lowering the quality of habitat for raptors or their prey.” Additional habitat fragmentation in a congressionally established National Conservation Area that has suffered from extensive fragmentation over the last 30 years cannot be allowed. Fragmentation will affect far more nesting raptors than those that nest within a mile of the transmission line. Telemetry research has shown that Prairie Falcons forage up to 15 miles north of their canyon nesting sites.

### **Conflict with Greater Sage-grouse Habitat**

BLM's alternative route 9E would pass through identified Preliminary Priority Habitat (PPH) for the greater sage-grouse. Currently, the U.S. Fish and Wildlife Service found the greater sage-grouse warrants protection under the Endangered Species Act and has committed to a final listing decision in 2015; BLM is in the process of rangewide planning to design conservation measures and regulatory mechanisms that would avoid listing. BLM's Instruction Memorandum (IM) 2012-043 "provides interim conservation policies and procedures to the Bureau of Land Management (BLM) field officials to be applied to ongoing and proposed authorizations and activities that affect the Greater Sage-Grouse (*Centrocercus urophasianus*) and its habitat."

BLM's alternative route 9E will attract raptors and ravens and could lead to increased predation on declining grouse populations. Golden Eagles prey on adult sage-grouse, and Common Ravens are a major predator of sage-grouse eggs. It would be better to attract raptors and ravens to cheatgrass areas, where they feed on ground squirrels, than to shrubsteppe areas inhabited by sage-grouse.

BLM's alternative route 9E would be in close proximity to occupied leks and brood-rearing areas. Nest failure is an important factor in sage-grouse population declines, and nest predation by ravens is a primary cause of sage-grouse nest failure. Ravens cue in on the movements of grouse to and from nests. Female sage-grouse are able to escape direct predation but are unable to defend nests successfully, especially when confronted with more than one raven. BLM's own data indicate that sage-grouse nests within 10 miles of transmission lines are easily accessible to ravens that nest, perch and roost on transmission line towers. Perch deterrents have not proven to be successful.

PPH, as identified in BLM's Greater Sage-Grouse Interim Management Policies and Procedures, IM 2012-043 (12/27/2011), "comprises areas that have been identified as having the highest conservation value to maintaining sustainable Greater Sage-Grouse populations" that "have been identified by the BLM in coordination with respective state wildlife agencies." For pending projects in PPH (including those for which a Draft EIS has been issued and would likely have more than minor adverse effects on sage-grouse), the IM provides that the agency must:

- Ensure that **reasonable alternatives** for siting the ROW outside of the PPH or within a BLM-designated utility corridor are considered and analyzed in the NEPA document.
- Identify technically feasible best management practices, conditions, etc. (e.g., siting, burying powerlines) that may be implemented in order to **eliminate** or **minimize impacts**. (emphasis added)

IM 2012-043 requires additional procedures for pending right-of-way applications that would affect more than one linear mile of sage grouse habitat. Segment 9E would have nearly fifty times that level of impact. These procedures include a high-level interagency review process for any right-of-way project that would fail to “cumulatively maintain or enhance sage-grouse habitat.”

The sage-grouse habitat that will be affected by proposed project routes has been acknowledged by both BLM and the State of Idaho<sup>1</sup> as important for protection. Allowing development of a large transmission line through this landscape could result in harmful, and potentially irreversible impacts to important greater sage-grouse habitat, both by damaging sage-grouse habitat through the construction and maintenance of power lines and by providing “perches” for raptors and other birds of prey to more easily prey on sage-grouse.

The U.S. Fish and Wildlife Service found that transmission lines have a range of adverse impacts on sage grouse and their habitats. 75 Fed. Reg. 13909, 13928-29 (March 23, 2010). The Service’s 12-month finding on sage grouse noted the many transmission line proposals pending in the western states and explained “If these lines cross sage grouse habitats, sage grouse will likely be negatively affected.” Id at 13929.

More recently, the BLM’s Sage-grouse National Technical Team reached the same conclusion and recommended that the BLM “[m]ake priority sage-grouse habitat areas exclusion areas for new [right-of-way] permits” with narrow exceptions. Id.

Consequently, transmission lines should be avoided in PPH, and the BLM has not made the requisite findings or considered measures to avoid or offset damage to the habitat that would be affected by this project.

Although newly developed Alternative 9Ea would not cross directly into PPH, it would run immediately adjacent to PPH and would affect sage grouse within PPH. If this route receives further consideration, BLM must disclose these impacts and consider mitigation measures, including offsite mitigation.

### **Need for a creative solution**

We appreciate the difficulty of the agency’s position in finding a viable alternative. In light of the serious concerns raised by the routes discussed above, we believe there is a need to evaluate creative solutions that meet the BLM’s policies and

---

<sup>1</sup> The Idaho Governor’s Sage-grouse Task Force has also identified the habitat at risk from the Gateway West lines as part of the Important Habitat Zone, in which a ROW could only be established if it “cannot reasonably be achieved, technically or economically, outside of this management zone.”

mandates for the Morley Nelson Snake River Birds of Prey NCA and greater sage-grouse habitat. Due to the multiple resource conflicts with proposed routes, especially those in Segment 9, a variety of options should be considered, such as possibly limiting the proposal to one transmission line through this segment (instead of two parallel lines), which could ultimately result in a workable solution.

We would very much like to meet with you to discuss potential solutions for this project at your earliest convenience, either in Idaho or Washington, DC. Please contact Michele Crist of The Golden Eagle Audubon Society so that we can identify workable times. Thank you for your attention to this important matter.

Sincerely,

The Golden Eagle Audubon Society  
Michele Crist, President of the Board  
PO Box 8261  
Boise, ID 83707  
208-863-1918  
[mrcgoldeneagle@gmail.com](mailto:mrcgoldeneagle@gmail.com)

Leah Dunn, Board Member  
PO Box 8261  
Boise, ID 83707  
[ldboise@gmail.com](mailto:ldboise@gmail.com)

**From:** [info@gatewaywesteis.com](mailto:info@gatewaywesteis.com)  
**To:** [Gateway BLM](#)  
**Subject:** A final EIS comment from gatewaywesteis.com  
**Date:** Friday, June 28, 2013 5:37:23 PM

---

A final EIS comment from gatewaywesteis.com.

Name:

Sean Finn

Organization:

Golden Eagle Audubon Society

Mailing Address:

PO Box 8261

Mailing Address 2:

City:

Boise

State:

ID

Zip:

83707

Daytime Phone:

208-371-2740

E-mail:

a.gentilis@hotmail.com

Confidential:

False

EIS Chapter:

All

Section Number:

All

Page Number:

All

Comment:

Don Simpson  
Wyoming State Director  
Bureau of Land Management,  
Gateway West Project,  
P.O. Box 20879,  
Cheyenne, WY 82003

Mr. Simpson:

Thank you for this opportunity to comment on the Gateway West Transmission Line Environmental

Impact Statement (FEIS). We, the Board of Directors, write these comments on behalf of members of Golden Eagle Audubon Society (GEAS). GEAS constitutes some 1,500 members primarily residing in southwest Idaho. Our strategic focus is the conservation of birds, wildlife, and their habitats and promotion of wildlife appreciation by SW Idaho residents. Regarding siting of the Gateway West Transmission Line, our primary concern is the issue of siting effects on plants and wildlife (including special status species), more specifically birds and bird habitat. Because the majority of our members live and bird watch in southwest Idaho, our comments are focused on proposed segments that cross the area, namely Segments 8 and 9 and the area in and around the Morley Nelson Snake River Birds of Prey National Conservation Area (SRBOP).

The members and board of GEAS are strongly in favor of routing options that have minimal adverse impacts on birds and native plant communities that support birds and wildlife. We feel that transmission line placement should seek optimum compromise among ecological, social, and regulatory interests. We are also strongly in favor of a phased approach to decision making for this project (page 1-9). We recognize that some segments of the entire line are likely to have minimal environmental impacts, or at least the impacts are well understood and handled. We feel this is not the case for proposed segments 8 and 9 in the area of SRBOP. We feel that the extensive science on raptor and sage-grouse ecology and habitat associations in the area has been largely ignored and that local expertise on both taxa has not adequately been engaged. The members of GEAS feel that if these knowledge gaps were narrowed, the BLM and the publics involved in siting the Gateway Transmission line in SW Idaho will agree with the following recommendations.

In SW Idaho, there are no routes that satisfy all publics and criteria and some compromises are going to be necessary. That said there are a few logical compromises that lead to routes which: (1) have minimum impacts on key wildlife and habitats, (2) minimize visual impacts to residential areas, and (3) adhere to regulations and standards set forth by the many policy documents guiding transmission line placement and natural resource conservation.

Specifically:

The critical decision regarding segment 9 (particularly segments west of reference point 9g on Fig. A-11) is among segments that run through native sagebrush habitat south of population centers in northern Owyhee County (Alternative 9E, Fig. A-11), segments that run through those population and agricultural centers (Proposed Route, Fig. A-11), and routes that cross the Snake River and pass through SRBOP (i.e., Alternative 9D, Fig. A-11). Of these, GEAS recommends that segment [9n, 9o, 9p] is clearly the superior choice because it represents the best compromise among residential and wildlife interests.

The Proposed Route (i.e., through reference points 9h, 9i, 9j; Fig. A-11) is a nonstarter as it impacts extensive agricultural, residential, and visual resources in the Oreana and Murphy areas. We believe that you received extensive feedback during draft phases of the EIS and there is no further reason to elaborate here.

Siting the 500-kV line through native sagebrush habitat to the south of northern Owyhee County, at 9E, would be an egregious ecological and political error and we most strongly urge you to abandon this option as the "BLM Preferred Alternative." Siting a line here (even just planning such a line) would be disastrous to conservation efforts for greater sage-grouse. As you well know, sage-grouse are currently a candidate species for listing under the Endangered Species Act and the U.S. Fish and Wildlife Service is under court order to make a final decision on the species in September 2015. The landscape 9E is routed through skirts designated Priority Sage-grouse Habitat (IDFG; see: <https://www.sciencebase.gov/catalog/item/4fc6706ee4b0f02c1d6a8099>) and slices through occupied and suitable (though "undesigned") sage-grouse habitat including several well-known and long-occupied lek clusters. From an ecological perspective, the 9E alternative would effectively reduce habitat connectivity of sagebrush habitat north of 9E with the population centers to the south – connectivity deemed important by every landscape scale assessment for the area (i.e., Stiver et al. 2006, Knick and Connelly 2011, Knick et al. 2013). From a political perspective, planning on Route 9E is equivalent to project suicide. If sage-grouse are listed in 2015 there is virtually no way route 9E would be acceptable, and even if BLM and the Proponents chose to proceed with construction, lawsuits would surely ensue.

Alternates routed through SRBOP (principally Alternative 9D in our opinion) are much more conducive to conservation and political compromise and, in the opinion of GEAS, the most suitable option for Segment 9. We recognize the value of SRBOP to raptors, its status as the densest raptor nesting area in the world, and the enabling legislation that SRBOP “provides for the conservation, protection, enhancement, of the raptor populations and habitats” in the conservation area. We disagree, however, with the FEIS finding that routing a line through SRBOP is inherently detrimental to raptors. In fact, we propose there are multiple benefits to routing a line there, especially Alternative 9D which would parallel an existing 138 kV transmission line and existing road. These benefits could actually enhance raptor populations and habitats if a holistic, ecological approach is followed while planning and placing the line. Moreover, there are no visual or residential impacts. The single impediment to such placement is disagreement with guidance set forth in recent BLM planning and management manuals.

We support the FEIS contention that “transmission lines could have some limited beneficial impacts to raptors” (3.10). Field research collected at SRBOP indicate that transmission line towers provide new and alternative nesting substrate for raptors and ravens and that productivity of hawks and eagles nesting on towers was as good as and sometimes better than that of those nesting on nearby natural substrates (Steenhof et al. 1993). Transmission towers offer several enhanced benefits to nesting raptors including: a more secure nesting substrate and protection from mammalian predators and wildfires. Therefore, local data (that was not addressed in the FEIS) suggest a 500-kV line could enhance raptor nesting opportunity in the Conservation Area and align with the enabling legislation. Further it is highly unlikely that “increased perching and nesting could lead to unsustainable levels of predation on small mammals, with the potential to decrease the raptors’ prey base” (3.10 p. 54). Basic wildlife ecology (i.e., Leopold 1933) and nearly every study since (i.e., Craighead and Craighead 1975) informs us that prey populations regulate predators. Proposing that raptors could decimate a healthy prey base is unfounded. Two real concerns regarding adverse impacts on raptors from a new transmission line in SRBOP are placement where the line crosses the Snake River canyon and direct effects on small mammals and songbirds inhabiting the ROW. Some of those direct effects on mammals and birds (and their role as raptor prey) would be offset by recommended habitat restoration mitigation (see below), however fragmentation effects of the expanded ROW would need to be addressed. The second concern is the potential for raptor collision with wires especially when wires are close to canyon nesting sites; adults (in courting flight, foraging, and defending territories) and young birds (learning to fly) may be susceptible to collision, especially when wires are below the cliff face. We suggest that alternative 9D follows the existing 138-kV line where it crosses the Snake River Canyon, just upstream from Swan Falls. There it should have minimal adverse effects on raptors especially compared to other alternatives (9G for example). In contrast, we see great potential for the 9D route to enhance raptor habitat in SRBOP if the installation were carefully planned and involved habitat restoration specialists during planning and construction. SRBOP has a 30-yr history of habitat degradation due to successive fires leading to loss of shrub cover. By pairing sound fire management practices with thoughtful installation, the addition of 9D to SRBOP could improve landscape-scale fuels and fire management, enhance response time for suppression crews, and begin the sorely needed restoration process that would improve small mammal, songbird, and raptor habitat in SRBOP. Recently published manuals guiding National Conservation Area management (Manuals 6100 and 6220) call for mitigation of impacts of Rights-Of-Way applications. We suggest that mitigation is more appropriate and necessary within SRBOP than in adjacent areas. Therefore placement of 9D in the SRBOP can enhance raptor nesting, prey, and habitat conditions and therefore is consistent with enabling legislation.

GEAS acknowledges that siting Segment 8 is a much more challenging task. We recommend that this be a major focus of subsequent planning and discussion in the phased approach we support. We contend that siting Segment 8 in the SRBOP (i.e., Alternative 8D) would not have the same multiple benefits as Alternative 9D (described above). Selecting Alternative 8D would require a new road which would increase fragmentation and possibly affect sensitive *Lepidium* sites. Further, 8D poses problems associated with the Idaho National Guard Orchard Training area and with the location of its crossing of the Snake River. We also recognize that Alternative 8B poses significant visual, residential, and agricultural impacts in and near the communities of Kuna and Melba, ID. On the other hand, our understanding of the need for a northern Segment is in part to “serve loads along the way” (ES-4). If so, the case could be made that residential and agricultural concerns must compromise on some siting decisions, especially if other compromises (i.e., in Segment 9) avoided residential impacts. We feel these points need to be considered during ‘phase 2’ of a phased approach, which we especially support regarding Segment 8 planning.

Our final comments involve an improved process during subsequent phases of the phased approach. First, BLM appears to have ignored several of their own planning manuals (i.e., Manual 6100 and 6220) during FEIS development. While this omission is perplexing there would be time to rectify it during subsequent planning. Second, the SRBOP and surrounding area is one of the best-studied areas in the western US, and SRBOP is one of the most cared for reserves. This is reflected in its designation as the Morley Nelson Snake River Birds of Prey NCA. Mr. Nelson and dozens of colleagues have provided ecological and biological data on raptors since the 1960's. The area is well understood. In addition, the Idaho Department of Fish and Game, U.S. Fish and Wildlife Service, U.S. Geological Survey, Peregrine Fund, Army National Guard and many graduate projects have studied sage-grouse and other sagebrush obligate wildlife in an around SRBOP for decades. GEAS implores the BLM to consider this very localized and available research data as they consider siting the Gateway line in southwest Idaho. Dozens of local wildlife science experts working in the public and private sector are available for consultation. The members of Golden Eagle Audubon Society urge the BLM to engage these experts as they conduct subsequent planning in the area.

Sincerely,

Sean P. Finn  
 Conservation Committee Chair  
 On behalf of:  
 Golden Eagle Audubon Society Board of Directors and Members  
 PO Box 8261  
 Boise, ID  
 83707

#### Citations

Craighead, J.J. and F.C. Craighead, Jr. 1969. Hawks, Owls, and Wildlife. Dover Publications: New York.

Knick, S. T., and J. W. Connelly (editors). 2011. Greater Sage-Grouse: ecology and conservation of a landscape species and its habitats. Studies in Avian Biology Series (vol. 38), University of California Press: Berkeley, CA.

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, U.S.A. Ecology and Evolution 3:1539-1551.

Leopold, A. 1933. Game Management. Charles Scribner's Sons: New York  
 Stiver, S.J., A.D. Apa, J.R. Bohne, and S.D. Bunnell. 2006. Greater sage-grouse comprehensive conservation strategy. National Sage-grouse Conservation Planning Framework Team, Western Association of Fish and Wildlife Agencies.

Steenhof, K., M.N. Kochert and J.A. Roppe. 1993. Nesting by raptors and common ravens on electrical transmission line towers. Journal of Wildlife Management 57: 271-281.

ENTERED  
100830

GREEN  
RIVER  
WYOMING  
Chamber

2013 MAY 21 AM 10:00

RECEIVED  
DOI-BLM  
CHEYENNE WYOMING

May 16, 2013  
BLM  
Gateway West Project  
PO Box 20879  
Cheyenne Wyoming 82003

The Green River, Wyoming, Chamber of Commerce thanks you for this opportunity to comment on the Gateway West Transmission Line Project, WTW, 174598. We are supportive of the decisions that will allow additional transmission lines near the existing lines and substations in Southwest Wyoming. The proposal will supplement existing transmission and relieve current congestion, capacity and reliability constraints. An additional 1500 mw of energy will likely become available once the line is completed.

We recognize there are many issues with locating any power line and this line. We note sage grouse and visibility impairment are two of the many issues addressed in the proposal.

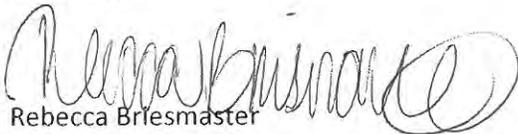
The Green River Chamber's community has derived significant economic benefits from past power line construction and operation and envisages similar benefits going forward.

We recognize a review of the cooperating agencies speaks to the efforts the proponent and the agency to work with affected parties of this project.

We agree with those that think the use of electricity is one of the foundations of our society.

We support granting the proponents of the Gateway West Project approval of their Right of Way Request.

Sincerely,



Rebecca Briesmaster  
Executive Director  
Green River Chamber of Commerce

*Your Business & Community Advocate*

---

800.FL.GORGE • 307.875.5711 p • 307.872.6192 f  
1155 W. Flaming Gorge Way • Green River • Wyoming 82935  
www.grchamber.com • Rebecca@grchamber.com

YI



June 28, 2013

Gateway West FEIS Comments  
BLM, Gateway West Project  
P.O. Box 20879  
Cheyenne, WY 82003

[Gateway West WYMail@blm.gov](mailto:WYMail@blm.gov)

**Re: Gateway West Transmission Line Project FEIS Comments**

Dear Bureau of Land Management:

Thank you for the opportunity to comment on the FEIS for the Gateway West Transmission Line Project. Since 1973, the Idaho Conservation League has had long history of involvement with both habitat protection and regional energy issues. As Idaho's largest statewide conservation organization, we represent over 25,000 supporters who want to ensure that energy development and infrastructure are consistent with natural resource protection.

Investing in properly sited transmission systems can protect the environment, promote economic development, diversify the power system and keep the region economically competitive. However, the impact of these transmission systems largely depends on the location of the project, the specific design of the final alignment, and mitigation actions.

We are particularly concerned about construction of transmission facilities within or adjacent to habitat for sage-grouse. We urge the BLM to select an alternative in previously developed areas or along existing corridors to avoid impacts to sage-grouse. Where there still may be impacts to sage-grouse, these impacts should be avoided through design features and mitigated by utilizing Idaho's mitigation framework for sage-grouse.

We are also concerned that all routes impact the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA) to some degree. However, as mentioned in separate letters, the BLM has thus far failed to conduct the required compatibility and enhancement analysis needed to determine if any of the transmission line routes are consistent with the NCA's regulations.

We have submitted comments throughout project development and have also submitted a protest on the proposed RMP amendments for this project. We have also submitted joint comments with The

Wilderness Society and the Audubon Society. Please incorporate all our previously submitted comments and our RMP protest into the project record. Our specific comments are attached below.

We support the proposed phased decision approach as the best way to further improve routing decisions. We look forward to working with the BLM, additional federal agencies and interested parties to site a project that preserves and enhances Idaho's sage-grouse and conservation areas and provides the needed utility services to Idahoans. Please keep us on the mailing list for this project.

Sincerely,

A handwritten signature in black ink that reads "John Robison". The signature is written in a cursive style with a large, sweeping initial "J".

John Robison  
Public Lands Director  
[jrobison@idahoconservation.org](mailto:jrobison@idahoconservation.org)

(208) 345-6942 x 13

## **Idaho Conservation League scoping comments on the Gateway West Transmission Line Project FEIS**

### **Phased Decision Approach**

While we appreciate the additional information provided in the FEIS, we are concerned that members of the public will not have an opportunity to both submit comments and review a draft document and assess how these concerns are being addressed. We are supportive, however, of the proposed phased decision approach which will allow the BLM to proceed with a decision for certain routes while allowing additional time where needed to find the most appropriate location, to further refine mitigation measures, and to make a more informed and supportable decision.

### **Sage-grouse**

#### *Conservation Status*

There is significant concern regarding the long-term viability of greater sage-grouse populations. The US Fish and Wildlife Service has determined that sage-grouse are warranted but precluded under the Endangered Species Act and will be revisiting this determination in 2015. Greater sage-grouse suffer from the loss, degradation, and fragmentation of habitat throughout the west. It is estimated that only 50-60% of the original sagebrush steppe habitat remains in the west (West 2000), and in 2007, the American Bird Conservancy listed sagebrush as the most threatened bird habitat in the continental United States.<sup>1</sup> As such, we cannot stress enough how important it is for agencies to consider impacts to sage-grouse and for public land managers to conserve existing habitat and actively restore altered sagebrush steppe habitats.

#### *Impacts of transmission lines on sage-grouse*

As stated in our previous comments, we are particularly concerned about impacts to sage-grouse and ask that the BLM avoid, minimize and mitigate impacts. One of the top threats to sage-grouse is infrastructure projects:

Disturbance to important seasonal habitats: Human activity and noise associated with machinery or heavy equipment in proximity to occupied leks or other important seasonal habitats may disturb sage-grouse.

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-125

Depending on location and design specifics, the construction of transmission lines within sage-grouse habitat constitutes “nonlinear infrastructure” under the *Conservation Plan for the Greater Sage-grouse in Idaho (Idaho Sage-Grouse Advisory Committee 2006)*. Nonlinear infrastructure is defined as “human-made features on the landscape that provide or facilitate transportation, energy, and communications activities...including wind energy facilities.”<sup>2</sup> The *Conservation Plan* lists infrastructure such as this as the second greatest threat for sage grouse, with wildfires as the greatest risk. Road construction and use associated with transmission line maintenance represents high risk for loss of lek areas, nesting locations, and brood-rearing habitats (Braun 1986, Connelly et al. 2004).<sup>3,4</sup> In addition, sage-grouse have been shown to avoid transmission lines, presumably because

<sup>1</sup> West, N.E. Synecology and disturbance regimes of sagebrush steppe ecosystems, p. 15-26. In P.G. Entwistle, A.M. DeBolt, J.H. Kaltenecker, and K. Steinhoff, Proceedings: sagebrush steppe ecosystems symposium. USDI Bureau of Land Management Publication BLM/ID/PT-001001+1150, Boise, ID.

<sup>2</sup> Idaho Sage-Grouse Advisory Committee. 2006. *Conservation Plan for the Greater Sage-grouse in Idaho*.

<sup>3</sup> Braun, C.E. 1986. Changes in sage-grouse lek counts with advent of surface coal mining. Proceedings, Issues and technology in the management of impacted western wildlife. *Thorne Ecological Institute* 2: 227-231.

of potential predation. Ellis (1985) found a 72% decline in the average of males on leks and a 65% increase in predation efforts involving raptors following the construction of a transmission line within 200 m of an active sage-grouse lek in northeastern Utah.<sup>5</sup> Sage-grouse lek attendance dropped significantly following power line construction within 3 miles of leks in California.<sup>6</sup> In a comprehensive study of ecological requirements, sage-grouse were extirpated in areas where power line densities were above 0.20 km/km<sup>2</sup> and sage-grouse habitat was ranked highest where powerlines were less than 0.06 km/km<sup>2</sup>.<sup>7</sup>

Furthermore, the Governor of Idaho has submitted the State of Idaho's Alternative<sup>8</sup> for incorporation into the National Greater Sage-Grouse Planning Strategy. This alternative describes additional restoration efforts and additional regulatory mechanisms to stabilize and restore sage-grouse populations, protect sage-grouse habitat and to preclude the need to list sage-grouse. This plan is being analyzed by the BLM as an alternative for the RMP amendments required by law and which the USFWS is going to review in 2015. The Idaho Conservation League served as a member of the Governor's Sage-grouse Task Force which drafted this plan. A key component of this plan is to avoid placing large-scale infrastructure projects such as 500kV transmission lines within core and important sage-grouse habitat as defined by the plan due to the negative effects that transmission lines have on sage-grouse.

Regarding the spatial scale of proposed management activity effects on sage-grouse and habitat, the BLM should recognize that sage-grouse can require movements of tens of miles between required habitats. Thus, a significant challenge in managing and conserving sage-grouse populations is the fact that they depend upon different types of habitat for each stage of their annual cycle (Connelly et al. 2009), and upon the ability to move between the different habitats throughout the year. Each seasonal habitat must provide the necessary protection from predators, required food resources, and thermal needs for the specific stage of the annual cycle. Breeding-related events and season habitat needs are described below:

- 1) Late brood-rearing period in July through September. Late brood-rearing is focused in wetter areas, especially riparian and spring-associated meadows closely associated with nearby sagebrush.
- 2) Movement to winter habitat.
- 3) Occupation of winter habitat from November through February. The primary requirement of winter habitat is sagebrush exposure above the snow, and is generally characterized by dense sagebrush, often including areas of wind-swept ridges.
- 4) Lekking, which may begin as early as late February, and may extend into May. Lekking requires open expanses of sagebrush within a large area of sagebrush cover. Lek persistence

---

<sup>4</sup> Connelly, J.W., Knick, S.T., Schroeder, M.A., and S.J. Stiver. 2004. Conservation assessment of greater sage-grouse and sagebrush habitats. Western Association of Fish and Wildlife Agencies. Unpublished Report. Cheyenne, Wyoming.

<sup>5</sup> Ellis, K.L., 1985, Effects of a new transmission line on distribution and aerial predation of breeding male sage grouse: Final report, 28 p.

<sup>6</sup> Rodgers, R. 2003. Wind Power Generation: Biological Concerns. Wind Energy Symposium April 10, 2003. Ft. Hays State University, Hays, Kansas.

<sup>7</sup> 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, U.S.A. Ecology and Evolution.

<sup>8</sup> <http://fishandgame.idaho.gov/public/wildlife/SGtaskForce/alternative.pdf>

has been affected by disturbance activities within 3.1, 11.2, and 33.5 mile radii (Swenson et al. 1987, Johnson et al. 2009, Knick and Hanser 2009).

- 5) Female movement to nesting sites and nesting between March and June. Nesting females commonly move 3-5 miles or farther from the lekking site. Females select areas with more sagebrush canopy than is generally available in the surrounding landscape (Holloran et al 2005, Hagen et al. 2007)
- 6) Hatching and early brood-rearing in May and June. Females continue to use relatively dense stands of sagebrush for earliest brood-rearing habitat if native forbs and insects are available. When vegetation desiccates, females and broods move to wetter areas in search of the native forbs and insects required by chicks.

Given the considerations of year-round habitat use and known impacts of human activity on sage-grouse populations, particular care needs to be taken to avoid disturbance near lekking areas, disturbance and loss of sagebrush and native forbs used for early brood-rearing, and disturbance and impacts to hydrologic function of wet areas used for early to late brood-rearing.

Avoiding human footprint at a 3.1 mile radius from leks is an important first step in protecting sage-grouse populations, but sage-grouse could be engaged in nesting and brood-rearing, in addition to lekking, for much of the planned construction activity period. Recent studies have shown that only 64% of nesting sites occur within 3.1 miles of leks, but 80% of nests are found within five miles, and 20% of nests occur at distances greater than five miles from leks. Nest success is also greater the farther a nest occurs from a lek, indicating a disproportionate potential importance of these more important nests for population recruitment.

Based on the habitat guidelines for sage-grouse management presented in Connelly et al. (2000),<sup>9</sup> and others, we recommend siting the transmission line far enough from leks and other sage-grouse habitat to avoid negative effects. Aldridge and Boyce (2007) and Doherty et al. (2010) identify a buffer of 6.2 miles to protect important nesting and brood-rearing habitats.

Currently, several potential segments go through or come too close to sage-grouse habitat as defined by the State of Idaho's Alternative. Routes that may affect Core or Important Habitat Zones, even indirectly, should not be selected. Routes that may affect General Habitat Zones should be fully mitigated through the State of Idaho's Mitigation Framework. These include the following segments:

- Segment 4 at location 4e where the line goes through Important Habitat Zone and subsequently General Habitat Zones northwest of Bear Lake
- Segment 5B and the routes to the south and west of 5B
- Segments 6 which all appear to go through the General Habitat Zone
- Segment 7K or the Stateline segment which goes through the Important Habitat Zone
- Segment 7 northwest of Albion which appears to go through General Habitat Zone
- Segment 8 north of Midpoint which appears to go through General Habitat Zone
- The other routes south of Segment 8 near Castleford which go through Important and General Habitat Zones

---

<sup>9</sup> Connelly, J.W., Schroeder, M.A., Sands, A.R., and C.E. Braun. 2000. Guidelines to manage sage-grouse populations and their habitats. *Wildlife Society Bulletin* 28(4): 967-985.

- The BLM preferred alternative (southern most route for Segment 8) which goes through or is adjacent to Important and General Habitat Zones
- Segment 9E which goes through or is adjacent to Important and General Habitat Zones

#### *Minimizing impacts*

Once routes with major impacts have been avoided, the BLM should require design features to ensure that any side effects or minor impacts are minimized through design features. With regard to activities with the potential to disturb sage-grouse, the Conservation Plan offers this recommendation:

*Apply seasonal-use restrictions (see Human Disturbance Section 4.3.5) on activities associated with the exploration, operations, and maintenance of mines, gravel pits, or landfills, including those associated with supporting infrastructure.*

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

When considering design features to minimize adverse effect to sage-grouse, the BLM needs to consider both the appropriate spatial scale for considering effects of proposed management activities on sage-grouse and their habitat as well as the adverse impacts of invasive exotic plant species, and the increased threat of wildfire.

Knick and Hansen (2009) analyzed factors in lek persistence of over 5,000 leks. They used three radii to test for landscape disturbance effects on lek persistence – radii of 3.1 miles, 11.2 miles, and 33.5 miles. Previous studies had shown behavioral effects on sage-grouse related to sagebrush disturbance at the 33.5 mile radius (Swenson et al. 1987, Leonard et al. 2000). Knick and Hansen’s study showed adverse effects on lek persistence from wildfire at the 33.5-mile radius. As such, the design features to minimize impacts should be based on both the quality of the habitat adjacent to the transmission line, the topography of that habitat, the impacts to that habitat and to sage-grouse, and the specific use of that habitat by sage-grouse (lekking, nesting and brood rearing, etc).

#### *Mitigation*

Where impacts have already been avoided and minimized, the Conservation Plan also recommends developing off-site mitigation for any remaining impacts:

*Off-site mitigation should be employed to offset unavoidable alteration and losses of sage-grouse habitat. Off-site mitigation should focus on acquiring, restoring, or improving habitat within or adjacent to occupied habitats and ideally should be designed to complement local sage-grouse conservation priorities.*

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

A key component of the Governor’s Sage-Grouse Conservation Plan is the use of a Mitigation Framework developed by the State Sage-Grouse Advisory Committee. This framework is based on the assumption that impacts will be first avoided, then minimized and finally mitigated.

The mitigation framework requires the quantification of both direct *and* indirect impacts. The USFWS’s determined that transmission lines may cause a host of adverse indirect effects to sage-grouse, including increased predation, lower recruitment rates, habitat fragmentation, habitat

degradation from invasive species, and impacts from electromagnetic fields.<sup>10</sup> However, the Habitat Equivalency Analysis focused only on direct impacts when calculating the degree of mitigation needed. The BLM should utilize the phased decision approach to expand the analysis to include indirect effects when making mitigation calculations. If it would be helpful, we are available to describe the Mitigation Framework in more detail.

The BLM should start by considering the indirect effects within a standard, conservative distance from the transmission line and adjust this distance depending on the quality of the habitat adjacent to the transmission line, the topography of that habitat, the impacts to that habitat and to sage-grouse, and the specific use of that habitat by sage-grouse (lekking, nesting and brood rearing, etc). The mitigation calculations need to factor in the success rate of vegetation restoration efforts, the rate of habitat loss due to wildfire, the lag time before any actual mitigation is realized. In our determination, fence marking/modification, as described in the Habitat Equivalency Analysis, is not an appropriate form of mitigation for indirect effects related to this project.

The BLM should base its mitigation program on the recently released Regional Mitigation Manual (see Instruction Memorandum No. 2013-142). The BLM has full authority to require mitigation for indirect effects to sage-grouse. Failure to do so would represent a notable lack of the regulatory mechanism needed to prevent the listing of this species.

Depending on the nature and degree of these impacts, an offsite mitigation program could be available to direct funding from the project proponent to high-priority restoration areas. The Governor's Plan calls for restoration within Core Habitat Areas where the habitat has been degraded but can be restored. This mitigation program should not be available for projects within Core Habitat Zones where infrastructure should not be located (allowing for limited exceptions).

### **Other species**

Portions of the project area also contain habitat that is crucial to sagebrush steppe obligate species such as sage-grouse, pygmy rabbits, sage thrasher, sage sparrow, and others. Such habitat has been severely fragmented and reduced through a variety of land management practices, including road construction and development of rights of way corridors. Big game may also be adversely affected by project development. As with sage-grouse, the BLM should minimize negative impacts by avoiding areas of critical habitat for species of concern, establishing siting criteria to minimize soil disturbance and erosion on steep slopes, utilizing visual resource management guidelines, avoiding significant historic and cultural resource sites, and mitigating conflicts with other uses of the public lands.

### **Roads and Right of Way Corridors**

Previous management activities have resulted in extensive road and right-of-way densities throughout our public lands. This density compromises the ability to support wildlife and fish by promoting further human disturbance, fragmenting habitat, accelerating sedimentation, spreading noxious weeds, and encouraging Off Road Vehicle use. Furthermore, there is a positive correlation between roads, even temporary ones, and human-caused wildfire ignitions. We recommend that the BLM evaluate the road and transmission network to avoid impacts to sage-grouse habitat where

---

<sup>10</sup> U.S. Fish and Wildlife Service, 2010, Endangered and threatened wildlife and plants, 12-month findings for petitions to list the Greater Sage-Grouse (*Centrocercus urophasianus*) as threatened or endangered: Washington, D.C., FWS-R6-ES-2010-0018, Federal Register, v. 75, no. 55 (March 23, 2010), 107 p.

feasible, and close or decommission unneeded roads and corridors as part of the overall mitigation program.

### **Off Road Vehicle Use**

The devastating impacts of improper Off Highway Vehicles (OHVs) on terrestrial and aquatic ecosystems are well established. Improper OHV use degrades water quality, spreads noxious weeds, fragments habitat, disturbs wildlife, increases fires, and displaces non-motorized recreationists. The BLM needs to take additional steps to manage and monitor OHV use along transmission corridors.

### **Noxious Weeds**

The most cost-effective way to deal with noxious weeds is to protect strongholds of native vegetation from activities which either spread noxious weeds directly or create suitable habitat by removing native vegetation and disturbing the soil. BLM activities should limit road use and the exposure of mineral soils where weeds may become established. Roads, trails, and rivers serve as the primary routes for noxious weed species expansion. Special care should be taken to safeguard ecologically intact areas that are not currently infested.

### **Coordinate, Minimize, and Mitigate Impacts to Sage-grouse and other resources**

As stated in our previous comments, we believe that an integral part of conserving and recovering sage-grouse will be relying on guidance from local and national stakeholder groups. As such, we recommend that the BLM consult with national, state and regional conservation organizations that have expressed interest in this project. In addition, we recommend that the BLM coordinate with the US Fish and Wildlife Service, local Sage-grouse Working Groups, the Idaho Department of Fish and Game, and the Governor's Office of Species Conservation, and, of course, the project proponents.

### **Additional comments on predation**

The FEIS describes a concern that, if a transmission line results in increased numbers of raptors in the NCA, then the increased predation could deplete the Piute ground squirrel prey population and result in a crash of the raptor population. While we appreciate the concern for the Piute ground squirrels, this scenario is not reflected in the literature for this area. In fact, the Idaho Department of Fish and Game has no limits or restrictions on hunting Piute ground squirrels within the NCA, except within areas of the NCA that have been closed for human safety reasons.

However, there is a real concern that if a transmission line is constructed in sage-grouse habitat, increased numbers of raptors and corvids will adversely impact sage-grouse productivity. Sage-grouse have relatively lower reproductive rates than Piute ground squirrels and populations can be affected by artificially increased predator numbers. For example, the Idaho Department of Fish and Game has very strict bag limits in place for sage-grouse. The 2012 sage-grouse season was September 15-21 with a one-bird daily limit and two in possession. The Idaho Conservation League is not advocating any route through the NCA, but points out that if the BLM is going to use the argument that raptors may decrease Piute ground squirrel populations, the BLM must also apply this same logic within sage-grouse habitat where these concerns are in fact supported by the literature.

### **Routes through the Morley Nelson Snake River Birds of Prey NCA**

As mentioned in our group comments submitted by The Wilderness Society, the Idaho Conservation League and the Audubon Society, we believe that the BLM has failed to conduct the proper analysis on whether a transmission line is compatible with NCA legislation and meets the

required enhancement provisions. As such, the Idaho Conservation League has significant concerns about all routes through the NCA. However, there are routes which are of extreme concern because of the significant damage to NCA resources. For example, route 9G would cross both the Snake River near Sinker Creek and Sinker Creek canyon. This route is entirely incompatible with both raptors and visual resources.

### **Need for redundant transmission lines**

Given changes in IRP projections, it is reasonable for the BLM to reexamine the need for two separate lines. Updated demand projections may show that a single line is sufficient. We also recommend a closer examination of the proposed separation between transmission lines. New recognition of the environmental impacts of transmission line corridors should be brought to the regulating body's attention to reconsider decreasing the separation distance between lines, particularly where resource conflicts are high.

### **RMP Protest**

On May 28, the Idaho Conservation League submitted a protest regarding specific RMP amendments. The concerns expressed in this protest also apply to the FEIS and we reiterate them here.

### **Name of Resource Management Plan Amendments being protested:**

Pocatello RMP  
 Cassia RMP  
 Twin Falls RMP  
 Jarbidge RMP  
 Morley Nelson Snake River Birds of Prey RMP  
 Bruneau RMP  
 Kuna MFP  
 Caribou-Targhee National Forest  
 Sawtooth National Forest

### **Chapter, Section, Page and/or Map of the parts of the plan being protested**

#### *Pocatello RMP*

The current Pocatello RMP prohibits new transmission towers within 2 miles of occupied sage-grouse leks and an amendment is proposed that would waive this stipulation. Although the route through the Pocatello Resource Management Area attempts to minimize impacts by collocating the line with a preexisting project, these impacts still cannot fully be avoided. The BLM needs to craft the amendment such that any impacts to sage-grouse are also minimized through additional design features such as limits on the season and timing of construction activities and by developing a mitigation program to calculate and offset the impacts. The mitigation program needs to factor in high priority areas for restoration and conservation, the proper ratio of habitat improvements, the probability of success for restoration efforts, and the lag time before these habitat improvements are realized.

We note that the Pocatello RMP is supposed to manage sage-grouse habitat consistent with the Conservation Plan for Greater Sage-grouse in Idaho. The Conservation Plan specifically recommends developing off-site mitigation for unavoidable impacts:

*Off-site mitigation should be employed to offset unavoidable alteration and losses of sage-grouse habitat. Off-site mitigation should focus on acquiring, restoring, or improving habitat within or adjacent to occupied habitats and ideally should be designed to complement local sage-grouse conservation priorities.*

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

Additional resources to be mitigated include other wildlife, winter range, bald eagle nests, sensitive areas and visual resources.

*Cassia RMP Amendments FEIS F.1-28*

We oppose the amendment because the scenic values in the Goose Creek Travel Zone are not being adequately protected or offset. While it is difficult to mitigate for impaired visual resources, the BLM should consider expanding and strengthening protections for other areas within the Cassia area so that other incursions will not be allowed.

In addition, segments of the route through the BLM Burley Field Office are in an Important Bird Area for sage-grouse and the mitigation measures for such incursions are not adequately described.

*Twin Falls MFP Amendments FEIS F. 1-31*

*Jarbidge RMP FEIS F.1-37*

We oppose the Twin Falls MFP Amendments FEIS F.1-31 and the Jarbidge RMP, FEIS F.1-37 because of impacts to several sensitive environmental areas are not adequately avoided, minimized or mitigated. Specifically, the amendments would allow impacts to Salmon Falls Creek Canyon Area of Critical Environmental Concern (ACEC), eligible Wild and Scenic River, Outstanding Natural Area (ONA), Special Recreation Management Area (SRMA) and VRM direction without properly offsetting these impacts. Any amendments to these areas need additional strengthening to ensure that protections for these values will increase so there is no net loss in terms of protections. Options to consider include expanding these natural areas, increasing the level of protections within these natural areas and developing additional design features to minimize and mitigate for impacts.

We are also concerned about impacts to paleontological resources (Sugar Bowl, Glens Ferry and McGinnis Ranch) and Oregon Trail ruts by amending the RMP to allow the transmission line to be constructed in prohibited areas. F.1-43. If any amendment is considered here, the BLM needs to build additional sideboards so that the special geologic and historic resources of these area are awarded high protections from future incursions or that the BLM receive additional resources for research and interpretation.

*Snake River Birds of Prey National Conservation Area*

We are concerned about the amendments regarding the addition of new utility corridors, incursions into the few remaining non-motorized areas, the adverse impacts to visual resources such as Sinker Creek Canyon and negative effects to special status species such as slickspot peppergrass, and signature species such as prairie falcons, golden eagles and other raptors. SRBOP F.1-51. We are particularly concerned about allowing motorized intrusions into the Halverson Bar and Cover non-motorized areas. These amendments should either be struck or significantly modified to address these concerns.

In addition, the BLM needs to ensure that the Gateway West Transmission line is actually compatible with the NCA and that the project will ultimately enhance raptor habitat. While we

appreciate the concept of ratios of up to 5:1 for restoration of shrub and grasslands, the BLM needs to further develop this proposal to avoid, minimize and mitigate impacts. Any mitigation ratio needs to factor in the success rate of vegetation restoration efforts, the rate of habitat loss due to wildfire, the lag time before any actual mitigation is realized. The actual ratios may be much greater. Additional mitigation measures such as inventorying cultural resources, hiring additional law enforcement and enhancing scientific and education efforts need to be further developed before any amendments are considered. As a form of partial mitigation, the BLM should examine the feasibility of permanently expanding the NCA in key areas by acquiring private property from willing sellers.

We are also concerned that the southern routes will have substantive negative effects on sage-grouse and that developing these routes may not be feasible with sage-grouse protections.

#### *Snake River Special Resource Management Area*

Amendments are also being considered that would affect the Snake River Special Resource Management Area that would simply reduce the SRMA designation by 6,400 acres. F.1-56. The BLM somehow states that recreational goals for the Oregon National Historic Trail and C.J. Strike SRMAs would not be impacted because these lands would have been removed from designation, but certainly the amount of land emphasized for recreation and the quality of that recreation would be affected.

#### *Bruneau RMP*

We are concerned about the cumulative effects of the lowering the visual standards for the Bruneau RMP because additional infrastructure elements could be considered and would have an improved ability to be permitted. F.1-65.

#### *Kuna MFP*

Allowing amendments to the Kuna MFP could adversely impact wildlife, vegetation, soils and cultural resources. F.1-71. We are particularly concerned about impacts to water quality, fisheries, elk winter range, and raptors. We believe that this amendment should be rewritten to ensure that these other resources are properly protected and not impaired.

#### *Caribou-Targhee National Forest*

The proposed Forest Plan amendments regarding snag protections for cavity nesters needs to be offset by increasing protections for cavity nesters in other areas. One possibility would be expanding the areas off-limits to firewood collectors where such trees are at risk. F.2-13. Similarly, the amendment affecting goshawks, snags, visuals, Aquatic Influence Zones, woodpeckers, semi-primitive recreational should contain additional mitigation measures. F.2-14-18.

#### *Sawtooth National Forest*

The amendments for visual resources should also be balance with increased protections for other areas on the Forest. F.2-28

### **The following issues are common issues of concern in all of the relevant amendments:**

#### *NEPA analysis*

These amendments have not yet gone through the full NEPA process. The analysis of the effects of these amendments is tiered to the Gateway West Final Environmental Impact Statement which is

open for public comment until June 28, 2013. The BLM is still accepting public comments, responding to comments, refining alternatives and no final Record of Decision has been issued. It is very helpful when assessing such projects to incorporate RMP amendments into the EIS process so the actual impacts are fully analyzed and disclosed. Closing the protest period on the RMP amendments before the completion of the full analysis is an inappropriate segmentation of NEPA. We are particularly concerned because several of these amendments were not proposed in the original DEIS so the public has not had an adequate opportunity to review them.

*Cumulative effects*

The BLM amendments underestimate the likelihood of additional infrastructure projects utilizing the same ROW, leading to increasing impacts to other resources. The BLM needs to adopt additional protections for these remaining resources to ensure that they are properly managed and maintained.

*Sage-grouse*

We are particularly concerned about impacts to sage-grouse and ask that the BLM craft any amendments to avoid, minimize and mitigate impacts. Sage-grouse were recently determined to warrant full protections under the Endangered Species Act but were precluded by higher priorities. One of the top threats to sage-grouse are infrastructure projects:

**Disturbance to important seasonal habitats:** Human activity and noise associated with machinery or heavy equipment in proximity to occupied leks or other important seasonal habitats may disturb sage-grouse.

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-125

The Conservation Plan also recommends developing off-site mitigation for unavoidable impacts:

*Off-site mitigation should be employed to offset unavoidable alteration and losses of sage-grouse habitat. Off-site mitigation should focus on acquiring, restoring, or improving habitat within or adjacent to occupied habitats and ideally should be designed to complement local sage-grouse conservation priorities.*

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

With regard to activities with the potential to disturb sage-grouse, the Conservation Plan offers this recommendation:

*Apply seasonal-use restrictions (see Human Disturbance Section 4.3.5) on activities associated with the exploration, operations, and maintenance of mines, gravel pits, or landfills, including those associated with supporting infrastructure.*

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

The BLM should consult closely with the Idaho Department of Fish and Game and the Local Sage-grouse Working Group to determine appropriate measures to avoid, minimize and mitigate impacts.

The BLM, when considering mitigation requirements for adverse sage-grouse effects, needs to consider both the appropriate spatial scale for considering effects of proposed management activities on sage-grouse and their habitat as well as the adverse impacts of invasive exotic plant species, and the increased threat of wildfire.

Regarding the spatial scale of proposed management activity effects on sage-grouse and habitat, the BLM should recognize that sage-grouse can require movements of tens of miles between required habitats. Thus, a significant challenge in managing and conserving sage-grouse populations is the fact that they depend upon different types of habitat for each stage of their annual cycle (Connelly et al. 2009), and upon the ability to move between the different habitats throughout the year. Each seasonal habitat must provide the necessary protection from predators, required food resources, and thermal needs for the specific stage of the annual cycle. Breeding-related events and season habitat needs are described below:

- 1) Late brood-rearing period in July through September. Late brood-rearing is focused in wetter areas, especially riparian and spring-associated meadows closely associated with nearby sagebrush.
- 2) Movement to winter habitat.
- 3) Occupation of winter habitat from November through February. The primary requirement of winter habitat is sagebrush exposure above the snow, and is generally characterized by dense sagebrush, often including areas of wind-swept ridges.
- 4) Lekking, which may begin as early as late February, and may extend into May. Lekking requires open expanses of sagebrush within a large area of sagebrush cover. Lek persistence has been affected by disturbance activities within 3.1, 11.2, and 33.5 mile radii (Swenson et al. 1987, Johnson et al. 2009, Knick and Hanser 2009).
- 5) Female movement to nesting sites and nesting between March and June. Nesting females commonly move 3-5 miles or farther from the lekking site. Females select areas with more sagebrush canopy than is generally available in the surrounding landscape (Holloran et al. 2005, Hagen et al. 2007)
- 6) Hatching and early brood-rearing in May and June. Females continue to use relatively dense stands of sagebrush for earliest brood-rearing habitat if native forbs and insects are available. When vegetation desiccates, females and broods move to wetter areas in search of the native forbs and insects required by chicks.

Knick and Hansen (2009) analyzed factors in lek persistence of over 5,000 leks. They used three radii to test for landscape disturbance effects on lek persistence – radii of 3.1 miles, 11.2 miles, and 33.5 miles. Previous studies had shown behavioral effects on sage-grouse related to sagebrush disturbance at the 33.5 mile radius (Swenson et al. 1987, Leonard et al. 2000). Knick and Hansen’s study showed adverse effects on lek persistence from wildfire at the 33.5 mile radius.

Avoiding and minimizing human footprint at a 3.1 mile radius from leks is an important first step in protecting sage-grouse populations, but sage-grouse could be engaged in nesting and brood-rearing, in addition to lekking, for much of the planned construction activity period. Recent studies have shown that only 64% of nesting sites occur within 3.1 miles of leks, but 80% of nests are found within five miles, and 20% of nests occur at distances greater than five miles from leks. Nest success is also greater the farther a nest occurs from a lek, indicating a disproportionate potential importance of these more important nests for population recruitment. Aldridge and Boyce (2007) and Doherty et al. (2010) identify a buffer of 6.2 miles to protect important nesting and brood-rearing habitats.

Given the considerations of year-round habitat use and known impacts of human activity on sage-grouse populations, additional mitigation efforts will be needed for disturbance to sagebrush near lekking areas; disturbance and loss of sagebrush and native forbs used for early brood-rearing; and disturbance and impacts to hydrologic function of wet areas used for early to late brood-rearing. A conservative estimate for the nesting and brood rearing area affected will include buffers with radii of 6.2 miles around known leks. Mitigation specifics could be based on a mitigation template recently created for the Lesser Prairie Chicken, a ground-nesting species facing similar threats (Horton et al. 2010).

Regarding adverse impacts from invasive exotic species, including increased wildfire risk, the BLM needs to address concerns about cheatgrass establishment and spread. Once cheatgrass becomes established in a sagebrush community, its effects cascade in synergistic feedbacks toward increasing dominance resulting from increased fire disturbance, loss of perennial species and their seed banks, and decreased stability and resilience to changes in the surrounding landscape (Miller 2009).

Effective cheatgrass prevention after disturbance is most likely with the establishment of a healthy native vegetation community. The BLM needs to identify the baseline vegetation conditions and the desired post-reclamation plant community, and require post-project monitoring of the reclaimed areas and repeated revegetation treatments as necessary until the desired vegetation is established. The footprint for areas to be revegetated and monitored should include a 5m buffer around linear disturbances such as roads. Suggested monitoring protocols could include Interpreting Indicators of Rangeland Health (IIRH, Duniway 2010).

---

**From:** jmclain@blm.gov on behalf of Gateway\_West\_Trans\_Line, BLM\_WY  
[blm\_wy\_gateway\_west\_trans\_line@blm.gov]  
**Sent:** Tuesday, July 02, 2013 1:03 PM  
**To:** blm@gwcomment.com  
**Subject:** Fwd: ICL comments on Gateway West Transmission Line Project FEIS

----- Forwarded message -----

**From:** Michele Crist <[mcrist@gmail.com](mailto:mcrist@gmail.com)>  
**Date:** Sat, Jun 29, 2013 at 10:40 AM  
**Subject:** Re: ICL comments on Gateway West Transmission Line Project FEIS  
**To:** John Robison <[jrobison@idahoconservation.org](mailto:jrobison@idahoconservation.org)>  
**Cc:** [wgeorge@blm.gov](mailto:wgeorge@blm.gov), [Gateway\\_West\\_WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov)

Thanks John!! :)

On Jun 28, 2013 9:21 PM, "John Robison" <[jrobison@idahoconservation.org](mailto:jrobison@idahoconservation.org)> wrote:



---

June 28, 2013

Gateway West FEIS Comments

BLM, Gateway West Project

P.O. Box 20879

Cheyenne, WY 82003

[Gateway\\_West\\_WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov)

**Re: Gateway West Transmission Line Project FEIS Comments**

Dear Bureau of Land Management:

Thank you for the opportunity to comment on the FEIS for the Gateway West Transmission Line Project. Since 1973, the Idaho Conservation League has had long history of involvement with both habitat protection and regional energy issues. As Idaho's largest statewide conservation organization, we represent over 25,000 supporters who want to ensure that energy development and infrastructure are consistent with natural resource protection.

Investing in properly sited transmission systems can protect the environment, promote economic development, diversify the power system and keep the region economically competitive. However, the impact of these transmission systems largely depends on the location of the project, the specific design of the final alignment, and mitigation actions.

We are particularly concerned about construction of transmission facilities within or adjacent to habitat for sage-grouse. We urge the BLM to select an alternative in previously developed areas or along existing corridors to avoid impacts to sage-grouse. Where there still may be impacts to sage-grouse, these impacts should be avoided through design features and mitigated by utilizing Idaho's mitigation framework for sage-grouse.

We are also concerned that all routes impact the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA) to some degree. However, as mentioned in separate letters, the BLM has thus far failed to conduct the required compatibility and enhancement analysis needed to determine if any of the transmission line routes are consistent with the NCA's regulations.

We have submitted comments throughout project development and have also submitted a protest on the proposed RMP amendments for this project. We have also submitted joint comments with The Wilderness Society and the Audubon Society. Please incorporate all our previously submitted comments and our RMP protest into the project record. Our specific comments are attached below.

We support the proposed phased decision approach as the best way to further improve routing decisions. We look forward to working with the BLM, additional federal agencies and interested parties to site a project that preserves and enhances Idaho's sage-grouse and conservation areas and provides the needed utility services to Idahoans. Please keep us on the mailing list for this project.

Sincerely,



John Robison

Public Lands Director

[jrobison@idahoconservation.org](mailto:jrobison@idahoconservation.org)

[\(208\) 345-6942 x 13](tel:(208)345-6942x13)

**Idaho Conservation League scoping comments on the Gateway West Transmission Line Project FEIS**

**Phased Decision Approach**

While we appreciate the additional information provided in the FEIS, we are concerned that members of the public will not have an opportunity to both submit comments and review a draft document and assess how these concerns are being addressed. We are supportive, however, of the proposed phased decision approach which will allow the BLM to proceed with a decision for certain routes while allowing additional time where needed to find the most appropriate location, to further refine mitigation measures, and to make a more informed and supportable decision.

**Sage-grouse**

*Conservation Status*

There is significant concern regarding the long-term viability of greater sage-grouse populations. The US Fish and Wildlife Service has determined that sage-grouse are warranted but precluded under the Endangered Species Act and will be revisiting this determination in 2015. Greater sage-grouse suffer from the loss, degradation, and fragmentation of habitat throughout the west. It is estimated that only 50-60% of the original sagebrush steppe habitat remains in the west (West 2000), and in 2007, the American Bird Conservancy listed sagebrush as the most threatened bird habitat in the continental United States.<sup>[1]</sup> As such, we cannot stress enough how important it is for agencies to consider impacts to sage-grouse and for public land managers to conserve existing habitat and actively restore altered sagebrush steppe habitats.

*Impacts of transmission lines on sage-grouse*

As stated in our previous comments, we are particularly concerned about impacts to sage-grouse and ask that the BLM avoid, minimize and mitigate impacts. One of the top threats to sage-grouse is infrastructure projects:

Disturbance to important seasonal habitats: Human activity and noise associated with machinery or heavy equipment in proximity to occupied leks or other important seasonal habitats may disturb sage-grouse.

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-125

Depending on location and design specifics, the construction of transmission lines within sage-grouse habitat constitutes “nonlinear infrastructure” under the *Conservation Plan for the Greater Sage-grouse in Idaho* (Idaho Sage-Grouse Advisory Committee 2006). Nonlinear infrastructure is defined as “human-made features on the landscape that provide or facilitate transportation, energy, and communications activities...including wind energy facilities.”<sup>[2]</sup> The *Conservation Plan* lists infrastructure such as this as the second greatest threat for sage grouse, with wildfires as the greatest risk. Road construction and use associated with transmission line maintenance represents high risk for loss of lek areas, nesting locations, and brood-rearing habitats (Braun 1986, Connelly et al. 2004).<sup>[3]</sup><sup>[4]</sup> In addition, sage-grouse have been shown to avoid transmission lines, presumably because of potential predation. Ellis (1985) found a 72% decline in the average of males on leks and a 65% increase in predation efforts involving raptors following the construction of a transmission line within 200 m of an active sage-grouse lek in northeastern Utah.<sup>[5]</sup> Sage-grouse lek attendance dropped significantly following power line construction within 3 miles of leks in California.<sup>[6]</sup> In a comprehensive study of ecological requirements, sage-grouse were extirpated in areas where power line densities were above 0.20 km/km<sup>2</sup> and sage-grouse habitat was ranked highest where powerlines were less than 0.06 km/km<sup>2</sup>.<sup>[7]</sup>

Furthermore, the Governor of Idaho has submitted the State of Idaho’s Alternative<sup>[8]</sup> for incorporation into the National Greater Sage-Grouse Planning Strategy. This alternative describes additional restoration efforts and additional regulatory mechanisms to stabilize and restore sage-grouse populations, protect sage-grouse habitat and to preclude the need to list sage-grouse. This plan is being analyzed by the BLM as an alternative for the RMP amendments required by law and which the USFWS is going to review in 2015. The Idaho Conservation League served as a member of the Governor’s Sage-grouse Task Force which drafted this plan. A key component of this plan is to avoid placing large-scale infrastructure projects such as 500kV transmission lines within core and important sage-grouse habitat as defined by the plan due to the negative effects that transmission lines have on sage-grouse.

Regarding the spatial scale of proposed management activity effects on sage-grouse and habitat, the BLM should recognize that sage-grouse can require movements of tens of miles between required habitats. Thus, a significant challenge in managing and conserving sage-grouse populations is the fact that they depend upon different types of habitat for each stage of their annual cycle (Connelly et al. 2009), and upon the ability to move between the different habitats throughout the year. Each seasonal habitat must provide the necessary protection from predators, required food resources, and thermal needs for the specific stage of the annual cycle. Breeding-related events and season habitat needs are described below:

- 1) Late brood-rearing period in July through September. Late brood-rearing is focused in wetter areas, especially riparian and spring-associated meadows closely associated with nearby sagebrush.
- 2) Movement to winter habitat.
- 3) Occupation of winter habitat from November through February. The primary requirement of winter habitat is sagebrush exposure above the snow, and is generally characterized by dense sagebrush, often including areas of wind-swept ridges.
- 4) Lekking, which may begin as early as late February, and may extend into May. Lekking requires open expanses of sagebrush within a large area of sagebrush cover. Lek persistence has been affected by disturbance activities within 3.1, 11.2, and 33.5 mile radii (Swenson et al. 1987, Johnson et al. 2009, Knick and Hanser 2009).
- 5) Female movement to nesting sites and nesting between March and June. Nesting females commonly move 3-5 miles or farther from the lekking site. Females select areas with more sagebrush canopy than is generally available in the surrounding landscape (Holloran et al 2005, Hagen et al. 2007)
- 6) Hatching and early brood-rearing in May and June. Females continue to use relatively dense stands of sagebrush for earliest brood-rearing habitat if native forbs and insects are available. When vegetation desiccates, females and broods move to wetter areas in search of the native forbs and insects required by chicks.

Given the considerations of year-round habitat use and known impacts of human activity on sage-grouse populations, particular care needs to be taken to avoid disturbance near lekking areas, disturbance and loss of sagebrush and native forbs used for early brood-rearing, and disturbance and impacts to hydrologic function of wet areas used for early to late brood-rearing.

Avoiding human footprint at a 3.1 mile radius from leks is an important first step in protecting sage-grouse populations, but sage-grouse could be engaged in nesting and brood-rearing, in addition to lekking, for much of the planned construction activity period. Recent studies have shown that only 64% of nesting sites occur within 3.1 miles of leks, but 80% of nests are found within five miles, and 20% of nests occur at distances greater than five miles from leks. Nest success is also greater the farther a nest occurs from a lek, indicating a disproportionate potential importance of these more important nests for population recruitment.

Based on the habitat guidelines for sage-grouse management presented in Connelly et al. (2000),<sup>[9]</sup> and others, we recommend siting the transmission line far enough from leks and other sage-grouse habitat to avoid negative effects. Aldridge and Boyce (2007) and Doherty et al. (2010) identify a buffer of 6.2 miles to protect important nesting and brood-rearing habitats.

Currently, several potential segments go through or come too close to sage-grouse habitat as defined by the State of Idaho's Alternative. Routes that may affect Core or Important Habitat Zones, even indirectly, should not be selected. Routes that may affect General Habitat Zones should be fully mitigated through the State of Idaho's Mitigation Framework. These include the following segments:

- Segment 4 at location 4e where the line goes through Important Habitat Zone and subsequently General Habitat Zones northwest of Bear Lake
- Segment 5B and the routes to the south and west of 5B
- Segments 6 which all appear to go through the General Habitat Zone
- Segment 7K or the Stateline segment which goes through the Important Habitat Zone a
- Segment 7 northwest of Albion which appears to go through General Habitat Zone
- Segment 8 north of Midpoint which appears to go through General Habitat Zone
- The other routes south of Segment 8 near Castleford which go through Important and General Habitat Zones
- The BLM preferred alternative (southern most route for Segment 8) which goes through or is adjacent to Important and General Habitat Zones
- Segment 9E which goes through or is adjacent to Important and General Habitat Zones

### *Minimizing impacts*

Once routes with major impacts have been avoided, the BLM should require design features to ensure that any side effects or minor impacts are minimized through design features. With regard to activities with the potential to disturb sage-grouse, the Conservation Plan offers this recommendation:

*Apply seasonal-use restrictions (see Human Disturbance Section 4.3.5) on activities associated with the exploration, operations, and maintenance of mines, gravel pits, or landfills, including those associated with supporting infrastructure.*

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

When considering design features to minimize adverse effect to sage-grouse, the BLM needs to consider both the appropriate spatial scale for considering effects of proposed management activities on sage-grouse and their habitat as well as the adverse impacts of invasive exotic plant species, and the increased threat of wildfire.

Knick and Hansen (2009) analyzed factors in lek persistence of over 5,000 leks. They used three radii to test for landscape disturbance effects on lek persistence – radii of 3.1 miles, 11.2 miles, and 33.5 miles. Previous studies had shown behavioral effects on sage-grouse related to sagebrush disturbance at the 33.5 mile radius (Swenson et al. 1987, Leonard et al. 2000). Knick and Hansen’s study showed adverse effects on lek persistence from wildfire at the 33.5-mile radius. As such, the design features to minimize impacts should be based on both the quality of the habitat adjacent to the transmission line, the topography of that habitat, the impacts to that habitat and to sage-grouse, and the specific use of that habitat by sage-grouse (lekking, nesting and brood rearing, etc).

### *Mitigation*

Where impacts have already been avoided and minimized, the Conservation Plan also recommends developing off-site mitigation for any remaining impacts:

*Off-site mitigation should be employed to offset unavoidable alteration and losses of sage-grouse habitat. Off-site mitigation should focus on acquiring, restoring, or improving habitat within or adjacent to occupied habitats and ideally should be designed to complement local sage-grouse conservation priorities.*

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

A key component of the Governor’s Sage-Grouse Conservation Plan is the use of a Mitigation Framework developed by the State Sage-Grouse Advisory Committee. This framework is based on the assumption that impacts will be first avoided, then minimized and finally mitigated.

The mitigation framework requires the quantification of both direct *and* indirect impacts. The USFWS’s determined that transmission lines may cause a host of adverse indirect effects to sage-grouse, including

increased predation, lower recruitment rates, habitat fragmentation, habitat degradation from invasive species, and impacts from electromagnetic fields.<sup>[10]</sup> However, the Habitat Equivalency Analysis focused only on direct impacts when calculating the degree of mitigation needed. The BLM should utilize the phased decision approach to expand the analysis to include indirect effects when making mitigation calculations. If it would be helpful, we are available to describe the Mitigation Framework in more detail.

The BLM should start by considering the indirect effects within a standard, conservative distance from the transmission line and adjust this distance depending on the quality of the habitat adjacent to the transmission line, the topography of that habitat, the impacts to that habitat and to sage-grouse, and the specific use of that habitat by sage-grouse (lekking, nesting and brood rearing, etc). The mitigation calculations need to factor in the success rate of vegetation restoration efforts, the rate of habitat loss due to wildfire, the lag time before any actual mitigation is realized. In our determination, fence marking/modification, as described in the Habitat Equivalency Analysis, is not an appropriate form of mitigation for indirect effects related to this project.

The BLM should base its mitigation program on the recently released Regional Mitigation Manual (see Instruction Memorandum No. 2013-142). The BLM has full authority to require mitigation for indirect effects to sage-grouse. Failure to do so would represent a notable lack of the regulatory mechanism needed to prevent the listing of this species.

Depending on the nature and degree of these impacts, an offsite mitigation program could be available to direct funding from the project proponent to high-priority restoration areas. The Governor's Plan calls for restoration within Core Habitat Areas where the habitat has been degraded but can be restored. This mitigation program should not be available for projects within Core Habitat Zones where infrastructure should not be located (allowing for limited exceptions).

#### **Other species**

Portions of the project area also contain habitat that is crucial to sagebrush steppe obligate species such as sage-grouse, pygmy rabbits, sage thrasher, sage sparrow, and others. Such habitat has been severely fragmented and reduced through a variety of land management practices, including road construction and development of rights of way corridors. Big game may also be adversely affected by project development. As with sage-grouse, the BLM should minimize negative impacts by avoiding areas of critical habitat for species of concern, establishing siting criteria to minimize soil disturbance and erosion on steep slopes, utilizing visual resource management guidelines, avoiding significant historic and cultural resource sites, and mitigating conflicts with other uses of the public lands.

#### **Roads and Right of Way Corridors**

Previous management activities have resulted in extensive road and right-of-way densities throughout our public lands. This density compromises the ability to support wildlife and fish by promoting further human disturbance, fragmenting habitat, accelerating sedimentation, spreading noxious weeds, and encouraging Off Road Vehicle use. Furthermore, there is a positive correlation between roads, even temporary ones, and

human-caused wildfire ignitions. We recommend that the BLM evaluate the road and transmission network to avoid impacts to sage-grouse habitat where feasible, and close or decommission unneeded roads and corridors as part of the overall mitigation program.

### **Off Road Vehicle Use**

The devastating impacts of improper Off Highway Vehicles (OHVs) on terrestrial and aquatic ecosystems are well established. Improper OHV use degrades water quality, spreads noxious weeds, fragments habitat, disturbs wildlife, increases fires, and displaces non-motorized recreationists. The BLM needs to take additional steps to manage and monitor OHV use along transmission corridors.

### **Noxious Weeds**

The most cost-effective way to deal with noxious weeds is to protect strongholds of native vegetation from activities which either spread noxious weeds directly or create suitable habitat by removing native vegetation and disturbing the soil. BLM activities should limit road use and the exposure of mineral soils where weeds may become established. Roads, trails, and rivers serve as the primary routes for noxious weed species expansion. Special care should be taken to safeguard ecologically intact areas that are not currently infested.

### **Coordinate, Minimize, and Mitigate Impacts to Sage-grouse and other resources**

As stated in our previous comments, we believe that an integral part of conserving and recovering sage-grouse will be relying on guidance from local and national stakeholder groups. As such, we recommend that the BLM consult with national, state and regional conservation organizations that have expressed interest in this project. In addition, we recommend that the BLM coordinate with the US Fish and Wildlife Service, local Sage-grouse Working Groups, the Idaho Department of Fish and Game, and the Governor's Office of Species Conservation, and, of course, the project proponents.

### **Additional comments on predation**

The FEIS describes a concern that, if a transmission line results in increased numbers of raptors in the NCA, then the increased predation could deplete the Piute ground squirrel prey population and result in a crash of the raptor population. While we appreciate the concern for the Piute ground squirrels, this scenario is not reflected in the literature for this area. In fact, the Idaho Department of Fish and Game has no limits or restrictions on hunting Piute ground squirrels within the NCA, except within areas of the NCA that have been closed for human safety reasons.

However, there is a real concern that if a transmission line is constructed in sage-grouse habitat, increased numbers of raptors and corvids will adversely impact sage-grouse productivity. Sage-grouse have relatively lower reproductive rates than Piute ground squirrels and populations can be affected by artificially increased

predator numbers. For example, the Idaho Department of Fish and Game has very strict bag limits in place for sage-grouse. The 2012 sage-grouse season was September 15-21 with a one-bird daily limit and two in possession. The Idaho Conservation League is not advocating any route through the NCA, but points out that if the BLM is going to use the argument that raptors may decrease Piute ground squirrel populations, the BLM must also apply this same logic within sage-grouse habitat where these concerns are in fact supported by the literature.

### **Routes through the Morley Nelson Snake River Birds of Prey NCA**

As mentioned in our group comments submitted by The Wilderness Society, the Idaho Conservation League and the Audubon Society, we believe that the BLM has failed to conduct the proper analysis on whether a transmission line is compatible with NCA legislation and meets the required enhancement provisions. As such, the Idaho Conservation League has significant concerns about all routes through the NCA. However, there are routes which are of extreme concern because of the significant damage to NCA resources. For example, route 9G would cross both the Snake River near Sinker Creek and Sinker Creek canyon. This route is entirely incompatible with both raptors and visual resources.

### **Need for redundant transmission lines**

Given changes in IRP projections, it is reasonable for the BLM to reexamine the need for two separate lines. Updated demand projections may show that a single line is sufficient. We also recommend a closer examination of the proposed separation between transmission lines. New recognition of the environmental impacts of transmission line corridors should be brought to the regulating body's attention to reconsider decreasing the separation distance between lines, particularly where resource conflicts are high.

### **RMP Protest**

On May 28, the Idaho Conservation League submitted a protest regarding specific RMP amendments. The concerns expressed in this protest also apply to the FEIS and we reiterate them here.

### **Name of Resource Management Plan Amendments being protested:**

Pocatello RMP

Cassia RMP

Twin Falls RMP

Jarbridge RMP

Morley Nelson Snake River Birds of Prey RMP

Bruneau RMP

Kuna MFP

Caribou-Targhee National Forest

Sawtooth National Forest

**Chapter, Section, Page and/or Map of the parts of the plan being protested**

*Pocatello RMP*

The current Pocatello RMP prohibits new transmission towers within 2 miles of occupied sage-grouse leks and an amendment is proposed that would waive this stipulation. Although the route through the Pocatello Resource Management Area attempts to minimize impacts by collocating the line with a preexisting project, these impacts still cannot fully be avoided. The BLM needs to craft the amendment such that any impacts to sage-grouse are also minimized through additional design features such as limits on the season and timing of construction activities and by developing a mitigation program to calculate and offset the impacts. The mitigation program needs to factor in high priority areas for restoration and conservation, the proper ratio of habitat improvements, the probability of success for restoration efforts, and the lag time before these habitat improvements are realized.

We note that the Pocatello RMP is supposed to manage sage-grouse habitat consistent with the Conservation Plan for Greater Sage-grouse in Idaho. The Conservation Plan specifically recommends developing off-site mitigation for unavoidable impacts:

*Off-site mitigation should be employed to offset unavoidable alteration and losses of sage-grouse habitat. Off-site mitigation should focus on acquiring, restoring, or improving habitat within or adjacent to occupied habitats and ideally should be designed to complement local sage-grouse conservation priorities.*

-Conservation Plan for the Greater Sage-grouse in Idaho, p. 4-126

Additional resources to be mitigated include other wildlife, winter range, bald eagle nests, sensitive areas and visual resources.

*Cassia RMP Amendments FEIS F.1-28*

We oppose the amendment because the scenic values in the Goose Creek Travel Zone are not being adequately protected or offset. While it is difficult to mitigate for impaired visual resources, the BLM should consider

expanding and strengthening protections for other areas within the Cassia area so that other incursions will not be allowed.

In addition, segments of the route through the BLM Burley Field Office are in an Important Bird Area for sage-grouse and the mitigation measures for such incursions are not adequately described.

*Twin Falls MFP Amendments FEIS F. 1-31*

*Jarbidge RMP FEIS F.1-37*

We oppose the Twin Falls MFP Amendments FEIS F.1-31 and the Jarbidge RMP, FEIS F.1-37 because of impacts to several sensitive environmental areas are not adequately avoided, minimized or mitigated. Specifically, the amendments would allow impacts to Salmon Falls Creek Canyon Area of Critical Environmental Concern (ACEC), eligible Wild and Scenic River, Outstanding Natural Area (ONA), Special Recreation Management Area (SRMA) and VRM direction without properly offsetting these impacts. Any amendments to these areas need additional strengthening to ensure that protections for these values will increase so there is no net loss in terms of protections. Options to consider include expanding these natural areas, increasing the level of protections within these natural areas and developing additional design features to minimize and mitigate for impacts.

We are also concerned about impacts to paleontological resources (Sugar Bowl, Glens Ferry and McGinnis Ranch) and Oregon Trail ruts by amending the RMP to allow the transmission line to be constructed in prohibited areas. F.1-43. If any amendment is considered here, the BLM needs to build additional sideboards so that the special geologic and historic resources of these area are awarded high protections from future incursions or that the BLM receive additional resources for research and interpretation.

*Snake River Birds of Prey National Conservation Area*

We are concerned about the amendments regarding the addition of new utility corridors, incursions into the few remaining non-motorized areas, the adverse impacts to visual resources such as Sinker Creek Canyon and negative effects to special status species such as slickspot peppergrass, and signature species such as prairie falcons, golden eagles and other raptors. SRBOP F.1-51. We are particularly concerned about allowing motorized intrusions into the Halverson Bar and Cover non-motorized areas. These amendments should either be struck or significantly modified to address these concerns.

In addition, the BLM needs to ensure that the Gateway West Transmission line is actually compatible with the NCA and that the project will ultimately enhance raptor habitat. While we appreciate the concept of ratios of up to 5:1 for restoration of shrub and grasslands, the BLM needs to further develop this proposal to avoid, minimize and mitigate impacts. Any mitigation ratio needs to factor in the success rate of vegetation restoration efforts, the rate of habitat loss due to wildfire, the lag time before any actual mitigation is realized. The actual ratios may be much greater. Additional mitigation measures such as inventorying cultural resources,

hiring additional law enforcement and enhancing scientific and education efforts need to be further developed before any amendments are considered. As a form of partial mitigation, the BLM should examine the feasibility of permanently expanding the NCA in key areas by acquiring private property from willing sellers.

We are also concerned that the southern routes will have substantive negative effects on sage-grouse and that developing these routes may not be feasible with sage-grouse protections.

#### *Snake River Special Resource Management Area*

Amendments are also being considered that would affect the Snake River Special Resource Management Area that would simply reduce the SRMA designation by 6,400 acres. F.1-56. The BLM somehow states that recreational goals for the Oregon National Historic Trail and C.J. Strike SRMAs would not be impacted because these lands would have been removed from designation, but certainly the amount of land emphasized for recreation and the quality of that recreation would be affected.

#### *Bruneau RMP*

We are concerned about the cumulative effects of the lowering the visual standards for the Bruneau RMP because additional infrastructure elements could be considered and would have an improved ability to be permitted. F.1-65.

#### *Kuna MFP*

Allowing amendments to the Kuna MFP could adversely impact wildlife, vegetation, soils and cultural resources. F.1-71. We are particularly concerned about impacts to water quality, fisheries,

...

**The Wilderness Society \* Idaho Conservation League \* Audubon Rockies**

June 28, 2013

*Via e-mail*

Walt George  
Bureau of Land Management  
Wyoming State Office  
P.O. Box 20879  
Cheyenne, WY 82003  
[Gateway West WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov)

**Re: Gateway West Transmission Line Final EIS and the Snake River Birds of Prey National Conservation Area**

Dear Mr. George:

We appreciate the opportunity to comment on the Gateway West Transmission Line Final Environmental Impact Statement (FEIS). Although some of our organizations are submitting separate comments on additional aspects of this project, we are submitting this letter specifically to address the intersection of this project with the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA) and broader concerns with the National Landscape Conservation System (National Conservation Lands). Thank you for your full consideration of these comments and recommendations.

**I. BLM must ensure that the proposal is compatible with protection of the NCA and provide appropriate mitigation for impacts this project may have on the NCA**

The Federal Land Policy and Management Act (FLPMA) requires BLM to manage public lands under multiple-use principles unless an area has been designated by law for specific uses, in which case BLM must manage the land for those specific uses. 43 U.S.C. § 1732(a). Secretarial Order 3308 reiterates this for the National Conservation Lands by stating that BLM “shall ensure that the components of the NLCS are managed to protect the values for which they were designated, including where appropriate, prohibiting uses that are in conflict with those values. If consistent with such protection, appropriate multiple uses may be allowed, consistent with the applicable law and the relevant designations under which the components were established.”

As BLM rightfully acknowledges in the FEIS, the NCA “is managed by the BLM under the concept of dominant use rather than multiple use.” FEIS at 3-17.20. BLM must prioritize those dominant uses for which the NCA was established over all other uses in the NCA. In order to do this correctly, BLM “determines compatibility of those uses with the purposes for which the SRBOP was established.” *Id.* The purposes of the NCA are “to provide for the conservation, protection, and enhancement of raptor populations and habitats and the natural and environmental resources and values associated therewith, and of the scientific, cultural and educational resources and values of the public lands in the conservation areas.” 16 U.S.C. § 460iii; Public Law 103-64. Any use that is not compatible with these purposes must either not be authorized or must be regulated or mitigated to be compatible with the enabling legislation.

### A. Compatibility Review

In the FEIS, BLM states that it conducted a “compatibility review” of the legislation establishing the NCA and selected segments 8 and 9 as its preferred alternatives as most consistent with respect to “associated compensatory off-site mitigation.” FEIS at 1-5. However, there is no physical compatibility review discussion in the FEIS itself or a separate compatibility review document provided.

BLM can and should provide documentation of its analysis of compatibility with the purposes of the NCA legislation. For example, BLM provided a Livestock Impacts Study for the compatibility of grazing with protection of the monument objects in Cascade-Siskiyou National Monument, available at: <http://www.blm.gov/or/resources/recreation/csnm/csnm-impact-study.php>. BLM also provided an analysis of recreational target shooting with the management of monument objects in the RMP/EIS for the Ironwood Forest National Monument, available at: [http://www.blm.gov/pgdata/etc/medialib/blm/az/pdfs/nepa/library/resource\\_management/ifnm-feis.Par.46958.File.dat/015\\_Appendix\\_I.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/az/pdfs/nepa/library/resource_management/ifnm-feis.Par.46958.File.dat/015_Appendix_I.pdf).

**Recommendation:** We recommend that BLM provide its evaluation of compatibility for public review and comment.

### B. Mitigation Measures

BLM should provide adequate measures in the EIS to mitigate impacts to the NCA from the project proposal. BLM is required to discuss mitigation measures in an EIS. 40 C.F.R. §§ 1502.14, 1502.16. In general, in order to show that mitigation will reduce environmental impacts to an insignificant level, BLM must discuss the mitigation measures “in sufficient detail to ensure that environmental consequences have been fairly evaluated.” *Communities, Inc. v. Busey*, 956 F.2d 619, 626 (6th Cir. 1992). Simply identifying mitigation measures, without analyzing the effectiveness of the measures, violates NEPA. Agencies must “analyze the mitigation measures in detail [and] explain how effective the measures would be . . . A mere listing of mitigation measures is insufficient to qualify as the reasoned discussion required by NEPA.” *Nw. Indian Cemetery Protective Ass’n v. Peterson*, 764 F.2d 581, 588 (9th Cir. 1985), *rev’d on other grounds*, 485 U.S. 439 (1988).

As mentioned in further detail below, BLM Manuals 6100 and 6220 provide BLM with certain directives when considering proposals for rights-of-way in NCAs. These policy manuals require rights-of-way to share, parallel, or adjoin existing rights-of-way as well as mitigating the effects of projects from granting the right-of-way. In addition, the manuals state that “the BLM should work with holders of existing ROWs to consider new, additional, or modified terms and conditions to minimize impacts to the Monument or NCA’s values.” This project provides BLM with the opportunity to directly apply these provisions of the relatively new (issued in July 2012) manuals for the National Conservation Lands.

Further, BLM recently released its draft Manual 1794 regarding regional mitigation as an interim policy. *See*, IM 2013-142. The intent of releasing the policy in this manner is to allow for a

period of implementation in order to learn where the manual can be improved upon and adjusted as necessary. This project provides BLM with the opportunity to apply the content of the manual (which is effective immediately) in a way that both applies and tests the policy directives in this manner. BLM should use Gateway West as a pilot project for implementing the new mitigation policies.

There is only one specific mitigation measure discussed and actually adopted in the FEIS which would require frame structures to be equipped with anti-perch devices. FEIS at 3.10-30. The FEIS states that power companies have questioned the effectiveness of this mitigation measure in the past and is “one tool amongst the total minimization/avoidance measures necessary to limit potential impacts.” *Id.*

Otherwise, for both segments 8 and 9, the FEIS merely lists management decisions already in the RMP (such as restoring and rehabilitating shrub habitat, suppressing wildfires) and then summarizes these as “restoration and outreach opportunities that could help mitigate for project-related impacts.” FEIS at 3.17-20, 3.17-104, 3.17-120. While there are many ideas for mitigation in the FEIS, BLM clearly has not evaluated them in any type of depth yet or developed any specific plan, let alone evaluated a mitigation plan’s likely effectiveness for mitigation.

***Recommendations:*** The FEIS justifies selecting segments 8 and 9 by highlighting the conflicts that all of the routes for segments 8 and 9 have with NCA purposes and then concluding that “it is likely” that the preferred routes can meet the enhancement requirements of the NCA legislation. FEIS at 2-47, 2-48. In order to support the conclusion that the preferred routes actually meet these standards, or that any other routes evaluated or chosen may or may not meet these standards, BLM needs to design a mitigation plan and analyze its effectiveness in the EIS. BLM should use interim Manual 1794 to guide the design of its mitigation plan and should look at Gateway West as a pilot project for implementing this draft policy guidance.

## **II. BLM must follow its own policy guidance on authorizing rights-of-way across the National Conservation Lands**

BLM’s policy manual for the management of National Conservation Lands, Manual 6100, as well as Manual 6220 for the management of national monuments and NCAs, were released in July of 2012. While a host of other BLM manuals are referenced in the FEIS, BLM does not list these highly pertinent manuals as reference documents and does not incorporate the specific measures from these manuals into its management alternatives in the FEIS.

Manuals 6100 and 6220 set out specific requirements for rights-of-way and transportation and utility corridors. These manuals contain a strong preference for locating rights-of-way and utility corridors outside of national monuments and NCAs, stating that the BLM “shall exercise its discretion to deny ROW applications in Monuments and NCAs and similar designations if they are inconsistent with the component’s designating authority.” The manuals also state that when BLM is processing a new right-of-way application, the BLM will:

- a. determine consistency of the ROW with the Monument or NCA’s objects and values;
- b. consider routing or siting the ROW outside of the Monument or NCA;
- c. consider mitigation of the impacts from the ROW;

- d. when processing ROW applications that propose use of a designated transportation or utility corridor that exists at the time of release of this manual, the BLM will consider relocating the transportation or utility corridor outside the Monument or NCA through a land use plan amendment.

***Recommendation:*** As mentioned in the section above, BLM must perform a proper evaluation of the compatibility of this project with the protective purposes of the NCA legislation. BLM must also explicitly comply with the directives of Manuals 6100 and 6220. Through full compliance, BLM can also set out the standards by which proposed transmission routes will be evaluated in monuments and NCAs, and what will be required to approve such proposals. By doing a thorough job of complying with the directives of the legislation and its own guidance, BLM can both correctly evaluate Gateway West and set a good roadmap for responding to future proposals.

## **Conclusion**

In its “Dear Reader” letter for the FEIS, BLM discusses the potential for a phased approach to the project in order to allow stakeholders and cooperating agencies to have additional input, and for BLM to conduct additional analysis. We are supportive of this approach as a way to allow for additional evaluation of segments 8 and 9, which impact a host of important values, as detailed in our previous letter of October 12, 2012. We believe that this approach will provide BLM with the opportunity to design the best routes for Gateway West, while also complying with the NCA legislation and setting good precedent for implementing new BLM policy guidance on mitigation and the National Conservation Lands.

We look forward to resolving the concerns raised in this letter and participating in the next phase of this project evaluation. Please feel free to contact us with any questions you may have.

Sincerely,

### **The Wilderness Society**

Nada Culver  
 Director and Senior Counsel, BLM Action Center  
 1660 Wynkoop Street, Suite 850  
 Denver, CO 80202  
 303-650-5818 Ext. 117  
[nada\\_culver@twc.org](mailto:nada_culver@twc.org)

Brad Brooks, Deputy Regional Director  
 950 West Bannock Street, Suite 605  
 Boise, ID 83702

### **Idaho Conservation League**

John Robison  
 Public Lands Director

PO Box 844  
Boise, ID 83702

**Audubon Rockies**  
Daly Edmunds  
Regional Policy Coordinator  
105 W. Mountain Avenue  
Fort Collins, CO 80524

---

**From:** jmclain@blm.gov on behalf of Gateway\_West\_Trans\_Line, BLM\_WY  
[blm\_wy\_gateway\_west\_trans\_line@blm.gov]  
**Sent:** Monday, July 01, 2013 10:20 AM  
**To:** blm@gwcomment.com  
**Subject:** Fwd: Gateway West FEIS comments on Snake River Birds of Prey NCA attached  
**Attachments:** Gateway West - Snake River Birds of Prey issues - 6-28-13 - TWS ICL Audubon Rockies.pdf

----- Forwarded message -----

**From:** **Nada Culver** <[nada\\_culver@twc.org](mailto:nada_culver@twc.org)>  
**Date:** Fri, Jun 28, 2013 at 3:03 PM  
**Subject:** Gateway West FEIS comments on Snake River Birds of Prey NCA attached  
**To:** "[Gateway West WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov)" <[Gateway West WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov)>

Attached are comments from The Wilderness Society, Idaho Conservation League and Audubon Rockies. Although our organizations are submitting other comments, these are focused on the manner in which the FEIS is addressing the Snake River Birds of Prey National Conservation Area.

Thank you for your consideration.

**Nada Culver**

Director and Senior Counsel, BLM Action Center

**The Wilderness Society**

1660 Wynkoop Street, Suite 850

Denver, CO 80202

303-650-5818 Ext. 117

[www.wilderness.org](http://www.wilderness.org)

Facebook: [www.facebook.com/TheWildernessSociety](http://www.facebook.com/TheWildernessSociety)

Twitter: [twitter.com/Wilderness](http://twitter.com/Wilderness)

duplicate

**The Wilderness Society \* Idaho Conservation League \* Audubon Rockies**

June 28, 2013

*Via e-mail*

Walt George  
Bureau of Land Management  
Wyoming State Office  
P.O. Box 20879  
Cheyenne, WY 82003  
[Gateway West WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov)

**Re: Gateway West Transmission Line Final EIS and the Snake River Birds of Prey National Conservation Area**

Dear Mr. George:

We appreciate the opportunity to comment on the Gateway West Transmission Line Final Environmental Impact Statement (FEIS). Although some of our organizations are submitting separate comments on additional aspects of this project, we are submitting this letter specifically to address the intersection of this project with the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA) and broader concerns with the National Landscape Conservation System (National Conservation Lands). Thank you for your full consideration of these comments and recommendations.

**I. BLM must ensure that the proposal is compatible with protection of the NCA and provide appropriate mitigation for impacts this project may have on the NCA**

The Federal Land Policy and Management Act (FLPMA) requires BLM to manage public lands under multiple-use principles unless an area has been designated by law for specific uses, in which case BLM must manage the land for those specific uses. 43 U.S.C. § 1732(a). Secretarial Order 3308 reiterates this for the National Conservation Lands by stating that BLM “shall ensure that the components of the NLCS are managed to protect the values for which they were designated, including where appropriate, prohibiting uses that are in conflict with those values. If consistent with such protection, appropriate multiple uses may be allowed, consistent with the applicable law and the relevant designations under which the components were established.”

As BLM rightfully acknowledges in the FEIS, the NCA “is managed by the BLM under the concept of dominant use rather than multiple use.” FEIS at 3-17.20. BLM must prioritize those dominant uses for which the NCA was established over all other uses in the NCA. In order to do this correctly, BLM “determines compatibility of those uses with the purposes for which the SRBOP was established.” *Id.* The purposes of the NCA are “to provide for the conservation, protection, and enhancement of raptor populations and habitats and the natural and environmental resources and values associated therewith, and of the scientific, cultural and educational resources and values of the public lands in the conservation areas.” 16 U.S.C. § 460iii; Public Law 103-64. Any use that is not compatible with these purposes must either not be authorized or must be regulated or mitigated to be compatible with the enabling legislation.

### A. Compatibility Review

In the FEIS, BLM states that it conducted a “compatibility review” of the legislation establishing the NCA and selected segments 8 and 9 as its preferred alternatives as most consistent with respect to “associated compensatory off-site mitigation.” FEIS at 1-5. However, there is no physical compatibility review discussion in the FEIS itself or a separate compatibility review document provided.

BLM can and should provide documentation of its analysis of compatibility with the purposes of the NCA legislation. For example, BLM provided a Livestock Impacts Study for the compatibility of grazing with protection of the monument objects in Cascade-Siskiyou National Monument, available at: <http://www.blm.gov/or/resources/recreation/csnm/csnm-impact-study.php>. BLM also provided an analysis of recreational target shooting with the management of monument objects in the RMP/EIS for the Ironwood Forest National Monument, available at: [http://www.blm.gov/pgdata/etc/medialib/blm/az/pdfs/nepa/library/resource\\_management/ifnm-feis.Par.46958.File.dat/015\\_Appendix\\_I.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/az/pdfs/nepa/library/resource_management/ifnm-feis.Par.46958.File.dat/015_Appendix_I.pdf).

**Recommendation:** We recommend that BLM provide its evaluation of compatibility for public review and comment.

### B. Mitigation Measures

BLM should provide adequate measures in the EIS to mitigate impacts to the NCA from the project proposal. BLM is required to discuss mitigation measures in an EIS. 40 C.F.R. §§ 1502.14, 1502.16. In general, in order to show that mitigation will reduce environmental impacts to an insignificant level, BLM must discuss the mitigation measures “in sufficient detail to ensure that environmental consequences have been fairly evaluated.” *Communities, Inc. v. Busey*, 956 F.2d 619, 626 (6th Cir. 1992). Simply identifying mitigation measures, without analyzing the effectiveness of the measures, violates NEPA. Agencies must “analyze the mitigation measures in detail [and] explain how effective the measures would be . . . A mere listing of mitigation measures is insufficient to qualify as the reasoned discussion required by NEPA.” *Nw. Indian Cemetery Protective Ass’n v. Peterson*, 764 F.2d 581, 588 (9th Cir. 1985), *rev’d on other grounds*, 485 U.S. 439 (1988).

As mentioned in further detail below, BLM Manuals 6100 and 6220 provide BLM with certain directives when considering proposals for rights-of-way in NCAs. These policy manuals require rights-of-way to share, parallel, or adjoin existing rights-of-way as well as mitigating the effects of projects from granting the right-of-way. In addition, the manuals state that “the BLM should work with holders of existing ROWs to consider new, additional, or modified terms and conditions to minimize impacts to the Monument or NCA’s values.” This project provides BLM with the opportunity to directly apply these provisions of the relatively new (issued in July 2012) manuals for the National Conservation Lands.

Further, BLM recently released its draft Manual 1794 regarding regional mitigation as an interim policy. *See*, IM 2013-142. The intent of releasing the policy in this manner is to allow for a

period of implementation in order to learn where the manual can be improved upon and adjusted as necessary. This project provides BLM with the opportunity to apply the content of the manual (which is effective immediately) in a way that both applies and tests the policy directives in this manner. BLM should use Gateway West as a pilot project for implementing the new mitigation policies.

There is only one specific mitigation measure discussed and actually adopted in the FEIS which would require frame structures to be equipped with anti-perch devices. FEIS at 3.10-30. The FEIS states that power companies have questioned the effectiveness of this mitigation measure in the past and is “one tool amongst the total minimization/avoidance measures necessary to limit potential impacts.” *Id.*

Otherwise, for both segments 8 and 9, the FEIS merely lists management decisions already in the RMP (such as restoring and rehabilitating shrub habitat, suppressing wildfires) and then summarizes these as “restoration and outreach opportunities that could help mitigate for project-related impacts.” FEIS at 3.17-20, 3.17-104, 3.17-120. While there are many ideas for mitigation in the FEIS, BLM clearly has not evaluated them in any type of depth yet or developed any specific plan, let alone evaluated a mitigation plan’s likely effectiveness for mitigation.

***Recommendations:*** The FEIS justifies selecting segments 8 and 9 by highlighting the conflicts that all of the routes for segments 8 and 9 have with NCA purposes and then concluding that “it is likely” that the preferred routes can meet the enhancement requirements of the NCA legislation. FEIS at 2-47, 2-48. In order to support the conclusion that the preferred routes actually meet these standards, or that any other routes evaluated or chosen may or may not meet these standards, BLM needs to design a mitigation plan and analyze its effectiveness in the EIS. BLM should use interim Manual 1794 to guide the design of its mitigation plan and should look at Gateway West as a pilot project for implementing this draft policy guidance.

## **II. BLM must follow its own policy guidance on authorizing rights-of-way across the National Conservation Lands**

BLM’s policy manual for the management of National Conservation Lands, Manual 6100, as well as Manual 6220 for the management of national monuments and NCAs, were released in July of 2012. While a host of other BLM manuals are referenced in the FEIS, BLM does not list these highly pertinent manuals as reference documents and does not incorporate the specific measures from these manuals into its management alternatives in the FEIS.

Manuals 6100 and 6220 set out specific requirements for rights-of-way and transportation and utility corridors. These manuals contain a strong preference for locating rights-of-way and utility corridors outside of national monuments and NCAs, stating that the BLM “shall exercise its discretion to deny ROW applications in Monuments and NCAs and similar designations if they are inconsistent with the component’s designating authority.” The manuals also state that when BLM is processing a new right-of-way application, the BLM will:

- a. determine consistency of the ROW with the Monument or NCA’s objects and values;
- b. consider routing or siting the ROW outside of the Monument or NCA;
- c. consider mitigation of the impacts from the ROW;

- d. when processing ROW applications that propose use of a designated transportation or utility corridor that exists at the time of release of this manual, the BLM will consider relocating the transportation or utility corridor outside the Monument or NCA through a land use plan amendment.

***Recommendation:*** As mentioned in the section above, BLM must perform a proper evaluation of the compatibility of this project with the protective purposes of the NCA legislation. BLM must also explicitly comply with the directives of Manuals 6100 and 6220. Through full compliance, BLM can also set out the standards by which proposed transmission routes will be evaluated in monuments and NCAs, and what will be required to approve such proposals. By doing a thorough job of complying with the directives of the legislation and its own guidance, BLM can both correctly evaluate Gateway West and set a good roadmap for responding to future proposals.

## **Conclusion**

In its “Dear Reader” letter for the FEIS, BLM discusses the potential for a phased approach to the project in order to allow stakeholders and cooperating agencies to have additional input, and for BLM to conduct additional analysis. We are supportive of this approach as a way to allow for additional evaluation of segments 8 and 9, which impact a host of important values, as detailed in our previous letter of October 12, 2012. We believe that this approach will provide BLM with the opportunity to design the best routes for Gateway West, while also complying with the NCA legislation and setting good precedent for implementing new BLM policy guidance on mitigation and the National Conservation Lands.

We look forward to resolving the concerns raised in this letter and participating in the next phase of this project evaluation. Please feel free to contact us with any questions you may have.

Sincerely,

### **The Wilderness Society**

Nada Culver  
Director and Senior Counsel, BLM Action Center  
1660 Wynkoop Street, Suite 850  
Denver, CO 80202  
303-650-5818 Ext. 117  
[nada\\_culver@twc.org](mailto:nada_culver@twc.org)

Brad Brooks, Deputy Regional Director  
950 West Bannock Street, Suite 605  
Boise, ID 83702

### **Idaho Conservation League**

John Robison  
Public Lands Director

PO Box 844  
Boise, ID 83702

**Audubon Rockies**  
Daly Edmunds  
Regional Policy Coordinator  
105 W. Mountain Avenue  
Fort Collins, CO 80524

duplicate

---

**From:** jmclain@blm.gov on behalf of Gateway\_West\_Trans\_Line, BLM\_WY  
[blm\_wy\_gateway\_west\_trans\_line@blm.gov]  
**Sent:** Thursday, February 14, 2013 12:49 PM  
**To:** blm@gwcomment.com  
**Subject:** Fwd: Letter on Gateway West  
**Attachments:** Gateway West- letter on NCA and sage-grouse issues.pdf

----- Forwarded message -----

**From:** **Nada Culver** <[nada\\_culver@twc.org](mailto:nada_culver@twc.org)>  
**Date:** Fri, Oct 12, 2012 at 4:38 PM  
**Subject:** Letter on Gateway West  
**To:** "George, Walter E" <[wgeorge@blm.gov](mailto:wgeorge@blm.gov)>, BLM\_WY\_Gateway\_West\_Trans\_Line  
<[BLM\\_WY\\_Gateway\\_West\\_Trans\\_Line@blm.gov](mailto:BLM_WY_Gateway_West_Trans_Line@blm.gov)>  
**Cc:** "Rountree, Carl D" <[croutre@blm.gov](mailto:croutre@blm.gov)>, "Ellis, Steven A" <[sellis@blm.gov](mailto:sellis@blm.gov)>

Attached is a letter from The Wilderness Society, Idaho Conservation League, The Nature Conservancy and the Conservation Lands Foundation regarding our concerns with the current alternatives and our hope for further discussions to reach a creative solution. We appreciate your attention to this important matter.

### **Nada Culver**

Director and Senior Counsel, BLM Action Center

### **The Wilderness Society**

1660 Wynkoop Street, Suite 850

Denver, CO 80202

303-650-5818 Ext. 117

[www.wilderness.org](http://www.wilderness.org)

Facebook: [www.facebook.com/TheWildernessSociety](http://www.facebook.com/TheWildernessSociety)

Twitter: [twitter.com/Wilderness](http://twitter.com/Wilderness)



*We protect wilderness and inspire Americans to care for our wild places*

October 12, 2012

**Via electronic mail and U.S. mail**

Walt George, Project Manager  
Gateway West Transmission Project EIS  
Bureau of Land Management  
P.O. Box 20879  
Cheyenne, Wyoming 82003

**Re: Challenges related to Potential Gateway West Transmission Line Routes in and near the Morley Nelson Snake River Birds of Prey National Conservation Area and Preliminary Priority Habitat for Greater Sage-grouse**

Dear Mr. George:

The undersigned organizations are writing to highlight our concerns with the potential impacts of the current alternative routes, including the preferred alternative, for the Gateway West Transmission Line in Idaho.

Routing the Gateway West Transmission Line in southwest Idaho requires BLM to balance several conflicting policies and interests. Our organizations have been engaged in this process and at this point, due to the significant conflicts with the Morley Nelson Snake River Birds of Prey National Conservation Area (NCA) and Preliminary Priority Habitat for Greater Sage-grouse (PPH), we believe that a further discussion of how to design an acceptable alternative is needed – and would like to engage in such discussions with the Bureau of Land Management (BLM). We believe that these discussions can help lead BLM to a decision that best addresses the many values and interests at stake.

Conflict with National Conservation Area

A number of the potential transmission line routes (notably routes 9, 9D, 9Ea and 9F) would cross portions of the Morley Nelson Snake River Birds of Prey NCA, a unit of the National Landscape Conservation System (Conservation Lands). The National Landscape Conservation System was established “in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations.” National Landscape Conservation System Act, 16 U.S.C. § 7202(a) (2009).

Secretarial Order 3308 speaks to the management of the Conservation Lands, stating that “BLM shall ensure that the components of the NLCS are managed to protect the values for which they were designated, including, where appropriate, prohibiting uses that are in conflict with those values.” The 15-Year Strategy for the Conservation Lands reinforces this by stating the “conservation, protection, and restoration of the NLCS values is the highest priority in NLCS planning and management, consistent with the designating legislation or presidential proclamation.” Conservation Lands Strategy at 8.

As conservation of natural and cultural resources is the principal mandate for BLM management of the Conservation Lands, the agency must diligently protect these areas from damage from new infrastructure projects, including transmission lines. Recent BLM policy guidance specifically addresses the management of BLM-managed national monuments and NCAs and creates a presumption that BLM will not approve new rights-of-ways (ROW) in these areas. Specifically the manual provides:

5. To the greatest extent possible, subject to applicable law, the BLM should through land use planning and project-level processes and decisions, avoid designating or authorizing use of transportation or utility corridors within NLCS units.

To that end, and consistent with applicable law, when developing or revising land use plans addressing NLCS units, the BLM will consider:

- a. designating the NLCS unit as an exclusion or avoidance area;
- b. not designating any new transportation or utility corridors within the NLCS unit if the BLM determines that the corridor would be incompatible with the designating authority or the purposes for which the NLCS unit was designated; and
- c. relocating any existing designated transportation and utility corridors outside the NLCS unit.

BLM Manual 6100, § 1.6J(5).

The law establishing the Snake River Birds of Prey NCA includes specific provisions addressing allowable uses of the NCA. The key provision directs the BLM to identify “levels, types, timing, and terms and conditions for the allowable nonmilitary uses of lands within the conservation area that will be compatible with the **protection, maintenance, and enhancement** of raptor populations and habitats and the other purposes for which the conservation area is established.” 16 U.S.C. § 460iii-3(b)(7) (emphasis added). These “other purposes” include “the natural and environmental resources and values associated therewith, and of the scientific, cultural, and educational resources and values of the public lands in the conservation area.” 16 U.S.C. § 460iii-2(a)(2). Thus, only those proposed actions that would “protect, maintain, and enhance” the purposes of the NCA are permissible.

Transmission line development causes serious impacts, including direct damage to wildlands, wildlife habitat and cultural resources; interference with scenic vistas; habitat fragmentation; and others. Consequently, transmission lines are generally incompatible with management of the Conservation Lands absent a specific showing of how such a project would “protect, maintain, and enhance” the raptors, raptor habitat and the other purposes for which the NCA was designated. The BLM has not provided analyses that demonstrate this standard has been met for the Gateway West line.

### Conflict with Greater Sage-grouse Habitat

BLM's alternative route 9E would pass through identified Preliminary Priority Habitat (PPH) for the greater sage-grouse. Currently, the U.S. Fish and Wildlife Service has found the greater sage-grouse warrants protection under the Endangered Species Act and has committed to a final listing decision in 2015; BLM is in the process of rangewide planning to design conservation measures and regulatory mechanisms that would avoid listing. BLM's Instruction Memorandum (IM) 2012-043 "provides interim conservation policies and procedures to the Bureau of Land Management (BLM) field officials to be applied to ongoing and proposed authorizations and activities that affect the Greater Sage-Grouse (*Centrocercus urophasianus*) and its habitat."

PPH, as identified in BLM's Greater Sage-Grouse Interim Management Policies and Procedures, IM 2012-043 (12/27/2011), "comprises areas that have been identified as having the highest conservation value to maintaining sustainable Greater Sage-Grouse populations" that "have been identified by the BLM in coordination with respective state wildlife agencies." For pending projects in PPH (including those for which a Draft EIS has been issued and would likely have more than minor adverse effects on sage-grouse), the IM provides that the agency must:

- Ensure that **reasonable alternatives** for siting the ROW outside of the PPH or within a BLM-designated utility corridor are considered and analyzed in the NEPA document.
- Identify technically feasible best management practices, conditions, etc. (e.g., siting, burying powerlines) that may be implemented in order to **eliminate or minimize impacts**. (emphasis added)

IM 2012-043 requires additional procedures for pending right-of-way applications that would affect more than one linear mile of sage grouse habitat. Segment 9E would have nearly fifty times that level of impact. These procedures include a high-level interagency review process for any right-of-way project that would fail to "cumulatively maintain or enhance sage-grouse habitat."

The sage-grouse habitat that will be affected by proposed project routes has been acknowledged by both BLM and the State of Idaho<sup>1</sup> as important for protection. Allowing development of a large transmission line through this landscape could result in harmful, and potentially irreversible impacts to important greater sage-grouse habitat, both by damaging sage-grouse habitat through the construction and maintenance of power lines and by providing "perches" for raptors and other birds of prey to more easily prey on sage-grouse.

The U.S. Fish and Wildlife Service has found that transmission lines have a range of adverse impacts on sage grouse and their habitats. 75 Fed. Reg. 13909, 13928-29 (March 23, 2010). The Service's 12-month finding on sage grouse noted the many transmission line proposals pending in the western states and explained "If these lines cross sage grouse habitats, sage grouse will likely be negatively affected." *Id.* at 13929. More recently, the BLM's Sage-grouse National Technical Team reached the same conclusion and recommended that the BLM "[m]ake priority

---

<sup>1</sup> The Idaho Governor's Sage-grouse Task Force has also identified the habitat at risk from the Gateway West lines as part of the Important Habitat Zone, in which a ROW could only be established if it "cannot reasonably be achieved, technically or economically, outside of this management zone."

sage-grouse habitat areas exclusion areas for new [right-of-way] permits” with narrow exceptions. Id.

Consequently, transmission lines should be avoided in PPH, and the BLM has not made the requisite findings or considered measures to avoid or offset damage to the habitat that would be affected by this project.

Although newly developed Alternative 9Ea would not cross directly into PPH, it would run immediately adjacent to PPH and would affect sage grouse within PPH. If this route receives further consideration, BLM must disclose these impacts and consider mitigation measures, including offsite mitigation.

#### Need for a creative solution

We appreciate the difficulty of the agency’s position in finding a viable alternative. In light of the serious concerns raised by the routes discussed above, we believe there is a need to evaluate creative solutions that meet the BLM’s policies and mandates for the Morley Nelson Snake River Birds of Prey NCA and greater sage-grouse habitat. Due to the multiple resource conflicts with proposed routes, especially those in Segment 9, a variety of options should be considered, such as possibly limiting the proposal to one transmission line through this segment (instead of two parallel lines), which could ultimately result in a workable solution.

We would very much like to meet with you to discuss potential solutions for this project at your earliest convenience, either in Idaho or Washington, DC. Please contact Nada Culver of The Wilderness Society so that we can identify workable times. Thank you for your attention to this important matter.

Sincerely,

#### **The Wilderness Society**

Nada Culver, Director, BLM Action Center  
1660 Wynkoop, #850  
Denver, CO 80202  
303-650-5818 Ext. 117  
[Nada\\_culver@tws.org](mailto:Nada_culver@tws.org)

Brad Brooks, Deputy Regional Director  
950 West Bannock Street, Suite 605  
Boise, ID 83702

#### **Idaho Conservation League**

John Robison, Public Lands Director  
P.O. Box 844  
Boise ID 83701

**The Nature Conservancy in Idaho**

William S. Whelan, Director of Government Relations  
950 West Bannock, Suite 210  
Boise, ID 83702

**Conservation Lands Foundation**

Brian O'Donnell, Executive Director  
160 E 12th Street, Suite 2  
Durango, CO 81301

cc: Steve Ellis, Idaho State Director  
Carl Rountree, Director, National Landscape Conservation System

**From:** [info@gatewaywesteis.com](mailto:info@gatewaywesteis.com)  
**To:** [Gateway BLM](#)  
**Subject:** A final EIS comment from gatewaywesteis.com  
**Date:** Friday, June 28, 2013 2:25:57 PM

---

A final EIS comment from gatewaywesteis.com.

Name:

Norm Semanko

Organization:

Idaho Council on Industry & Environment

Mailing Address:

PO Box 255

Mailing Address 2:

City:

Boise

State:

ID

Zip:

83703

Daytime Phone:

E-mail:

Confidential:

False

EIS Chapter:

Section Number:

Page Number:

Comment:

The Idaho Council on Industry and the Environment (ICIE) is a nonprofit, non-partisan group established in 1989 to focus the discussion of environmental policy onto science and facts. The mission of ICIE is to facilitate the use of science and facts in shaping public policy on environmental issues. Our membership includes individuals, associations, business and industry.

We need the additional transmission lines proposed in the Gateway West Final EIS because the existing grid is at capacity and additional infrastructure is needed to provide power to existing and future businesses in southern Idaho. We need to ensure that the electric grid is reliable and provides flexibility to move power efficiently to where it is needed.

The definition of a straight line is the shortest distance between two points. That is an important concept to remember. Because the cost of the additional transmission will ultimately be paid by the system's ratepayers, it is incumbent on the power companies and the federal government to propose transmission lines that are as close to the shortest distance as possible. It means that whenever possible those lines should be located in manner that minimizes impacts to both public and private property.

Routes 8 and 9D were developed through a process that involved all interested parties from federal, state and local governments, private property owners, environmental organizations and other stakeholders. ICIE believes that these routes are the "shortest distance between two points" that provides the best balance between the impacts on the environment, impacts on private property and impacts on local communities.

Norm Semanko, Chairman  
Environment/Regulatory Affairs Committee of  
the Idaho Council on Industry and Environment

---

**From:** jmclain@blm.gov on behalf of Gateway\_West\_Trans\_Line, BLM\_WY  
[blm\_wy\_gateway\_west\_trans\_line@blm.gov]  
**Sent:** Tuesday, July 02, 2013 1:03 PM  
**To:** blm@gwcomment.com  
**Subject:** Fwd: Gateway West FEIS comments  
**Attachments:** AUD.TWS.DoW.WRA\_GatewayWestFEIS\_GRSG & GOEA etc.pdf

----- Forwarded message -----

**From:** **Edmunds, Daly** <[dedmunds@audubon.org](mailto:dedmunds@audubon.org)>  
**Date:** Fri, Jun 28, 2013 at 10:08 PM  
**Subject:** Gateway West FEIS comments  
**To:** "[Gateway West WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov)" <[Gateway West WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov)>  
**Cc:** "[wgeorge@blm.gov](mailto:wgeorge@blm.gov)" <[wgeorge@blm.gov](mailto:wgeorge@blm.gov)>

Please confirm receipt.

Attached are comments on the Gateway West FEIS from Audubon Rockies, The Wilderness Society, Defenders of Wildlife, and Western Resource Advocates.

Given the importance of this high voltage transmission line and the potential wildlife impacts, we appreciate the efforts put forth by the BLM and look forward to future opportunities to visit with key BLM staffers about this project.

P.S. Please note our organizations have submitted separate comments relating to the Habitat Equivalency Analysis and the Snake River Birds of Prey National Conservation Area.

Much appreciated,

Daly Edmunds

**Daly Edmunds**

Regional Policy Coordinator

WY & CO Policy Office

Cell (307) 760-7342

Office (970) 416-6931

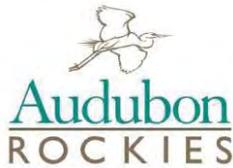
Fax (970) 416-5944

---

*Visit Audubon Rockies' Central Flyway program where birds thrive and people prosper: <http://rockies.audubon.org/>*

**"Like"** Audubon Rockies on Facebook!

Join the **Western Rivers Action Network** as we rise to this historic challenge to create healthier western rivers for the birds, wildlife and people.



June 28, 2013

Project Manager  
 Gateway West Transmission Project EIS  
 Bureau of Land Management  
 P.O. Box 20879  
 Cheyenne, Wyoming 82003

Via U.S. Postal and email ([Gateway West WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov))

Re: Comments on Proposed Gateway West Transmission Line Project FEIS

Dear Mr. George:

The following comments are submitted on behalf of Audubon Rockies, The Wilderness Society, Defenders of Wildlife, and Western Resource Advocates, summarizing our collective concerns and recommendations on the final Environmental Impact Statement (FEIS) for the proposed Gateway West transmission project. These comments reflect our broad concerns from the conservation perspective, with a focus on Greater Sage-grouse, Golden Eagles/Raptors, Mitigation, Avian Protection Plans, and Candidate Conservation Agreements (with Assurances). Please note that we are also submitting other comments separately – relating to the Habitat Equivalency Analysis and the Snake River Birds of Prey National Conservation Area.

## I. GREATER SAGE-GROUSE

In a 2009 report prepared for the Department of Energy<sup>1</sup>, titled "Sage-Grouse and Wind Energy: Biology, Habits, and Potential Effects from Development," the authors summarized that "Braun et al. (2002) reported that sage-grouse were particularly susceptible to the placement of overhead power lines at within 0.8 km (0.5 mi) of nesting grounds. Significant impacts to sage-grouse have been documented from overhead power transmission and communication distribution lines out to 6 km (3.7 mi) (Manville 2004)." In March 2010, the USFWS's *12-Month Findings for Petitions to List the Greater Sage-Grouse as Threatened or Endangered* listed the following as potential impacts to the sage-grouse resulting from powerlines: 1) collisions/electrocutions, 2) consolidation of predatory birds along powerlines, 3) lower recruitment rates near lines, 4) habitat fragmentation, 5) degradation of habitat due to spread of invasive plant species, 6) impacts resulting from the line's electromagnetic fields, and 7) direct loss of habitat.

<sup>1</sup> [http://www.pnl.gov/main/publications/external/technical\\_reports/pnnl-18567.pdf](http://www.pnl.gov/main/publications/external/technical_reports/pnnl-18567.pdf)

In addition to the plethora of direct and indirect impacts, the FEIS notes that the “Project would contribute to the permanent loss of suitable sage-grouse habitat and possible disturbances to birds.” FEIS at 4-73. Furthermore, the “cumulative effects of this Project combined with other reasonable foreseeable projects could be substantial (based on current trends in sage-grouse populations).” FEIS at 3.11-76. Given these predictions, we offer the following suggestions to minimize impacts.

**a. Protective Stipulations**

Surface disturbance is anticipated to have adverse impacts to sagebrush habitats including temporary and permanent loss of habitats across all alternatives. Fragmentation and degradation of habitat for greater sage-grouse also is anticipated from surface-disturbing activities and associated development. Therefore, protective stipulations within the project area deserve careful attention. The FEIS notes that recent research identified the best predictors between extirpated and occupied ranges to include distance to transmission lines (Wisdom et al 2011). FEIS at 3.11-74. Knick et al. 2013 further emphasizes intolerance of grouse to human disturbance and development, reporting that 99% of active leks in the species’ western range were in landscapes with <3% disturbance. Doherty (2008) reported that “impacts to leks caused by energy development would be most severe near the lek. Although most of the impacts from energy development are indirect, some direct effects, such as flying into overhead power lines would also result from energy development and ROWs.”

Collectively, our organizations continue to stress that that science strongly argues that the spatial restrictions proposed in the FEIS are severely inadequate. The 0.25 mile (TESWL-9) and 0.60 restrictions (TESWL-8) have long been recognized as being without scientific merit and an inadequate protective measure to maintain lek activity (Holloran 2005, Walker et al. 2007). Instead, given the research from oil and gas development, the agency should avoid placing transmission lines within 5 miles of sage-grouse leks, which is also recommended by the USFWS<sup>2</sup>. The Lander RMP DEIS and FEIS both recognized this, as did the Miles City RMP. As noted in the latter, “BLM NSO stipulations for leasing and development within 0.25 miles of a lek would result in an estimated lek persistence (the ability of leks to remain on the landscape) of approximately 5 percent, while lek persistence in areas without oil and gas development would be expected to average approximately 85 percent. Impacts from energy development occur at distances between 3 and 4 miles.” .... “Impacts to leks caused by energy development would be most severe near the lek. Although most of the impacts from energy development are indirect, some direct effects, such as flying into overhead power lines would also result from energy development and ROWs. Miles City DEIS/RMP at 4-135.

TESWL-8 should be amended to include “undetermined” Greater Sage-grouse leks, as was done for TESWL-9. FEIS at 2-166. As pressures increase on the landscape, managers must provide greater opportunities for lek survival and conservation success. This conservative approach takes into account observer error (failure to identify strutting grouse), weather conditions, and grouse variability.

We applaud the BLM for changing the timing stipulations in the DEIS (originally March 1 to May 15) to March 1 to July 15, as we originally requested within our DEIS comments. This extension provides greater protections to hens and young as most hens are still sitting on nests in May 15. In fact, peak hatch generally occurs in early June and is followed by early brood rearing, which also occurs near

---

2

[http://www.fws.gov/southwest/es/oklahoma/documents/te\\_species/wind%20power/prairie%20grouse%20lek%205%20mile%20public.pdf](http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/prairie%20grouse%20lek%205%20mile%20public.pdf)

nesting habitat. The timing stipulation, from March 1 to July 15 should apply to the entire core area in Wyoming and for those portions of transmission line that run through Key Habitat areas in Idaho, whereas it is currently proposed that this only applies to “Federal Land and all land in Wyoming and Idaho Segments 6,8, and 9”. FEIS at 2-166.

In addition, we applaud the extension of the protective stipulations into the operations and maintenance periods and would like to make sure that this applies to all stipulations related to grouse. Table 2.7-1 at 2-166. Lander RMP FEIS notes that “wildlife seasonal protections from surface-disturbing and disruptive activities apply to maintenance and operations actions when the activity is determined to be detrimental to wildlife.” FEIS at 117. This is an important timing due to the longer period of time associated with maintenance and operations actions, beyond the usual development-specific stipulations. BLM supports this in the Lander RMP FEIS, “Beyond initial exploration (including geophysical activities), land clearing, and aboveground facility construction, continued human disturbance to special status wildlife could occur from activities such as equipment maintenance and site operations, which are especially disruptive during sensitive times (wintering, breeding, and nesting).” FEIS at 931. The Miles City Draft RMP noted that in areas where development occurred, “there would be no restrictions to operation and maintenance activities, *which would potentially result in the reduction or extirpation of populations.*” DEIS at 4-134 (emphasis added).

The current protections proposed for adoption uses NSO stipulations as a means of protection for grouse, most notably in Core Areas. FEIS at 2-166. However, NSOs are subject to exceptions, waivers and modifications. If these can be applied to NSOs, this fails to meet the regulatory certainty being sought by USFWS, which is extremely concerning given the importance of this habitat to grouse persistence in the planning area. If waivers, exemptions and modification are allowed then the BLM should set up a process that allows the public to comment when these actions are considered.

TESWL-6, related to Sharp-tailed Grouse, needs to be clarified. This EPM proposes that “in areas where sharp-tailed grouse leks occur in proximity to greater sage-grouse leks, surface disturbance will be avoided within 4 miles of occupied or undetermined greater sage grouse leks ...” FEIS at 2-165. The term “proximity” should be removed and replaced with a specified distance.

#### **b. Noise**

The Gateway West FEIS fails to adequately address *noise* impacts. Facilities that produce continual noise can affect the breeding vocalizations of greater sage-grouse. Continuous noise from industrial facilities, such high voltage transmission lines and substations, close to active greater sage-grouse leks would interfere with male greater sage-grouse strutting behavior which could reduce the reproductive success of greater sage-grouse using these leks. The BLM does note in the FEIS, “construction-related noise and dust disturbance would occur during construction, which could potentially make habitat within the immediate vicinity of the activity temporally unsuitable for this species.” FEIS at 3.11-65. We strongly recommend that BLM carefully review and incorporate new research which relates to noise impacts on grouse, as these are suggesting threats to sage-grouse population viability – through abundance, stress levels, and behavior (Blickley et al. 2012, Blickly and Patricelli 2012). In the recently released Miles City Draft RMP, BLM recognizes the impacts of noise, “Movements associated with oil and gas wells, noise associated with disruptive activities and compressor stations, vehicle use, and human presence would impact numerous wildlife species indirectly, including sage grouse. Sage-grouse numbers on leks within approximately 1 mile of compressor stations would contain lower numbers than leks greater than 1 mile from compressors. Male attendance at leks would be expected to be reduced when subjected to the current standard noise limitation of 50 decibels at the lek site.” Miles City DEIS/RMP at 4-135.

Furthermore, the new Environmental Protection Measure proposed in Table 2.7-1 related to surface disturbance should incorporate noise impacts. TESWL-9 states that “this distance (i.e. 4 miles) may be reduced on a case-by-case basis by the applicable agency, if site conditions would allow the Project to be located closer the lek than 4 miles (e.g. topography prevents the Project from being visible from the lek, or a major disturbance such as a freeway or existing transmission lines is located between the Project and the lek).” FEIS at 2-166. While topography may shield the view of the transmission line from the lek, noise may be carried to the lek site and interfere with strutting behavior and reproductive outcomes.

### c. Winter Range/Concentration Areas

Upon designation of special status species, the species’ distribution, key habitat areas, and special management needs should be identified prior to developing resource management plans. While winter concentration areas were referenced in the document (FEIS 2-166) with protective measures, TESWL-10: “If Winter Concentration Areas for the greater sage-grouse are designated, there will be no surface occupancy within the designated areas from November 1 through March 15”, it is unclear the location of extent of winter range/concentration areas. In addition, to this proposed Environmental Protection Measure, we propose the BLM to add “unless data indicate a date modification is necessary to better protect wintering greater sage-grouse.”

In addition to more carefully assessing the spatial distribution/acreage of current winter habitat for sage grouse, the BLM should also consider the current quality of this habitat as this will likely drive selection of appropriate protective measures and prioritize restoration activities. The Governor-appointed *Wyoming Sage-grouse Implementation Team* recently commissioned the *Wyoming Chapter of the Wildlife Society*, a non-profit organization of wildlife biologists, to review current protocol for identifying and mapping sage-grouse winter concentration areas. This report would be helpful for consideration in BLM’s efforts going forward<sup>3</sup>. The protocol proposed within this report may be helpful to the BLM when developing a defensible protocol for identifying and mapping sage-grouse winter concentration areas.

Because of the importance of this habitat to grouse, we suggest protection for these areas based on what has been presented in the Lander FEIS/RMP (Record # 3006): “In identified greater sage-grouse winter range, vegetation treatments should emphasize strategically reducing wildfire risk around or in the winter range and maintaining winter range habitat quality.”

### d. Fences

Fencing can be an obstacle or potential hazard to special status wildlife species by concentrating livestock, adversely impacting vegetation and fragmenting habitat. In relation to sage-grouse, the addition of new fences further fragments the landscape, provides potential collision points, and provides perching opportunities for raptors – all detrimental to sage-grouse. In addition to fence surveys in the Lander and Rock Springs Wyoming BLM Field Office areas showing that Greater Sage-grouse can be injured or killed as a result of flying into fence wires (Lander RMP FEIS at 969), a Utah study found that 18% of sage-grouse deaths were due to fence collisions (Danvir 2002). A 2009 WGFD report examined sage-grouse mortalities near Farson and found that sage-grouse fence diverters reduced sage-grouse fatalities by 61 percent (Christiansen 2009).

---

<sup>3</sup> This report can be downloaded at [http://wgfd.wyo.gov/web2011/Departments/Wildlife/pdfs/SGIT\\_051513\\_WYTWSAREAREPORT0004118.pdf](http://wgfd.wyo.gov/web2011/Departments/Wildlife/pdfs/SGIT_051513_WYTWSAREAREPORT0004118.pdf)

While transmission lines are not generally associated with fences, construction of large vertical structures will likely result in behavioral changes by grouse. Therefore, BLM should require monitoring of fences in the areas adjacent to the line to determine locations where collisions are occurring. We suggest that the proponent remove or mark identified wildlife hazard fences that are adversely affecting wildlife where opportunities exist. This option was provided in the Miles City RMP, “Fences in high-risk areas (based on proximity to leks, lek size, and topography) would be removed, modified, or marked to reduce outright sage-grouse strikes and mortality.” DEIS at 2-49.

**e. Riparian/Wetland Areas**

The BLM’s objective for managing riparian and wetland habitats should be to maintain, restore, or improve riparian areas to achieve a healthy and productive ecological condition that provides benefits and values within site capability. Wetland and riparian areas are unique and among the most productive and important ecosystems. Although comprising only a small percentage of the BLM lands, they affect most other resources and values. Given the high value of these areas for a variety of resources, all aspects of riparian and wetland area inventory, monitoring, and management will involve a multidisciplinary effort. The impacts of a high voltage transmission line traversing the landscape should be considered and appropriately managed.

Riparian-wetland areas are a component of brood-rearing habitat for greater sage-grouse because they provide needed forbs and insects necessary for chick survival. Actions that improve riparian-wetlands improve habitats for special status wildlife species, especially increasing the quantity and quality of riparian-wetland vegetation and insects, are critical for sage-grouse.

Therefore, we encourage the following as riparian/wetland habitat was inadequately addressed in TESWL-14 (FEIS at 2-167). We propose strengthening a portion of it: Surface disturbing and disruptive activities should be prohibited within 1,329 feet (0.25 mile) of playas and 100-year floodplains where mapped. The proposed EPM currently only specifies the avoidance of the actual identified 100-year floodplain. Where unavoidable, the “crossing-specific plans” should include specific language that addresses the avoidance of introducing or expanding invasive nonnative species. Treatment to address INN species is expensive and with uncertain success at best. It involves highly disruptive management with potential for adverse impacts to greater sage-grouse. With limited budgets available for pest treatments, we encourage the BLM to emphasize reducing the likelihood of spread through management actions such as requiring washing of vehicles and limited surface disturbance. This latter suggestion applies to the entire planning area, not just riparian areas.

**f. Bird Diverters**

Guy wires, such as those on meteorological (met) towers, have been known to cause more bird fatalities. For example, at Foote Creek Rim in Wyoming, researchers found an estimated 8.1 bird fatalities per met tower per year. Given these findings and others, the U.S. Fish and Wildlife Service (USFWS) recommends that all existing guy wires be marked with recommended bird deterrent devices (USFWS 2003)<sup>4</sup> recommendations for using bird diverters to prevent avian collisions and remain in compliance with the Migratory Bird Treaty Act (16 U.S.C. 703-712), bird diverters should be more commonly used met towers.

---

<sup>4</sup> U.S. Fish and Wildlife Service. 2003. Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines. U.S. Fish and Wildlife Service. Department of the Interior. Washington, D.C. <http://www.fws.gov/habitatconservation/wind.pdf>

The USFWS recommends that all existing guy wires be marked with recommended bird deterrent devices so as to remain in compliance with the Migratory Bird Treaty Act (16 U.S.C. 703-712). Although the use of bird deterrent devices has been particularly important in raptor and waterfowl concentration areas, such devices also are useful in preventing songbird and perhaps even sage-grouse collisions with guy wires.

We applaud proposed EPM TESWL-11, which states “No structures that require guy wires will be used in occupied sagebrush obligate habitats within the area managed under the Kemmerer RMP.” FEIS at 2-166. However, we stress that bird diverters should be attached to the new transmission line in areas near sage-grouse concentration areas – such as leks and winter concentration areas.

**g. Other Prairie Grouse Species**

As noted within the FEIS, “studies conducted on species that have similar life history traits to sage-grouse (e.g., the lesser and greater prairie-chickens) have shown that use of habitat is reduced when these habitats are located near tall structures (Pitman et al. 2005; Pruett et al. 2008).” FEIS at 3.11-74. The BLM continues, “...if sage-grouse have similar responses to disturbances as the lesser and greater prairie-chickens, it is possible that the vegetative clearing for the permanent access roads would not result in habitat fragmentation for sage-grouse, but that the presence of the transmission structures and line would serve as a form of habitat fragmentation, and may inhibit movement to some degree.” *Ibid.* Given that peer reviewed science that demonstrates avoidance or non-avoidance of tall structures by grouse is limited, we encourage a research project to be associated with this high voltage transmission line. Research protocols should follow those outlined in Utah Wildlife in Need’s 2011 report: *Protocol for Investigating the Effects of Tall Structures on Sage-grouse within Designated and Proposed Energy Corridors*<sup>5</sup>.

**h. Discussion on Changes Since DEIS**

“Given the extent of the direct and indirect impact on greater sage-grouse and their habitat, as well as the lack of a compensatory mitigation plan that is currently acceptable to both the Proponents and the state and federal agencies, the Project’s construction and operations may impact individuals or habitat, and is likely to contribute to a trend toward federal listing or loss of viability for the greater sage-grouse (R4 language). For the same reasons, the Project may adversely impact individuals and is likely to result in a loss of viability in the Planning Area, or cause a trend towards federal listing (R2 language).” DEIS 3-11.72

We respectfully request a tallied summary of the changes that have been employed since the DEIS that has resulted in the BLM’s FEIS position of minimal impacts.

**i. Resource Management Plan Revisions and Amendments**

Numerous Resource Management Plans are currently in the process of being revised and amended, most notably to address inadequate regulatory mechanisms currently in place for Greater Sage-grouse. Clarification is requested on how the decisions made within these important land use documents will impact the proposed Gateway West project, including procedure for incorporating information from RMPs that are completed post approval of the ROW grant.

---

<sup>5</sup> [http://www.utahcbcp.org/files/uploads/UWIN\\_SageGrouse\\_Structure\\_ProtocolFinal.pdf](http://www.utahcbcp.org/files/uploads/UWIN_SageGrouse_Structure_ProtocolFinal.pdf)

## II. GOLDEN EAGLES/RAPTORS

### a. Protective Stipulations

Raptors are sensitive to environmental disturbance and occupy an ecological position at the top of the food chain; thus, they act as biological indicators of environmental quality. The nesting season is considered the most critical period in the raptor life-cycle because it determines population productivity, short-term diversity, and long-term trends. Therefore serious attention should be paid to the raptor buffers as all raptors are protected under the Migratory Bird Treaty Act.

Raptor nest protective buffers (surface-disturbing and disruptive activities subject to seasonal limitations) proposed are inadequate. Any activity that disrupts breeding, feeding, sheltering, and roosting behavior and causes, or is likely to cause, nest abandonment or reduced productivity is considered disturbance and is a violation of BGEPA. We encourage the BLM to adopt the following protections - prohibiting surface-disturbing activities within 1 mile of GOEA nests and 1 mile for Ferruginous Hawk nests. Our organizations support the specificity of “nests active within the past 7 years” and the inclusion of winter roost sites. We recommend 1 mile buffer for all other raptors nests as well (BLM Special Status Raptors – Burrowing Owl, Swainson’s Hawk, Peregrine Falcon, and Northern Goshawk).

The USFWS (USFWS 2002a) identifies courtship, nest construction, incubation, and early brooding as higher risk periods in the life-cycles of raptors when adults are more prone to abandon nests due to disturbance. The USFWS (USFWS 2002a) also indicates that human activities resulting in disturbance to raptors can cause population declines. Therefore, seasonal restrictions and buffers around nest sites are intended to minimize disturbance to GOEA. We recommend that year-round exclusion areas also be considered for use, if circumstances require.

### b. Golden Eagles

Golden eagles (GOEA) are protected under two major forms of federal legislation, the Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act (MBTA), and under increasing federal scrutiny with uncertain population levels. Based on the USFWS’ analysis of populations across the nation, there is no safe allowable take level for GOEA; however, take is likely unavoidable with transmission project of this magnitude and in this location. Use by GOEA is not surprising as the application area contains native shrubland and grassland communities, as well as natural landscape features, that provide foraging and nesting opportunities sought by this species. In reviewing and commenting on the Gateway West DEIS, our organizations recommended that the BLM develop a supplemental GOEA document for public review and comment. While this was done for Greater Sage-grouse, this was not completed for GOEA and this remains a request of our groups. Given the growing concern for these majestic birds, especially related to mortalities associated with wind farms and expanding transmission infrastructure, any development decisions that will impact GOEA must be placed within a regional population context much larger than the area immediately surrounding any proposed transmission project, which this FEIS fails to do. In addition, areas out 10 miles from the application area should be evaluated. Adequate buffers for GOEA should be in place and monitored to evaluate effectiveness. Compensatory mitigation for retrofitting of lethal power poles in the region should be considered for the first five years of operation.

### c. Commissary Ridge

Commissary Ridge is a well-documented major raptor migration route, where Golden Eagles were among the five most common species observed, with close to 300 GOEA and over 3,000 raptors passing

through this distinct area each fall (DEIS p. 3.10-16). Unfortunately, the FEIS fails to determine a collision risk associated with the proposed line crossing the ridge perpendicular to this migration pathway. As noted in the FEIS (3.11-72): “There is potential risk of avian collisions with transmission lines or other Project-related structures due to the Project’s construction and operations, which could result in elevated mortality rates for some avian species ... Collisions usually occur near water, migration corridors and occur more often during inclement weather.” The FEIS further states (3.10.2.2-53): “Bird collisions with structures occur more often along migration routes, *for example at Commissary Ridge*. The Proposed Route would run perpendicular to the ridge, so most birds traveling along it would be likely to encounter the transmission line (see Figure A-5 in Appendix A).” Emphasis added. In Table 2.7-1 of the FEIS, WILD-7 states “Flight diverters will be installed and maintained where the transmission line crosses rivers at the locations identified in Table 3.10-4. Additional locations may be identified by the Agencies or the Project Proponents. The flight diverters will be installed as directed in the Proponents’ approved Avian Protection Plans and in conformance with the Migratory Bird Treaty Act (MBTA) and Bald and Golden Eagle Protection Act (Eagle Act) as recommended in the current collision manual of APLIC.” Emphasis added. Given the above information, we feel strongly that bird diverters should be installed and maintained at migration corridor known as Commissary Ridge.

FEIS at 3.11-24 states that the proponent can address the direct loss of birds: “The framework states that there are two ways that a project proponent can deal with the issue of “direct loss of birds”: a) work closely with the USFWS and state agency biologists to develop an approach to address loss of birds from project-related impacts and their replacement, and b) contribute financially to research projects that have been designed specifically to address this issue.” While research may not directly address the direct loss of birds at the Commissary Ridge location, this site may prove very valuable to pursue as a research project to understand the impacts of transmission at a major migratory pathway and thus minimize losses in other locations.

#### **d. Shamrock Hills**

Additionally, the National Audubon Society has identified an Important Bird Area (IBA) just north of the proposed route and west of Rawlins – Shamrock Hills Raptor Concentration Area. This is a global IBA that is located in the greatest concentration of raptor nests documented amongst the Wyoming routes. These nests identify preferred habitat for raptors, as these contain quality combinations of nesting and foraging habitats that should be protected for use by future nesting raptors. As noted in the FEIS (3.10.1.5-17), global IBAs reflect the area’s highest conservation value. While this IBA is not located directly within the project area, given the concentration of raptors and the distances they travel to hunt, conflicts may occur. Therefore, BLM should improve efforts to avoid, minimize and off-set impacts to raptors, including through a comprehensive monitoring and adaptive management strategy.

#### **e. Shirley Basin**

Our organizations remain very concerned about the potential for additional renewable development within the Shirley Basin, a dramatic landscape which harbors some of the world’s last intact grasslands and a mix of Wyoming big sage communities. This area supports superb fisheries, significant bat roosts, and numerous bird species, including mountain plover, ferruginous hawks, sage grouse and the American white pelican. The Nature Conservancy scientists have identified the Shirley Basin as an area of high biological significance because of its intact grasslands and aquatic habitats. Furthermore, the National Audubon Society has identified an Important Bird Area (IBA) in the basin.

We would support this segment only if (1) the Heward substation were eliminated, which failed to be addressed in the FEIS and there are (2) assurances that public lands north of the checkerboard will not be available to new renewable energy development activities, as this important basin has already experienced considerable strain due to recent development pressures. Our additional concerns with this route include:

- Question the need to build a new 230 kV line and reconstruct the existing 230 kV line instead of reconstructing the existing 230 kV line as a 500 kV line and avoiding the need to build a new line in a new ROW,
- Portions of Alts 1W(a) and 1W(c) follow West-wide Energy Corridor (WVEC) segment 78-255 which was identified as a “corridor of concern” in the 2012 settlement agreement for *The Wilderness Society, et al. v. United States Department of the Interior, et al.* (see Attachment 1). Under the settlement agreement, the federal agencies are required to re-evaluate the corridors to better avoid impacts to natural and cultural resources and help facilitate renewable energy development. WVEC segment 78-255 was identified as a corridor of concern because of impacts to sage-grouse core area and habitat (see Attachment 1).
- Alts 1W(a) and 1W(c) are not in a Wyoming Executive Order specified Transmission Corridor

### III. MITIGATION

The federal mitigation hierarchy should be specified, as is being increasingly done with RMP revisions and amendments. Mitigation is often popularly believed to be limited to compensatory, however this should be preceded by all good faith efforts to avoid or minimize impacts.

The sequence of mitigation actions will be as described below in three steps -

- *Avoid*: adverse impacts to resources are to be avoided and no action shall be permitted if there is a practicable alternative with less adverse impacts.
- *Minimize*: if impacts to resources cannot be avoided, appropriate and practicable steps to minimize adverse impacts must be taken.
- *Compensate*: appropriate and practicable compensatory mitigation is required for unavoidable adverse impacts that remain. The amount and quality of compensatory mitigation may not substitute for avoiding and minimizing impacts.”

Earlier this month, the BLM has issued a new interim policy on regional mitigation, effective immediately ([http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information\\_Resources\\_Management/policy/im\\_attachments/2013.Par.57631.File.dat/IM2013-142\\_att1.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/im_attachments/2013.Par.57631.File.dat/IM2013-142_att1.pdf)). The new manual covers regional mitigation strategies, planning, and implementation. In the planning portion, the goal is to incorporate sites and measures and mitigation strategies into land use plans, including a regional baseline, mitigation objectives, land use allocations or “areas for landscape-level conservation and management actions.” Relevant to the Gateway West FEIS, ACECs and sage-grouse priority habitat are used as examples of these. In the implementation portion, this is described as part of approving specific land uses, which may be “within (onsite) or outside of the area of impact.” The manual emphasizes that on-site mitigation is always the first choice (including a “mitigation priority order”, then discusses off-site mitigation comprising replacing or providing similar or substitute resources or values through “restoration, enhancement, creation, or preservation.” As the EIS process proceeds, we respectfully requests clarification on how this new interim regional policy on mitigation will be incorporated.

Mitigation, which should be monitored to determine effectiveness, should enhance long-term health and viability of the impacted populations through permanent protections and through other protections that last at least throughout the life of the project. Location of off-site mitigation is extremely important.

In the DEIS our organizations requested “Full range of off-site mitigation strategies to improve conditions for wildlife and habitat, in addition to avoidance and on-site mitigation.” While this has been done to a fair degree for Greater Sage-grouse, this has been done inadequately for other species, most notably Golden Eagles.

In DEIS, our organizations requested “Avoid to the greatest extent possible by siting in areas with low resource values and minimized and mitigated to the best degree possible, using best management practices, the best available technology, and innovative strategies for both on and off-site mitigation in proposed action.” While we draw attention to the recommendations already made (i.e. use of bird diverters in migration corridors), BLM should be commended for collocating lines, using singular lattice towers where able, and requiring guy wired to be marked.

According to the FEIS, “to properly determine the extent of necessary mitigation, one must first determine how project-related impacts to habitats would affect the services that those habitats once provided.” FEIS at 3.11-25. While it should be the goal to achieve no net loss of habitat for wildlife, we appreciate the recognition of the challenges of such in this arid landscape. “However, revegetation in arid landscapes can take many years to reestablish to pre-disturbance conditions or to levels that are suitable for sage-grouse, especially in terms of mature sagebrush canopy cover. Therefore, revegetated shrublands would still have lower shrub cover than undisturbed areas for many decades. In addition, even if revegetation efforts within the ROW are successful, they are unlikely to provide habitat of the same quality or suitability as before construction, due to the presence of the new transmission facility nearby (consequently there may be a need for additional mitigation activities elsewhere; see Appendix C-3).” FEIS at 3.11.2.2-69. For this reason, avoidance of critical habitat and minimizing disturbances should occur before compensatory mitigation.

This project comes at a critical time for the conservation of greater sage-grouse. This “warranted but precluded” candidate species requires management and protection focused on ensuring local conservation success, in conjunction with an overall strategy to incorporate indirect and cumulative effects and to provide for rangewide persistence for the species. The adoption of objective methods based on the most complete and current science is the key component of such a strategy. We are optimistic that further refinement of HEA for sage-grouse can lead to sound development with lasting conservation benefits.

Finally, given the reliance on mitigation, our organizations strongly encourage an analysis of effectiveness of mitigation measures, including monitoring and adaptive management. Thresholds and adaptive management actions were not clear for any of the species highlighted within the FEIS.

#### **IV. AVIAN PROTECTION PLANS**

In our DEIS comments, we requested that the Avian Protection Plan and Habitat Equivalency Analysis be presented in a supplemental release of information, with the data, methods, and results made available for public comments. The HEA has been and we are appreciative of this innovative approach being

pursued by the BLM. However, the APPs were developed by the Proponents and are only accessible on their respective websites. We request clarification on opportunities for public comment and engagement on the content of the APPs. Of the portions we were able to review, most notably that developed by Idaho Power, we were pleased to see the following measures (many of which we recommended in DEIS comments) incorporated:

- Anti-perching devices
- Conductor to conductor spacing to prevent electrocution (following updated APLIC)
- Marking lines to prevent collisions
- Adapting arrangement of distribution lines if electrocution does start to occur (request clarification on how they will monitor)
- Modification to lighting
- Use of GIS to identify GOEA areas of highest risk (request clarification on selected eagle risk factors)

We do note that spatial buffers for GOEA nests, as with Bald Eagles, should be 1.0 miles.

#### **V. CANDIDATE CONSERVATION AGREEMENT (CCA)/CANDIDATE CONSERVATION AGREEMENT WITH ASSURANCES (CCAA)**

As with APPs, we request clarification on opportunities for public comment and engagement on the content of the CCAs/CCAAs.

Thank you for your thorough consideration of these comments. Please do not hesitate to contact us with any questions or requests for clarification or additional information. We look forward to participating in future planning processes for this project, which we understand will also include stakeholder siting resolution meetings.

Respectfully submitted by:

Daly Edmunds  
Regional Policy Coordinator  
**Audubon Rockies**  
[dedmunds@audubon.org](mailto:dedmunds@audubon.org)

Alex Daue  
Renewable Energy Associate  
**The Wilderness Society**  
[alex\\_daue@twc.org](mailto:alex_daue@twc.org)

Erin Lieberman  
Western Policy Advisor, Renewable Energy and Wildlife  
**Defenders of Wildlife**  
[elieberman@defenders.org](mailto:elieberman@defenders.org)

Gary Graham  
Director, Lands Program  
**Western Resource Advocates**  
[ggraham@westernresources.org](mailto:ggraham@westernresources.org)

## LITERATURE CITED

Blickley, J.L., D. Blackwood, and G.L. Patricelli. 2012. Experimental evidence for the effects of chronic anthropogenic noise on abundance of greater sage-grouse at leks. *Conservation Biology* 26(3):461-471.

Blickley, J.L. and G.L. Patricelli. 2012. Chapter 3: potential acoustic masking of greater sage-grouse (*Centrocercus urophasianus*) display components by chronic industrial noise. *Ornithological Monographs* 74: 23-35.

Christiansen, T. 2009. Fence marking to reduce greater sage-grouse (*Centrocercus urophasianus*) collisions and mortality near Farson, Wyoming – Summary of interim results. Wyoming Game and Fish Department, Cheyenne, WY.

Danvir, R.E. 2002. Sage grouse ecology and management in Northern Utah sagebrush-steppe. Desert Land and Livestock Ranch and the Foundation for Quality Research Management, Woodruff, UT.  
<ftp://ftpfc.sc.egov.usda.gov/WY/Sage%20Grouse/Ecology%20of%20Northern%20Utah%20sage%20grouse.pdf>

Doherty, K. E. 2008 Sage-grouse and Energy Development: Integrating Science with Conservation Planning to Reduce Impacts. (Doctoral dissertation, the University of Montana). Missoula. Available at: <http://etd.lib.umt.edu/theses/available/etd-03262009-132629/unrestricted/doherty.pdf>.

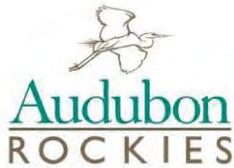
Holloran, M.J. 2005. Greater sage-grouse (*Centrocercus urophasianus*) population response to natural gas field development in western Wyoming. Dissertation. University of Wyoming, Laramie, WY.

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

U.S. Fish and Wildlife Service. 2003. Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines. U.S. Fish and Wildlife Service. Department of the Interior. Washington, D.C.  
<http://www.fws.gov/habitatconservation/wind.pdf>

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.

Wisdom, M.J., C.W. Meinke, S.T. Knick, and M.A. Schroeder. 2011. Factors associated with Extirpation of Sage-Grouse. Pp. In: *Greater Sage-Grouse: Ecology and Conservation of a Landscape Species and Its Habitats*, S. T. Knick and J. W. Connelly (editors), 451–472. *Studies in Avian Biology* (vol. 38), University of California Press, Berkeley, CA.



June 28, 2013

Project Manager  
 Gateway West Transmission Project EIS  
 Bureau of Land Management  
 P.O. Box 20879  
 Cheyenne, Wyoming 82003

Via U.S. Postal and email ([Gateway\\_West\\_WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov))

Re: Comments on Proposed Gateway West Transmission Line Project FEIS

Dear Mr. George:

The following comments are submitted on behalf of Audubon Rockies, The Wilderness Society, Defenders of Wildlife, and Western Resource Advocates, summarizing our collective concerns and recommendations on the final Environmental Impact Statement (FEIS) for the proposed Gateway West transmission project. These comments reflect our broad concerns from the conservation perspective, with a focus on Greater Sage-grouse, Golden Eagles/Raptors, Mitigation, Avian Protection Plans, and Candidate Conservation Agreements (with Assurances). Please note that we are also submitting other comments separately – relating to the Habitat Equivalency Analysis and the Snake River Birds of Prey National Conservation Area.

## I. GREATER SAGE-GROUSE

In a 2009 report prepared for the Department of Energy<sup>1</sup>, titled "Sage-Grouse and Wind Energy: Biology, Habits, and Potential Effects from Development," the authors summarized that "Braun et al. (2002) reported that sage-grouse were particularly susceptible to the placement of overhead power lines at within 0.8 km (0.5 mi) of nesting grounds. Significant impacts to sage-grouse have been documented from overhead power transmission and communication distribution lines out to 6 km (3.7 mi) (Manville 2004)." In March 2010, the USFWS's *12-Month Findings for Petitions to List the Greater Sage-Grouse as Threatened or Endangered* listed the following as potential impacts to the sage-grouse resulting from powerlines: 1) collisions/electrocutions, 2) consolidation of predatory birds along powerlines, 3) lower recruitment rates near lines, 4) habitat fragmentation, 5) degradation of habitat due to spread of invasive plant species, 6) impacts resulting from the line's electromagnetic fields, and 7) direct loss of habitat.

<sup>1</sup> [http://www.pnl.gov/main/publications/external/technical\\_reports/pnnl-18567.pdf](http://www.pnl.gov/main/publications/external/technical_reports/pnnl-18567.pdf)

In addition to the plethora of direct and indirect impacts, the FEIS notes that the “Project would contribute to the permanent loss of suitable sage-grouse habitat and possible disturbances to birds.” FEIS at 4-73. Furthermore, the “cumulative effects of this Project combined with other reasonable foreseeable projects could be substantial (based on current trends in sage-grouse populations).” FEIS at 3.11-76. Given these predictions, we offer the following suggestions to minimize impacts.

**a. Protective Stipulations**

Surface disturbance is anticipated to have adverse impacts to sagebrush habitats including temporary and permanent loss of habitats across all alternatives. Fragmentation and degradation of habitat for greater sage-grouse also is anticipated from surface-disturbing activities and associated development. Therefore, protective stipulations within the project area deserve careful attention. The FEIS notes that recent research identified the best predictors between extirpated and occupied ranges to include distance to transmission lines (Wisdom et al 2011). FEIS at 3.11-74. Knick et al. 2013 further emphasizes intolerance of grouse to human disturbance and development, reporting that 99% of active leks in the species’ western range were in landscapes with <3% disturbance. Doherty (2008) reported that “impacts to leks caused by energy development would be most severe near the lek. Although most of the impacts from energy development are indirect, some direct effects, such as flying into overhead power lines would also result from energy development and ROWs.”

Collectively, our organizations continue to stress that that science strongly argues that the spatial restrictions proposed in the FEIS are severely inadequate. The 0.25 mile (TESWL-9) and 0.60 restrictions (TESWL-8) have long been recognized as being without scientific merit and an inadequate protective measure to maintain lek activity (Holloran 2005; Walker et al. 2007). Instead, given the research from oil and gas development, the agency should avoid placing transmission lines within 5 miles of sage-grouse leks, which is also recommended by the USFWS<sup>2</sup>. The Lander RMP DEIS and FEIS both recognized this, as did the Miles City RMP. As noted in the latter, “BLM NSO stipulations for leasing and development within 0.25 miles of a lek would result in an estimated lek persistence (the ability of leks to remain on the landscape) of approximately 5 percent, while lek persistence in areas without oil and gas development would be expected to average approximately 85 percent. Impacts from energy development occur at distances between 3 and 4 miles.” .... “Impacts to leks caused by energy development would be most severe near the lek. Although most of the impacts from energy development are indirect, some direct effects, such as flying into overhead power lines would also result from energy development and ROWs. Miles City DEIS/RMP at 4-135.

TESWL-8 should be amended to include “undetermined” Greater Sage-grouse leks, as was done for TESWL-9. FEIS at 2-166. As pressures increase on the landscape, managers must provide greater opportunities for lek survival and conservation success. This conservative approach takes into account observer error (failure to identify strutting grouse), weather conditions, and grouse variability.

We applaud the BLM for changing the timing stipulations in the DEIS (originally March 1 to May 15) to March 1 to July 15, as we originally requested within our DEIS comments. This extension provides greater protections to hens and young as most hens are still sitting on nests in May 15. In fact, peak hatch generally occurs in early June and is followed by early brood rearing, which also occurs near

---

2

[http://www.fws.gov/southwest/es/oklahoma/documents/te\\_species/wind%20power/prairie%20grouse%20lek%205%20mile%20public.pdf](http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/prairie%20grouse%20lek%205%20mile%20public.pdf)

nesting habitat. The timing stipulation, from March 1 to July 15 should apply to the entire core area in Wyoming and for those portions of transmission line that run through Key Habitat areas in Idaho, whereas it is currently proposed that this only applies to “Federal Land and all land in Wyoming and Idaho Segments 6,8, and 9”. FEIS at 2-166.

In addition, we applaud the extension of the protective stipulations into the operations and maintenance periods and would like to make sure that this applies to all stipulations related to grouse. Table 2.7-1 at 2-166. Lander RMP FEIS notes that “wildlife seasonal protections from surface-disturbing and disruptive activities apply to maintenance and operations actions when the activity is determined to be detrimental to wildlife.” FEIS at 117. This is an important timing due to the longer period of time associated with maintenance and operations actions, beyond the usual development-specific stipulations. BLM supports this in the Lander RMP FEIS, “Beyond initial exploration (including geophysical activities), land clearing, and aboveground facility construction, continued human disturbance to special status wildlife could occur from activities such as equipment maintenance and site operations, which are especially disruptive during sensitive times (wintering, breeding, and nesting).” FEIS at 931. The Miles City Draft RMP noted that in areas where development occurred, “there would be no restrictions to operation and maintenance activities, *which would potentially result in the reduction or extirpation of populations.*” DEIS at 4-134 (emphasis added).

The current protections proposed for adoption uses NSO stipulations as a means of protection for grouse, most notably in Core Areas. FEIS at 2-166. However, NSOs are subject to exceptions, waivers and modifications. If these can be applied to NSOs, this fails to meet the regulatory certainty being sought by USFWS, which is extremely concerning given the importance of this habitat to grouse persistence in the planning area. If waivers, exemptions and modification are allowed then the BLM should set up a process that allows the public to comment when these actions are considered.

TESWL-6, related to Sharp-tailed Grouse, needs to be clarified. This EPM proposes that “in areas where sharp-tailed grouse leks occur in proximity to greater sage-grouse leks, surface disturbance will be avoided within 4 miles of occupied or undetermined greater sage grouse leks ...” FEIS at 2-165. The term “proximity” should be removed and replaced with a specified distance.

#### **b. Noise**

The Gateway West FEIS fails to adequately address *noise* impacts. Facilities that produce continual noise can affect the breeding vocalizations of greater sage-grouse. Continuous noise from industrial facilities, such high voltage transmission lines and substations, close to active greater sage-grouse leks would interfere with male greater sage-grouse strutting behavior which could reduce the reproductive success of greater sage-grouse using these leks. The BLM does note in the FEIS, “construction-related noise and dust disturbance would occur during construction, which could potentially make habitat within the immediate vicinity of the activity temporally unsuitable for this species.” FEIS at 3.11-65. We strongly recommend that BLM carefully review and incorporate new research which relates to noise impacts on grouse, as these are suggesting threats to sage-grouse population viability – through abundance, stress levels, and behavior (Blickley et al. 2012, Blickly and Patricelli 2012). In the recently released Miles City Draft RMP, BLM recognizes the impacts of noise, “Movements associated with oil and gas wells, noise associated with disruptive activities and compressor stations, vehicle use, and human presence would impact numerous wildlife species indirectly, including sage grouse. Sage-grouse numbers on leks within approximately 1 mile of compressor stations would contain lower numbers than leks greater than 1 mile from compressors. Male attendance at leks would be expected to be reduced when subjected to the current standard noise limitation of 50 decibels at the lek site.” Miles City DEIS/RMP at 4-135.

Furthermore, the new Environmental Protection Measure proposed in Table 2.7-1 related to surface disturbance should incorporate noise impacts. TESWL-9 states that “this distance (i.e. 4 miles) may be reduced on a case-by-case basis by the applicable agency, if site conditions would allow the Project to be located closer the lek than 4 miles (e.g. topography prevents the Project from being visible from the lek, or a major disturbance such as a freeway or existing transmission lines is located between the Project and the lek).” FEIS at 2-166. While topography may shield the view of the transmission line from the lek, noise may be carried to the lek site and interfere with strutting behavior and reproductive outcomes.

### c. Winter Range/Concentration Areas

Upon designation of special status species, the species’ distribution, key habitat areas, and special management needs should be identified prior to developing resource management plans. While winter concentration areas were referenced in the document (FEIS 2-166) with protective measures, TESWL-10: “If Winter Concentration Areas for the greater sage-grouse are designated, there will be no surface occupancy within the designated areas from November 1 through March 15”, it is unclear the location of extent of winter range/concentration areas. In addition, to this proposed Environmental Protection Measure, we propose the BLM to add “unless data indicate a date modification is necessary to better protect wintering greater sage-grouse.”

In addition to more carefully assessing the spatial distribution/acreage of current winter habitat for sage grouse, the BLM should also consider the current quality of this habitat as this will likely drive selection of appropriate protective measures and prioritize restoration activities. The Governor-appointed *Wyoming Sage-grouse Implementation Team* recently commissioned the *Wyoming Chapter of the Wildlife Society*, a non-profit organization of wildlife biologists, to review current protocol for identifying and mapping sage-grouse winter concentration areas. This report would be helpful for consideration in BLM’s efforts going forward<sup>3</sup>. The protocol proposed within this report may be helpful to the BLM when developing a defensible protocol for identifying and mapping sage-grouse winter concentration areas.

Because of the importance of this habitat to grouse, we suggest protection for these areas based on what has been presented in the Lander FEIS/RMP (Record # 3006): “In identified greater sage-grouse winter range, vegetation treatments should emphasize strategically reducing wildfire risk around or in the winter range and maintaining winter range habitat quality.”

### d. Fences

Fencing can be an obstacle or potential hazard to special status wildlife species by concentrating livestock, adversely impacting vegetation and fragmenting habitat. In relation to sage-grouse, the addition of new fences further fragments the landscape, provides potential collision points, and provides perching opportunities for raptors – all detrimental to sage-grouse. In addition to fence surveys in the Lander and Rock Springs Wyoming BLM Field Office areas showing that Greater Sage-grouse can be injured or killed as a result of flying into fence wires (Lander RMP FEIS at 969), a Utah study found that 18% of sage-grouse deaths were due to fence collisions (Danvir 2002). A 2009 WGFD report examined sage-grouse mortalities near Farson and found that sage-grouse fence diverters reduced sage-grouse fatalities by 61 percent (Christiansen 2009).

<sup>3</sup> This report can be downloaded at [http://wgfd.wyo.gov/web2011/Departments/Wildlife/pdfs/SGIT\\_051513\\_WYTWSAREAREPORT0004118.pdf](http://wgfd.wyo.gov/web2011/Departments/Wildlife/pdfs/SGIT_051513_WYTWSAREAREPORT0004118.pdf)

While transmission lines are not generally associated with fences, construction of large vertical structures will likely result in behavioral changes by grouse. Therefore, BLM should require monitoring of fences in the areas adjacent to the line to determine locations where collisions are occurring. We suggest that the proponent remove or mark identified wildlife hazard fences that are adversely affecting wildlife where opportunities exist. This option was provided in the Miles City RMP, “Fences in high-risk areas (based on proximity to leks, lek size, and topography) would be removed, modified, or marked to reduce outright sage-grouse strikes and mortality.” DEIS at 2-49.

**e. Riparian/Wetland Areas**

The BLM’s objective for managing riparian and wetland habitats should be to maintain, restore, or improve riparian areas to achieve a healthy and productive ecological condition that provides benefits and values within site capability. Wetland and riparian areas are unique and among the most productive and important ecosystems. Although comprising only a small percentage of the BLM lands, they affect most other resources and values. Given the high value of these areas for a variety of resources, all aspects of riparian and wetland area inventory, monitoring, and management will involve a multidisciplinary effort. The impacts of a high voltage transmission line traversing the landscape should be considered and appropriately managed.

Riparian-wetland areas are a component of brood-rearing habitat for greater sage-grouse because they provide needed forbs and insects necessary for chick survival. Actions that improve riparian-wetlands improve habitats for special status wildlife species, especially increasing the quantity and quality of riparian-wetland vegetation and insects, are critical for sage-grouse.

Therefore, we encourage the following as riparian/wetland habitat was inadequately addressed in TESWL-14 (FEIS at 2-167). We propose strengthening a portion of it: Surface disturbing and disruptive activities should be prohibited within 1,329 feet (0.25 mile) of playas and 100-year floodplains where mapped. The proposed EPM currently only specifies the avoidance of the actual identified 100-year floodplain. Where unavoidable, the “crossing-specific plans” should include specific language that addresses the avoidance of introducing or expanding invasive nonnative species. Treatment to address INN species is expensive and with uncertain success at best. It involves highly disruptive management with potential for adverse impacts to greater sage-grouse. With limited budgets available for pest treatments, we encourage the BLM to emphasize reducing the likelihood of spread through management actions such as requiring washing of vehicles and limited surface disturbance. This latter suggestion applies to the entire planning area, not just riparian areas.

**f. Bird Diverters**

Guy wires, such as those on meteorological (met) towers, have been known to cause more bird fatalities. For example, at Foote Creek Rim in Wyoming, researchers found an estimated 8.1 bird fatalities per met tower per year. Given these findings and others, the U.S. Fish and Wildlife Service (USFWS) recommends that all existing guy wires be marked with recommended bird deterrent devices (USFWS 2003)<sup>4</sup> recommendations for using bird diverters to prevent avian collisions and remain in compliance with the Migratory Bird Treaty Act (16 U.S.C. 703-712), bird diverters should be more commonly used met towers.

---

<sup>4</sup> U.S. Fish and Wildlife Service. 2003. Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines. U.S. Fish and Wildlife Service. Department of the Interior. Washington, D.C. <http://www.fws.gov/habitatconservation/wind.pdf>

The USFWS recommends that all existing guy wires be marked with recommended bird deterrent devices so as to remain in compliance with the Migratory Bird Treaty Act (16 U.S.C. 703-712). Although the use of bird deterrent devices has been particularly important in raptor and waterfowl concentration areas, such devices also are useful in preventing songbird and perhaps even sage-grouse collisions with guy wires.

We applaud proposed EPM TESWL-11, which states “No structures that require guy wires will be used in occupied sagebrush obligate habitats within the area managed under the Kemmerer RMP.” FEIS at 2-166. However, we stress that bird diverters should be attached to the new transmission line in areas near sage-grouse concentration areas – such as leks and winter concentration areas.

**g. Other Prairie Grouse Species**

As noted within the FEIS, “studies conducted on species that have similar life history traits to sage-grouse (e.g., the lesser and greater prairie-chickens) have shown that use of habitat is reduced when these habitats are located near tall structures (Pitman et al. 2005; Pruett et al. 2008).” FEIS at 3.11-74. The BLM continues, “...if sage-grouse have similar responses to disturbances as the lesser and greater prairie-chickens, it is possible that the vegetative clearing for the permanent access roads would not result in habitat fragmentation for sage-grouse, but that the presence of the transmission structures and line would serve as a form of habitat fragmentation, and may inhibit movement to some degree.” *Ibid.* Given that peer reviewed science that demonstrates avoidance or non-avoidance of tall structures by grouse is limited, we encourage a research project to be associated with this high voltage transmission line. Research protocols should follow those outlined in Utah Wildlife in Need’s 2011 report: *Protocol for Investigating the Effects of Tall Structures on Sage-grouse within Designated and Proposed Energy Corridors*<sup>5</sup>.

**h. Discussion on Changes Since DEIS**

“Given the extent of the direct and indirect impact on greater sage-grouse and their habitat, as well as the lack of a compensatory mitigation plan that is currently acceptable to both the Proponents and the state and federal agencies, the Project’s construction and operations may impact individuals or habitat, and is likely to contribute to a trend toward federal listing or loss of viability for the greater sage-grouse (R4 language). For the same reasons, the Project may adversely impact individuals and is likely to result in a loss of viability in the Planning Area, or cause a trend towards federal listing (R2 language).” DEIS 3-11.72

We respectfully request a tallied summary of the changes that have been employed since the DEIS that has resulted in the BLM’s FEIS position of minimal impacts.

**i. Resource Management Plan Revisions and Amendments**

Numerous Resource Management Plans are currently in the process of being revised and amended, most notably to address inadequate regulatory mechanisms currently in place for Greater Sage-grouse. Clarification is requested on how the decisions made within these important land use documents will impact the proposed Gateway West project, including procedure for incorporating information from RMPs that are completed post approval of the ROW grant.

<sup>5</sup> [http://www.utahcbcp.org/files/uploads/UWIN\\_SageGrouse\\_Structure\\_ProtocolFinal.pdf](http://www.utahcbcp.org/files/uploads/UWIN_SageGrouse_Structure_ProtocolFinal.pdf)

## II. GOLDEN EAGLES/RAPTORS

### a. Protective Stipulations

Raptors are sensitive to environmental disturbance and occupy an ecological position at the top of the food chain; thus, they act as biological indicators of environmental quality. The nesting season is considered the most critical period in the raptor life-cycle because it determines population productivity, short-term diversity, and long-term trends. Therefore serious attention should be paid to the raptor buffers as all raptors are protected under the Migratory Bird Treaty Act.

Raptor nest protective buffers (surface-disturbing and disruptive activities subject to seasonal limitations) proposed are inadequate. Any activity that disrupts breeding, feeding, sheltering, and roosting behavior and causes, or is likely to cause, nest abandonment or reduced productivity is considered disturbance and is a violation of BGEPA. We encourage the BLM to adopt the following protections - prohibiting surface-disturbing activities within 1 mile of GOEA nests and 1 mile for Ferruginous Hawk nests. Our organizations support the specificity of “nests active within the past 7 years” and the inclusion of winter roost sites. We recommend 1 mile buffer for all other raptors nests as well (BLM Special Status Raptors – Burrowing Owl, Swainson’s Hawk, Peregrine Falcon, and Northern Goshawk).

The USFWS (USFWS 2002a) identifies courtship, nest construction, incubation, and early brooding as higher risk periods in the life-cycles of raptors when adults are more prone to abandon nests due to disturbance. The USFWS (USFWS 2002a) also indicates that human activities resulting in disturbance to raptors can cause population declines. Therefore, seasonal restrictions and buffers around nest sites are intended to minimize disturbance to GOEA. We recommend that year-round exclusion areas also be considered for use, if circumstances require.

### b. Golden Eagles

Golden eagles (GOEA) are protected under two major forms of federal legislation, the Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act (MBTA), and under increasing federal scrutiny with uncertain population levels. Based on the USFWS’ analysis of populations across the nation, there is no safe allowable take level for GOEA; however, take is likely unavoidable with transmission project of this magnitude and in this location. Use by GOEA is not surprising as the application area contains native shrubland and grassland communities, as well as natural landscape features, that provide foraging and nesting opportunities sought by this species. In reviewing and commenting on the Gateway West DEIS, our organizations recommended that the BLM develop a supplemental GOEA document for public review and comment. While this was done for Greater Sage-grouse, this was not completed for GOEA and this remains a request of our groups. Given the growing concern for these majestic birds, especially related to mortalities associated with wind farms and expanding transmission infrastructure, any development decisions that will impact GOEA must be placed within a regional population context much larger than the area immediately surrounding any proposed transmission project, which this FEIS fails to do. In addition, areas out 10 miles from the application area should be evaluated. Adequate buffers for GOEA should be in place and monitored to evaluate effectiveness. Compensatory mitigation for retrofitting of lethal power poles in the region should be considered for the first five years of operation.

### c. Commissary Ridge

Commissary Ridge is a well-documented major raptor migration route, where Golden Eagles were among the five most common species observed, with close to 300 GOEA and over 3,000 raptors passing

through this distinct area each fall (DEIS p. 3.10-16). Unfortunately, the FEIS fails to determine a collision risk associated with the proposed line crossing the ridge perpendicular to this migration pathway. As noted in the FEIS (3.11-72): “There is potential risk of avian collisions with transmission lines or other Project-related structures due to the Project’s construction and operations, which could result in elevated mortality rates for some avian species ... Collisions usually occur near water, migration corridors and occur more often during inclement weather.” The FEIS further states (3.10.2.2-53): “Bird collisions with structures occur more often along migration routes, *for example at Commissary Ridge*. The Proposed Route would run perpendicular to the ridge, so most birds traveling along it would be likely to encounter the transmission line (see Figure A-5 in Appendix A).” Emphasis added. In Table 2.7-1 of the FEIS, WILD-7 states “Flight diverters will be installed and maintained where the transmission line crosses rivers at the locations identified in Table 3.10-4. Additional locations may be identified by the Agencies or the Project Proponents. The flight diverters will be installed as directed in the Proponents’ approved Avian Protection Plans and in conformance with the Migratory Bird Treaty Act (MBTA) and Bald and Golden Eagle Protection Act (Eagle Act) as recommended in the current collision manual of APLIC.” Emphasis added. Given the above information, we feel strongly that bird diverters should be installed and maintained at migration corridor known as Commissary Ridge.

FEIS at 3.11-24 states that the proponent can address the direct loss of birds: “The framework states that there are two ways that a project proponent can deal with the issue of “direct loss of birds”: a) work closely with the USFWS and state agency biologists to develop an approach to address loss of birds from project-related impacts and their replacement, and b) contribute financially to research projects that have been designed specifically to address this issue.” While research may not directly address the direct loss of birds at the Commissary Ridge location, this site may prove very valuable to pursue as a research project to understand the impacts of transmission at a major migratory pathway and thus minimize losses in other locations.

#### **d. Shamrock Hills**

Additionally, the National Audubon Society has identified an Important Bird Area (IBA) just north of the proposed route and west of Rawlins – Shamrock Hills Raptor Concentration Area. This is a global IBA that is located in the greatest concentration of raptor nests documented amongst the Wyoming routes. These nests identify preferred habitat for raptors, as these contain quality combinations of nesting and foraging habitats that should be protected for use by future nesting raptors. As noted in the FEIS (3.10.1.5-17), global IBAs reflect the area’s highest conservation value. While this IBA is not located directly within the project area, given the concentration of raptors and the distances they travel to hunt, conflicts may occur. Therefore, BLM should improve efforts to avoid, minimize and off-set impacts to raptors, including through a comprehensive monitoring and adaptive management strategy.

#### **e. Shirley Basin**

Our organizations remain very concerned about the potential for additional renewable development within the Shirley Basin, a dramatic landscape which harbors some of the world’s last intact grasslands and a mix of Wyoming big sage communities. This area supports superb fisheries, significant bat roosts, and numerous bird species, including mountain plover, ferruginous hawks, sage grouse and the American white pelican. The Nature Conservancy scientists have identified the Shirley Basin as an area of high biological significance because of its intact grasslands and aquatic habitats. Furthermore, the National Audubon Society has identified an Important Bird Area (IBA) in the basin.

We would support this segment only if (1) the Heward substation were eliminated, which failed to be addressed in the FEIS and there are (2) assurances that public lands north of the checkerboard will not be available to new renewable energy development activities, as this important basin has already experienced considerable strain due to recent development pressures. Our additional concerns with this route include:

- Question the need to build a new 230 kV line and reconstruct the existing 230 kV line instead of reconstructing the existing 230 kV line as a 500 kV line and avoiding the need to build a new line in a new ROW,
- Portions of Alts 1W(a) and 1W(c) follow West-wide Energy Corridor (WWEC) segment 78-255 which was identified as a “corridor of concern” in the 2012 settlement agreement for *The Wilderness Society, et al. v. United States Department of the Interior, et al.* (see Attachment 1). Under the settlement agreement, the federal agencies are required to re-evaluate the corridors to better avoid impacts to natural and cultural resources and help facilitate renewable energy development. WWEC segment 78-255 was identified as a corridor of concern because of impacts to sage-grouse core area and habitat (see Attachment 1).
- Alts 1W(a) and 1W(c) are not in a Wyoming Executive Order specified Transmission Corridor

### III. MITIGATION

The federal mitigation hierarchy should be specified, as is being increasingly done with RMP revisions and amendments. Mitigation is often popularly believed to be limited to compensatory, however this should be preceded by all good faith efforts to avoid or minimize impacts.

The sequence of mitigation actions will be as described below in three steps -

- *Avoid*: adverse impacts to resources are to be avoided and no action shall be permitted if there is a practicable alternative with less adverse impacts.
- *Minimize*: if impacts to resources cannot be avoided, appropriate and practicable steps to minimize adverse impacts must be taken.
- *Compensate*: appropriate and practicable compensatory mitigation is required for unavoidable adverse impacts that remain. The amount and quality of compensatory mitigation may not substitute for **avoiding and minimizing impacts.**”

Earlier this month, the BLM has issued a new interim policy on regional mitigation, effective immediately ([http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information\\_Resources\\_Management/policy/im\\_attachments/2013.Par.57631.File.dat/IM2013-142\\_att1.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/im_attachments/2013.Par.57631.File.dat/IM2013-142_att1.pdf)). The new manual covers regional mitigation strategies, planning, and implementation. In the planning portion, the goal is to incorporate sites and measures and mitigation strategies into land use plans, including a regional baseline, mitigation objectives, land use allocations or “areas for landscape-level conservation and management actions.” Relevant to the Gateway West FEIS, ACECs and sage-grouse priority habitat are used as examples of these. In the implementation portion, this is described as part of approving specific land uses, which may be “within (onsite) or outside of the area of impact.” The manual emphasizes that on-site mitigation is always the first choice (including a “mitigation priority order”, then discusses off-site mitigation comprising replacing or providing similar or substitute resources or values through “restoration, enhancement, creation, or preservation.” As the EIS process proceeds, we respectfully requests clarification on how this new interim regional policy on mitigation will be incorporated.

Mitigation, which should be monitored to determine effectiveness, should enhance long-term health and viability of the impacted populations through permanent protections and through other protections that last at least throughout the life of the project. Location of off-site mitigation is extremely important.

In the DEIS our organizations requested “Full range of off-site mitigation strategies to improve conditions for wildlife and habitat, in addition to avoidance and on-site mitigation.” While this has been done to a fair degree for Greater Sage-grouse, this has been done inadequately for other species, most notably Golden Eagles.

In DEIS, our organizations requested “Avoid to the greatest extent possible by siting in areas with low resource values and minimized and mitigated to the best degree possible, using best management practices, the best available technology, and innovative strategies for both on and off-site mitigation in proposed action.” While we draw attention to the recommendations already made (i.e. use of bird diverters in migration corridors), BLM should be commended for collocating lines, using singular lattice towers where able, and requiring guy wired to be marked.

According to the FEIS, “to properly determine the extent of necessary mitigation, one must first determine how project-related impacts to habitats would affect the services that those habitats once provided.” FEIS at 3.11-25. While it should be the goal to achieve no net loss of habitat for wildlife, we appreciate the recognition of the challenges of such in this arid landscape. “However, revegetation in arid landscapes can take many years to reestablish to pre-disturbance conditions or to levels that are suitable for sage-grouse, especially in terms of mature sagebrush canopy cover. Therefore, revegetated shrublands would still have lower shrub cover than undisturbed areas for many decades. In addition, even if revegetation efforts within the ROW are successful, they are unlikely to provide habitat of the same quality or suitability as before construction, due to the presence of the new transmission facility nearby (consequently there may be a need for additional mitigation activities elsewhere; see Appendix C-3).” FEIS at 3.11.2.2-69. For this reason, avoidance of critical habitat and minimizing disturbances should occur before compensatory mitigation.

This project comes at a critical time for the conservation of greater sage-grouse. This “warranted but precluded” candidate species requires management and protection focused on ensuring local conservation success, in conjunction with an overall strategy to incorporate indirect and cumulative effects and to provide for rangewide persistence for the species. The adoption of objective methods based on the most complete and current science is the key component of such a strategy. We are optimistic that further refinement of HEA for sage-grouse can lead to sound development with lasting conservation benefits.

Finally, given the reliance on mitigation, our organizations strongly encourage an analysis of effectiveness of mitigation measures, including monitoring and adaptive management. Thresholds and adaptive management actions were not clear for any of the species highlighted within the FEIS.

#### **IV. AVIAN PROTECTION PLANS**

In our DEIS comments, we requested that the Avian Protection Plan and Habitat Equivalency Analysis be presented in a supplemental release of information, with the data, methods, and results made available for public comments. The HEA has been and we are appreciative of this innovative approach being

pursued by the BLM. However, the APPs were developed by the Proponents and are only accessible on their respective websites. We request clarification on opportunities for public comment and engagement on the content of the APPs. Of the portions we were able to review, most notably that developed by Idaho Power, we were pleased to see the following measures (many of which we recommended in DEIS comments) incorporated:

- Anti-perching devices
- Conductor to conductor spacing to prevent electrocution (following updated APLIC)
- Marking lines to prevent collisions
- Adapting arrangement of distribution lines if electrocution does start to occur (request clarification on how they will monitor)
- Modification to lighting
- Use of GIS to identify GOEA areas of highest risk (request clarification on selected eagle risk factors)

We do note that spatial buffers for GOEA nests, as with Bald Eagles, should be 1.0 miles.

#### **V. CANDIDATE CONSERVATION AGREEMENT (CCA)/CANDIDATE CONSERVATION AGREEMENT WITH ASSURANCES (CCAA)**

As with APPs, we request clarification on opportunities for public comment and engagement on the content of the CCAs/CCAAs.

Thank you for your thorough consideration of these comments. Please do not hesitate to contact us with any questions or requests for clarification or additional information. We look forward to participating in future planning processes for this project, which we understand will also include stakeholder siting resolution meetings.

Respectfully submitted by:

Daly Edmunds  
Regional Policy Coordinator  
**Audubon Rockies**  
[dedmunds@audubon.org](mailto:dedmunds@audubon.org)

Alex Daue  
Renewable Energy Associate  
**The Wilderness Society**  
[alex\\_daue@tws.org](mailto:alex_daue@tws.org)

Erin Lieberman  
Western Policy Advisor, Renewable Energy and Wildlife  
**Defenders of Wildlife**  
[elieberman@defenders.org](mailto:elieberman@defenders.org)

Gary Graham  
Director, Lands Program  
**Western Resource Advocates**  
[ggraham@westernresources.org](mailto:ggraham@westernresources.org)

## LITERATURE CITED

Blickley, J.L., D. Blackwood, and G.L. Patricelli. 2012. Experimental evidence for the effects of chronic anthropogenic noise on abundance of greater sage-grouse at leks. *Conservation Biology* 26(3):461-471.

Blickley, J.L. and G.L. Patricelli. 2012. Chapter 3: potential acoustic masking of greater sage-grouse (*Centrocercus urophasianus*) display components by chronic industrial noise. *Ornithological Monographs* 74: 23-35.

Christiansen, T. 2009. Fence marking to reduce greater sage-grouse (*Centrocercus urophasianus*) collisions and mortality near Farson, Wyoming – Summary of interim results. Wyoming Game and Fish Department, Cheyenne, WY.

Danvir, R.E. 2002. Sage grouse ecology and management in Northern Utah sagebrush-steppe. Deseret Land and Livestock Ranch and the Foundation for Quality Research Management, Woodruff, UT.  
<ftp://ftpfc.sc.egov.usda.gov/WY/Sage%20Grouse/Ecology%20of%20Northern%20Utah%20sage%20grouse.pdf>

Doherty, K. E. 2008 Sage-grouse and Energy Development: Integrating Science with Conservation Planning to Reduce Impacts. (Doctoral dissertation, the University of Montana). Missoula. Available at: <http://etd.lib.umt.edu/theses/available/etd-03262009-132629/unrestricted/doherty.pdf>.

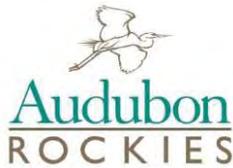
Holloran, M.J. 2005. Greater sage-grouse (*Centrocercus urophasianus*) population response to natural gas field development in western Wyoming. Dissertation. University of Wyoming, Laramie, WY.

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

U.S. Fish and Wildlife Service. 2003. Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines. U.S. Fish and Wildlife Service. Department of the Interior. Washington, D.C.  
<http://www.fws.gov/habitatconservation/wind.pdf>

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.

Wisdom, M.J., C.W. Meinke, S.T. Knick, and M.A. Schroeder. 2011. Factors associated with Extirpation of Sage-Grouse. Pp. In: *Greater Sage-Grouse: Ecology and Conservation of a Landscape Species and Its Habitats*, S. T. Knick and J. W. Connelly (editors), 451–472. *Studies in Avian Biology* (vol. 38), University of California Press, Berkeley, CA.



June 28, 2013

Project Manager  
Gateway West Transmission Project EIS  
Bureau of Land Management  
P.O. Box 20879  
Cheyenne, Wyoming 82003

Via U.S. Postal and email ([Gateway West WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov))

Re: Comments on Proposed Gateway West Transmission Line Project FEIS

Dear Mr. George:

The following comments are submitted on behalf of Audubon Rockies, The Wilderness Society, Defenders of Wildlife, and Western Resource Advocates, summarizing our collective concerns and recommendations on the final Environmental Impact Statement (FEIS) for the proposed Gateway West transmission project. These comments reflect our broad concerns from the conservation perspective, with a focus on Greater Sage-grouse, Golden Eagles/Raptors, Mitigation, Avian Protection Plans, and Candidate Conservation Agreements (with Assurances). Please note that we are also submitting other comments separately – relating to the Habitat Equivalency Analysis and the Snake River Birds of Prey National Conservation Area.

## I. GREATER SAGE-GROUSE

In a 2009 report prepared for the Department of Energy<sup>1</sup>, titled "Sage-Grouse and Wind Energy: Biology, Habits, and Potential Effects from Development," the authors summarized that "Braun et al. (2002) reported that sage-grouse were particularly susceptible to the placement of overhead power lines at within 0.8 km (0.5 mi) of nesting grounds. Significant impacts to sage-grouse have been documented from overhead power transmission and communication distribution lines out to 6 km (3.7 mi) (Manville 2004)." In March 2010, the USFWS's *12-Month Findings for Petitions to List the Greater Sage-Grouse as Threatened or Endangered* listed the following as potential impacts to the sage-grouse resulting from powerlines: 1) collisions/electrocutions, 2) consolidation of predatory birds along powerlines, 3) lower recruitment rates near lines, 4) habitat fragmentation, 5) degradation of habitat due to spread of invasive plant species, 6) impacts resulting from the line's electromagnetic fields, and 7) direct loss of habitat.

<sup>1</sup> [http://www.pnl.gov/main/publications/external/technical\\_reports/pnnl-18567.pdf](http://www.pnl.gov/main/publications/external/technical_reports/pnnl-18567.pdf)

In addition to the plethora of direct and indirect impacts, the FEIS notes that the “Project would contribute to the permanent loss of suitable sage-grouse habitat and possible disturbances to birds.” FEIS at 4-73. Furthermore, the “cumulative effects of this Project combined with other reasonable foreseeable projects could be substantial (based on current trends in sage-grouse populations).” FEIS at 3.11-76. Given these predictions, we offer the following suggestions to minimize impacts.

**a. Protective Stipulations**

Surface disturbance is anticipated to have adverse impacts to sagebrush habitats including temporary and permanent loss of habitats across all alternatives. Fragmentation and degradation of habitat for greater sage-grouse also is anticipated from surface-disturbing activities and associated development. Therefore, protective stipulations within the project area deserve careful attention. The FEIS notes that recent research identified the best predictors between extirpated and occupied ranges to include distance to transmission lines (Wisdom et al 2011). FEIS at 3.11-74. Knick et al. 2013 further emphasizes intolerance of grouse to human disturbance and development, reporting that 99% of active leks in the species’ western range were in landscapes with <3% disturbance. Doherty (2008) reported that “impacts to leks caused by energy development would be most severe near the lek. Although most of the impacts from energy development are indirect, some direct effects, such as flying into overhead power lines would also result from energy development and ROWs.”

Collectively, our organizations continue to stress that that science strongly argues that the spatial restrictions proposed in the FEIS are severely inadequate. The 0.25 mile (TESWL-9) and 0.60 restrictions (TESWL-8) have long been recognized as being without scientific merit and an inadequate protective measure to maintain lek activity (Holloran 2005; Walker et al. 2007). Instead, given the research from oil and gas development, the agency should avoid placing transmission lines within 5 miles of sage-grouse leks, which is also recommended by the USFWS<sup>2</sup>. The Lander RMP DEIS and FEIS both recognized this, as did the Miles City RMP. As noted in the latter, “BLM NSO stipulations for leasing and development within 0.25 miles of a lek would result in an estimated lek persistence (the ability of leks to remain on the landscape) of approximately 5 percent, while lek persistence in areas without oil and gas development would be expected to average approximately 85 percent. Impacts from energy development occur at distances between 3 and 4 miles.” .... “Impacts to leks caused by energy development would be most severe near the lek. Although most of the impacts from energy development are indirect, some direct effects, such as flying into overhead power lines would also result from energy development and ROWs. Miles City DEIS/RMP at 4-135.

TESWL-8 should be amended to include “undetermined” Greater Sage-grouse leks, as was done for TESWL-9. FEIS at 2-166. As pressures increase on the landscape, managers must provide greater opportunities for lek survival and conservation success. This conservative approach takes into account observer error (failure to identify strutting grouse), weather conditions, and grouse variability.

We applaud the BLM for changing the timing stipulations in the DEIS (originally March 1 to May 15) to March 1 to July 15, as we originally requested within our DEIS comments. This extension provides greater protections to hens and young as most hens are still sitting on nests in May 15. In fact, peak hatch generally occurs in early June and is followed by early brood rearing, which also occurs near

---

2

[http://www.fws.gov/southwest/es/oklahoma/documents/te\\_species/wind%20power/prairie%20grouse%20lek%205%20mile%20public.pdf](http://www.fws.gov/southwest/es/oklahoma/documents/te_species/wind%20power/prairie%20grouse%20lek%205%20mile%20public.pdf)

nesting habitat. The timing stipulation, from March 1 to July 15 should apply to the entire core area in Wyoming and for those portions of transmission line that run through Key Habitat areas in Idaho, whereas it is currently proposed that this only applies to “Federal Land and all land in Wyoming and Idaho Segments 6,8, and 9”. FEIS at 2-166.

In addition, we applaud the extension of the protective stipulations into the operations and maintenance periods and would like to make sure that this applies to all stipulations related to grouse. Table 2.7-1 at 2-166. Lander RMP FEIS notes that “wildlife seasonal protections from surface-disturbing and disruptive activities apply to maintenance and operations actions when the activity is determined to be detrimental to wildlife.” FEIS at 117. This is an important timing due to the longer period of time associated with maintenance and operations actions, beyond the usual development-specific stipulations. BLM supports this in the Lander RMP FEIS, “Beyond initial exploration (including geophysical activities), land clearing, and aboveground facility construction, continued human disturbance to special status wildlife could occur from activities such as equipment maintenance and site operations, which are especially disruptive during sensitive times (wintering, breeding, and nesting).” FEIS at 931. The Miles City Draft RMP noted that in areas where development occurred, “there would be no restrictions to operation and maintenance activities, *which would potentially result in the reduction or extirpation of populations.*” DEIS at 4-134 (emphasis added).

The current protections proposed for adoption uses NSO stipulations as a means of protection for grouse, most notably in Core Areas. FEIS at 2-166. However, NSOs are subject to exceptions, waivers and modifications. If these can be applied to NSOs, this fails to meet the regulatory certainty being sought by USFWS, which is extremely concerning given the importance of this habitat to grouse persistence in the planning area. If waivers, exemptions and modification are allowed then the BLM should set up a process that allows the public to comment when these actions are considered.

TESWL-6, related to Sharp-tailed Grouse, needs to be clarified. This EPM proposes that “in areas where sharp-tailed grouse leks occur in proximity to greater sage-grouse leks, surface disturbance will be avoided within 4 miles of occupied or undetermined greater sage grouse leks ...” FEIS at 2-165. The term “proximity” should be removed and replaced with a specified distance.

#### **b. Noise**

The Gateway West FEIS fails to adequately address *noise* impacts. Facilities that produce continual noise can affect the breeding vocalizations of greater sage-grouse. Continuous noise from industrial facilities, such high voltage transmission lines and substations, close to active greater sage-grouse leks would interfere with male greater sage-grouse strutting behavior which could reduce the reproductive success of greater sage-grouse using these leks. The BLM does note in the FEIS, “construction-related noise and dust disturbance would occur during construction, which could potentially make habitat within the immediate vicinity of the activity temporally unsuitable for this species.” FEIS at 3.11-65. We strongly recommend that BLM carefully review and incorporate new research which relates to noise impacts on grouse, as these are suggesting threats to sage-grouse population viability – through abundance, stress levels, and behavior (Blickley et al. 2012, Blickly and Patricelli 2012). In the recently released Miles City Draft RMP, BLM recognizes the impacts of noise, “Movements associated with oil and gas wells, noise associated with disruptive activities and compressor stations, vehicle use, and human presence would impact numerous wildlife species indirectly, including sage grouse. Sage-grouse numbers on leks within approximately 1 mile of compressor stations would contain lower numbers than leks greater than 1 mile from compressors. Male attendance at leks would be expected to be reduced when subjected to the current standard noise limitation of 50 decibels at the lek site.” Miles City DEIS/RMP at 4-135.

Furthermore, the new Environmental Protection Measure proposed in Table 2.7-1 related to surface disturbance should incorporate noise impacts. TESWL-9 states that “this distance (i.e. 4 miles) may be reduced on a case-by-case basis by the applicable agency, if site conditions would allow the Project to be located closer the lek than 4 miles (e.g. topography prevents the Project from being visible from the lek, or a major disturbance such as a freeway or existing transmission lines is located between the Project and the lek).” FEIS at 2-166. While topography may shield the view of the transmission line from the lek, noise may be carried to the lek site and interfere with strutting behavior and reproductive outcomes.

### c. Winter Range/Concentration Areas

Upon designation of special status species, the species’ distribution, key habitat areas, and special management needs should be identified prior to developing resource management plans. While winter concentration areas were referenced in the document (FEIS 2-166) with protective measures, TESWL-10: “If Winter Concentration Areas for the greater sage-grouse are designated, there will be no surface occupancy within the designated areas from November 1 through March 15”, it is unclear the location of extent of winter range/concentration areas. In addition, to this proposed Environmental Protection Measure, we propose the BLM to add “unless data indicate a date modification is necessary to better protect wintering greater sage-grouse.”

In addition to more carefully assessing the spatial distribution/acreage of current winter habitat for sage grouse, the BLM should also consider the current quality of this habitat as this will likely drive selection of appropriate protective measures and prioritize restoration activities. The Governor-appointed *Wyoming Sage-grouse Implementation Team* recently commissioned the *Wyoming Chapter of the Wildlife Society*, a non-profit organization of wildlife biologists, to review current protocol for identifying and mapping sage-grouse winter concentration areas. This report would be helpful for consideration in BLM’s efforts going forward<sup>3</sup>. The protocol proposed within this report may be helpful to the BLM when developing a defensible protocol for identifying and mapping sage-grouse winter concentration areas.

Because of the importance of this habitat to grouse, we suggest protection for these areas based on what has been presented in the Lander FEIS/RMP (Record # 3006): “In identified greater sage-grouse winter range, vegetation treatments should emphasize strategically reducing wildfire risk around or in the winter range and maintaining winter range habitat quality.”

### d. Fences

Fencing can be an obstacle or potential hazard to special status wildlife species by concentrating livestock, adversely impacting vegetation and fragmenting habitat. In relation to sage-grouse, the addition of new fences further fragments the landscape, provides potential collision points, and provides perching opportunities for raptors – all detrimental to sage-grouse. In addition to fence surveys in the Lander and Rock Springs Wyoming BLM Field Office areas showing that Greater Sage-grouse can be injured or killed as a result of flying into fence wires (Lander RMP FEIS at 969), a Utah study found that 18% of sage-grouse deaths were due to fence collisions (Danvir 2002). A 2009 WGFD report examined sage-grouse mortalities near Farson and found that sage-grouse fence diverters reduced sage-grouse fatalities by 61 percent (Christiansen 2009).

<sup>3</sup> This report can be downloaded at [http://wgfd.wyo.gov/web2011/Departments/Wildlife/pdfs/SGIT\\_051513\\_WYTWSAREAREPORT0004118.pdf](http://wgfd.wyo.gov/web2011/Departments/Wildlife/pdfs/SGIT_051513_WYTWSAREAREPORT0004118.pdf)

While transmission lines are not generally associated with fences, construction of large vertical structures will likely result in behavioral changes by grouse. Therefore, BLM should require monitoring of fences in the areas adjacent to the line to determine locations where collisions are occurring. We suggest that the proponent remove or mark identified wildlife hazard fences that are adversely affecting wildlife where opportunities exist. This option was provided in the Miles City RMP, “Fences in high-risk areas (based on proximity to leks, lek size, and topography) would be removed, modified, or marked to reduce outright sage-grouse strikes and mortality.” DEIS at 2-49.

**e. Riparian/Wetland Areas**

The BLM’s objective for managing riparian and wetland habitats should be to maintain, restore, or improve riparian areas to achieve a healthy and productive ecological condition that provides benefits and values within site capability. Wetland and riparian areas are unique and among the most productive and important ecosystems. Although comprising only a small percentage of the BLM lands, they affect most other resources and values. Given the high value of these areas for a variety of resources, all aspects of riparian and wetland area inventory, monitoring, and management will involve a multidisciplinary effort. The impacts of a high voltage transmission line traversing the landscape should be considered and appropriately managed.

Riparian-wetland areas are a component of brood-rearing habitat for greater sage-grouse because they provide needed forbs and insects necessary for chick survival. Actions that improve riparian-wetlands improve habitats for special status wildlife species, especially increasing the quantity and quality of riparian-wetland vegetation and insects, are critical for sage-grouse.

Therefore, we encourage the following as riparian/wetland habitat was inadequately addressed in TESWL-14 (FEIS at 2-167). We propose strengthening a portion of it: Surface disturbing and disruptive activities should be prohibited within 1,329 feet (0.25 mile) of playas and 100-year floodplains where mapped. The proposed EPM currently only specifies the avoidance of the actual identified 100-year floodplain. Where unavoidable, the “crossing-specific plans” should include specific language that addresses the avoidance of introducing or expanding invasive nonnative species. Treatment to address INN species is expensive and with uncertain success at best. It involves highly disruptive management with potential for adverse impacts to greater sage-grouse. With limited budgets available for pest treatments, we encourage the BLM to emphasize reducing the likelihood of spread through management actions such as requiring washing of vehicles and limited surface disturbance. This latter suggestion applies to the entire planning area, not just riparian areas.

**f. Bird Diverters**

Guy wires, such as those on meteorological (met) towers, have been known to cause more bird fatalities. For example, at Foote Creek Rim in Wyoming, researchers found an estimated 8.1 bird fatalities per met tower per year. Given these findings and others, the U.S. Fish and Wildlife Service (USFWS) recommends that all existing guy wires be marked with recommended bird deterrent devices (USFWS 2003)<sup>4</sup> recommendations for using bird diverters to prevent avian collisions and remain in compliance with the Migratory Bird Treaty Act (16 U.S.C. 703-712), bird diverters should be more commonly used met towers.

<sup>4</sup> U.S. Fish and Wildlife Service. 2003. Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines. U.S. Fish and Wildlife Service. Department of the Interior. Washington, D.C. <http://www.fws.gov/habitatconservation/wind.pdf>

The USFWS recommends that all existing guy wires be marked with recommended bird deterrent devices so as to remain in compliance with the Migratory Bird Treaty Act (16 U.S.C. 703-712). Although the use of bird deterrent devices has been particularly important in raptor and waterfowl concentration areas, such devices also are useful in preventing songbird and perhaps even sage-grouse collisions with guy wires.

We applaud proposed EPM TESWL-11, which states “No structures that require guy wires will be used in occupied sagebrush obligate habitats within the area managed under the Kemmerer RMP.” FEIS at 2-166. However, we stress that bird diverters should be attached to the new transmission line in areas near sage-grouse concentration areas – such as leks and winter concentration areas.

**g. Other Prairie Grouse Species**

As noted within the FEIS, “studies conducted on species that have similar life history traits to sage-grouse (e.g., the lesser and greater prairie-chickens) have shown that use of habitat is reduced when these habitats are located near tall structures (Pitman et al. 2005; Pruett et al. 2008).” FEIS at 3.11-74. The BLM continues, “...if sage-grouse have similar responses to disturbances as the lesser and greater prairie-chickens, it is possible that the vegetative clearing for the permanent access roads would not result in habitat fragmentation for sage-grouse, but that the presence of the transmission structures and line would serve as a form of habitat fragmentation, and may inhibit movement to some degree.” *Ibid.* Given that peer reviewed science that demonstrates avoidance or non-avoidance of tall structures by grouse is limited, we encourage a research project to be associated with this high voltage transmission line. Research protocols should follow those outlined in Utah Wildlife in Need’s 2011 report: *Protocol for Investigating the Effects of Tall Structures on Sage-grouse within Designated and Proposed Energy Corridors*<sup>5</sup>.

**h. Discussion on Changes Since DEIS**

“Given the extent of the direct and indirect impact on greater sage-grouse and their habitat, as well as the lack of a compensatory mitigation plan that is currently acceptable to both the Proponents and the state and federal agencies, the Project’s construction and operations may impact individuals or habitat, and is likely to contribute to a trend toward federal listing or loss of viability for the greater sage-grouse (R4 language). For the same reasons, the Project may adversely impact individuals and is likely to result in a loss of viability in the Planning Area, or cause a trend towards federal listing (R2 language).” DEIS 3-11.72

We respectfully request a tallied summary of the changes that have been employed since the DEIS that has resulted in the BLM’s FEIS position of minimal impacts.

**i. Resource Management Plan Revisions and Amendments**

Numerous Resource Management Plans are currently in the process of being revised and amended, most notably to address inadequate regulatory mechanisms currently in place for Greater Sage-grouse. Clarification is requested on how the decisions made within these important land use documents will impact the proposed Gateway West project, including procedure for incorporating information from RMPs that are completed post approval of the ROW grant.

<sup>5</sup> [http://www.utahcbcp.org/files/uploads/UWIN\\_SageGrouse\\_Structure\\_ProtocolFinal.pdf](http://www.utahcbcp.org/files/uploads/UWIN_SageGrouse_Structure_ProtocolFinal.pdf)

## II. GOLDEN EAGLES/RAPTORS

### a. Protective Stipulations

Raptors are sensitive to environmental disturbance and occupy an ecological position at the top of the food chain; thus, they act as biological indicators of environmental quality. The nesting season is considered the most critical period in the raptor life-cycle because it determines population productivity, short-term diversity, and long-term trends. Therefore serious attention should be paid to the raptor buffers as all raptors are protected under the Migratory Bird Treaty Act.

Raptor nest protective buffers (surface-disturbing and disruptive activities subject to seasonal limitations) proposed are inadequate. Any activity that disrupts breeding, feeding, sheltering, and roosting behavior and causes, or is likely to cause, nest abandonment or reduced productivity is considered disturbance and is a violation of BGEPA. We encourage the BLM to adopt the following protections - prohibiting surface-disturbing activities within 1 mile of GOEA nests and 1 mile for Ferruginous Hawk nests. Our organizations support the specificity of “nests active within the past 7 years” and the inclusion of winter roost sites. We recommend 1 mile buffer for all other raptors nests as well (BLM Special Status Raptors – Burrowing Owl, Swainson’s Hawk, Peregrine Falcon, and Northern Goshawk).

The USFWS (USFWS 2002a) identifies courtship, nest construction, incubation, and early brooding as higher risk periods in the life-cycles of raptors when adults are more prone to abandon nests due to disturbance. The USFWS (USFWS 2002a) also indicates that human activities resulting in disturbance to raptors can cause population declines. Therefore, seasonal restrictions and buffers around nest sites are intended to minimize disturbance to GOEA. We recommend that year-round exclusion areas also be considered for use, if circumstances require.

### b. Golden Eagles

Golden eagles (GOEA) are protected under two major forms of federal legislation, the Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act (MBTA), and under increasing federal scrutiny with uncertain population levels. Based on the USFWS’ analysis of populations across the nation, there is no safe allowable take level for GOEA; however, take is likely unavoidable with transmission project of this magnitude and in this location. Use by GOEA is not surprising as the application area contains native shrubland and grassland communities, as well as natural landscape features, that provide foraging and nesting opportunities sought by this species. In reviewing and commenting on the Gateway West DEIS, our organizations recommended that the BLM develop a supplemental GOEA document for public review and comment. While this was done for Greater Sage-grouse, this was not completed for GOEA and this remains a request of our groups. Given the growing concern for these majestic birds, especially related to mortalities associated with wind farms and expanding transmission infrastructure, any development decisions that will impact GOEA must be placed within a regional population context much larger than the area immediately surrounding any proposed transmission project, which this FEIS fails to do. In addition, areas out 10 miles from the application area should be evaluated. Adequate buffers for GOEA should be in place and monitored to evaluate effectiveness. Compensatory mitigation for retrofitting of lethal power poles in the region should be considered for the first five years of operation.

### c. Commissary Ridge

Commissary Ridge is a well-documented major raptor migration route, where Golden Eagles were among the five most common species observed, with close to 300 GOEA and over 3,000 raptors passing

through this distinct area each fall (DEIS p. 3.10-16). Unfortunately, the FEIS fails to determine a collision risk associated with the proposed line crossing the ridge perpendicular to this migration pathway. As noted in the FEIS (3.11-72): “There is potential risk of avian collisions with transmission lines or other Project-related structures due to the Project’s construction and operations, which could result in elevated mortality rates for some avian species ... Collisions usually occur near water, migration corridors and occur more often during inclement weather.” The FEIS further states (3.10.2.2-53): “Bird collisions with structures occur more often along migration routes, *for example at Commissary Ridge*. The Proposed Route would run perpendicular to the ridge, so most birds traveling along it would be likely to encounter the transmission line (see Figure A-5 in Appendix A).” Emphasis added. In Table 2.7-1 of the FEIS, WILD-7 states “Flight diverters will be installed and maintained where the transmission line crosses rivers at the locations identified in Table 3.10-4. Additional locations may be identified by the Agencies or the Project Proponents. The flight diverters will be installed as directed in the Proponents’ approved Avian Protection Plans and in conformance with the Migratory Bird Treaty Act (MBTA) and Bald and Golden Eagle Protection Act (Eagle Act) as recommended in the current collision manual of APLIC.” Emphasis added. Given the above information, we feel strongly that bird diverters should be installed and maintained at migration corridor known as Commissary Ridge.

FEIS at 3.11-24 states that the proponent can address the direct loss of birds: “The framework states that there are two ways that a project proponent can deal with the issue of “direct loss of birds”: a) work closely with the USFWS and state agency biologists to develop an approach to address loss of birds from project-related impacts and their replacement, and b) contribute financially to research projects that have been designed specifically to address this issue.” While research may not directly address the direct loss of birds at the Commissary Ridge location, this site may prove very valuable to pursue as a research project to understand the impacts of transmission at a major migratory pathway and thus minimize losses in other locations.

#### **d. Shamrock Hills**

Additionally, the National Audubon Society has identified an Important Bird Area (IBA) just north of the proposed route and west of Rawlins – Shamrock Hills Raptor Concentration Area. This is a global IBA that is located in the greatest concentration of raptor nests documented amongst the Wyoming routes. These nests identify preferred habitat for raptors, as these contain quality combinations of nesting and foraging habitats that should be protected for use by future nesting raptors. As noted in the FEIS (3.10.1.5-17), global IBAs reflect the area’s highest conservation value. While this IBA is not located directly within the project area, given the concentration of raptors and the distances they travel to hunt, conflicts may occur. Therefore, BLM should improve efforts to avoid, minimize and off-set impacts to raptors, including through a comprehensive monitoring and adaptive management strategy.

#### **e. Shirley Basin**

Our organizations remain very concerned about the potential for additional renewable development within the Shirley Basin, a dramatic landscape which harbors some of the world’s last intact grasslands and a mix of Wyoming big sage communities. This area supports superb fisheries, significant bat roosts, and numerous bird species, including mountain plover, ferruginous hawks, sage grouse and the American white pelican. The Nature Conservancy scientists have identified the Shirley Basin as an area of high biological significance because of its intact grasslands and aquatic habitats. Furthermore, the National Audubon Society has identified an Important Bird Area (IBA) in the basin.

We would support this segment only if (1) the Heward substation were eliminated, which failed to be addressed in the FEIS and there are (2) assurances that public lands north of the checkerboard will not be available to new renewable energy development activities, as this important basin has already experienced considerable strain due to recent development pressures. Our additional concerns with this route include:

- Question the need to build a new 230 kV line and reconstruct the existing 230 kV line instead of reconstructing the existing 230 kV line as a 500 kV line and avoiding the need to build a new line in a new ROW,
- Portions of Alts 1W(a) and 1W(c) follow West-wide Energy Corridor (WVEC) segment 78-255 which was identified as a “corridor of concern” in the 2012 settlement agreement for *The Wilderness Society, et al. v. United States Department of the Interior, et al.* (see Attachment 1). Under the settlement agreement, the federal agencies are required to re-evaluate the corridors to better avoid impacts to natural and cultural resources and help facilitate renewable energy development. WVEC segment 78-255 was identified as a corridor of concern because of impacts to sage-grouse core area and habitat (see Attachment 1).
- Alts 1W(a) and 1W(c) are not in a Wyoming Executive Order specified Transmission Corridor

### III. MITIGATION

The federal mitigation hierarchy should be specified, as is being increasingly done with RMP revisions and amendments. Mitigation is often popularly believed to be limited to compensatory, however this should be preceded by all good faith efforts to avoid or minimize impacts.

The sequence of mitigation actions will be as described below in three steps -

- *Avoid*: adverse impacts to resources are to be avoided and no action shall be permitted if there is a practicable alternative with less adverse impacts.
- *Minimize*: if impacts to resources cannot be avoided, appropriate and practicable steps to minimize adverse impacts must be taken.
- *Compensate*: appropriate and practicable compensatory mitigation is required for unavoidable adverse impacts that remain. The amount and quality of compensatory mitigation may not substitute for avoiding and minimizing impacts.”

Earlier this month, the BLM has issued a new interim policy on regional mitigation, effective immediately ([http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information\\_Resources\\_Management/policy/im\\_attachments/2013.Par.57631.File.dat/IM2013-142\\_att1.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/im_attachments/2013.Par.57631.File.dat/IM2013-142_att1.pdf)). The new manual covers regional mitigation strategies, planning, and implementation. In the planning portion, the goal is to incorporate sites and measures and mitigation strategies into land use plans, including a regional baseline, mitigation objectives, land use allocations or “areas for landscape-level conservation and management actions.” Relevant to the Gateway West FEIS, ACECs and sage-grouse priority habitat are used as examples of these. In the implementation portion, this is described as part of approving specific land uses, which may be “within (onsite) or outside of the area of impact.” The manual emphasizes that on-site mitigation is always the first choice (including a “mitigation priority order”, then discusses off-site mitigation comprising replacing or providing similar or substitute resources or values through “restoration, enhancement, creation, or preservation.” As the EIS process proceeds, we respectfully requests clarification on how this new interim regional policy on mitigation will be incorporated.

Mitigation, which should be monitored to determine effectiveness, should enhance long-term health and viability of the impacted populations through permanent protections and through other protections that last at least throughout the life of the project. Location of off-site mitigation is extremely important.

In the DEIS our organizations requested “Full range of off-site mitigation strategies to improve conditions for wildlife and habitat, in addition to avoidance and on-site mitigation.” While this has been done to a fair degree for Greater Sage-grouse, this has been done inadequately for other species, most notably Golden Eagles.

In DEIS, our organizations requested “Avoid to the greatest extent possible by siting in areas with low resource values and minimized and mitigated to the best degree possible, using best management practices, the best available technology, and innovative strategies for both on and off-site mitigation in proposed action.” While we draw attention to the recommendations already made (i.e. use of bird diverters in migration corridors), BLM should be commended for collocating lines, using singular lattice towers where able, and requiring guy wired to be marked.

According to the FEIS, “to properly determine the extent of necessary mitigation, one must first determine how project-related impacts to habitats would affect the services that those habitats once provided.” FEIS at 3.11-25. While it should be the goal to achieve no net loss of habitat for wildlife, we appreciate the recognition of the challenges of such in this arid landscape. “However, revegetation in arid landscapes can take many years to reestablish to pre-disturbance conditions or to levels that are suitable for sage-grouse, especially in terms of mature sagebrush canopy cover. Therefore, revegetated shrublands would still have lower shrub cover than undisturbed areas for many decades. In addition, even if revegetation efforts within the ROW are successful, they are unlikely to provide habitat of the same quality or suitability as before construction, due to the presence of the new transmission facility nearby (consequently there may be a need for additional mitigation activities elsewhere; see Appendix C-3).” FEIS at 3.11.2.2-69. For this reason, avoidance of critical habitat and minimizing disturbances should occur before compensatory mitigation.

This project comes at a critical time for the conservation of greater sage-grouse. This “warranted but precluded” candidate species requires management and protection focused on ensuring local conservation success, in conjunction with an overall strategy to incorporate indirect and cumulative effects and to provide for rangewide persistence for the species. The adoption of objective methods based on the most complete and current science is the key component of such a strategy. We are optimistic that further refinement of HEA for sage-grouse can lead to sound development with lasting conservation benefits.

Finally, given the reliance on mitigation, our organizations strongly encourage an analysis of effectiveness of mitigation measures, including monitoring and adaptive management. Thresholds and adaptive management actions were not clear for any of the species highlighted within the FEIS.

#### **IV. AVIAN PROTECTION PLANS**

In our DEIS comments, we requested that the Avian Protection Plan and Habitat Equivalency Analysis be presented in a supplemental release of information, with the data, methods, and results made available for public comments. The HEA has been and we are appreciative of this innovative approach being

pursued by the BLM. However, the APPs were developed by the Proponents and are only accessible on their respective websites. We request clarification on opportunities for public comment and engagement on the content of the APPs. Of the portions were able to review, most notably that developed by Idaho Power, we were pleased to see the following measures (many of which we recommended in DEIS comments) incorporated:

- Anti-perching devices
- Conductor to conductor spacing to prevent electrocution (following updated APLIC)
- Marking lines to prevent collisions
- Adapting arrangement of distribution lines if electrocution does start to occur (request clarification on how they will monitor)
- Modification to lighting
- Use of GIS to identify GOEA areas of highest risk (request clarification on selected eagle risk factors)

We do note that spatial buffers for GOEA nests, as with Bald Eagles, should be 1.0 miles.

#### **V. CANDIDATE CONSERVATION AGREEMENT (CCA)/CANDIDATE CONSERVATION AGREEMENT WITH ASSURANCES (CCAA)**

As with APPs, we request clarification on opportunities for public comment and engagement on the content of the CCAs/CCAAs.

Thank you for your thorough consideration of these comments. Please do not hesitate to contact us with any questions or requests for clarification or additional information. We look forward to participating in future planning processes for this project, which we understand will also include stakeholder siting resolution meetings.

Respectfully submitted by:

Daly Edmunds  
Regional Policy Coordinator  
**Audubon Rockies**  
[dedmunds@audubon.org](mailto:dedmunds@audubon.org)

Alex Daue  
Renewable Energy Associate  
**The Wilderness Society**  
[alex\\_daue@tws.org](mailto:alex_daue@tws.org)

Erin Lieberman  
Western Policy Advisor, Renewable Energy and Wildlife  
**Defenders of Wildlife**  
[elieberman@defenders.org](mailto:elieberman@defenders.org)

Gary Graham  
Director, Lands Program  
**Western Resource Advocates**  
[ggraham@westernresources.org](mailto:ggraham@westernresources.org)

## LITERATURE CITED

Blickley, J.L., D. Blackwood, and G.L. Patricelli. 2012. Experimental evidence for the effects of chronic anthropogenic noise on abundance of greater sage-grouse at leks. *Conservation Biology* 26(3):461-471.

Blickley, J.L. and G.L. Patricelli. 2012. Chapter 3: potential acoustic masking of greater sage-grouse (*Centrocercus urophasianus*) display components by chronic industrial noise. *Ornithological Monographs* 74: 23-35.

Christiansen, T. 2009. Fence marking to reduce greater sage-grouse (*Centrocercus urophasianus*) collisions and mortality near Farson, Wyoming – Summary of interim results. Wyoming Game and Fish Department, Cheyenne, WY.

Danvir, R.E. 2002. Sage grouse ecology and management in Northern Utah sagebrush-steppe. Deseret Land and Livestock Ranch and the Foundation for Quality Research Management, Woodruff, UT.  
<ftp://ftpfc.sc.egov.usda.gov/WY/Sage%20Grouse/Ecology%20of%20Northern%20Utah%20sage%20grouse.pdf>

Doherty, K. E. 2008 Sage-grouse and Energy Development: Integrating Science with Conservation Planning to Reduce Impacts. (Doctoral dissertation, the University of Montana). Missoula. Available at: <http://etd.lib.umt.edu/theses/available/etd-03262009-132629/unrestricted/doherty.pdf>.

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

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

U.S. Fish and Wildlife Service. 2003. Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines. U.S. Fish and Wildlife Service. Department of the Interior. Washington, D.C.  
<http://www.fws.gov/habitatconservation/wind.pdf>

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.

Wisdom, M.J., C.W. Meinke, S.T. Knick, and M.A. Schroeder. 2011. Factors associated with Extirpation of Sage-Grouse. Pp. In: *Greater Sage-Grouse: Ecology and Conservation of a Landscape Species and Its Habitats*, S. T. Knick and J. W. Connelly (editors), 451–472. *Studies in Avian Biology* (vol. 38), University of California Press, Berkeley, CA.

**From:** [jmclain@blm.gov](mailto:jmclain@blm.gov) on behalf of [Gateway West Trans Line, BLM WY](#)  
**To:** [blm@gwcomment.com](mailto:blm@gwcomment.com)  
**Subject:** Fwd: Gateway West Transmission Line COMMENTS  
**Date:** Monday, July 01, 2013 10:22:46 AM  
**Attachments:** [GateWayTransmissionLineCOMMENTS.pdf](#)

---

----- Forwarded message -----

**From:** **Julie Christoffersen** <[jchristoffersen@idahofb.org](mailto:jchristoffersen@idahofb.org)>  
**Date:** Fri, Jun 28, 2013 at 12:38 PM  
**Subject:** Gateway West Transmission Line COMMENTS  
**To:** "[Gateway West WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov)" <[Gateway West WYMail@blm.gov](mailto:Gateway_West_WYMail@blm.gov)>

Attached you will find comments on the Gate Way Transmission Line Project for submission.

If you have any questions or trouble with the attachment please call my number below.

Thank you,

Julie

**Julie Christoffersen**

Governmental Affairs/Office Manager  
208-333-7084 | cell 208-559-0969  
fax 208-342-8585 | [jchristoffersen@idahofb.org](mailto:jchristoffersen@idahofb.org)



**Idaho Farm Bureau Federation**<sup>®</sup> — *The Voice of Idaho Agriculture*<sup>™</sup>  
500 W. Washington Street, Boise, ID 83701  
[www.idahofb.org](http://www.idahofb.org)

The information contained in this message may be privileged and confidential and protected from disclosure. If you are not the intended recipient of the message, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to the message, and please delete it from your computer.



## **IDAHO FARM BUREAU FEDERATION**

500 West Washington Street • P.O. Box 167  
Boise, Idaho 83701-0167 • (208) 342-2688  
FAX (208) 342-8585

June 28, 2013

Bureau of Land Management  
Gateway West Transmission Line Project FEIS  
PO Box 20879  
Cheyenne, WY 82003

Dear Mr. George:

The Idaho Farm Bureau Federation, which represents more than 68,000 Idaho families, is pleased to provide the following comments regarding the Gateway West Transmission Line Project (GWTLP) Final Environmental Impact Statement (FEIS).

The members of the Idaho Farm Bureau support enhancing electrical infrastructure in our state. Our current policy regarding electrical transmission states: "We support upgrades in transmission and distribution. Routing of utility corridors should be placed on public land first and then to the areas of least impact to private property owners. We support the initiation of on and off ramps in transmission lines within the state of Idaho."

Our concern with the project is primarily with the placement of the route and the apparent reluctance of the BLM to site the project on federally managed lands as much as possible. Our specific comments will be primarily related to segments 5, 7 and 9 which run through Power, Cassia and Owyhee Counties in Idaho, where most of the controversy over negative effects on private land are centered.

### **Snake River Birds of Prey National Conservation Area (SRBOP)**

The Owyhee County Task Force (OCTF) had worked out a carefully crafted proposal balancing the needs of the local economy with protection of the resources. Under their proposal, the GWTLP only crossed private property where landowners were willing to allow a right-of-way to be negotiated and much of the route paralleled existing lines through the SRBOP. Page 2-202 of the FEIS states "constructing an additional transmission line across the SRBOP would not meet the intent of the enabling legislation for the SRBOP. " To throw out those efforts under the guise of vague language in the enabling act of the SRBOP which states the purposes of the SRBOP are "to provide for the conservation, protection and enhancement of raptor populations and habitats" is preposterous, especially given the BLM's own studies indicating that power lines do in fact enhance raptor habitat.

As the Owyhee County Task Force has already pointed out in their previous comments, in 1981, less than a year after Secretary of the Interior, and former Governor of Idaho, Cecil Andrus withdrew 482,000 acres of BLM managed land to protect birds of prey nesting in the Snake River Canyon in southwestern Idaho, Pacific Power and Light (now PacifiCorp) began construction of a 500 kV transmission line across what is now the Morley Nelson Snake River Birds of Prey National Conservation Area (SRBOP). At that time raptor expert Morley Nelson, the namesake of the subsequent SRBOP,

Idaho Farm Bureau Federation  
 Gateway West Transmission Line Project FEIS  
 Page 2

assisted PP&L with the routing of the line so it would not adversely affect raptors and with designing platforms for transmission towers that would encourage raptor nesting (Nelson 1976, Nelson and Nelson 1982).

In addition, and again prior to the designation of the SRBOP as a National Conservation Area, from 1981 through 1989, the BLM and PP&L biologists monitored the response of raptors and ravens to the transmission line. These studies conclusively proved that transmission lines provided enhanced opportunities for raptors to perch, nest and roost; and the productivity of hawks and eagles nesting on transmission towers was as good, and in some cases better, than those nesting in natural environments. (Engel et al. 1992; Steenhof et al. 1993)

The BLM's own scientific studies fly in the face of the political decisions from Washington DC bureaucrats that no more transmission lines can ever be sited in a National Conservation Area.

### Sage Grouse

The Gateway West EIS issued a Sage Grouse Addendum in June 2012, which stated "the [Idaho] task force's recommendations would be incorporated into the final EIS if approved by the Governor prior to the publication of the EIS." Sage Grouse Addendum, Page 7.

The Governor's Task Force issued its recommendations June 15, 2012. Those recommendations were incorporated into the Federal Alternative of Governor C.L. Butch Otter for Greater Sage-Grouse Management in Idaho, September 5, 2012. Despite the promise of the BLM in the Sage Grouse Addendum, the BLM has completely ignored and contradicted the Idaho Sage Grouse management plan in the GWTLF FEIS and instead relied upon outdated BLM data. In fact, no consideration was given to the Idaho Sage-Grouse Task Force findings or the Idaho sage-grouse habitat map which differs greatly from that of the BLM. This makes no sense, particularly in light of the stated intent of BLM to include the new Idaho data.

Specifically, in Owyhee County, our members favor alternative 9D as it is the route with the least impact on Sage Grouse, which we are working very closely with the Governor's Sage Grouse task force to protect, along with other stakeholders, so as to avoid it becoming a listed species under the Endangered Species Act. A number of Idaho environmental groups have commented that the BLM's preferred alternative route 9E would pass through Preliminary Priority Habitat (PPH) for sage-grouse. PPH, as identified in the BLM's Greater Sage-Grouse Interim Management Policies and Procedures, IM 2012-043 (12/27/11), "comprises areas that have been identified as having the highest conservation value to maintaining sustainable Greater Sage-Grouse populations". IM2012-043 requires additional procedures for pending ROW applications that would affect more than 1 linear mile of Sage Grouse habitat. Segment 9E would affect nearly fifty miles of PPH according to the environmental groups' assessments.

Not long ago, Karen Steenhof, one of the biologists who studied the effects of transmission lines through the SRBOP, submitted the following comments to Carl Rountree, Director of NLCS: "A new transmission line in Owyhee County (9E) would attract raptors and ravens and could lead to increased predation on declining Greater sage-grouse populations. Golden eagles prey on adult Sage Grouse, and Common Ravens are a major predator of Sage Grouse eggs. Recently, Idaho State University (ISU) biologists have

Idaho Farm Bureau Federation  
 Gateway West Transmission Line Project FEIS  
 Page 3

noted a dramatic increase in the predation of Sage Grouse by ravens. Where there are more ravens, nesting female Sage Grouse stay on their nests much longer, leaving less often. Less time foraging may cause “substantial physiological distress” on the Sage Grouse. It would be better to attract raptors and ravens to cheatgrass areas in the NCA where they feed on ground squirrels than to the shrubsteppe areas inhabited by sage-grouse in Owyhee County.”

We have similar concerns for segment 7. On page 2-191, of the FEIS section 2.8.S it mentions twice that key sage-grouse habitat should be avoided as a pretense to dismiss the locally preferred alternative 7K. However, alternative 7K does in fact avoid all “core” habitat (CHZ) as identified by the Idaho Sage Grouse Task Force, although it does cross “important” habitat (IHZ) which is compatible with the Idaho plan using mitigation measures. Here again, BLM habitat data is seriously out of sync with the Idaho Sage Grouse Task Force habitat maps.

### Impacts on Agriculture in Idaho

It is disappointing that the Bureau Land Management (BLM) states that their decisions “could affect private lands adjacent to or between federal areas” on page 3.18-1 of the FEIS. Our members fully understand that the BLM only has the authority to give final approval of the transmission line routes on federal land. However, when the BLM authorizes the route on federally managed land, its decisions directly impact the location of the transmission lines on private property. Therefore, clearly the decisions of the BLM do indeed directly impact how much private property is affected as this project moves forward.

For example, only 17% of the land in Owyhee County is privately owned. Because the BLM has rejected the collaborative efforts of all interested local stakeholders who recommended alternative 9D after three long years of intense study, discussion and consensus building, there are additional negative impacts to private property under the agency’s preferred alternative 9E. This is unacceptable. Every acre of private property lost in Owyhee County shrinks the local economy. Furthermore, the preferred alternatives that run through Power and Cassia Counties are nearly 80% on private property. This will present significant negative impacts on the local economy as agricultural operations will be affected.

On page 3.4-42 and again on pages 3.18-13 and 3.18-17 it states “Viewed in terms of agricultural operations in the potentially affected counties, total estimated construction and operations disturbance represents a very small share of the 17 (15) million acres of land in farms in the 19 potentially affected counties and is unlikely to noticeably affect overall agricultural production and employment in any of the affected counties. Impacts could, however, be potentially significant to the individual operations affected, as discussed in Section 3.18 – Agriculture.” This is an understatement at best and deliberately misleading at worst. Certainly if you took the number of actual private agricultural acres affected by the GWTLP compared to the total number of agricultural acres in the counties it crosses, it would be a relatively small percentage. Yet the impact on each individual landowner is very significant. More relevant statistics would be the total acres of construction disturbance and operation disturbance as a percentage of private acres within the ROW for the project area.

Page 3.4-46 illustrates an example of the projected annual increased costs to landowners along 4 sections of proposed route 7 in Cassia County, each segment being two miles long. The increased annual projected operating costs due to the towers within or on the edge of the fields ranged from

\$2,235 to \$7,749 for each two mile segment. These are estimated annual costs at today's prices. These additional expenses must be paid by the proponents to the landowners each year just to recover their extra operating expenses, not to mention additional compensation for the value of the right-of-way. Inflation will need to be factored in, as well as the loss of managerial options for future expansion and/or improved efficiencies for the operation. There are a great deal of actual cash damages that the landowners will need to be compensated for so as not to be in a worse position in their operation than prior to the GWTLP.

There are legitimately grave concerns of landowners that they will be in a worse position with the GWTLP crossing their property than they would be otherwise. If these concerns are realized, it will have a detrimental effect on each agricultural operation, which, when taken in aggregate, will make the local economy worse off than it would have been without the GWTLP. This will mean fewer agricultural jobs, fewer purchases at local businesses, and a lower multiplier in the local economy. Greater use of federally managed lands for the routing of the GWTLP would alleviate these potentially devastating consequences to the local economy and the agricultural sector of the state.

As noted above, there is serious concern from our members over the cavalier attitude of the BLM regarding the impact to agricultural operations of the GWTLP. That private property owners must "negotiate" with the proponents of the project, under the threat of eminent domain, is not addressed. It is simply stated on page 3.4-48 and again on page 3.18-17 and elsewhere that Proponents recognize that construction of the project has the potential to have detrimental impacts on farms and "would negotiate damage-related issues, such as reductions in the acreage available for cultivation, with affected farmers during the easement acquisition process." The reality is that very rarely, if ever, is a private landowner fully compensated for the value of the actual land he loses, much less for the additional out-of-pocket expenses he bears each year in perpetuity, the loss of efficiency to his operation, loss of future upgrades/expansions he will have to forego and any other related losses he may suffer. These other costs, both tangible and intangible, can be much higher than the value of the actual land lost to construction. If there were no threat of eminent domain, then the proponents would indeed be forced to pay what the various landowners needed in order to make an equitable agreement. Unfortunately, this is not the case. Eminent domain is a huge hammer held over the head of any landowner who wants to be fairly compensated for the actual damages caused by the ongoing disruption to his operation.

Furthermore, on page 3.18-17 it states "The effect that a transmission line easement may have on agricultural property values is a damage-related issue that would be negotiated between the landowner and Proponents during the fee simple or easement acquisition process. The easement acquisition process is designed to provide fair compensation to the landowner for the right to use the property for transmission line construction and operation. The easement value in theory is equal to the difference in value of the affected property before and after easement acquisition and construction of the proposed facilities." This explanation does not address whether the difference in value is on the entire farming operation before and after the project is completed, which would more fully address our concerns, or simply on the actual "affected property" within the ROW. There is a huge difference between the two.

Idaho Farm Bureau Federation  
Gateway West Transmission Line Project FEIS  
Page 5

### Additional Concerns

Alternative SC appears to have been dismissed from consideration by the BLM because it would cross the Fort Hall Indian Reservation for approximately 12 miles parallel to an existing transmission line and the Shoshone-Bannock Tribal Business Council voted to not allow the project through the Reservation. This appears to be a poorly concealed double standard. The Power County Commission, which the BLM acknowledges as the lawful siting authority under Idaho law on non-federally managed lands, has rejected the BLM preferred alternatives in both segment 5 and segment 7, yet the BLM continues to not only consider, but to actually pursue these alternatives as their preferred alternative. How can one local government authority receive complete deference to their decisions, while another local government authority is completely ignored? This inconsistency must be addressed.

Finally, the FEIS is an extremely complex and lengthy document. It is a difficult task for professionals who deal with these documents regularly to wade through the data and make specific, meaningful comments. It is even more difficult, if not impossible, for ordinary citizens who are not familiar with the process and the technical aspects of a FEIS to analyze it sufficiently and prepare meaningful comments in a 60 day time period; particularly when they are busy earning a living and caring for their families. Therefore, we respectfully request that the comment period be extended for an additional ninety (90) days to allow those who are most affected by the potential route to have a better opportunity to fully review the document and provide input on the FEIS.

After reviewing the FEIS, we are not persuaded that the BLM has shown conclusive and convincing proof that the agency preferred alternatives in segments 5, 7 and 9 are better choices than the locally supported alternatives of 5E, 7K and 9D. Even when viewed through the lens of the agencies own regulations there is not an advantage to the preferred alternatives, and in many cases the locally supported alternatives are superior using your own criteria. Therefore, we urge you to abandon the agency preferred alternatives in segments 5, 7 and 9 in favor of the routes that have been supported by local stakeholders who live, work and own property along the routes. **We respectfully request the BLM support alternatives 5E, 7K and 9D in your Record of Decision.**

Again, thank you for the opportunity to provide these comments on the GWTLF FEIS.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Priestley". The signature is written in a cursive style with a large, sweeping initial "F".

Frank Priestley, President  
Idaho Farm Bureau Federation



## **IDAHO FARM BUREAU FEDERATION**

500 West Washington Street • P.O. Box 167  
Boise, Idaho 83701-0167 • (208) 342-2688  
FAX (208) 342-8585

June 28, 2013

Bureau of Land Management  
Gateway West Transmission Line Project FEIS  
PO Box 20879  
Cheyenne, WY 82003

Dear Mr. George:

The Idaho Farm Bureau Federation, which represents more than 68,000 Idaho families, is pleased to provide the following comments regarding the Gateway West Transmission Line Project (GWTLP) Final Environmental Impact Statement (FEIS).

The members of the Idaho Farm Bureau support enhancing electrical infrastructure in our state. Our current policy regarding electrical transmission states: "We support upgrades in transmission and distribution. Routing of utility corridors should be placed on public land first and then to the areas of least impact to private property owners. We support the initiation of on and off ramps in transmission lines within the state of Idaho."

Our concern with the project is primarily with the placement of the route and the apparent reluctance of the BLM to site the project on federally managed lands as much as possible. Our specific comments will be primarily related to segments 5, 7 and 9 which run through Power, Cassia and Owyhee Counties in Idaho, where most of the controversy over negative effects on private land are centered.

### **Snake River Birds of Prey National Conservation Area (SRBOP)**

The Owyhee County Task Force (OCTF) had worked out a carefully crafted proposal balancing the needs of the local economy with protection of the resources. Under their proposal, the GWTLP only crossed private property where landowners were willing to allow a right-of-way to be negotiated and much of the route paralleled existing lines through the SRBOP. Page 2-202 of the FEIS states "constructing an additional transmission line across the SRBOP would not meet the intent of the enabling legislation for the SRBOP." To throw out those efforts under the guise of vague language in the enabling act of the SRBOP which states the purposes of the SRBOP are "to provide for the conservation, protection and enhancement of raptor populations and habitats" is preposterous, especially given the BLM's own studies indicating that power lines do in fact enhance raptor habitat.

As the Owyhee County Task Force has already pointed out in their previous comments, in 1981, less than a year after Secretary of the Interior, and former Governor of Idaho, Cecil Andrus withdrew 482,000 acres of BLM managed land to protect birds of prey nesting in the Snake River Canyon in southwestern Idaho, Pacific Power and Light (now PacifiCorp) began construction of a 500 kV transmission line across what is now the Morley Nelson Snake River Birds of Prey National Conservation Area (SRBOP). At that time raptor expert Morley Nelson, the namesake of the subsequent SRBOP,

Idaho Farm Bureau Federation  
Gateway West Transmission Line Project FEIS  
Page 2

assisted PP&L with the routing of the line so it would not adversely affect raptors and with designing platforms for transmission towers that would encourage raptor nesting (Nelson 1976, Nelson and Nelson 1982).

In addition, and again prior to the designation of the SRBOP as a National Conservation Area, from 1981 through 1989, the BLM and PP&L biologists monitored the response of raptors and ravens to the transmission line. These studies conclusively proved that transmission lines provided enhanced opportunities for raptors to perch, nest and roost; and the productivity of hawks and eagles nesting on transmission towers was as good, and in some cases better, than those nesting in natural environments. (Engel et al. 1992; Steenhof et al. 1993)

The BLM's own scientific studies fly in the face of the political decisions from Washington DC bureaucrats that no more transmission lines can ever be sited in a National Conservation Area.

### Sage Grouse

The Gateway West EIS issued a Sage Grouse Addendum in June 2012, which stated "the [Idaho] task force's recommendations would be incorporated into the final EIS if approved by the Governor prior to the publication of the EIS." Sage Grouse Addendum, Page 7.

The Governor's Task Force issued its recommendations June 15, 2012. Those recommendations were incorporated into the Federal Alternative of Governor C.L. Butch Otter for Greater Sage-Grouse Management in Idaho, September 5, 2012. Despite the promise of the BLM in the Sage Grouse Addendum, the BLM has completely ignored and contradicted the Idaho Sage Grouse management plan in the GWTLF FEIS and instead relied upon outdated BLM data. In fact, no consideration was given to the Idaho Sage-Grouse Task Force findings or the Idaho sage-grouse habitat map which differs greatly from that of the BLM. This makes no sense, particularly in light of the stated intent of BLM to include the new Idaho data.

Specifically, in Owyhee County, our members favor alternative 9D as it is the route with the least impact on Sage Grouse, which we are working very closely with the Governor's Sage Grouse task force to protect, along with other stakeholders, so as to avoid it becoming a listed species under the Endangered Species Act. A number of Idaho environmental groups have commented that the BLM's preferred alternative route 9E would pass through Preliminary Priority Habitat (PPH) for sage-grouse. PPH, as identified in the BLM's Greater Sage-Grouse Interim Management Policies and Procedures, IM 2012-043 (12/27/11), "comprises areas that have been identified as having the highest conservation value to maintaining sustainable Greater Sage-Grouse populations". IM2012-043 requires additional procedures for pending ROW applications that would affect more than 1 linear mile of Sage Grouse habitat. Segment 9E would affect nearly fifty miles of PPH according to the environmental groups' assessments.

Not long ago, Karen Steenhof, one of the biologists who studied the effects of transmission lines through the SRBOP, submitted the following comments to Carl Rountree, Director of NLCS: "A new transmission line in Owyhee County (9E) would attract raptors and ravens and could lead to increased predation on declining Greater sage-grouse populations. Golden eagles prey on adult Sage Grouse, and Common Ravens are a major predator of Sage Grouse eggs. Recently, Idaho State University (ISU) biologists have

Idaho Farm Bureau Federation  
Gateway West Transmission Line Project FEIS  
Page 3

noted a dramatic increase in the predation of Sage Grouse by ravens. Where there are more ravens, nesting female Sage Grouse stay on their nests much longer, leaving less often. Less time foraging may cause "substantial physiological distress" on the Sage Grouse. It would be better to attract raptors and ravens to cheatgrass areas in the NCA where they feed on ground squirrels than to the shrubsteppe areas inhabited by sage-grouse in Owyhee County."

We have similar concerns for segment 7. On page 2-191, of the FEIS section 2.8.S it mentions twice that key sage-grouse habitat should be avoided as a pretense to dismiss the locally preferred alternative 7K. However, alternative 7K does in fact avoid all "core" habitat (CHZ) as identified by the Idaho Sage Grouse Task Force, although it does cross "important" habitat (IHZ) which is compatible with the Idaho plan using mitigation measures. Here again, BLM habitat data is seriously out of sync with the Idaho Sage Grouse Task Force habitat maps.

### Impacts on Agriculture in Idaho

It is disappointing that the Bureau Land Management (BLM) states that their decisions "could affect private lands adjacent to or between federal areas" on page 3.18-1 of the FEIS. Our members fully understand that the BLM only has the authority to give final approval of the transmission line routes on federal land. However, when the BLM authorizes the route on federally managed land, its decisions directly impact the location of the transmission lines on private property. Therefore, clearly the decisions of the BLM do indeed directly impact how much private property is affected as this project moves forward.

For example, only 17% of the land in Owyhee County is privately owned. Because the BLM has rejected the collaborative efforts of all interested local stakeholders who recommended alternative 9D after three long years of intense study, discussion and consensus building, there are additional negative impacts to private property under the agency's preferred alternative 9E. This is unacceptable. Every acre of private property lost in Owyhee County shrinks the local economy. Furthermore, the preferred alternatives that run through Power and Cassia Counties are nearly 80% on private property. This will present significant negative impacts on the local economy as agricultural operations will be affected.

On page 3.4-42 and again on pages 3.18-13 and 3.18-17 it states "Viewed in terms of agricultural operations in the potentially affected counties, total estimated construction and operations disturbance represents a very small share of the 17 (15) million acres of land in farms in the 19 potentially affected counties and is unlikely to noticeably affect overall agricultural production and employment in any of the affected counties. Impacts could, however, be potentially significant to the individual operations affected, as discussed in Section 3.18 – Agriculture." This is an understatement at best and deliberately misleading at worst. Certainly if you took the number of actual private agricultural acres affected by the GWTLP compared to the total number of agricultural acres in the counties it crosses, it would be a relatively small percentage. Yet the impact on each individual landowner is very significant. More relevant statistics would be the total acres of construction disturbance and operation disturbance as a percentage of private acres within the ROW for the project area.

Page 3.4-46 illustrates an example of the projected annual increased costs to landowners along 4 sections of proposed route 7 in Cassia County, each segment being two miles long. The increased annual projected operating costs due to the towers within or on the edge of the fields ranged from

\$2,235 to \$7,749 for each two mile segment. These are estimated annual costs at today's prices. These additional expenses must be paid by the proponents to the landowners each year just to recover their extra operating expenses, not to mention additional compensation for the value of the right-of-way. Inflation will need to be factored in, as well as the loss of managerial options for future expansion and/or improved efficiencies for the operation. There are a great deal of actual cash damages that the landowners will need to be compensated for so as not to be in a worse position in their operation than prior to the GWTLP.

There are legitimately grave concerns of landowners that they will be in a worse position with the GWTLP crossing their property than they would be otherwise. If these concerns are realized, it will have a detrimental effect on each agricultural operation, which, when taken in aggregate, will make the local economy worse off than it would have been without the GWTLP. This will mean fewer agricultural jobs, fewer purchases at local businesses, and a lower multiplier in the local economy. Greater use of federally managed lands for the routing of the GWTLP would alleviate these potentially devastating consequences to the local economy and the agricultural sector of the state.

As noted above, there is serious concern from our members over the cavalier attitude of the BLM regarding the impact to agricultural operations of the GWTLP. That private property owners must "negotiate" with the proponents of the project, under the threat of eminent domain, is not addressed. It is simply stated on page 3.4-48 and again on page 3.18-17 and elsewhere that Proponents recognize that construction of the project has the potential to have detrimental impacts on farms and "would negotiate damage-related issues, such as reductions in the acreage available for cultivation, with affected farmers during the easement acquisition process." The reality is that very rarely, if ever, is a private landowner fully compensated for the value of the actual land he loses, much less for the additional out-of-pocket expenses he bears each year in perpetuity, the loss of efficiency to his operation, loss of future upgrades/expansions he will have to forego and any other related losses he may suffer. These other costs, both tangible and intangible, can be much higher than the value of the actual land lost to construction. If there were no threat of eminent domain, then the proponents would indeed be forced to pay what the various landowners needed in order to make an equitable agreement. Unfortunately, this is not the case. Eminent domain is a huge hammer held over the head of any landowner who wants to be fairly compensated for the actual damages caused by the ongoing disruption to his operation.

Furthermore, on page 3.18-17 it states "The effect that a transmission line easement may have on agricultural property values is a damage-related issue that would be negotiated between the landowner and Proponents during the fee simple or easement acquisition process. The easement acquisition process is designed to provide fair compensation to the landowner for the right to use the property for transmission line construction and operation. The easement value in theory is equal to the difference in value of the affected property before and after easement acquisition and construction of the proposed facilities." This explanation does not address whether the difference in value is on the entire farming operation before and after the project is completed, which would more fully address our concerns, or simply on the actual "affected property" within the ROW. There is a huge difference between the two.

Idaho Farm Bureau Federation  
Gateway West Transmission Line Project FEIS  
Page 5

### Additional Concerns

Alternative SC appears to have been dismissed from consideration by the BLM because it would cross the Fort Hall Indian Reservation for approximately 12 miles parallel to an existing transmission line and the Shoshone-Bannock Tribal Business Council voted to not allow the project through the Reservation. This appears to be a poorly concealed double standard. The Power County Commission, which the BLM acknowledges as the lawful siting authority under Idaho law on non-federally managed lands, has rejected the BLM preferred alternatives in both segment 5 and segment 7, yet the BLM continues to not only consider, but to actually pursue these alternatives as their preferred alternative. How can one local government authority receive complete deference to their decisions, while another local government authority is completely ignored? This inconsistency must be addressed.

Finally, the FEIS is an extremely complex and lengthy document. It is a difficult task for professionals who deal with these documents regularly to wade through the data and make specific, meaningful comments. It is even more difficult, if not impossible, for ordinary citizens who are not familiar with the process and the technical aspects of a FEIS to analyze it sufficiently and prepare meaningful comments in a 60 day time period; particularly when they are busy earning a living and caring for their families. Therefore, we respectfully request that the comment period be extended for an additional ninety (90) days to allow those who are most affected by the potential route to have a better opportunity to fully review the document and provide input on the FEIS.

After reviewing the FEIS, we are not persuaded that the BLM has shown conclusive and convincing proof that the agency preferred alternatives in segments 5, 7 and 9 are better choices than the locally supported alternatives of 5E, 7K and 9D. Even when viewed through the lens of the agencies own regulations there is not an advantage to the preferred alternatives, and in many cases the locally supported alternatives are superior using your own criteria. Therefore, we urge you to abandon the agency preferred alternatives in segments 5, 7 and 9 in favor of the routes that have been supported by local stakeholders who live, work and own property along the routes. We respectfully request the BLM support alternatives 5E, 7K and 9D in your Record of Decision.

Again, thank you for the opportunity to provide these comments on the GWTLF FEIS.

Sincerely,



Frank Priestley, President  
Idaho Farm Bureau Federation



# IDAHO FARM BUREAU FEDERATION

500 West Washington Street • P.O. Box 167  
Boise, Idaho 83701-0167 • (208) 342-2688  
FAX (208) 342-8585

June 28, 2013

Bureau of Land Management  
Gateway West Transmission Line Project FEIS  
PO Box 20879  
Cheyenne, WY 82003

2013 JUL -1 AM 10:00  
RECEIVED  
BUREAU OF LAND  
MANAGEMENT  
CHEYENNE WY

Dear Mr. George:

The Idaho Farm Bureau Federation, which represents more than 68,000 Idaho families, is pleased to provide the following comments regarding the Gateway West Transmission Line Project (GWTLP) Final Environmental Impact Statement (FEIS).

The members of the Idaho Farm Bureau support enhancing electrical infrastructure in our state. Our current policy regarding electrical transmission states: "We support upgrades in transmission and distribution. Routing of utility corridors should be placed on public land first and then to the areas of least impact to private property owners. We support the initiation of on and off ramps in transmission lines within the state of Idaho."

Our concern with the project is primarily with the placement of the route and the apparent reluctance of the BLM to site the project on federally managed lands as much as possible. Our specific comments will be primarily related to segments 5, 7 and 9 which run through Power, Cassia and Owyhee Counties in Idaho, where most of the controversy over negative effects on private land are centered.

### Snake River Birds of Prey National Conservation Area (SRBOP)

The Owyhee County Task Force (OCTF) had worked out a carefully crafted proposal balancing the needs of the local economy with protection of the resources. Under their proposal, the GWTLP only crossed private property where landowners were willing to allow a right-of-way to be negotiated and much of the route paralleled existing lines through the SRBOP. Page 2-202 of the FEIS states "constructing an additional transmission line across the SRBOP would not meet the intent of the enabling legislation for the SRBOP. " To throw out those efforts under the guise of vague language in the enabling act of the SRBOP which states the purposes of the SRBOP are "to provide for the conservation, protection and enhancement of raptor populations and habitats" is preposterous, especially given the BLM's own studies indicating that power lines do in fact enhance raptor habitat.

As the Owyhee County Task Force has already pointed out in their previous comments, in 1981, less than a year after Secretary of the Interior, and former Governor of Idaho, Cecil Andrus withdrew 482,000 acres of BLM managed land to protect birds of prey nesting in the Snake River Canyon in southwestern Idaho, Pacific Power and Light (now PacifiCorp) began construction of a 500 kV transmission line across what is now the Morley Nelson Snake River Birds of Prey National Conservation Area (SRBOP). At that time raptor expert Morley Nelson, the namesake of the subsequent SRBOP,

1/6



Idaho Farm Bureau Federation  
Gateway West Transmission Line Project FEIS  
Page 2

assisted PP&L with the routing of the line so it would not adversely affect raptors and with designing platforms for transmission towers that would encourage raptor nesting (Nelson 1976, Nelson and Nelson 1982).

In addition, and again prior to the designation of the SRBOP as a National Conservation Area, from 1981 through 1989, the BLM and PP&L biologists monitored the response of raptors and ravens to the transmission line. These studies conclusively proved that transmission lines provided **enhanced opportunities** for raptors to perch, nest and roost; and the productivity of hawks and eagles nesting on transmission towers was as good, and **in some cases better**, than those nesting in natural environments. (Engel et al. 1992; Steenhof et al. 1993)

The BLM's own scientific studies fly in the face of the political decisions from Washington DC bureaucrats that no more transmission lines can ever be sited in a National Conservation Area.

### Sage Grouse

The Gateway West EIS issued a Sage Grouse Addendum in June 2012, which stated "the [Idaho] task force's recommendations would be incorporated into the final EIS if approved by the Governor prior to the publication of the EIS." Sage Grouse Addendum, Page 7.

The Governor's Task Force issued its recommendations June 15, 2012. Those recommendations were incorporated into the Federal Alternative of Governor C.L. Butch Otter for Greater Sage-Grouse Management in Idaho, September 5, 2012. Despite the promise of the BLM in the Sage Grouse Addendum, the BLM has completely ignored and contradicted the Idaho Sage Grouse management plan in the GWTLF FEIS and instead relied upon outdated BLM data. In fact, no consideration was given to the Idaho Sage-Grouse Task Force findings or the Idaho sage-grouse habitat map which differs greatly from that of the BLM. This makes no sense, particularly in light of the stated intent of BLM to include the new Idaho data.

Specifically, in Owyhee County, our members favor alternative 9D as it is the route with the least impact on Sage Grouse, which we are working very closely with the Governor's Sage Grouse task force to protect, along with other stakeholders, so as to avoid it becoming a listed species under the Endangered Species Act. A number of Idaho environmental groups have commented that the BLM's preferred alternative route 9E would pass through Preliminary Priority Habitat (PPH) for sage-grouse. PPH, as identified in the BLM's Greater Sage-Grouse Interim Management Policies and Procedures, IM 2012-043 (12/27/11), "comprises areas that have been identified as having the highest conservation value to maintaining sustainable Greater Sage-Grouse populations". IM2012-043 requires additional procedures for pending ROW applications that would affect more than 1 linear mile of Sage Grouse habitat. Segment 9E would affect nearly fifty miles of PPH according to the environmental groups' assessments.

Not long ago, Karen Steenhof, one of the biologists who studied the effects of transmission lines through the SRBOP, submitted the following comments to Carl Rountree, Director of NLCS: "A new transmission line in Owyhee County (9E) would attract raptors and ravens and could lead to increased predation on declining Greater sage-grouse populations. Golden eagles prey on adult Sage Grouse, and Common Ravens are a major predator of Sage Grouse eggs. Recently, Idaho State University (ISU) biologists have



Idaho Farm Bureau Federation  
Gateway West Transmission Line Project FEIS  
Page 3

RECEIVED  
USFBLM  
CHEYENNE WYOMING

noted a dramatic increase in the predation of Sage Grouse by ravens. Where there are more ravens, nesting female Sage Grouse stay on their nests much longer, leaving less often. Less time foraging may cause "substantial physiological distress" on the Sage Grouse. It would be better to attract raptors and ravens to cheatgrass areas in the NCA where they feed on ground squirrels than to the shrubsteppe areas inhabited by sage-grouse in Owyhee County."

We have similar concerns for segment 7. On page 2-191, of the FEIS section 2.8.5 it mentions twice that key sage-grouse habitat should be avoided as a pretense to dismiss the locally preferred alternative 7K. However, alternative 7K does in fact avoid all "core" habitat (CHZ) as identified by the Idaho Sage Grouse Task Force, although it does cross "important" habitat (IHZ) which is compatible with the Idaho plan using mitigation measures. Here again, BLM habitat data is seriously out of sync with the Idaho Sage Grouse Task Force habitat maps.

### Impacts on Agriculture in Idaho

It is disappointing that the Bureau Land Management (BLM) states that their decisions "could affect private lands adjacent to or between federal areas" on page 3.18-1 of the FEIS. Our members fully understand that the BLM only has the authority to give final approval of the transmission line routes on federal land. However, when the BLM authorizes the route on federally managed land, its decisions directly impact the location of the transmission lines on private property. Therefore, clearly the decisions of the BLM do indeed directly impact how much private property is affected as this project moves forward.

For example, only 17% of the land in Owyhee County is privately owned. Because the BLM has rejected the collaborative efforts of all interested local stakeholders who recommended alternative 9D after three long years of intense study, discussion and consensus building, there are additional negative impacts to private property under the agency's preferred alternative 9E. This is unacceptable. Every acre of private property lost in Owyhee County shrinks the local economy. Furthermore, the preferred alternatives that run through Power and Cassia Counties are nearly 80% on private property. This will present significant negative impacts on the local economy as agricultural operations will be affected.

On page 3.4-42 and again on pages 3.18-13 and 3.18-17 it states "Viewed in terms of agricultural operations in the potentially affected counties, total estimated construction and operations disturbance represents a very small share of the 17 (15) million acres of land in farms in the 19 potentially affected counties and is unlikely to noticeably affect overall agricultural production and employment in any of the affected counties. Impacts could, however, be potentially significant to the individual operations affected, as discussed in Section 3.18 – Agriculture." This is an understatement at best and deliberately misleading at worst. Certainly if you took the number of actual private agricultural acres affected by the GWTLTP compared to the total number of agricultural acres in the counties it crosses, it would be a relatively small percentage. Yet the impact on each individual landowner is very significant. More relevant statistics would be the total acres of construction disturbance and operation disturbance as a percentage of private acres within the ROW for the project area.

Page 3.4-46 illustrates an example of the projected annual increased costs to landowners along 4 sections of proposed route 7 in Cassia County, each segment being two miles long. The increased **annual** projected operating costs due to the towers within or on the edge of the fields ranged from



Idaho Farm Bureau Federation  
Gateway West Transmission Line Project FEIS  
Page 4

\$2,235 to \$7,749 for each two mile segment. These are estimated annual costs at today's prices. These additional expenses must be paid by the proponents to the landowners each year just to recover their extra operating expenses, not to mention additional compensation for the value of the right-of-way. Inflation will need to be factored in, as well as the loss of managerial options for future expansion and/or improved efficiencies for the operation. There are a great deal of actual cash damages that the landowners will need to be compensated for so as not to be in a worse position in their operation than prior to the GWTLP.

There are legitimately grave concerns of landowners that they will be in a worse position with the GWTLP crossing their property than they would be otherwise. If these concerns are realized, it will have a detrimental effect on each agricultural operation, which, when taken in aggregate, will make the local economy worse off than it would have been without the GWTLP. This will mean fewer agricultural jobs, fewer purchases at local businesses, and a lower multiplier in the local economy. Greater use of federally managed lands for the routing of the GWTLP would alleviate these potentially devastating consequences to the local economy and the agricultural sector of the state.

As noted above, there is serious concern from our members over the cavalier attitude of the BLM regarding the impact to agricultural operations of the GWTLP. That private property owners must "negotiate" with the proponents of the project, under the threat of eminent domain, is not addressed. It is simply stated on page 3.4-48 and again on page 3.18-17 and elsewhere that Proponents recognize that construction of the project has the potential to have detrimental impacts on farms and "would negotiate damage-related issues, such as reductions in the acreage available for cultivation, with affected farmers during the easement acquisition process." The reality is that very rarely, if ever, is a private landowner fully compensated for the value of the actual land he loses, much less for the additional out-of-pocket expenses he bears each year in perpetuity, the loss of efficiency to his operation, loss of future upgrades/expansions he will have to forego and any other related losses he may suffer. These other costs, both tangible and intangible, can be much higher than the value of the actual land lost to construction. If there were no threat of eminent domain, then the proponents would indeed be forced to pay what the various landowners needed in order to make an equitable agreement. Unfortunately, this is not the case. Eminent domain is a huge hammer held over the head of any landowner who wants to be fairly compensated for the actual damages caused by the ongoing disruption to his operation.

Furthermore, on page 3.18-17 it states "The effect that a transmission line easement may have on agricultural property values is a damage-related issue that would be negotiated between the landowner and Proponents during the fee simple or easement acquisition process. The easement acquisition process is designed to provide fair compensation to the landowner for the right to use the property for transmission line construction and operation. The easement value in theory is equal to the difference in value of the affected property before and after easement acquisition and construction of the proposed facilities." This explanation does not address whether the difference in value is on the entire farming operation before and after the project is completed, which would more fully address our concerns, or simply on the actual "affected property" within the ROW. There is a huge difference between the two.

Idaho Farm Bureau Federation  
Gateway West Transmission Line Project FEIS  
Page 5

RECEIVED  
BUREAU OF LAND MANAGEMENT  
MAY 10 10 10 AM



### Additional Concerns

Alternative 5C appears to have been dismissed from consideration by the BLM because it would cross the Fort Hall Indian Reservation for approximately 12 miles parallel to an existing transmission line and the Shoshone-Bannock Tribal Business Council voted to not allow the project through the Reservation. This appears to be a poorly concealed double standard. The Power County Commission, which the BLM acknowledges as the lawful siting authority under Idaho law on non-federally managed lands, has rejected the BLM preferred alternatives in both segment 5 and segment 7, yet the BLM continues to not only consider, but to actually pursue these alternatives as their preferred alternative. How can one local government authority receive complete deference to their decisions, while another local government authority is completely ignored? This inconsistency must be addressed.

Finally, the FEIS is an extremely complex and lengthy document. It is a difficult task for professionals who deal with these documents regularly to wade through the data and make specific, meaningful comments. It is even more difficult, if not impossible, for ordinary citizens who are not familiar with the process and the technical aspects of a FEIS to analyze it sufficiently and prepare meaningful comments in a 60 day time period; particularly when they are busy earning a living and caring for their families. Therefore, we respectfully **request that the comment period be extended for an additional ninety (90) days** to allow those who are most affected by the potential route to have a better opportunity to fully review the document and provide input on the FEIS.

After reviewing the FEIS, we are not persuaded that the BLM has shown conclusive and convincing proof that the agency preferred alternatives in segments 5, 7 and 9 are better choices than the locally supported alternatives of 5E, 7K and 9D. Even when viewed through the lens of the agencies own regulations there is not an advantage to the preferred alternatives, and in many cases the locally supported alternatives are superior using your own criteria. Therefore, we urge you to abandon the agency preferred alternatives in segments 5, 7 and 9 in favor of the routes that have been supported by local stakeholders who live, work and own property along the routes. **We respectfully request the BLM support alternatives 5E, 7K and 9D in your Record of Decision.**

Again, thank you for the opportunity to provide these comments on the GWTLF FEIS.

Sincerely,

Frank Priestley, President  
Idaho Farm Bureau Federation

IDAHO FARM BUREAU FED.  
GOVERNMENTAL AFFAIRS  
500 W. WASHINGTON  
BOISE, ID 83702



Bureau of Land Management  
Gateway West Project  
PO Box 20879  
Cheyenne, WY 82003

6/6

82003+7018

